

IN THE CIRCUIT COURT  
OF THE FOURTH JUDICIAL CIRCUIT  
SHELBY COUNTY, ILLINOIS

FEATHERSTUN, GAUMER, STOCKS,  
FLYNN & ECK, LLP,

Plaintiff,

vs.

SHELBY COUNTY and ERICA FIRNHABER,  
(Shelby County Treasurer)

Defendants.

No. 2020-MR-35

MARK BENNETT,

Plaintiff,

vs.

SHELBY COUNTY BOARD; EDWARD FLYNN;  
FEATHERSTUN, GAUMER, STOCKS,  
FLYNN & ECK, LLP,

Defendants.

DISCOVERY DEPOSITION OF GINA VONDERHEIDE  
TAKEN ON BEHALF OF PLAINTIFF MARK BENNETT  
OCTOBER 8, 2020

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BY MR. FLYNN

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DISCOVERY DEPOSITION OF GINA VONDERHEIDE,  
produced, sworn and examined on October 8, 2020, at the  
offices of Shelby County Courthouse, 301 East Main  
Street, Shelbyville, Illinois, before Mary Joy Springer,  
a Certified Shorthand Reporter within and for the State  
of Illinois, in a certain cause now pending in the  
Circuit Court of the Fourth Judicial Circuit, Shelby  
County, Illinois, on behalf of Plaintiff Mark Bennett.

A P P E A R A N C E S

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1 IT IS HEREBY STIPULATED AND AGREED by and  
2 between counsel for the Plaintiffs and counsel for the  
3 Defendants that this deposition may be taken in  
4 shorthand by Mary Joy Springer, a Certified Shorthand  
5 Reporter, and afterwards transcribed into typewriting;  
6 and the signature of the witness is expressly waived.

7 \* \* \* \* \*

8  
9  
10  
11 GINA VONDERHEIDE,  
12 of lawful age, produced, sworn and examined on behalf of  
13 Plaintiff Mark Bennett, deposes and says as follows:  
14  
15

16 CROSS-EXAMINATION

17 BY MR. DeVORE:

18 Q. Ms. Vonderheide, I am the attorney for  
19 Mr. Bennett. As you might be aware, we're here today to  
20 do your deposition in this cause as it relates to,  
21 again, as we're all aware, attorney's fees, propriety of  
22 whether those fees can be expected by Mr. Flynn and his  
23 firm. Have you ever given a deposition before?

24 A. No.

1 Q. Have you ever taken one?

2 A. Yes.

3 Q. Okay. So we don't need to go through the  
4 formalities. You're quite familiar?

5 A. It's been a while.

6 Q. Let's just get right into it. When did you  
7 win an election or be appointed. Tell me how you became  
8 the state's attorney for the County.

9 A. I was actually appointed in July of 2010. I  
10 served until -- there was an election in November. I  
11 lost that election. So I was state's attorney for a  
12 brief period of time in 2010. Then I won the election  
13 in 2012, and I've served ever since. So December of  
14 2012 onward.

15 Q. So there was a special election held in  
16 November of '10 for that remaining two years?

17 A. Yes, sir.

18 Q. So December of '12, and you've been the  
19 state's attorney ever since?

20 A. Yes.

21 Q. Where did you get your undergraduate degree?

22 A. Millikin University.

23 Q. And what was that in?

24 A. Physical education.

1 Q. Your Juris Doctorate was from?

2 A. Saint Louis University.

3 Q. Saint Louis University. And you got that in  
4 what year?

5 A. 2004.

6 Q. 2004. You were a few years ahead of me at  
7 Saint Louis University. You graduated in May of 2004?

8 A. Yes. I think so. Summer, spring of 2004,  
9 yes.

10 Q. You took the bar when?

11 A. July of 2004.

12 Q. Passed the first time?

13 A. Yes.

14 Q. And so you became licensed in November of  
15 2004?

16 A. Yes.

17 Q. And what did you do once you became licensed?  
18 Where did you work?

19 A. I worked at Heller, Holmes & Associates in  
20 Mattoon.

21 Q. And you worked for them for how long?

22 A. Until, I believe, March of -- until 2007, I  
23 believe. I'm not sure exactly what month.

24 Q. Close enough. So from 2004 to 2007 you worked

1 for Heller, Holmes?

2 A. Yes.

3 Q. Then where did you go after that?

4 A. Then I worked with Allen Bennett.

5 Q. Judge Bennett?

6 A. Yes, sir.

7 Q. And you worked with Judge Bennett from 2007 to  
8 approximately?

9 A. 2010 when I was appointed and then again from  
10 December of 2010 to 2012.

11 Q. What kind of work did you do for Heller,  
12 Holmes, generally speaking?

13 A. I did some personal injury. I did some  
14 divorce. I think some landlord/tenant maybe.

15 Q. Some forcible entry work maybe?

16 A. Maybe.

17 Q. Okay. So some general civil type of stuff  
18 along with some PI, which is a little more unique?

19 A. (Nods head affirmatively.)

20 Q. And what about when you went with Judge  
21 Bennett?

22 A. Generally the same thing: general, civil. We  
23 had a few personal injury cases when I was with Allen as  
24 well.



1 Q. Okay. So you became the state's attorney  
2 December of 2012 and have held that position ever since;  
3 correct?

4 A. Correct.

5 Q. And do I understand correctly that there's an  
6 election this year, and you did not choose to seek  
7 reelection?

8 A. Correct. Actually I initially had my name on  
9 the ballot and then withdrew, so it is not on the ballot  
10 for the November election.

11 Q. It is not on the ballot?

12 A. Correct.

13 Q. So you withdrew in time?

14 A. My name was on the primary ballot, so kind of  
15 no, but, I mean, in time for the general election.

16 Q. Understood. Thank you. You plan to go back  
17 into general practice?

18 A. Probably.

19 Q. Okay. So I'm going to try to keep this as  
20 brief as I can, but I have a few exhibits. Again, all  
21 of this will relate to the hiring or the utilization of  
22 Mr. Flynn and his firm. In this case you're familiar  
23 that this is 2020-MR-35 but there's also a case  
24 2020-MR-22; correct?

1 A. I'm aware that there are two cases.

2 Q. And the 2020-MR-22 is where Mr. Flynn and his  
3 firm actually brought action against the County as well  
4 as the treasurer seeking payment for services rendered.  
5 You familiar with that case?

6 A. I think it's an LM, isn't it? I thought you  
7 said MR.

8 Q. It may be an LM case. I think you're correct.  
9 I think this caption is wrong. Anyway, it's a 2020 case  
10 that Mr. Flynn and his firm brought to seek payment for  
11 some services; correct?

12 A. Correct.

13 Q. Okay. And sometime within both of those cases  
14 you sought through proper channels to not represent the  
15 County Board or the treasurer; correct?

16 A. Correct.

17 Q. And you're familiar that on or about  
18 September 9th Judge Koester actually appointed  
19 Mr. Koester, no relation, to represent the treasurer and  
20 Mr. Miller to represent the County?

21 A. I'm aware of that.

22 Q. Would it be fair to say if you ever  
23 represented anybody in this case, it would have no  
24 longer been the case after September 9th; is that fair?

1 A. I think that is fair, yes.

2 Q. Was there a board meeting of the Shelby County  
3 Board on or about September 9th, would have been a  
4 Wednesday, that you would have attended?

5 A. I think so. The board meetings are the second  
6 Wednesday of the month, so that probably would have been  
7 the second Wednesday.

8 MR. FLYNN: And you're talking about 2020;  
9 correct?

10 MR. DeVORE: Correct, sir.

11 Q. (By Mr. DeVore) The second Wednesday of  
12 September 2020 would have been the 9th.

13 A. Okay.

14 Q. Do you recall attending that meeting?

15 A. I did attend that, I believe, yes. I think it  
16 was at the --

17 Q. At the pavilion?

18 A. At the pavilion at the lake, I believe, yes.

19 Q. Do you recall at that meeting whether or not  
20 the County Board went into executive session to discuss  
21 this case?

22 A. We attempted to or they started to and then  
23 they never really went into closed session. They voted  
24 to. There were still people around, and they just went

1 back into open session.

2 Q. There was no executive session held regarding  
3 this case at that time?

4 A. Nothing of substance. We went in and we just  
5 kind of said, well, there's still people, and we went  
6 back out, so.

7 Q. I'll bounce around a little. I apologize.  
8 After September 9th when Judge Koester appointed counsel  
9 for the County, have you had conversation yourself with  
10 any County Board members about either of these cases?

11 A. No, I don't think so.

12 Q. So the chairman, I believe, is it Mr. Cannon?

13 A. Yes.

14 Q. Your testimony would be since September 9th  
15 you don't recall any conversations that you may have had  
16 with Mr. Cannon or any other board member about either  
17 of these cases?

18 A. I told Mr. Cannon to get in touch with Chad  
19 Miller, but I told him -- whatever day, and I don't know  
20 the specific date, but whatever date that we found out  
21 it was Mr. Miller that would be representing the County  
22 Board, as I recall, the judge kind of said on that  
23 conference call that you might want to give him a day  
24 and let him, you know, get notice that they've been

1 appointed. So I told Bruce, you know, wait a day or two  
2 and get in touch with this person because that's who's  
3 going to represent the County Board.

4 Q. But as to the merits of the cases, after  
5 September 9th you don't recall any conversation?

6 A. I don't recall any conversation.

7 (Whereupon Plaintiff's Deposition Exhibit  
8 1 was marked for purposes of  
9 identification.)

10 Q. Okay. Ma'am, I'm going to hand you a copy of  
11 what I have marked as Exhibit 1. I brought three copies  
12 gentlemen. I apologize.

13 MR. KOESTER: That's okay.

14 Q. (By Mr. DeVore) Take a look at this and let me  
15 know when you're ready.

16 MR. KOESTER: Is it just board meeting  
17 minutes, Tom?

18 MR. DeVORE: Yes.

19 A. Okay. I've read the highlighted portion.

20 Q. (By Mr. DeVore) Okay. Just up at the top  
21 here, Shelby County Board Meeting. Do you see the date  
22 up there?

23 A. Yes.

24 (Whereupon Plaintiff's Deposition Exhibit

2 was marked for purposes of  
identification.)

Q. I'm going to hand you what's marked as  
Exhibit 2. I'll come back to Exhibit 1, ma'am. Let me  
know when you're ready. You ready?

A. Uh-huh.

Q. Before I ask questions about these, let's at  
least start now since September 9th when the court  
appointed counsel for the public bodies. Have you  
yourself had conversations about these cases with  
Mr. Flynn?

A. I had a brief conversation with Mr. Flynn  
yesterday.

Q. Okay.

A. It wasn't about the substance of any case.

Q. Okay. It was not about either one of these  
cases?

A. It was about today.

Q. Okay. You talked to him about today's  
deposition?

A. Briefly.

Q. And what was that conversation?

A. I just expressed that I was nervous, and he  
was just telling me it's fine, you know.

1 Q. Did you tell him why you were nervous?

2 A. I might have.

3 Q. Did you express some specific concern to him  
4 about being nervous?

5 A. Just that I was.

6 Q. But, again, the question would be did you give  
7 him a specific instance or a specific issue of what you  
8 were nervous about?

9 A. I don't believe I did, huh-uh.

10 Q. And his response to you was what?

11 A. He said, you know, something of the nature  
12 that it's going to be fine. Yeah, that was all.

13 Q. Again, I want to understand this for the  
14 record. So he gave you assurances that it would be  
15 fine. Would it be just some general concern about  
16 giving a deposition, or was it -- again, I just want to  
17 be clear -- was there a specific concern that you can  
18 give us for the record?

19 A. Mr. DeVore.

20 Q. Yes.

21 A. It was that you were going to be mean to me.

22 Q. Do I sound mean?

23 A. No.

24 Q. I can be mean, but there's no purpose for that

1 here. Okay? You can say that. I'm okay. I'm not  
2 going to be mean, I promise you.

3 So let's come back to this March 23rd  
4 document. You recognize that, ma'am?

5 A. Yes.

6 Q. Is that in fact a letter on March 23rd, 2020,  
7 that you sent as state's attorney to the Attorney  
8 General asking their opinion?

9 A. Yes.

10 Q. And it says at the beginning in March of 2014  
11 the Board approved a resolution appointing Mr. Flynn.  
12 Do you see that?

13 A. Yes.

14 Q. And if we go to [Exhibit 1](#), the Shelby County  
15 Board meeting minutes of March 12th, do you believe that  
16 was the public action that you were asking the Attorney  
17 General about in 2020?

18 A. Yes.

19 Q. Okay. So let's now go to the Shelby County  
20 Board meeting minutes. Were you at this meeting, do you  
21 recall?

22 A. I must have been because right above the  
23 Chairman Bruce Cannon paragraph says, State's Attorney  
24 Gina Vonderheide presented a resolution. I don't



1 specifically recall this meeting, but I must have been  
2 there.

3 Q. Okay. So there was a resolution requested to  
4 hire Mr. Flynn to provide labor relations for that  
5 fiscal year; is that correct?

6 A. I believe that's correct, yes.

7 Q. So the Board meeting minutes were asking for  
8 Mr. Flynn and not for -- there was a request made to  
9 hire Mr. Flynn and not his firm?

10 A. That's how this reads, yes. I don't have the  
11 resolution, but I think the resolution probably just  
12 says Ed Flynn.

13 Q. And that was, again, to hire him for a  
14 particular fiscal year at a certain rate of \$150 an hour  
15 to provide labor relations; is that fair?

16 A. Yes.

17 Q. Okay. To your knowledge, has the County Board  
18 since this time in March 12th of 2014 ever passed any  
19 other resolutions, to your knowledge, regarding using  
20 Mr. Flynn's services?

21 A. To my knowledge, they have not.

22 Q. Okay. So if I come back now to [Exhibit 2](#), did  
23 you ever get a response from the Attorney General?

24 A. I did.

1 Q. And what did they say?

2 A. Essentially that because we were in  
3 litigation, they were not going to, I guess as I took  
4 it, answer these questions because they didn't want to  
5 interfere with the litigation process.

6 Q. Understood. Thank you.

7 A. I'm paraphrasing a lot on that.

8 Q. That's okay. That's okay. So I'm going to  
9 stick with this document for myself. Again, this is  
10 dated March 23, 2020. To the best of your knowledge at  
11 this time, Mr. Flynn had never been sworn in as an  
12 assistant state's attorney. That was your statement?

13 A. To the best of my knowledge, yes.

14 Q. How about as we sit here today, has he ever  
15 been sworn in as an assistant state's attorney?

16 A. To the best of my knowledge, no.

17 Q. Okay. So if I go to number one, it says, your  
18 question was: Was the Shelby County Board in compliance  
19 with 55 ILCS 5/4-2003 when Attorney Flynn was hired in  
20 2014? Would it be fair to say that when you asked this  
21 question in March, that you as the attorney for the  
22 Shelby County Board was not certain of an answer  
23 yourself?

24 A. I mean, when I asked this question, I believed

1 that we were. But, I mean, there were differing  
2 opinions out in the public and everything, and I just  
3 wanted to be sure.

4 Q. Okay. Your opinion was they were, but you  
5 just wanted confirmation from the Attorney General?

6 A. Correct.

7 Q. And, again, being specific, your question was:  
8 Was the Shelby County Board in compliance; correct?

9 A. That was my question, yes.

10 Q. Not you as the state's attorney being in  
11 compliance with this section; is that fair?

12 A. That's fair, yes.

13 Q. And if I drop down to number three, I want to  
14 make sure I understand that. If you need to read that  
15 quickly, that's fine. Can you explain to me what the  
16 question is you were asking in number three.

17 A. The reason that I asked that question was that  
18 our treasurer had expressed at some point, and I don't  
19 recall specifically when, that she had said, you know,  
20 if he's considered, if he, Ed, is considered an  
21 assistant state's attorney, he should be paid as an  
22 employee of the County. And so I wanted to see if that  
23 was what the Attorney General understood to be true or  
24 not.

1 Q. How many assistant state's attorneys -- and  
2 let's exclude Mr. Flynn for now -- how many assistants  
3 do you have?

4 A. One.

5 Q. And his or her name?

6 A. Brian Bach. B-A-C-H.

7 Q. I believe I've met Mr. Bach. How long has he  
8 been with you, approximately?

9 A. I think since the spring of 2018, I think.

10 Q. Are you familiar with the requirements that if  
11 you wanted more assistant state's attorneys, that the  
12 County Board has to authorize that?

13 A. Yes.

14 Q. They also have to, would it be your  
15 understanding, have to approve whatever compensation  
16 would be a part of your budget as the state's attorney  
17 to pay that additional position?

18 A. Could you say that again.

19 Q. Your understanding would that the County Board  
20 has to increase the number of assistants you can have;  
21 correct?

22 A. Correct.

23 Q. As a part of that approval process, do they  
24 also increase your budget to add for compensation for

1 those particular new employees should you get them?

2 A. That is my understanding. If I were asking  
3 for an additional, you know, day-to-day assistant  
4 state's attorney, that's my understanding.

5 Q. Understood. Thank you. And as we sit here  
6 today, since you've been, December of '12 to now, have  
7 you ever asked for additional day-to-day state's  
8 attorneys?

9 A. No, sir.

10 Q. Okay. So your budget right now, does it  
11 reflect, as far as state's attorney assistants go, just  
12 Mr. Bach?

13 A. My budget that was just approved for the  
14 current fiscal year, I believe, at the September meeting  
15 as I submitted it allowed for additional compensation  
16 if, you know, if Ed or any labor relations attorney were  
17 needed, I asked for additional compensation. But I  
18 didn't -- I mean, it's in my budget as such under the  
19 assistant state's attorney line item, I believe.

20 Q. And that would be for the new budget coming  
21 up?

22 A. Correct. I mean, we're in this budget year  
23 now.

24 Q. What is your budget year here?

1 A. September 1st to August 31st, I believe.

2 Q. How about for 9/1 of '19 to 8/31/20, did you  
3 have any money in that budget for that line item then?

4 A. For the '19/'20 budget year?

5 Q. The one that just ended.

6 A. The one that just ended did not reflect any  
7 additional compensation. Just the assistant state's  
8 attorney pay or whatever.

9 Q. Thank you. Was that request that you made to  
10 have that added in the new budget part of your response  
11 of how to address going forward potentially utilizing  
12 Mr. Flynn?

13 A. Yes.

14 (Whereupon Plaintiff's Deposition Exhibit  
15 3 was marked for purposes of  
16 identification.)

17 Q. Okay. I'm going to hand you what I've marked  
18 as Exhibit 3. Let me know when you're ready, ma'am.

19 A. Okay.

20 Q. Who prepared this document?

21 A. I think Mr. Flynn, but I'm not positive.

22 Q. It wasn't you?

23 A. It was not.

24 Q. Did you read it before you signed it?

1 A. I did.

2 Q. Did you understand everything that it said?

3 A. Yes.

4 Q. You signed it under oath?

5 A. Yes.

6 Q. Okay. And you signed this, would it be fair  
7 to say, on July 7, 2020?

8 A. I believe that is correct, yes.

9 Q. Can you read paragraph 12 out loud.

10 A. Sure. That pursuant to Section 4-2003 of the  
11 Illinois County Code, the undersigned states that she  
12 appointed Edward F. Flynn and the law firm of  
13 Featherstun, Gaumer, Stocks, Flynn & Eck, LLP, to act as  
14 Special Assistant State's Attorneys for the purpose of  
15 this labor arbitration and for all of the work performed  
16 by this law firm since 2014 when Edward F. Flynn and the  
17 law firm of Featherstun, Gaumer, Stocks, Flynn & Eck,  
18 LLP, was originally hired to perform the services for  
19 Shelby County.

20 Q. And if you look to the next page, the last  
21 page, there's a copy of the County Code attached. If  
22 you can take a quick look.

23 A. Uh-huh.

24 Q. Do you see that?

1 A. Uh-huh.

2 Q. Do you know what provision of 5/4-2003 that  
3 paragraph 12 is referring to?

4 A. Say that again. I'm sorry.

5 Q. Paragraph 12 says that pursuant to Section  
6 4-2003 you stated that you had done certain things, and  
7 I'm asking you if you know what provision of that  
8 section you were referring to because it doesn't  
9 identify which section.

10 A. I mean, I guess I don't know for sure. I  
11 mean, I was assuming paragraph (b), but.

12 Q. Prior to you signing this, did you and  
13 Mr. Flynn talk about this document?

14 A. Yes.

15 Q. This says that you hired Mr. Flynn as special  
16 state's attorney since 2014. Is that what your sworn  
17 affidavit says?

18 A. Yes.

19 Q. If I look at your letter to the Attorney  
20 General dated just a couple of months prior in March,  
21 you don't point that out to them, do you?

22 A. I don't point out what to them?

23 Q. That you hired Mr. Flynn retroactively to 2014  
24 under the section that you put in your affidavit. You



1 didn't ask the Attorney General about that, did you?

2 A. I only said in there that Attorney Flynn has  
3 continued to represent Shelby County in labor relations  
4 matters. That's all.

5 Q. But you said was the Shelby County Board in  
6 compliance with 5/4-2003 when they hired him in 2014;  
7 correct?

8 A. Correct.

9 Q. In your affidavit, paragraph 12 states that  
10 you're stating under oath that you hired him back to  
11 2014; correct?

12 A. Correct.

13 Q. Can both of those be consistent?

14 A. I think they can. I mean, it was the Board  
15 resolution, I guess, in my opinion, is the event that  
16 started Mr. Flynn's representation of us. I agreed to  
17 it. I had no problem with it. I consented to it. So  
18 in my opinion, we were acting, I guess, in concert.

19 Q. But let me ask you this question, and I'll  
20 just cut right to it, ma'am: Sometime after March 23rd  
21 when you sent this letter to the Attorney General and  
22 the time you signed this affidavit, did you and  
23 Mr. Flynn have conversation about you signing this  
24 affidavit purporting to hire him under Section (b) of

1 the Illinois County Code 4-2003?

2 A. No. I mean, we had a conversation about me  
3 signing the affidavit, but I don't believe it was  
4 anything having to do with me hiring him, for example.  
5 It was just, you know, is everything in here correct and  
6 that kind of thing.

7 Q. Again, was there a conversation had that this  
8 affidavit may provide legal support to justify the work  
9 that he's done for the last six years?

10 A. I mean, not of any substance. He just was  
11 asking me to sign it. I looked at it. I believed  
12 everything in there to be correct, and I signed it.

13 Q. So would it be fair to say that prior to you  
14 being provided this document and being asked to sign it,  
15 you had not yourself personally gone to Mr. Flynn and  
16 said, Hey, I want to hire you as a special assistant  
17 pursuant to this section? Did you ever go to him and  
18 bring that up before you were given a copy of this to  
19 sign or consider?

20 A. No.

21 Q. So would it be fair to say that this document  
22 in paragraph 12 was specifically prepared as a part of  
23 this litigation?

24 A. I believe that to be correct.

1 Q. So I'm going to hand you what I've marked as a  
2 copy of [Exhibit 4](#).

3 (Whereupon Plaintiff's Deposition Exhibit  
4 Nos. 4 and 5 were marked for purposes of  
5 identification.)

6 Q. Tell me when you're ready. You ready, ma'am?

7 A. Yes.

8 Q. Start with [Exhibit 5](#), if I could. Do you  
9 recognize that communication between you and  
10 Ms. Firnhaber?

11 A. Yes.

12 Q. Who is Keith Fruehling?

13 MR. FLYNN: Excuse me. I don't have  
14 [Exhibit 5](#). You gave me [Exhibit 4](#).

15 A. Keith Fruehling is an attorney for our  
16 insurance carrier, I believe.

17 Q. (By Mr. DeVore) Okay. And I want to drop down  
18 to where it says, Keith suggested the possibility of  
19 filing an MR case and asking the court for a retroactive  
20 award [sic] allowing Ed to serve as a special assistant  
21 state's attorney.

22 A. Retroactive order.

23 Q. I apologize. Retroactive order. That  
24 particular potential case was never filed; is that fair?

1 A. That's correct.

2 Q. Did you ever have conversation with Mr. Flynn  
3 about that potential possibility?

4 A. I don't think so.

5 Q. But the consideration would have been, again,  
6 seeking court authority to say he has served in some  
7 legal fashion since 2014?

8 A. That was the suggestion, yes.

9 Q. If I go back to your affidavit, and I'm in  
10 paragraph 12, is that paragraph there where -- obviously  
11 it's not the court, it's you -- where you were utilizing  
12 a provision of the law to try to create retroactive  
13 approval of Mr. Flynn as the special state's attorney?

14 MR. FLYNN: I'm going to object. That's not  
15 what paragraph 12 says. The paragraph speaks for  
16 itself. It's been misrepresented.

17 MR. DeVORE: Well, she's a licensed attorney.

18 Q. (By Mr. DeVore) You can answer the question,  
19 ma'am.

20 A. Will you ask it again?

21 Q. Okay. Your email suggests potentially  
22 receiving a court order that would authorize Ed to have  
23 served as a special state's attorney since 2014;  
24 correct?

1           A.     Correct.

2           Q.     Okay.  And if I go back to paragraph 12, and  
3 I'm reading, She, being you, appointed Ed Flynn and his  
4 firm to act as special state's attorney for all work  
5 performed since 2014.  That's what it says; correct?

6           A.     Correct.

7           Q.     And my question to you is -- you've been a  
8 licensed attorney now for, how long, 16 years?

9           A.     Yes.

10          Q.     My question to you is:  Is that paragraph 12  
11 to you purporting to give retroactive approval of the  
12 hiring of Ed Flynn since 2014?

13          A.     Not necessarily.  I mean, I consented, I was  
14 agreeable to Ed working for us from the time that he  
15 started to the time that he stopped.  So, I mean, what  
16 this email was referencing was getting a nunc pro tunc  
17 court order, and that was something that was suggested  
18 by Mr. Fruehling; and I was simply asking Ms. Firnhaber  
19 if we were to do that, would she be willing to pay the  
20 bill, and that would have been something that I thought  
21 would have wrapped up the litigation without it becoming  
22 protracted.

23          Q.     And when you're saying you consented to  
24 Mr. Flynn working, consent means that you never

1 objected; correct?

2 A. Correct.

3 Q. Would it be fair to say for some amount of  
4 time until you got a new treasurer, nobody complained?

5 A. About?

6 Q. Mr. Flynn getting paid by the County to do  
7 legal work.

8 A. Correct.

9 Q. Now, if I go to [Exhibit 4](#), you have had a  
10 chance to read that. That email is dated June 5th?

11 A. Yes.

12 Q. Which is the date after the one we just talked  
13 about, June 4th; correct?

14 A. Yes.

15 Q. If I go to the second sentence of that, do you  
16 see where it says, Since we are still waiting on the  
17 Attorney General?

18 A. Yes.

19 Q. The next sentence after that.

20 A. I note, first, that I do not find a statute  
21 that is specifically on point as far as allowing for  
22 payment of the bill.

23 Q. If I look -- again, I'm back on your  
24 affidavit, and I'm reading paragraph (b) of 5/4-2003.

1 The state's attorney may appoint qualified attorneys to  
2 assist as special assistant state's attorneys when the  
3 public interest so requires. You've read that before;  
4 correct?

5 A. Yes.

6 Q. Would your testimony be that that particular  
7 provision is what you're referring to in paragraph 12 of  
8 your affidavit?

9 A. Uh-huh.

10 Q. Is that a yes?

11 A. Yes. Sorry.

12 Q. And prior to your signing this affidavit  
13 July 7th, 2020, saying that you have done that, had you  
14 ever taken any public action prior to the date of this  
15 affidavit to hire or engage Mr. Flynn pursuant to that  
16 section of the County Code?

17 A. I mean, I guess that depends on what you would  
18 consider public action.

19 Q. Did you ever go to a County Board meeting with  
20 that on the agenda saying I'm going to do this?

21 A. No.

22 Q. Had you ever sent a letter to Mr. Flynn saying  
23 that I'm going to engage your firm pursuant to this  
24 section of the statute sometime prior to this affidavit?

1           A.    I don't know. I mean, there may have been  
2   some kind of engagement letter that we would have sent  
3   back and forth and signed or something shortly after the  
4   2014 board meeting. I don't recall that to be the case,  
5   but it's possible.

6           Q.    Specifically citing this statute?

7           A.    I don't know.

8           Q.    Do you know when provision (b) of this statute  
9   was actually made law by the General Assembly?

10          A.    Is this maybe what was added in January of  
11   '19?

12          Q.    I think that's fair.

13          A.    Okay.

14          Q.    So it wouldn't have existed in 2014?

15          A.    I guess it wouldn't have, no.

16          Q.    Do you recall as you sit here, subsequent to  
17   January 1st of '19 until the date this affidavit was  
18   signed, have ever put anything in writing directly with  
19   Mr. Flynn or to the County Board purporting to hire  
20   Mr. Flynn or his firm pursuant to Subsection (b) of the  
21   statute in your affidavit?

22          A.    There was a lot to that.

23          Q.    Again, I wouldn't ask that question if you  
24   weren't a licensed attorney. Do you understand the



1 question?

2 A. Ask it again.

3 Q. Okay. From January 1st, 2019, until the date  
4 this affidavit was signed, do you, to your knowledge,  
5 know of any document in writing that would have  
6 purported to hire her Flynn to work for the County under  
7 that provision of the County Code?

8 A. I don't know of one, huh-uh.

9 Q. Is it your belief that this affidavit to where  
10 you take this position that you've hired him on  
11 July 7th, is it your position that that retroactively  
12 approves work that he has done prior to the date of this  
13 affidavit?

14 A. I don't think me signing that affidavit  
15 retroactively approves. I mean, I think the fact that I  
16 was always agreeable or consenting to him working for us  
17 is something that would, you know, operate.

18 Q. And I want your testimony to reflect that you  
19 never objected; correct?

20 A. Correct.

21 Q. Okay. And so you never objected to him  
22 providing services to the County for labor relations?

23 A. Correct.

24 Q. What about anything else?

1           A.    No.  I mean, I was okay with him providing  
2 other representation to the County as well.

3           Q.    Based upon just whatever you needed, or what?

4           A.    Well, I mean, in a way, yes, anything that  
5 related to labor relations.

6           Q.    Again, I just want it to be clear because I'm  
7 getting specific here for a second.  Your number 11 says  
8 that the treasurer has refused to satisfy outstanding  
9 legal expenses for the recent labor arbitration;  
10 correct?

11          A.    Correct.

12          Q.    And just to make the record clear again, you  
13 didn't type this; correct?

14          A.    Correct.

15          Q.    Do you believe that Mr. Flynn typed it?

16          A.    I don't know.  I would assume so, either  
17 Mr. Flynn or someone at his direction.

18          Q.    Was it emailed to you?

19          A.    No.

20          Q.    How did you first come to acquire it, do you  
21 recall, a copy to be looked at for your consideration?

22          A.    Yes.  I saw it in person.

23          Q.    And who brought it to you?

24          A.    Mr. Flynn.

1 Q. Okay. You had a meeting with him?

2 A. Yes.

3 Q. Would it have been on July 7th when you signed  
4 it?

5 A. Yes.

6 Q. How long do you believe you looked at this  
7 before you signed it?

8 A. I have no idea. I mean, I read it through. I  
9 read it through again. I don't know for sure.

10 Q. Now, you said Mr. Fruehling, he's the attorney  
11 for the insurance of the County?

12 A. Yes.

13 Q. Did you call him and talk to him before you  
14 signed this?

15 A. I did not.

16 (Whereupon Plaintiff's Deposition Exhibit  
17 6 was marked for purposes of  
18 identification.)

19 Q. I'm going to hand you, ma'am, what's been  
20 marked as Exhibit 6. Take all the time you need.

21 A. Okay.

22 Q. You ready?

23 A. Yes.

24 Q. When did the treasurer -- Erin, is that her

1 name?

2 A. Erica.

3 Q. Erica. Thank you. When did she first become  
4 treasurer of the County?

5 A. I believe it would have been December of 2018.

6 Q. And do you recall when this issue first came  
7 up regarding payment of invoices to Mr. Flynn and his  
8 firm?

9 A. I think it was in January of 2020, I think.  
10 I'm not positive.

11 Q. If I flip to -- again, let the record reflect  
12 [Exhibit 6](#) is a group of invoices from Featherstun,  
13 Gaumer, et al. Could you flip to the second page.

14 A. Sure.

15 Q. If you drop down to where it has the fees and  
16 you see the different dates and the services rendered.  
17 Do you see that section?

18 A. Yes.

19 Q. Okay. Have you seen these invoices before  
20 this lawsuit started? Would you review these invoices  
21 of Mr. Flynn's firm before they were submitted for  
22 approval?

23 A. Not before that were submitted for approval.  
24 I believe I saw them at some point. I mean, maybe with

1 regard to an attachment in the initial lawsuit or  
2 something. I haven't closely reviewed them before  
3 today, no.

4 Q. Would it be fair to say -- and let's talk  
5 about prior to the litigation -- when Mr. Flynn would  
6 submit an invoice for services he was providing, that  
7 you were not a part of the approval and vetting process  
8 of those invoices?

9 A. I was not.

10 Q. Would it be fair to say that Mr. Flynn was  
11 providing services to the County for matters of which  
12 you had no involvement?

13 A. I don't know that I would say no involvement.  
14 Little involvement.

15 Q. Let me clarify the question. Was he providing  
16 services to the County of which you were not directing  
17 him to provide?

18 A. I don't think that's fair either.

19 Q. So anything I see on one of these invoices  
20 would have been something that you would have reached  
21 out to Mr. Flynn and said, Can you provide this legal  
22 service to the County?

23 A. I mean, I guess I would classify it as saying  
24 he had broad authority to conduct the negotiations with

1 the unions, I mean, other employee relations type of  
2 matters or labor relations type of matters. I didn't  
3 direct him to do every single thing that he did, no; but  
4 at the same time, a lot of it falls under what I would  
5 call his broad authority to handle these matters on  
6 behalf of the County.

7 Q. Broad authority of labor relations?

8 A. Yes, sir.

9 Q. Okay. Look at the second entry on 12/17/2019.

10 A. Yes.

11 Q. Do you see that?

12 A. Yes.

13 Q. EFF being the timekeeper?

14 A. Yes.

15 Q. Do you believe that to be Mr. Flynn?

16 A. I think so, yes.

17 Q. Meeting with Gina. That would be you;  
18 correct?

19 A. I believe that's correct.

20 Q. Regarding issues arising between elected  
21 officials. Is that a labor relations issue?

22 A. I don't recall what the specific issue is. I  
23 mean -- or was.

24 Q. Well, elected officials are not part of labor

1 relations; is that fair?

2 A. I mean, not between two elected officials. I  
3 mean, elected officials are part of labor relations as  
4 it relates to with their employees, but.

5 Q. Issues arising. Was this meeting with  
6 Mr. Flynn, between you and Mr. Flynn, addressing the  
7 issues of these potential payments between the  
8 treasurer's office and the County Board and yourself  
9 regarding the propriety of those payments? Was that  
10 what that meeting was about?

11 A. Sir, I don't know what it was about. I don't  
12 recall.

13 Q. Did you ever meet with, in December 2019, with  
14 Mr. Flynn about these issues?

15 A. I don't recall meeting with him -- about these  
16 issues, meaning about his payment? Is that what you  
17 mean?

18 Q. About just this issue in general.

19 A. Payment of his bills?

20 Q. Payment of his bill, the authority to have  
21 hired him, et cetera.

22 A. I don't recall meeting with him about payment  
23 of his bill in December of 2019.

24 Q. How about 12/20, BDE, timekeeper. Do you know

1     who that is?

2             A.     No.

3             Q.     That's not Mr. Flynn's initials; is that fair?

4             A.     That's fair.

5             Q.     Looks like that was two and a half hours.

6     Read the description of that and see if you recall that  
7     being something that you participated in.

8             A.     I don't recall that being something that I  
9     participated in.

10            Q.     Do you know what it's about by reading that?

11            A.     I think what it's about, and I'm not  
12     100 percent positive, okay. I mean, I don't want to  
13     speculate.

14            Q.     You can let the record reflect you're  
15     speculating. Go ahead.

16            A.     In reading that, what I believe it is about is  
17     salaries or payments, pay to the employees of the  
18     sheriff's department.

19            Q.     Okay. So you don't believe that that would  
20     have been about the issues that arose between Erica and  
21     the County about the payments to Mr. Flynn?

22            A.     I do not believe that to be the case, no.

23            Q.     How about on 12/20 with Mr. Flynn? Meeting  
24     with Brian. Review his research. Conferred with Gina



1 and Erica. Three hours. Do you remember that?

2 A. Not specifically, no.

3 Q. Erica, do you believe that would have been the  
4 treasurer?

5 A. I do. I guess I would note for the record  
6 that there is an Erica who works at the sheriff's  
7 department, but I believe the Erica here to be  
8 Ms. Firnhaber, the treasurer.

9 Q. Do you know what research that Brian -- do you  
10 know who Brian is?

11 A. I do not.

12 Q. Okay. So someone named Brian did some  
13 research and then Mr. Flynn conferred with you and  
14 Erica. Do you remember that conversation?

15 A. Not specifically, no.

16 Q. Do you believe that conversation to have been  
17 about the issues that are present in these court cases?

18 A. I don't believe that to be the case. I recall  
19 a meeting between Ed, Erica and myself regarding  
20 payments that the sheriff's department was making to its  
21 employees.

22 Q. Okay. And the date of these services -- I  
23 mean, it speaks for itself -- were December of 2019;  
24 correct?

1 A. Correct.

2 Q. If you flip through these invoices, if you  
3 have had a chance, do you believe the amounts owed to  
4 Mr. Flynn and his firm were from December of 2019 to  
5 date and none prior to December of 2019, at least as  
6 reflected in these invoices?

7 A. As reflected in these, yes.

8 Q. And would it be fair to say that your budget  
9 itself that you have as the state's attorney reflected  
10 no appropriations for these services?

11 A. Until this current budget year, that's  
12 correct.

13 Q. Well, this is December of 2019. You want to  
14 look and see what the oldest invoice was. If you want  
15 to flip through there, at least the dates on these  
16 documents.

17 A. They go December of '19 through April of 2020,  
18 so yes, that's correct.

19 Q. So that would have been in last year's budget;  
20 correct?

21 A. Correct.

22 Q. And for the record, your budget itself, the  
23 state's attorney budget, had no appropriation for this?

24 A. Back then it did not, that's correct.

1 Q. So I'll hand you what's marked as [Exhibit 8](#).  
2 (Whereupon Plaintiff's Deposition Exhibit  
3 8 was marked for purposes of  
4 identification.)

5 Q. You familiar with the budgetary funds of the  
6 County?

7 A. Not very familiar.

8 Q. If you take a quick look. I only have a  
9 couple questions.

10 A. Okay.

11 Q. If you look at the account up there where it's  
12 a big bunch of long numbers and there's -029. Do you  
13 see -029?

14 A. I do.

15 Q. Do you know which fund that is for the Shelby  
16 County budget?

17 A. Right next to it it says labor relations. I  
18 have no reason to doubt that, but I didn't know that was  
19 the case.

20 Q. Well, you've testified it's not your fund. Do  
21 you know if that's the general fund?

22 A. I think it might be, yes.

23 Q. Okay. Flip to the very last page.

24 A. Yes.

1 Q. Who is Mr. Aaron Calvert? Do you know who  
2 Aaron Calvert is?

3 A. I do.

4 Q. Who is Mr. Calvert?

5 A. He is an attorney in Taylorville who does  
6 conflict public defender work for the County.

7 Q. So he's conflict public defense; correct?

8 A. One of them, yes.

9 Q. One of them. Gotcha. I don't have many  
10 questions left, ma'am.

11 The provision of the statute that you put in  
12 your affidavit, that 5/4-2003(b), the last page of your  
13 affidavit.

14 A. Uh-huh.

15 Q. What do you believe as a public official with  
16 a budget, how are those fees incurred, if you are able  
17 to hire someone under that provision, how are those  
18 paid? Do you know?

19 A. Okay. Let's stop here for a moment. The  
20 affidavit itself doesn't say the (b) part, just to clear  
21 that up.

22 Q. Okay. So are you using (a), do you think?

23 A. Well, I don't know. I'm just saying that was  
24 part of your question, so.

1 Q. That's fair. That's fair. So let's clarify  
2 that if we could. I'm going to go back to your  
3 affidavit, and let's flip to that last page just for  
4 conversation. If we look at Subsection (a), if you want  
5 to read it real quick.

6 A. Uh-huh.

7 Q. The number of such assistants shall be  
8 determined by the county board and the salaries of such  
9 assistants shall be fixed by the state's attorney  
10 subject to budgetary limitations. You see that in  
11 paragraph (a)?

12 A. I do.

13 Q. And in your affidavit, the page before where  
14 it says Section 4-2003, do you believe that Mr. Flynn  
15 was being appointed and his firm under Section (a)?

16 A. I think I testified already I understood it to  
17 be under Section (b), although that didn't come about  
18 until 2019, so.

19 Q. Subsection (b) is the -- because, again,  
20 Subsection (a), can we agree it lays out how budgets are  
21 utilized to pay for those services should you need an  
22 assistant under Subsection (a); correct?

23 A. Correct.

24 Q. Okay. What about under Subsection (b)? What

1 is your understanding how your budget or how Mr. Flynn  
2 would be compensated with your appointment of him if it  
3 was under Subsection (b)?

4 A. I mean, I don't have any reason to believe --  
5 I mean, it doesn't say which way. I assume we could  
6 refer to (a), but, you know, our practice obviously was  
7 he would submit a bill and it would be paid out of the  
8 general fund.

9 Q. Okay. And, again, being a licensed attorney  
10 for 16 years, you at least can accept that Subsection  
11 (b) doesn't explain that, does it?

12 A. It doesn't.

13 (Whereupon Plaintiff's Deposition Exhibit  
14 9 was marked for purposes of  
15 identification.)

16 Q. I'll hand you one more document. You may have  
17 never seen this before. I won't ask you to verify this  
18 document. Obviously you can. I just wanted to give it  
19 to you to utilize to ask a couple questions, but I want  
20 you to read the first few paragraphs real quick. Ready?

21 A. Uh-huh.

22 Q. Let the record reflect this is identified as  
23 the transcription of the debate from 5/31/2018 regarding  
24 House Bill 3648. Do you see at the top, ma'am, where

1 House Representative Mitchell brings to the floor  
2 codifying state's attorneys appointing a special counsel  
3 to assist in complex litigation? Do you see that?

4 A. I do.

5 Q. Mr. Flynn's services that he was providing was  
6 not complex litigation, was it?

7 A. I suppose you could say it wasn't litigation  
8 in the sense of it wasn't a court case. To me it was  
9 complex. Labor relations.

10 Q. I understand that. It wasn't litigation? Can  
11 we agree on that?

12 A. Yes, I guess.

13 Q. He was negotiating labor contracts; correct?

14 A. Correct.

15 Q. Now, what I find interesting -- again, I'm  
16 just asking you to accept this floor debate for our  
17 conversation right now. Okay?

18 A. Okay.

19 Q. Drop down to where House Representative Breen,  
20 the fifth line down, where it says, And so  
21 Representative.

22 A. Yes, sir.

23 Q. You see that?

24 A. Yes.

1 Q. House Representative Breen, again, Appears to  
2 be the codification of current practice where you can  
3 appoint a special assistant state's attorney. Do you  
4 have any understanding what current practice the house  
5 rep may have been referring to that was being codified?

6 A. No. I mean, I guess I have no independent  
7 understanding. I mean, I just have what's in front of  
8 me.

9 Q. I understand. Well, when this was on the  
10 floor, you had been the state's attorney for  
11 approximately six years, give or take?

12 A. Yes.

13 Q. And the practice where you could appoint a  
14 special state's attorney that was not codified, do you  
15 have any independent understanding of what the house rep  
16 may have been referring to?

17 A. No independent understanding, no.

18 Q. Okay. I don't either. I just thought maybe  
19 you did. Then if you drop down again, Mr. Breen asks  
20 the question of House Rep Mitchell, And they already  
21 have authority to pay those folks if they need to, but  
22 that's not being addressed in your bill. Do you see  
23 that?

24 A. Yes.



1 Q. And House Rep Mitchell says, That's correct?

2 A. Yes.

3 Q. After your affidavit was signed in July of  
4 2020, regardless of propriety, you then went to the  
5 County Board for the current budget year and asked for  
6 them to appropriate funds for you in your budget for  
7 services that could be provided by Mr. Flynn; correct?

8 A. Correct.

9 Q. At any time before this current fiscal year  
10 started had you ever gone to the County Board on the  
11 record in any public meeting and advised them in writing  
12 or orally that you had appointed Mr. Flynn or his firm  
13 to be special state's attorney?

14 A. No.

15 Q. Would it be fair to say that the only thing in  
16 writing that might exist in the record, in the public  
17 record or in this case, that would support your  
18 authorizing him to do that would be this affidavit?

19 A. I mean, I would suggest that's also the  
20 resolution and his bills that were paid, those would  
21 have been, I think, public record.

22 Q. That's the County Board taking those actions;  
23 correct?

24 A. That's true.

1 Q. For you as yourself -- I'm sorry if I was  
2 confusing -- for you as yourself, not the County Board,  
3 would it be fair to say the only thing in writing that  
4 would purport to suggest you authorized the hiring of  
5 Mr. Flynn would be this affidavit?

6 A. That may be the only thing in writing, that's  
7 correct.

8 Q. One second, ma'am. I'm about done. Do you  
9 know as you sit here whether the County Board in its  
10 appropriations of its budget prior to the current fiscal  
11 year we're in -- let's just talk about '19 to '20 -- do  
12 you know if they appropriated funds in their budget for  
13 any services Mr. Flynn or his firm might provide?

14 A. I felt that they did, but I don't know  
15 100 percent, no.

16 Q. Do you recall ever having any conversations  
17 with the County Board as to how much they need to put in  
18 the budget for services Mr. Flynn or his firm might  
19 provide?

20 A. Not that I recall.

21 Q. Would it be fair to say that as it relates to  
22 labor negotiations of contracts, that the County Board  
23 worked directly with Mr. Flynn on that?

24 A. I think that's probably fair to say. I mean,

1 I don't think it was just the County Board. It would  
2 have been the sheriff, you know, and others as well.  
3 Mr. Flynn would keep me apprised of things, but.

4 Q. And that's a good way to put it, ma'am. Being  
5 an attorney, you understood where I was going with that  
6 question that was inartfully worded, but you would have  
7 been apprised as to what was going on in those  
8 negotiations?

9 A. Yes.

10 Q. But as far as managing those efforts of  
11 negotiations, the County Board, as far as legal counsel  
12 was concerned, would have been working directly with  
13 Mr. Flynn?

14 A. I think that's fair, yes.

15 Q. Back in 2014, on [Exhibit 1](#), when that  
16 resolution was adopted, were you asked to provide input  
17 on that resolution?

18 A. I don't recall being asked to provide input as  
19 to the resolution itself, no.

20 Q. Do you recall if you drafted it?

21 A. I don't think I drafted it, but I don't recall  
22 100 percent, sir.

23 Q. Okay. Besides the resolution in 2014 -- maybe  
24 you've answered this question, and I apologize -- have

1 you drafted yourself any type of written contracts or  
2 engagement letters between the County and Mr. Flynn's  
3 office?

4 A. No, sir.

5 Q. Going back to [Exhibit 1](#). Again, referring to  
6 the resolution for the fiscal 2014/2015 year, the fiscal  
7 2014/2015 year would have ended August 31st, 2015;  
8 correct?

9 A. I believe that's correct, yes.

10 Q. To your knowledge, there's no resolution  
11 subsequent to that authorizing the hiring of Mr. Flynn  
12 for any type of purpose for the County?

13 A. To my knowledge, there is not such a  
14 resolution.

15 Q. Okay. And to your knowledge, that resolution  
16 even back then was to hire Mr. Flynn and not the firm of  
17 Featherstun, Gaumer, et al.?

18 A. That's what it says, Ed Flynn. I believe it  
19 was understood that Mr. Flynn came from a firm and that  
20 it may have been possible that other people from the  
21 firm might perform some of that work, but it says Ed  
22 Flynn, so.

23 Q. Okay. And would it be fair to say that it  
24 also says, when we're looking at the statute, again, the

1 provision that came into effect in 2019, it says, The  
2 state's attorney may appoint qualified attorneys to  
3 assist; correct?

4 A. Yes, sir.

5 Q. And it does not say -- again, it speaks for  
6 itself; I just want you to say on the record -- it  
7 doesn't say that you may appoint a law firm; is that  
8 fair?

9 A. That's fair.

10 Q. I might be done. Just one second, ma'am. The  
11 provision of the statute we just talked about,  
12 Subsection (b), January 1st, 2019, prior to that date  
13 and from the resolution that was passed up until, let's  
14 call it December 31st, 2018, do you believe the  
15 authority to compensate Mr. Flynn and his firm during  
16 that period of time was a product of the resolution that  
17 was passed by the County Board?

18 A. At least partially, yes. I mean, he continued  
19 to operate as our labor relations counsel from that time  
20 onward. Everybody was okay with it. We continued to  
21 pay him. He continued to bill us. We continued to pay  
22 him. So at least partially, yes.

23 MR. DeVORE: I don't have anything further.  
24

## CROSS-EXAMINATION

BY MR. FLYNN:

Q. Gina, the lawsuit that my law firm and I have filed for the collection of fees, and you've seen the bills that were provided to you in [Exhibit 6](#), that's only for services rendered from December 2019 through April 2020; is that correct?

A. That is correct, yes.

Q. In [Exhibit 1](#), you were asked questions about the resolution that was passed. The resolution, the motion to approve the resolution was made by Bennett. Do you know who that County Board member is?

A. I believe that to be Barbara Bennett.

Q. Now, you were asked questions about your involvement in both private practice as well as your practice as a state's attorney, and by no means do I mean these questions to be disrespectful, but have you ever negotiated a collective bargaining agreement?

A. I have not.

Q. Have you ever appeared and litigated anything before the National Labor Relations Board?

A. I have not.

Q. How about the state Labor Relations Board?

A. I have not.

1 Q. Are you familiar with the Illinois Public  
2 Labor Relations Act?

3 A. I'm not super familiar with it, no.

4 Q. Had you ever had any reason to have any  
5 professional experiences in reviewing that act and  
6 offering opinions or acting upon items of that statute  
7 in a professional manner?

8 A. I do not have experience in that, no.

9 Q. Have you ever tried any labor relations  
10 grievance cases?

11 A. No, sir.

12 Q. And have you ever been involved in a labor  
13 arbitration?

14 A. No, sir.

15 Q. And if I asked you what an interest  
16 arbitration is, would you know what an interest  
17 arbitration consists of?

18 A. No, sir.

19 Q. So if you looked at my bills from  
20 December 2019 through April 2020, do you recall my  
21 conversations with you that those are expenses  
22 substantially incurred as a result of the interest  
23 arbitration because of the failed negotiations with the  
24 sheriff's contract or the deputies and the correctional

1 officers?

2 A. I don't recall specific conversations, no.

3 Q. You do recall that I tried that case here?

4 A. Yes.

5 Q. Actually in that courtroom just next to this  
6 jury room; correct?

7 A. I do recall that.

8 Q. Now, you were asked a variety of questions on  
9 page 2 about my billings. Would you go to page 2. Tell  
10 me when you're on that page.

11 A. I am.

12 Q. Let me back up before I get into that page.  
13 Prior to December 2019 I had done work for the County  
14 and I have dealt with your treasurer, Erica. If I told  
15 you that I had a good working relationship with her  
16 prior to that, would you have any reason to not believe  
17 that?

18 A. I would have no reason not to believe that.

19 Q. So the billings that you were asked about in  
20 December 2019, I told you that the sheriff had submitted  
21 some bills to the County Board and they were approved  
22 and Erica was refusing to pay them, and you were  
23 frustrated with your communications and conversations  
24 with Erica about that, and you asked me to become



1 involved. And so I did engage Brian Eck from my office  
2 to do the research and then I came down and met with you  
3 and Erica and explained to Erica that those bills had  
4 been approved and she needed to pay those bills. And  
5 she complained about her having liability by putting her  
6 name on the check, and I explained to her that she was a  
7 conduit paying those bills and the liability would go to  
8 the sheriff, not to her. Do you recall that?

9 A. I recall some of that, yes, sir.

10 Q. And when it talks about a meeting with you and  
11 Erica in December 2019, we had a meeting to discuss all  
12 of that in your office. Do you recall that?

13 A. I recall a meeting between you and Erica and  
14 myself, yes, sir.

15 Q. And I provided her with a memorandum  
16 explaining her obligation to pay the bills the County  
17 Board had approved; correct?

18 A. Correct.

19 Q. And prior to December of 2019 the concept of  
20 Erica refusing to pay the bills for my legal services  
21 provided for Shelby County had never been a subject that  
22 had been broached with me; correct?

23 A. To the best of my knowledge, that's correct.

24 Q. In fact, I didn't know that Erica wasn't

1 paying my bills until late spring of 2020 when I raised  
2 that subject with you. Do you recall that?

3 A. Yes.

4 MR. DeVORE: I'm going to object to the extent  
5 she knows what you're thinking, but go ahead, ma'am.

6 A. I recall a conversation with you where you  
7 expressed concern that you had not been paid, correct.

8 Q. (By Mr. Flynn) And the nonpayment of my bills  
9 began immediately after I met with you and Erica in your  
10 office regarding the payment, regarding Erica's  
11 obligation to pay the sheriff's bills; correct?

12 A. I don't know exactly when the nonpayment  
13 began.

14 Q. Well, let me ask you this: The lawsuit that I  
15 filed to collect the bills all reflect bills from  
16 December through April, and December 20th was when I had  
17 the meeting with you and Erica about Erica's obligation  
18 to pay those bills; correct?

19 A. Say that again. I'm sorry.

20 Q. Sure. I think the meeting I had with you and  
21 Erica was on December 20th in regards to Erica's  
22 obligation to pay those bills.

23 MR. DeVORE: I'm going to object again as  
24 you're asking her what you think, counsel. To that

1 extent, ma'am, go ahead.

2 MR. FLYNN: Okay. That's a ridiculous  
3 objection.

4 MR. DeVORE: What do you mean -- you're asking  
5 her what you think.

6 MR. FLYNN: Don't talk over me, please.

7 MR. DeVORE: You don't talk over me. This is  
8 my deposition, sir. You want to depose her, go ahead;  
9 but I don't want questions asked of the witness of what  
10 you may think about something.

11 MR. FLYNN: Okay. You're talking over me  
12 again.

13 MR. DeVORE: Okay.

14 MR. FLYNN: In an unprofessional manner, which  
15 I expected.

16 MR. DeVORE: Okay. Okay.

17 Q. (By Mr. Flynn) So on December 20th the bill  
18 reflects that I met with you and Erica regarding Brian  
19 Eck's research; correct?

20 A. Correct.

21 Q. And at that meeting is when I advised Erica  
22 that she needed to pay the sheriff's bills?

23 A. That is correct, yes.

24 Q. And you contacted me because you were in an

1 uncomfortable position between Erica and the sheriff  
2 about the dispute of payment of his bills?

3 A. That's fair -- I believe it was payroll, maybe  
4 not bills, but, I mean, payments.

5 Q. Payroll issues?

6 A. Yes.

7 Q. And subsequent to that Erica has never paid  
8 any of my bills; correct?

9 A. I believe that to be true.

10 Q. You ever handled an unfair labor practice  
11 charge?

12 A. I have not.

13 Q. And are you familiar with the Janus case?

14 A. No, sir.

15 Q. Now, the questions that I have asked you about  
16 employment- and labor-related matters, do you know if  
17 your assistant Brian Bach has any of those experiences?

18 A. To the best of my knowledge, he does not.

19 Q. You were asked questions about one page of a  
20 transcript which clearly has multiple pages that go  
21 thereafter. Those pages were not provided for you. In  
22 that transcript they were talking about complex  
23 litigation; right?

24 A. Yes, sir.

1 Q. Paragraph (b) in Section 4-2003 simply talks  
2 about retention of qualified attorneys to assist when  
3 the public interest so requires; right?

4 A. Correct.

5 Q. There's nothing in paragraph (b) that  
6 references complex litigation; is there?

7 A. That's correct.

8 Q. Throughout the years that I've represented  
9 Moultrie County and done work for them, I have regularly  
10 been to your office regularly during or after or before  
11 labor negotiations to keep you apprised of the status of  
12 the labor negotiations; correct?

13 MR. DeVORE: Objection. Relevance.

14 A. Shelby County, but yes.

15 Q. (By Mr. Flynn) Did I say Moultrie County?

16 A. You did. But yeah.

17 Q. Sorry. I represent multiple counties. If I  
18 asked the same question of Shelby County, would you say  
19 yes?

20 A. Yes.

21 Q. The bills for my services for the interest  
22 arbitration in which I represented Shelby County, they  
23 have been approved by the County Board; correct?

24 A. I believe that to be correct.

1 Q. Despite the approval by the County Board, the  
2 treasurer has refused to issue payment; is that correct?

3 A. I believe that to be correct.

4 Q. You were asked questions about the affidavit  
5 that you signed that was made an exhibit here today.  
6 That was signed July 7, 2020; correct?

7 A. Correct.

8 Q. That was after the insurance company denied  
9 coverage in this matter; am I correct?

10 A. I believe that to be correct, yes.

11 Q. The County was no longer represented by the  
12 insurance defense attorney that is part of the email  
13 that's an exhibit in this case; correct?

14 A. I mean, it would be my position that we never  
15 were.

16 Q. Okay. Because coverage was denied; right?

17 A. Yes.

18 Q. And [Exhibit 5](#), that's an email from you to  
19 Erica; correct?

20 A. Correct.

21 Q. And when the idea of filing an MR case for a  
22 retroactive order is mentioned in this email, that is  
23 simply you relaying Keith Fruehling's suggestion to  
24 Erica; correct?

1 A. It was.

2 Q. I had nothing to do with that idea; correct?

3 A. Correct.

4 Q. In fact, I wasn't involved in that at all;  
5 right?

6 A. Correct.

7 Q. In 2014 going forward, I did discuss with you  
8 my hourly rate increasing beyond \$150; correct?

9 A. Correct.

10 Q. And I did advise you that I was charging you  
11 the same hourly rate that I charged other counties for  
12 the same type of legal matters that I provided for them;  
13 correct?

14 A. Correct.

15 MR. FLYNN: I don't have anything further.

16 MR. DeVORE: Mr. Koester?

17 MR. KOESTER: I don't have any questions. I  
18 know that these cases will probably be consolidated.  
19 They haven't been consolidated yet.

20 MR. DeVORE: That's right.

21 MR. KOESTER: I just appreciate the  
22 opportunity to attend and to listen, so thank you.  
23  
24

## RECROSS-EXAMINATION

BY MR. DeVORE:

Q. I just have a couple follow-up questions and we'll be done. You are a state's attorney. You're aware that's a constitutional office of the State of Illinois?

A. Yes.

Q. Are you aware that the taxpayers pay you a fixed salary for that representation; correct?

A. Correct.

Q. What is the current salary of the state's attorney in this county?

A. I believe that it is now maybe \$132,000 or \$133,000.

Q. So \$130- to \$140,000?

A. And change. I would say between \$130- and \$135,000.

Q. Okay. And the taxpayers provide that to you, correct, county and state?

A. Correct. Reimbursement from the state, but it's all taxpayer money.

Q. It's all taxpayer money.

A. Correct.

Q. And wouldn't it be fair to say that as part of



1 that, you as the state's attorney have a duty to provide  
2 representation for things like labor relations  
3 negotiations? It's part of your responsibilities?

4 A. Some people might think that, yes.

5 Q. Let me clarify the question. It's part of  
6 your duties as state's attorney, but whether you  
7 delegate it or not could be a different conversation?

8 A. That's correct.

9 Q. So it is a role that you are obligated to  
10 provide in some fashion; is that fair?

11 A. Correct.

12 Q. And I believe Mr. Flynn has asked enough  
13 questions of you that you've established that you were  
14 not comfortable providing those services; is that fair?

15 A. That is fair.

16 Q. Okay. And if I go back to your affidavit, if  
17 I go to 4-2003 again -- you ready, ma'am?

18 A. Yeah.

19 Q. We've talked about Subsection (b), but let's  
20 talk about Subsection (a). You as the state's attorney  
21 at any point in time on or around March of 2014 could  
22 have approached the County Board about increasing the  
23 number of assistants and budgeting Mr. Flynn in to your  
24 budget for these services; could you not have done that?

1 A. I could have, yes.

2 Q. You did not; correct?

3 A. I did not.

4 Q. The County Board passed a resolution hiring  
5 counsel; correct?

6 A. Correct.

7 Q. And they hired him, would it be fair to say,  
8 to do a job that was at least your responsibility to  
9 provide?

10 A. Yes.

11 Q. Okay. Now, to your knowledge, was Mr. Flynn  
12 providing these services prior to March of 2014 or was  
13 someone else?

14 A. Prior to March of '14 it would have been the  
15 State's Attorney Appellate Prosecutors Association.

16 Q. Do you know why that ended?

17 A. Mr. Knuppel from that agency advised that he  
18 was no longer willing to perform our labor relations  
19 work.

20 Q. Okay. Thank you. And so did you have some  
21 type of conversation with the County Board that you  
22 weren't comfortable providing that because of your  
23 skill-set?

24 A. And because of the conflict that may come in

1 with sitting across the table, so to speak, from  
2 deputies for which I rely on to make my cases.

3 Q. Are you aware of any state's attorneys that  
4 regardless of that still negotiate these contracts?

5 A. I mean, I think some probably do, and  
6 certainly some of the bigger counties probably have  
7 their own whole division to do that. That's correct.

8 Q. And so based upon those concerns of yours,  
9 that's what resulted in the resolution being passed?

10 A. That's correct.

11 Q. And the last couple of questions. Your  
12 affidavit, again, doesn't specifically reference  
13 Subsection (b); correct?

14 A. Correct.

15 Q. Okay. And your testimony is you believe that  
16 that's the provision it's relying upon; correct?

17 A. Uh-huh.

18 Q. Is that a yes?

19 A. Yes. Sorry.

20 Q. And would it be your testimony that if we  
21 needed to know for certain, that we would have to ask  
22 Mr. Flynn or whoever in his firm prepared this  
23 document?

24 A. I guess so.

1 MR. DeVORE: Okay. No further questions.  
2 MR. FLYNN: I don't have anything further.  
3 MR. DeVORE: Thank you very much. Signature?  
4 THE WITNESS: I'll waive.  
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CERTIFICATE OF REPORTER

STATE OF ILLINOIS )

)

COUNTY OF MADISON )

I, MARY JOY SPRINGER, a Certified Shorthand Reporter within and for the State of Illinois, do hereby certify that the witness whose testimony appears in the foregoing deposition was duly sworn by me; that the testimony of said witness was taken by me to the best of my ability and thereafter reduced to typewriting under my direction; that I am neither counsel for, related to, nor employed by any of the parties to the action in which this deposition was taken, and further that I am not a relative or employee of any attorney or counsel employed by the parties thereto, nor financially or otherwise interested in the outcome of the action.

MARY JOY SPRINGER,  
Certified Shorthand Reporter