

**IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF WISCONSIN
MILWAUKEE DIVISION**

ANDREW L. COLBORN,

Plaintiff,

vs.

**NETFLIX, INC.; CHROME MEDIA LLC,
F/K/A SYNTHESIS FILMS, LLC; LAURA
RICCIARDI; AND MOIRA DEMOS,**

Defendants.

Civil No.: 19-CV-484

DECLARATION OF MEGHAN FENZEL

I, Meghan Fenzel, under penalty of perjury and subject to 28 U.S.C. § 1746, declare as follows:

1. I am one of the attorneys for Defendants Laura Ricciardi, Moira Demos and Chrome Media LLC (collectively the “Producer Defendants”) in the above-captioned action. I have personal knowledge of the matters set forth in this declaration. I make this declaration in support of the Producer Defendants’ Opposition to Plaintiff’s Motion for Partial Summary Judgment.

Deposition Transcripts

2. Attached as Exhibit 1 is a true and correct copy of the excerpted Transcript of Kenneth Petersen's Deposition taken on May 19, 2022 in relation to the above-captioned lawsuit.

3. Attached as Exhibit 2 is a true and correct copy of the excerpted Transcript of Plaintiff Andrew Colborn's Deposition taken over two days on July 21 and 22, 2022 in relation to the above-captioned lawsuit.

Documents

4. Attached as Exhibit 3 is a true and correct copy of part two of a three-part video interview with Rick Maher by Mark Hoddinott, published on YouTube on June 7, 2022 at <https://youtu.be/eAHTZV0I-mU> and produced by Netflix as YOUTUBE0000004. Rick Maher was a juror from the 2007 Steven Avery trial who quit after a day of deliberations due to a family emergency. At 14:07 of part two of the interview, Maher begins discussing his lingering questions about Colborn and the November 2005 call to dispatch. Describing Plaintiff starting at 15:24–15:37 he says, “His demeanor on the stand was just, I mean, he looked like he was sweating, and he looked like he wasn't being honest or he was trying to cover up a lot of things on the stand.” The video file is being manually lodged with the clerk of the Court, sent on a USB drive via Federal Express. The accompanying letter was filed at Dkt. 313.

5. Attached as Exhibit 4 is a true and correct copy of meet and confer correspondence from this lawsuit from Plaintiff’s counsel April Barker to counsel of record sent on April 12, 2022 at 2:50 p.m. Pacific Time. This specific attachment responds to my co-counsel Kevin Vick’s April 8, 2022 email summarizing discussions from meet and confer calls on April 6 and 7, 2022. In the cover email attaching this document, Plaintiff’s counsel clarified “I am attaching documents that contain Kevin's and Leita’s messages from Friday with our responses in boldface type.”

- a. Under item #2, Plaintiff’s counsel confirmed “Plaintiff’s position is that he does not possess any responsive email messages or text messages that predate December 2015.”
- b. Under item #3, Producer Defendant’s counsel asked for Plaintiff to confirm that “he does not possess any documents contemporaneous to the events he has

placed at issue in this case through his Second Amended Complaint, starting in 1994/1995 and including 2003–2007, other than the modest amount of documents he has already produced.” Plaintiff’s counsel responded affirmatively and clarified, “Mr. Colborn simply had no reason to nor did he retain many documents relating to the events that were the underlying subject of MAM.”

I declare under penalty of perjury that the foregoing is true and correct.

Dated November 4, 2022

Respectfully submitted,

s/ Meghan Fenzel
Meghan Fenzel

EXHIBIT 1

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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

ANDREW L. COLBORN,

Plaintiff,

-vs-

Case No. 19-CV-0484

NETFLIX, INC., et al.,

Defendants.

* * * * CONFIDENTIAL * * * *

Video-Recorded Examination of
KENNETH PETERSEN, taken at the instance of the
Defendants, under and pursuant to the Federal Rules
of Civil Procedure, before Sarah M. Gilkay, a
Certified Realtime Reporter, Registered Merit
Reporter, and Notary Public in and for the State of
Wisconsin, at GODFREY & KAHN, S.C., 833 East Michigan
Street, Suite 1800, Milwaukee, Wisconsin, on
May 19th, 2022, commencing at 10:14 a.m. and
concluding at 2:45 p.m.

Job No. CS5223455

1 APPEARANCES IN PERSON:
2 SCHOTT, BUBLITZ & ENGEL, S.C., by
Ms. April Rockstead Barker
3 640 West Moreland Boulevard
Waukesha, Wisconsin 53188
4 Appeared on behalf of the Plaintiff.
5

GODFREY & KAHN, S.C., by
6 Mr. James A. Friedman
One East Main Street, Suite 500
7 Madison, Wisconsin 53703
Appeared on behalf of the Defendants.
8

9 APPEARANCES VIA ZOOM VIDEOCONFERENCE:
10

GRIESBACH LAW OFFICES, LLC, by
11 Mr. Michael Griesbach
830 North 12th Street
12 Manitowoc, Wisconsin 54220
Appeared via Zoom on behalf of the Plaintiff.
13

14 BALLARD SPAHR, LLP, by
Mr. Matthew E. Kelley
15 1909 K Street, NW, 12th Floor
Washington, DC 20006
16 Appeared via Zoom on behalf of the Defendant
Netflix, Incorporated.
17

18 JASSY VICK CAROLAN, LLP, by
Mr. Kevin L. Vick
19 Ms. Meghan Fenzel
355 S. Grand Avenue, Suite 2450
20 Los Angeles, California 90071
Appeared via Zoom on behalf of the Defendants
21 Chrome Media, Laura Ricciardi, and Moira Demos.
22

* * * * *

A L S O P R E S E N T

23
24 Mr. Dalton Clements, videographer, via Zoom
Ms. Laura Ricciardi, via Zoom
25 Ms. Moira Demos, via Zoom

1 Q Are you ready, Sheriff Petersen?

2 A Sure. Yeah.

3 Q Do you understand this to be the statement that
4 Sgt. Colborn prepared in response to your
5 direction to him that he should prepare a
6 statement regarding that 1994 and '95 phone
7 call?

8 A It must be.

9 Q Do you recall if he provided it to you back in
10 2003?

11 A No.

12 Q Is it that you don't recall, or you don't
13 believe that he did?

14 A I don't believe he did.

15 Q Had you asked him to provide it to you?

16 A No. I told him to complete it and put it with
17 the case file, but he did it on a statement.

18 Q That would be in the -- that would be in the
19 safe?

20 A Well, he did it on a statement form. That would
21 be for a witness. What he should have done was
22 it should have been on a regular incident
23 report, and then that would have gone back
24 through the system a second time before it went
25 to the case file.

1 Q Could you please explain to me the difference
2 between incident reports and statements.

3 A Incident reports are numbered. They all -- of
4 course they all follow a sequence. One incident
5 can refer to another incident.

6 This statement doesn't even have an
7 incident number on it, so I don't know how
8 anybody that was going to file it would know
9 where to put it.

10 Q So the absence of the incident number would make
11 it harder for this to be catalogued and located
12 later?

13 A Yes. Very much so.

14 Q And you would have wanted Sgt. Colborn to
15 prepare an incident report that would have made
16 it easier to be catalogued and located later;
17 right?

18 A Yes. It would become a part of that file.

19 Q But instead he prepared this statement, which
20 did not do that; right?

21 A That's correct.

22 Q And you said this statement would then go -- it
23 would go into the case file in the safe?

24 A It would have -- it would, if they could -- if
25 they would be able to identify which case it was

1 going to. He's got no names in here.

2 Q Let's look at -- hold on one second.

3 Would someone in the Manitowoc County
4 Sheriff's Office as a matter of course review an
5 incident report, as compared to a statement?

6 A Yeah. It would go to admin. If it's an
7 incident report, it goes through the system and
8 it's given a status of whether it's active,
9 requires more investigation, or is closed or
10 unfounded.

11 Q And what if it's a statement?

12 A It's just part of the incident, so it just -- it
13 would -- depending on what else is in that
14 incident report.

15 MR. VICK: Meghan, let's look at
16 CHR00478.

17 (Exhibit 1010 marked for identification.)

18 MS. FENZEL: I'm introducing this as
19 Exhibit 1010.

20 BY MR. VICK:

21 Q Sheriff Petersen --

22 A Yep.

23 Q -- please review this document which has been
24 marked as Exhibit 1010.

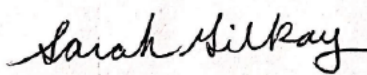
25 A Okay. You can move up. Okay.

1 STATE OF WISCONSIN)
) SS:
 2 COUNTY OF MILWAUKEE)
 3

4 I, Sarah M. Gilkay, RPR, RMR, CRR, and
 5 Notary Public in and for the State of Wisconsin,
 6 do hereby certify that the preceding deposition
 7 was recorded by me and reduced to writing under
 8 my personal direction.

9 I further certify that I am not a
 10 relative or employee or attorney or counsel of
 11 any of the parties, or a relative or employee of
 12 such attorney or counsel, or financially
 13 interested directly or indirectly in this
 14 action.

15 In witness whereof, I have hereunder
 16 set my hand and affixed my seal of office on
 17 this 6th day of June, 2022.
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21 

22 Sarah Gilkay
 RPR, RMR, CRR, and Notary Public
 23 My commission expires March 8th, 2026
 24
 25

EXHIBIT 2

1 UNITED STATES DISTRICT COURT
2 FOR THE EASTERN DISTRICT OF WISCONSIN

3 ANDREW COLBORN,

COPY

4 Plaintiff,

5 -vs-

CIVIL ACTION NO. 19-CV-0484-BHL

6 NETFLIX, INC., ET AL.,

VOLUME I

7 Defendants.

8 VIDEOTAPED DEPOSITION OF

9 ANDREW L. COLBORN

10
11 DATE: July 21, 2022

12 TIME: 9:23 a.m. - 5:22 p.m.

13 LOCATION: Godfrey & Kahn, S.C.
14 833 East Michigan Street
15 Suite 1800
16 Milwaukee, Wisconsin 53202

17
18
19
20
21 REPORTED BY:
22 Paula Huettenrauch, RMR, CRR
23 365Reporting, LLC

24 VIDEOGRAPHER:
25 Jon Hansen, CLVS
Video Concepts
608.408.7411

A P P E A R A N C E S

1
2
3 LAW FIRM OF CONWAY, OLEJNICZAK & JERRY, S.C., BY
4 R. GEORGE BURNETT, ATTORNEY AT LAW
5 231 South Adams Street
6 Green Bay, Wisconsin 54301
7 Gb@lcojlaw.com
8 appeared on behalf of the Plaintiff.

9
10
11 ROCKSTEAD LAW, LLC, BY
12 APRIL ROCKSTEAD BARKER, ATTORNEY AT LAW
13 525 North Lincoln Avenue
14 Beaver Dam, Wisconsin 53916
15 aprilrbarker@rocksteadlaw.com
16 appeared on behalf of the Plaintiff.

17
18
19 BALLARD SPAHR LLP, BY
20 LEITA WALKER, ATTORNEY AT LAW
21 2000 IDS Center
22 80 South 8th Street
23 Minneapolis, Minnesota 55402
24 walkerl@ballardspahr.com
25 appeared on behalf of Netflix, Inc.

26
27
28 BALLARD SPAHR LLP, BY
29 ISABELLA SALOMAO NASCIMENTO, ATTORNEY AT LAW
30 2000 IDS Center
31 80 South 8th Street
32 Minneapolis, Minnesota 55402
33 salomaonascimento@ballardspahr.com
34 appeared on behalf of Netflix, Inc.

35
36
37 BALLARD SPAHR LLP, by
38 EMMY S. PARSONS, ATTORNEY AT LAW
39 1909 K Street NW, Suite 1200
40 Washington, DC 20006-1157
41 parsonse@ballardspahr.com
42 appeared via Zoom videoconference on
43 behalf of Netflix, Inc.

1 BALLARD SPAHR LLP, by
2 MATTHEW E. KELLEY, ATTORNEY AT LAW
3 1909 K Street NW, Suite 1200
4 Washington, DC 20006-1157
5 kelleym@ballardspahr.com
6 appeared via Zoom videoconference on
7 behalf of Netflix, Inc.

8 JASSY VICK CAROLAN LLP, by
9 KEVIN L. VICK, ATTORNEY AT LAW
10 355 South Grand Avenue, Suite 2450
11 Los Angeles, California 90071
12 kvick@jassyvick.com
13 appeared on behalf of Chrome Media LLC,
14 Laura Ricciardi, and Moira Demos.

15 JASSY VICK CAROLAN LLP, by
16 MEGHAN E. FENZEL, ATTORNEY AT LAW
17 355 South Grand Avenue, Suite 2450
18 Los Angeles, California 90071
19 mfenzel@jassyvick.com
20 appeared via Zoom videoconference on
21 behalf of Chrome Media LLC, Laura Ricciardi, and
22 Moira Demos.

23 ***

24 ALSO PRESENT:

25 Debra Bursik, Paralegal

Moira Demos, Defendant

Laura Ricciardi, Defendant

Melinda LeMoine, Director, Litigation, Netflix, Inc.

1 Ms. Walker sent but not necessarily to the final
2 declaration signed by Mr. Colborn.

3 Q So we're going to come back to this
4 Exhibit 1 throughout the day, and I want to thank you
5 and your counsel for taking a look at it and agreeing
6 to what you could agree. I hope it will expedite
7 things today, but I'm mostly going to point you right
8 now to Exhibit A, attachment A of Exhibit 1, which is
9 my original letter.

10 A Okay.

11 Q And there were a handful of enumerated items
12 to which you declined to agree, and I want to point
13 you initially to items number 7, 8, and 9. Do you
14 see those?

15 A Yes.

16 Q And I'll read them out loud for the record.
17 Number 7 asked you to agree that "At the trial of
18 Mr. Avery for the murder of Teresa Halbach, a central
19 part of Mr. Avery's defense was that law enforcement,
20 including Mr. Colborn, planted evidence to frame him
21 (hereafter, the 'frame-up theory')." Do you see
22 that?

23 A Yes.

24 Q And number 8 says, "One part of the frame-up
25 theory put forth by the defense at Mr. Avery's trial

1 was that Mr. Colborn was looking directly at
2 Ms. Halbach's vehicle when he made a November 3rd,
3 2005 call to dispatch." Did I read number 8
4 correctly?

5 A Yes.

6 Q And number 9 says, "A second part of the
7 frame-up theory put forth by the defense at
8 Mr. Avery's trial was that Mr. Colborn was involved
9 in planting the key to Ms. Halbach's vehicle in
10 Mr. Avery's bedroom." Did I read that correctly?

11 A Yes.

12 Q And you declined to admit to these three
13 factual allegations, correct?

14 A Yes, I declined to admit to those.

15 (Exhibit 2 marked for identification.)

16 Q So I'm handing you what we've previously
17 marked as Exhibit 2. You can set aside Exhibit 1 for
18 a second but keep it handy. Often what witnesses do
19 is they'll just make a stack in order so they can
20 find things later in the day.

21 A Okay.

22 Q Exhibit 2 is the operative complaint in this
23 case, the Second Amended Complaint. Do you see that
24 at the top?

25 A Yes.

1 Q And I'd like to point you to paragraph 33,
2 if you could flip there.

3 A Got it.

4 Q And paragraph 33 begins, "A central part of
5 Avery's defense at trial was that Plaintiff and other
6 Manitowoc officers planted Halbach's SUV at the Avery
7 Salvage Yard." Did I read that correctly?

8 A Yes.

9 Q And so I'm wondering if you can explain to
10 me why you did not -- why you refused to admit
11 number 7 on Exhibit 1. And I'll read it again. "At
12 the trial of Mr. Avery for the murder of Teresa
13 Halbach, a central part of Mr. Avery's defense was
14 that law enforcement, including Mr. Colborn, planted
15 evidence to frame him (hereafter the 'frame-up
16 theory')." Your counsel has an objection.

17 MR. BURNETT: I do. Mr. Colborn's -- I
18 object to the form and a lack of foundation. I'm
19 going to give Mr. Colborn an instruction. To the
20 extent that answering that question would require you
21 to reveal communications, information you learned
22 from counsel, you should decline to answer that
23 question on grounds of privilege. To the extent that
24 you can answer the question as phrased without
25 revealing privilege, you should go ahead and answer.

1 Q Do you need me to repeat the question?

2 A Please.

3 Q So my question boils down to if your
4 Complaint alleges in paragraph 33 that a central part
5 of Avery's defense at trial was that plaintiff and
6 other Manitowoc officers planted Halbach's SUV at the
7 Avery salvage yard, then why will you not admit to
8 proposed stipulation number 7?

9 MR. BURNETT: Same objection. Same
10 instruction.

11 Q You can answer if you feel you can.

12 A I'm going to decline to answer then.

13 Q Okay. Do you stand by the allegations in
14 your Complaint, Mr. Colborn?

15 MR. BURNETT: Same objection, form and
16 foundation. To the extent that you can answer that
17 question based on your personal knowledge, go ahead.

18 A Yes, I do.

19 Q All right. I'm going to hand you what we've
20 previously marked as Exhibits 3 and Exhibit 4.

21 (Exhibits 3 and 4 marked for
22 identification.)

23 MR. BURNETT: Thank you.

24 Q All right. I'm handing you Exhibits 3 and 4
25 together, Mr. Colborn, because as you'll see,

1 question.

2 Q And I can just state at the outset that
3 whenever I ask you about who you've talked to or what
4 they've said, I don't ever mean to ask you about your
5 conversations with your attorneys.

6 So other than your attorneys, are you
7 telling me you don't know anything about Kathleen
8 Zellner's motion on behalf of Steven Avery?

9 A I can't answer as to what is going through
10 Attorney Zellner's mind and her motion.

11 Q Let me -- let me stop you because that
12 wasn't my question. My question is you testified you
13 haven't read her motion; is that correct?

14 A I have not read her motion in its entirety,
15 that is correct.

16 Q Have you read part of it?

17 A Yes.

18 Q And have you talked about it with people
19 other than your attorney?

20 A Not that I can specifically recall, but I
21 have read it --

22 Q And so would you agree --

23 A -- in part. Sorry.

24 Q Would you -- that's okay. It's a habit we
25 all fall into. Would you agree with me that the

1 parts of her motion you have read or heard about or
2 talked with people about is a continuation of the
3 theory of the defense presented by Avery's attorneys
4 during the trial?

5 A No, I can't make that connection. I'm not
6 entirely sure what the attorneys at trials -- because
7 I was never accused in trial of planting evidence, so
8 I don't know if they were accusing me of that or not.

9 Q Do you think Mr. Avery had a theory at his
10 trial?

11 MR. BURNETT: Can I hear that question
12 again?

13 Q Do you think Mr. Avery had a theory at his
14 trial?

15 MR. BURNETT: Same objection,
16 foundation.

17 A I wouldn't be able to speculate what
18 Mr. Avery's theory was.

19 Q Well, you attended parts of the trial,
20 correct?

21 A I testified at the trial.

22 Q Meaning you attended parts of it?

23 A Yes.

24 Q Did you attend any portion where you did not
25 testify?

1 A I believe I was present in the courtroom for
2 his sentencing.

3 Q And did you read media reports about the
4 trial at the time it was happening?

5 A Not at the time it was happening.

6 Q After it happened?

7 A Certainly.

8 Q And let me just ask point-blank. Are you
9 sitting here today and is it going to be your
10 position today that you have no theory of what
11 Mr. Avery's defense was at his trial?

12 A That is going to be my position, yes. I'm
13 not going to speculate as to what his defense
14 attorney's theory was.

15 Q I'm asking you as you -- based on your
16 personal knowledge, I'm not asking you to speculate.
17 Let me rephrase the question.

18 Based on your personal knowledge as a
19 Manitowoc sheriff -- a Manitowoc sheriff's deputy, as
20 a person who testified at the trial, as a person who
21 attended parts of the trial, as a person who read
22 nearly contemporaneous media reports about the trial,
23 and as a plaintiff in this lawsuit many years later,
24 tell me what you think his theory was as best you
25 can. And I'm not asking you to speculate. Just

1 **describe it for me.**

2 A I think the defense's theory was to throw as
3 much mud against the wall and see what would stick.

4 **Q What kind of mud did they throw?**

5 A A lot of procedural questions. That's what
6 I interpreted the license plate rigma -- numerous
7 questions about my running the license plate seemed
8 very procedural to me, and I took that as a desperate
9 act to get an obviously guilty client off.

10 **Q So they were trying to get a guilty client**
11 **off by throwing mud. That's your explanation of the**
12 **theory of his case?**

13 A Well, to put it more articulately, I'm sure
14 they were trying to raise reasonable doubt so that a
15 jury wouldn't convict him.

16 **Q Besides the license plate, what other**
17 **examples or pieces of the theory can you remember and**
18 **articulate for me?**

19 A Could I ask you to be more specific, ma'am?

20 **Q Well, sure. There was something about a**
21 **key, finding a key, correct, at trial?**

22 A Yes.

23 **Q What do you remember about that?**

24 A One of Avery's defense attorneys asked me
25 numerous questions about how I happened to locate the

1 key, which I didn't locate it; how the key happened
2 to be in the position where it was when it was found;
3 and asked me to describe how that key might have
4 fallen from a bookcase that we were searching.

5 Q You would agree with me that they certainly
6 meant to insinuate or suggest that you or Officer
7 Lenk or some law enforcement officer planted the key,
8 correct?

9 MR. BURNETT: Objection, form,
10 foundation, calls for speculation.

11 A Again, I'm not going to speculate as to what
12 their theory was.

13 Q I'm not asking you to speculate. I'm asking
14 based on your personal recollection as a personal
15 witness to the proceedings and a participant in them,
16 how you would describe their theory and whether
17 finding the key was part of their theory. That's not
18 asking for speculation, Mr. Colborn.

19 A Well, I would like to think that my answers
20 were such that they moved on from that.

21 Q That's not my question. I'm asking you to
22 describe what your personal understanding of their
23 theory was.

24 A They were trying to understand how we found
25 the key and why we didn't find it earlier. Again, I

1 was never accused of planting evidence.

2 Q Who were they throwing mud at? Were they
3 throwing it at you?

4 A I'm sure they were hoping that I was going
5 to make some sort of --

6 Q That's not my question. You used the phrase
7 they were throwing mud.

8 A Uh-huh.

9 Q And I'm asking were they throwing mud at
10 you?

11 A I think they were questioning our procedure
12 during the searches, yes.

13 MS. WALKER: So I'm just going to pause
14 for a minute and direct a comment to your client --
15 counsel, which is this is going to take a while today
16 if this is -- if we're going to show him -- have to
17 show him a lot of documents to get him to articulate
18 the theory of the case.

19 MR. BURNETT: Well --

20 MS. WALKER: I just want to say that at
21 the outset so you're not surprised when this drags on
22 for many hours.

23 MR. BURNETT: Well, if you want, I'll
24 respond to that. What Mr. Colborn's trying to tell
25 you is that he attended some parts of the trial and

1 served on you -- I'm just going to give you a date as
2 to when those were finalized -- back in January,
3 okay? So about eight months ago or so.

4 A Okay.

5 Q And the second document, which I've sort of
6 pieced out there for you, is revised responses to the
7 requests for admissions --

8 A Okay.

9 Q -- that they served, I think, a few days
10 ago, the 19th of July. Have you ever seen these
11 before?

12 A Yes.

13 Q Okay. And you agree with everything in your
14 responses to both documents?

15 MR. BURNETT: Objection, form.

16 Q Let me ask it differently. Your clients --
17 or your attorneys did not draft and serve these
18 responses without your approval, correct?

19 MR. BURNETT: That calls for privileged
20 communications. Decline to answer that.

21 A And based on the advice of my counsel --

22 Q Let's talk about a specific one. So --

23 A Okay.

24 Q -- three pages in is Request for Admission
25 Number 3.

1 A On the first one?

2 Q On the first one. And the question posed
3 was, "Admit that at the Criminal Trial of Steven
4 Avery, Avery's counsel contended that Plaintiff
5 planted evidence to frame Avery for Teresa Halbach's
6 murder." Do you see that that's the question?

7 A Yes, I see it.

8 Q And then a response is right beneath it, and
9 it says, "Subject to Plaintiff's general objections,
10 deny. To 'contend' is defined by Merriam-Webster as
11 to 'assert,' which is in turn defined as 'to state
12 (something) in a strong and definite way.' Avery's
13 attorneys' opening and closing arguments reveal no
14 strong and definite statement that Plaintiff planted
15 evidence to frame Avery for Teresa Halbach's murder."
16 Did I read that correctly?

17 A Yes.

18 Q Have you ever reviewed this response before?

19 A Yes.

20 Q And you approved of it being your response
21 to these requests for admissions, correct?

22 A Yes.

23 Q Okay. And you denied this in the first
24 instance. We'll come back to your amended responses
25 in a minute, but you denied this in the first

1 instance because you said contend means to state
2 something in a strong and definite way. Do you see
3 that?

4 A Yes.

5 Q And it was your position, at least at the
6 time of these responses back in January, that his
7 attorneys did not do that, correct?

8 A That definition was the work product of my
9 attorneys. I didn't personally write that.

10 Q But you agreed with what they were saying
11 here?

12 A Yes, I agreed with them.

13 Q And you similarly responded. Sort of the
14 same boilerplate language appears in number 5, 6, 7,
15 8, 9, 10, and 11. Do you see that? I can represent
16 to you that it does and maybe point you to number 6
17 just as another concrete example.

18 A Okay.

19 Q So here you were asked to "Admit that at the
20 Criminal Trial of Steven Avery, Avery's attorneys
21 contended that Plaintiff made the call to dispatch
22 referenced in Paragraphs 30 through 32 of the Second
23 Amended Complaint after Plaintiff had located Teresa
24 Halbach's SUV." Do you see that?

25 A Yes.

1 Q I read it correctly?

2 A Yes.

3 Q And you made the same objection here, you
4 said essentially I can't admit that because contend
5 means to state something in a strong and definite
6 way. Do you see that?

7 A Yes.

8 Q And you don't think Avery's attorneys
9 contended that you made the call to dispatch after
10 you had located the SUV, correct? You don't think
11 they contended that?

12 MR. BURNETT: Objection, foundation.

13 A No, I don't think they did.

14 Q Do you stand by that definition of contend
15 as you sit here today, that to contend something, it
16 has to be stated in a strong and definite way?

17 A Yeah. Yes.

18 Q All right. So, you know, we haven't gotten
19 to the documentary yet, but when we do, we're going
20 to use your definition, and I'm going to ask you
21 things like what did Making a Murderer contend in a
22 strong and definite way, and I just want to put that
23 idea in your head so you're ready for it down the
24 road --

25 A Uh-huh.

1 conviction?" And Brenda said, "Yes and no." And I
2 said, "Okay." And then she said, "Okay. He felt
3 defamed, or in my opinion, I would say he felt very
4 wronged after the trial, during the trial, okay?" I
5 said, "M-hm." And she said, "But felt redeemed with
6 the verdict."

7 That's Ms. Schuler's testimony, and my
8 question for you is do you agree with her assessment?

9 A No.

10 Q Which part do you disagree with?

11 A I didn't feel very wronged after the trial.

12 Q Okay. Any other part you disagree with?

13 A No.

14 (Exhibit 35-B marked for identification.)

15 Q Okay. I'm going to hand you 35-B.

16 A Okay.

17 Q So I'm going to start on line 22 of page 141.

18 Do you see where I'm at?

19 A Yes.

20 Q And so I'm following up on Ms. Schuler's
21 testimony, and I say, "So you just testified that he
22 felt very wronged during the trial, and then he felt
23 vindicated by the verdict and that he was very upset
24 by Making a Murderer; is that a fair summary of what
25 you said?" And she said, "Yes." And I asked, "The

1 reason he felt wronged during the trial by Mr. Buting
2 and Mr. Strang is because in defending Steven Avery,
3 they accused Mr. Colborn of planting evidence to
4 secure Avery's conviction; is that correct?" And
5 Ms. Schuler said, "That is correct." Did I read that
6 correctly?

7 A You did.

8 Q Okay. And I know you disagree with her
9 description that you felt wronged, but is there
10 anything else here in her testimony that you disagree
11 with?

12 A I -- the sole -- the reason that I didn't
13 feel -- that I felt wronged, using your word there,
14 is not necessarily because of Mr. Buting and
15 Mr. Strang using as a possible defense planting
16 evidence. The whole media support of them and lack
17 of support of us and people in my community that I
18 know I've helped that may have not believed in law
19 enforcement, believed in the conviction, that's the
20 reason I felt wronged.

21 Q Okay. So I just -- I'm a little confused,
22 so I just want to clarify. You felt wronged at trial
23 but not because of Mr. Buting and Mr. Strang; is that
24 what you're saying?

25 A Not solely, correct.

1 interviewed for Convicting a Murderer, correct?

2 A Yes.

3 Q And this is how you feel sitting here today,
4 correct?

5 A Yes.

6 Q Mr. Colborn, are you comfortable at this
7 point articulating the defense's theory during the
8 murder trial for Teresa Halbach?

9 A I am not.

10 Q But you dispute that their theory was that
11 you planted evidence to frame Steven Avery?

12 A As I said earlier, I believe it might be
13 part of -- part of their defense, yes.

14 Q Okay.

15 A But, again, I must reiterate I was never
16 accused of planting evidence in trial.

17 Q I'm struggling to see the difference. I
18 mean, can you explain it to me? You say it was part
19 of their defense theory that you were not accused.

20 A To be totally honest, I was as shocked as
21 you. When I'm all done testifying, it's like where's
22 the planting defense? So I don't know. I don't know
23 where they were going. I thought maybe they were
24 shifting gears and going to something else, that they
25 had realized that we hadn't planted evidence. That

1 Go ahead.

2 A So, again, I wasn't privy to closing
3 arguments, to all the other witnesses that testified,
4 but I know that that was part of their defense.

5 (Exhibit 161 marked for identification.)

6 Q I'm handing you what we've marked as
7 Exhibit 161, and I'll represent to you that this is
8 part of the transcript from day 7 of Steven Avery's
9 jury trial.

10 A Okay.

11 Q Do you see that on the very front page?

12 A Yes.

13 Q And I've given you the front two pages of
14 that transcript, but I'd ask you to flip to the third
15 page, which is page 201.

16 MR. BURNETT: Did you say this is
17 Exhibit 161?

18 MS. WALKER: Yeah.

19 Q On page 201 Attorney Kratz is speaking. Do
20 you see that at the top?

21 A Yes.

22 Q And if you jump to the paragraph at the
23 bottom of that page, he said, "Now, we've heard
24 Mr. Strang's opening statement where planted evidence
25 has been eluded to." Do you see that in the third

1 paragraph at the bottom?

2 A Yes.

3 Q And that's Mr. Kratz referring to this
4 theory as one of planted evidence. Do you see that?

5 A Yes, I see -- yes.

6 Q Okay. Now skip to the next page, 202.

7 A Okay.

8 Q And I'll tell you, I'll represent to you,
9 that this is a transcript of argument Mr. Kratz was
10 making to the judge directly after you left the
11 stand, okay? At the bottom of page 202, he says,
12 "Now, for the first time, when evidence should be
13 placed into the record, or at least placed into this
14 particular case, we hear nothing. And so, Judge, I'm
15 asking for alternative direction, or rulings from the
16 Court, first, if the defense is abandoning their
17 planting evidence theory."

18 Do you see he called it a planting evidence
19 theory right there?

20 A Yes, I see he called it that, but he's also
21 asking if it was abandoned.

22 Q And I'll represent to you that the judge at
23 the end of this transcript says it had not been
24 abandoned. Are you aware of that?

25 A No, because I wasn't there for this.

1 Q But I just want to ask then if you agree
2 with Mr. Kratz and if for the rest of the day we can
3 call this theory the planting evidence theory?

4 A Well, I'm not going to agree that there was
5 an evidence planting theory with me. As I've said
6 numerous times this morning, I was never accused of
7 planting evidence in trial.

8 Q So let me point you to page 204.

9 A Okay.

10 Q And here we have Attorney Strang responding
11 to Mr. Kratz, and he starts a paragraph at the bottom
12 of the page with the word "second." Do you see that?

13 A Yes.

14 Q Keep in mind, this is just after you stepped
15 down from the stand. Do you see that? He says,
16 "Second, just by the by, we haven't gotten to the
17 defense case-in-chief yet at all. We're in the
18 prosecution case-in-chief. So all of this, at some
19 level, would be wildly premature. But, beyond that,
20 to confront it most directly, I'm idealistic. I'm
21 certainly naive at times. I am not so naive to think
22 that someone who may have planted blood evidence, who
23 may have been involved in planting a key, would come
24 into this courtroom, and simply, because I asked
25 under oath, did you do it, say, oh, yes, I did. We

1 are not going to have a Perry Mason moment here."

2 Did I read that correctly?

3 A Yes.

4 Q So Mr. Strang here is saying just because I
5 didn't ask Mr. Colborn directly did you plant
6 evidence doesn't mean we're abandoning the planted
7 evidence theory. Is that your understanding of what
8 I just read to you?

9 A No, not really.

10 Q Okay. We'll let the transcript speak for
11 itself, and we'll move on.

12 A Okay.

13 Q Did you ever sue Dean Strang?

14 A No.

15 Q Why not?

16 MR. BURNETT: Um...

17 Q I don't want to know about conversations
18 with your attorney. So if there's any reason other
19 than your attorney told you not to, I'd like to know
20 why you decided not to sue Dean Strang.

21 A There is no other reason than what you just
22 stated.

23 Q Do you understand that you can't sue people
24 for defamatory things they say about you in court?
25 And I'm not asking for what your attorneys have told

1 Q So if you could flip back to Exhibit 7,
2 that's that email with Mr. Dunphy we spoke about
3 earlier today.

4 A Yeah, got it.

5 Q And you sent this email on January 12th,
6 2016, correct?

7 A Yes.

8 Q So, again, as you said, that was pretty
9 quickly after the release of Making a Murderer,
10 right?

11 A Yes.

12 Q Okay. So we talked about -- on the first
13 page of this email to Mr. Dunphy, we've already
14 talked about your statement to him that the claims by
15 the Netflix documentary mirror those claimed by the
16 defense during trial. You remember discussing that
17 this morning, correct?

18 A Yes.

19 Q So let me direct you to the second page here
20 of the same exhibit.

21 A I'm sorry. What was the exhibit number
22 again? Sorry about that.

23 Q Number 7.

24 A 7. Got it. Okay.

25 Q So if you go to the second page --

1 A Okay.

2 Q -- the fourth line down, about midway in it
3 says, "During the trial." Do you see that?

4 A Yes.

5 Q And I'll read it out loud. You wrote to
6 Mr. Dunphy, "During the trial Mr. Avery was very well
7 represented by Attorney Dean Strang from Madison,
8 Wisconsin and Attorney Jerome Buting from Brookfield,
9 Wisconsin. In short, the defense was that I and
10 another now retired police officer planted the
11 evidence that led to Mr. Avery's conviction." Did I
12 read that correctly?

13 A Yes.

14 Q Okay. And you stand by that statement as
15 you sit here today?

16 A I stand by the statement that I authored
17 that, but, again, I feel that the planting of
18 evidence defense was never truly presented to me in
19 the trial and it was only one aspect of their
20 defense.

21 Q Well, then why did you say that to someone
22 you were trying to hire? Do you think what you told
23 Mr. Dunphy is inaccurate?

24 A Well, one, I wasn't very happy when I penned
25 this, and two, you know, the whole email was written

1 more out of emotion than it was with forethought, and
2 I probably should have referred Mr. Dunphy to
3 Mr. Strang's and Mr. Buting's out-of-court comments.

4 **Q So you didn't think as carefully about how**
5 **to phrase it in this email as you've thought about**
6 **how to phrase it at today's deposition; is that fair?**

7 A Well, I've had a lot more years of getting
8 it thrown in my face. So, you know, it's probably
9 by -- in January, what was it, 12th of '16 after
10 Making a Murderer had been out exactly one month, I
11 didn't phrase it as well as I should have.

12 **Q So you weren't accurate when you were**
13 **describing the case to people you were hoping to hire**
14 **as an attorney; is that correct?**

15 A I probably wasn't as accurate as I should
16 have been, no.

17 **Q Let's take a look at Exhibit 49.**

18 (Exhibit 49 marked for identification.)

19 A I don't think I have that.

20 **Q I'm giving you that one.**

21 A Oh, okay.

22 **Q Would you like us to get those in order for**
23 **you?**

24 A We can do it at a break.

25 **Q Okay.**

1 A I'll page through it, but thank you.

2 Q This is another email that you sent to
3 Patrick Dunphy on January 12th, 2016. Do you see
4 that?

5 A Yes.

6 Q You wrote, "Dear Sir, I now see Attorney
7 Strang will be giving a presentation on the Avery
8 case on 1/27/16 in Minneapolis, Minnesota at Sisyphus
9 Brewing. It's sold out or I would try to obtain a
10 record of the 'event' for you as I am guessing my
11 name will be bantered about quite a bit.
12 Specifically the claims against me are these: That
13 all evidence gathered at the crime scene was planted,
14 including the victims bones which were located in a
15 fire pit next to the Avery's residence where he
16 burned her body after dismembering her. In Avery's
17 home was located the key to the victim's vehicle,
18 which had Avery's DNA on it. Their story is I
19 planted the key. I am being accused of breaking into
20 our own courthouse and stealing a vial of blood that
21 was used as an exhibit in Avery's first trial. Next
22 I am accused of either killing the victim, or giving
23 her to someone else who killed her and then planting
24 her body at Avery's residence. I know this sounds
25 unbelievable but you can't make this stuff up." I

1 lost my place for just a minute. If you skip down a
2 few lines, two, three, four, five, six, seven, it
3 goes on to say, "If you are in disbelief I assure
4 this is all in the court records of this case." Do
5 you see where I stopped there?

6 A Yes.

7 Q Okay. So you're telling Patrick Dunphy that
8 all of these accusations against you about planting
9 evidence are in the court records of the case,
10 correct?

11 A Yes, that's what I'm telling him.

12 Q Okay. Do you want to change your story
13 today?

14 A No.

15 Q You stand by that statement?

16 A What do you mean by change my story? I
17 guess can you clarify?

18 Q Well, do you -- yeah. When you tell Patrick
19 Dunphy that at trial you were accused of all of these
20 things and that you can assure him that this is all
21 in the court records for this case, do you stand by
22 that statement as you sit here today?

23 A Yes, I did tell him that, but I didn't have
24 the trial transcript in front of me and reviewed the
25 trial transcript for a case that had happened ten

1 years ago.

2 Q So you're changing your story?

3 MR. BURNETT: Objection, form.

4 A I'm saying I based a lot of this information
5 off social media, threats that were being made to me,
6 and I didn't have the trial transcript in front of
7 me.

8 Q Any other reason you're departing from that
9 statement?

10 A No, no other reason.

11 Q Two lines down from there you say, "The
12 defense continues, in part thru Netflix, to maintain
13 and keep alive these lies to this day. Just last
14 week Strang was on WTMJ Radio saying these things I
15 just mentioned. The trial was over 10 years ago, how
16 much longer can the defense attorneys continue this
17 crusade against my agency and me personally??" Did I
18 read that correctly?

19 A Yes.

20 Q And if I'm reading this, you believe the
21 defense team lied about you during the trial,
22 correct?

23 A Yes.

24 Q Okay. That's when their crusade against you
25 began, correct?

1 aware of the amount of video splicing that had
2 occurred to, for instance, take my image from one
3 area and transplant it to another.

4 **Q Okay.**

5 A I believe that was the idea behind it, to
6 make me appear more guilty.

7 **Q I'm going to hand you what we've marked as**
8 **Exhibit 16-E.**

9 MS. WALKER: I think my numbering might
10 be a little off. Okay. 16-B.

11 (Exhibit 16-B marked for identification.)

12 **Q This is from page 103 of Mr. Griesbach's**
13 **book Indefensible, and I'll just read you starting**
14 **with the word "after" at the top of page 103. "After**
15 **all, I could imagine without justifying it for a**
16 **minute that convinced of Stevens Avery's guilt, but**
17 **concerned there was not evidence to convict him.**
18 **Colborn and/or Lenk could have planted the key to**
19 **strengthen the case. Short of being in the room**
20 **where they found the key, I realize it's impossible**
21 **to know with 100 percent certainty." Did I read that**
22 **correctly?**

23 A Yes.

24 **Q And you know what happened in that room when**
25 **the key was found, don't you, Mr. Colborn?**

1 A Yes, I do.

2 Q But unless Mr. Griesbach was in the room
3 with you or any of us sitting here today were in the
4 room with you, none of us can know with 100 percent
5 certainty, correct?

6 A I would think that I drove that point home
7 in the trial, and based on the subsequent conviction,
8 I believe the jury was convinced of it.

9 Q We would have to trust you, correct,
10 Mr. Colborn?

11 A Yes, you would have to trust that I was
12 telling the truth under oath.

13 Q And the jury found for the prosecution and
14 convicted Mr. Avery, correct?

15 A Yes, they did.

16 Q And the jury's findings were included in
17 Making a Murderer, correct?

18 MR. BURNETT: Objection, form.

19 Q Do you know?

20 A I have not watched a clip of or any of
21 Making a Murderer when the jury verdict is read or --
22 so I can't answer you positively. I don't know what
23 was included. I don't know what episode that was in.

24 Q You have no reason to dispute that it was
25 included, correct?

1 **motivation that you had for wanting to see Steven**
2 **Avery convicted for Teresa Halbach's murder?**

3 MR. BURNETT: Same objection.

4 A Not until the Kratz redirect. I wasn't -- I
5 didn't know where Dean Strang was going with his
6 questions about the -- this phone call, but the Ken
7 Kratz redirect seemed to have summed it up or pointed
8 it out that that's where he was headed with it.

9 Q **And I think Ken Kratz's redirect, it even**
10 **went one step further, right, in that he's saying**
11 **this didn't give you motivation to frame Steven**
12 **Avery?**

13 A Yes, that's correct.

14 Q **And it didn't give -- and it didn't give you**
15 **motivation to plant evidence against Steven Avery,**
16 **right?**

17 A Correct.

18 Q **And then you denied, you said, "I never did**
19 **plant evidence against Steven Avery," right?**

20 A Or anyone.

21 Q **Or anyone.**

22 A Correct.

23 MR. BURNETT: When we get to a stopping
24 point, can we take a break?

25 MR. VICK: Yeah. Sure. Probably just a

1 couple more minutes. Then I've got a natural spot.

2 MR. BURNETT: Take your time.

3 MR. VICK: Then we're done with this --
4 the '94, '95 call.

5 MR. BURNETT: That makes sense.

6 Q And one of your complaints in this case
7 about Making a Murderer is that it shows this line of
8 argument, right, that Steven Avery's attorneys were
9 suggesting that you had planted evidence against him,
10 right?

11 A We discussed this yesterday at length. I
12 was never accused of planting evidence, so I'm not
13 going to say that that's what their defense was.

14 Q Would you agree with me that they were
15 strongly suggesting that?

16 A No.

17 Q Would you agree with me that Ken Kratz's
18 redirect shows that he understood that that's what
19 they were driving at?

20 MR. BURNETT: Objection, form,
21 foundation.

22 Q Let me rephrase that. Did it occur to you
23 that Ken Kratz was asking you to deny that you were
24 motivated to frame Steven Avery based on the '94, '95
25 call? Did that suggest to you that Ken Kratz

1 Q Was that just a coincidence or was that an
2 arrangement where if you and Lieutenant Lenk were
3 doing a search, there had to be someone from Calumet
4 County there?

5 A My understanding is as it pertained to
6 myself and Lieutenant Lenk or myself and Dave
7 Remiker, but he wasn't out there all that long due to
8 a family issue, or the three of us together, there
9 would also be somebody with Calumet County with us.

10 Q Was that the only instance in your law
11 enforcement career where when you were conducting
12 searches of a premises, you had to have someone from
13 another county with you?

14 A Yes. That was definitely a unique
15 situation.

16 Q Did you resent it a little bit?

17 A No.

18 Q Did you understand it?

19 A Yes.

20 Q What did you think was the justification for
21 it?

22 A I imagine that they wanted the lead -- two
23 lead investigators, which were Calumet County --
24 investigating agencies I should say, which was
25 Calumet County and Wisconsin Department of Justice,

1 wanted to make sure that there was somebody from
2 Calumet County to rebut any unfounded accusations
3 that Manitowoc County had done something improper.

4 **Q But despite that, there were accusations**
5 **along those lines at Steven Avery's trial, right?**

6 A I wasn't privy to Steven Avery's entire
7 trial. No accusations were made of me, if that
8 helps.

9 **Q While you were on the stand?**

10 A Correct.

11 **Q Would you agree that suggestions were made**
12 **or implications were made that you or Lieutenant Lenk**
13 **had planted the key that was later found in Steven**
14 **Avery's bedroom that turned out to be the key to**
15 **Teresa Halbach's car?**

16 MR. BURNETT: Objection, form,
17 foundation.

18 A I was just waiting for the aircraft. My
19 impression was that while there were questions asked
20 by defense counsel on how -- you know, how we hadn't
21 found the key until the seventh search, it appeared
22 to me that they had abandoned the planting theory and
23 had switched, in my opinion or my perception, to some
24 sort of procedural defense, that I had missed some
25 sort of procedure or that Lieutenant Lenk had missed

1 some sort of procedure.

2 Q Switching back to November 8th of 2005, that
3 was the date when the key was found in his bedroom,
4 right?

5 A On November 8th?

6 Q 8th.

7 A Yes, I believe so.

8 Q And you were there that day in your capacity
9 as an evidence tech; is that correct?

10 A Yes.

11 Q Now, in your Second Amended Complaint, you
12 allege that Making a Murderer -- Making a Murderer
13 did not include a photograph of the bookcase that you
14 testified about when you were on the stand at the
15 criminal trial; is that correct? I can show you
16 where in the Complaint it is if you'd like.

17 A Yeah, please.

18 Q Sure. It's paragraph 44.

19 A Okay. Okay. I've read it. Thank you.

20 Q Are you familiar with the photograph in
21 question that the Complaint's referring to here?

22 A I know there's a photograph that was taken
23 showing that the veneer back of the bookcase had
24 separated from the actual frame of the piece of
25 furniture.

1 Q How about Brenda Schuler, did she volunteer
2 to get involved or did you ask her?

3 A I believe Michael asked her.

4 Q Now, you've mentioned a few times today that
5 you're an introvert, right?

6 A I don't recall if I mentioned it today, but
7 certainly during my deposition with Attorney Walker I
8 did.

9 Q And so probably being in the spotlight,
10 that's not your idea of a good time, right?

11 A No, it's not.

12 Q Does it make you nervous?

13 A I'm not -- I don't like being in the
14 spotlight. I can't necessarily say that it's because
15 it makes me nervous. I just don't like to be the
16 center of attention.

17 Q Uncomfortable would be a fair
18 characterization?

19 A Sure.

20 Q Has this deposition made you feel nervous or
21 uncomfortable?

22 A Well, I'm a private person. It's what an
23 introvert is. I'm being asked very private, personal
24 questions. Yes, it makes me feel uncomfortable.

25 Q I'd like to look back at Exhibit 2.

1 A Is that the Amended Complaint?

2 Q It is, yeah.

3 A Okay.

4 MR. BURNETT: Are we in a position to
5 wrap this up?

6 MR. VICK: We are.

7 MR. BURNETT: Great.

8 Q I'd like you to look at paragraph 37
9 specifically.

10 A Okay. Okay.

11 Q So here you say, "Defendants Ricciardi and
12 Demos strategically spliced 'reaction' shots of
13 plaintiff appearing nervous and apprehensive at trial
14 into other portions of his testimony where he did not
15 appear nervous or apprehensive in fact." Do you see
16 that?

17 A Yes.

18 Q Do you recall what it was about your
19 demeanor in any of the shots that made you look
20 nervous or apprehensive? Was there anything that you
21 can recall right now that made you feel that way?

22 A Specifically the clip that you showed me
23 that I commented on earlier where it appears that
24 Dean Strang is giving me some sort of staredown and
25 the -- it pans to the shot of me leaning back and

1 cracking my knuckles.

2 I did that during a recess out of the view
3 of the jury. I certainly didn't do it in front of
4 Attorney Strang, but it certainly does make me look
5 nervous and apprehensive and that I've been caught in
6 some sort of lie.

7 Q Now, Mr. Colborn, I'm not sure if you're
8 aware, but during this deposition the last couple
9 days, you've kept your head down a decent amount.
10 Does that sound right?

11 A I'm frequently reading, but yes.

12 Q And you've sometimes had your head in your
13 hands or cracked your knuckles in the course of this
14 deposition. Does that sound right?

15 A Okay. I don't recall that, but I don't know
16 what -- what you want me to -- what you're trying
17 to -- can you clarify a little bit for me?

18 Q Well, is it possible that maybe things like
19 cracking your knuckles or looking down, that that's
20 just a natural mannerism of yours?

21 A The footage that I've watched of my trial
22 testimony, I frequently make contact with whoever
23 questioning me. Now, I was not in trial given a
24 stack of documents like this and told frequently to
25 go to this page, go to that page, look at this, look

1 at that, read that. So that requires me to look down
2 in order to be able to see it.

3 MR. VICK: George, I think I'm done.
4 Could I take two minutes?

5 MR. BURNETT: Sure. Thank you.

6 THE VIDEOGRAPHER: Going off the record
7 at 4:32.

8 (Brief recess held.)

9 THE VIDEOGRAPHER: Back on the record at
10 4:38.

11 MR. VICK: I wanted to make one
12 correction. I had said that Ms. Ricciardi had --
13 that it was with the U.S. Attorney's Office. I've
14 been informed it's actually the Manhattan DA's
15 Office. I just didn't want to have anything wrong
16 there.

17 Q (By Mr. Vick:) Question for you. Was there
18 any disciplinary action gains you by the Manitowoc
19 County Sheriff's Department after Making a Murderer
20 came out?

21 A Not that I recall, no. The fact that I sent
22 that email to John Ferak didn't go over very well,
23 but I wasn't disciplined out of a verbal counseling
24 session.

25 Q What did they tell you in the verbal

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CERTIFICATION PAGE

STATE OF WISCONSIN)
MILWAUKEE COUNTY)

I, PAULA M. HUETTENRAUCH, RMR, CRR,
Notary Public in and for the State of Wisconsin, do
hereby certify:

That prior to being examined, the
deponent named in the foregoing deposition,
ANDREW L. COLBORN, was by me duly sworn to testify
the truth, the whole truth, and nothing but the
truth.

That said deposition was taken before
me at the time, date, and place set forth; and I
hereby certify the foregoing is a full, true, and
correct transcript of my shorthand notes so taken and
thereafter reduced to computerized transcription
under my direction and supervision.

I further certify that I am neither
counsel for nor related to any party to said action,
nor in any way interested in the outcome thereof; and
that I have no contract with the parties, attorneys,
or persons with an interest in the action that
affects or has a substantial tendency to affect
impartiality, or that requires me to provide any
service not made available to all parties to the
action.

IN WITNESS WHEREOF, I have hereunto
subscribed my name this 28th day of July, 2022.



Paula M. Huettenrauch, RMR, CRR
Notary Public - State of Wisconsin

My Commission Expires 8/18/2023



EXHIBIT 3

Lodged Manually with the Clerk of the Court

Exhibit 3 to Declaration of Meghan Fenzel in Support of Producer Defendants' Opposition to Plaintiff's Motion for Partial Summary Judgment, is a jump drive with a true and correct copy of part two of a three-part video interview with juror Rick Maher by Mark Hoddinott, published on YouTube on June 7, 2022 at <https://youtu.be/eAHTZV0I-mU> and produced by Netflix as YOUTUBE0000004.

EXHIBIT 4

April, George and Mike,

In addition to those matters already raised in Leita's email and comments in orange below, here are my additional follow-up items from the parties' meet and confer conference calls this week:

1. You stated that you would be inquiring with Mr. Colborn on Monday regarding any agreements between him and the entities and people behind the *Convicting* documentary project. We believe that we are entitled to any such agreements, and you stated that you would inquire as to the existence of any such agreements and would advise us regarding that and also regarding your position whether you will provide us with such documents. In the absence of such an agreement, we will be moving to compel with respect to such materials.

As George indicated, we do not believe there is an "Agreement," rather, an authorization. We will be producing it based on your request, though I am not certain that it is responsive to any of your specific formal requests.

2. You represented that Plaintiff was not instructed to time-limit searches of documents and communications to after December 2015, in response to my pointing out the paucity of such materials in Plaintiff's production to date. You stated that Plaintiff's position is that he has now (as of April 7, 2022) produced everything responsive in his possession, but that you would confirm this is the case with Mr. Colborn when you speak on Monday. Relatedly, you stated that Plaintiff's position is that he does not possess any responsive emails or text messages that predate December 2015. I believe you said that you would confirm this with Mr. Colborn when you speak on Monday, but if I'm incorrect in my recollection, I would ask now that you do so regardless.

Plaintiff's position is that he does not possess any responsive email messages or text messages that predate December 2015.

3. You stated that Plaintiff's position is that he does not possess any documents contemporaneous to the events he has placed at issue in this case through his Second Amended Complaint, starting in 1994/1995 and including 2003-2007, other than the modest amount of documents he has already produced. Again, you stated that you would confirm this with Mr. Colborn when you speak on Monday.

Plaintiff had produced what he believed to be all responsive documents, but he is double-checking this. Any responsive non-privileged documents identified will be produced. Mr. Colborn likely will also produce in the near future some additional documents as to which privilege claims for those documents may be abandoned, but they do not relate to the time frames that you have identified. Mr. Colborn simply had no reason to nor did he retain many documents relating to the events that were the underlying subject of MAM.

4. You stated that you would check with Mr. Colborn on Monday regarding his [REDACTED] email account and whether there are any responsive documents there, as I pointed out that Mr. Colborn sometimes sent such emails from his Manitowoc County Sheriff's Office (MTSO) account when he worked there.

Mr. Colborn indicates that he is prevented by a firewall from sending messages from the hshs.com email account. Those responsive messages that Mr. Colborn forwarded from his other account to the [REDACTED] account have been produced.

5. You stated that Plaintiff's position is that he searched for all types and formats of documents – not just limited to emails and text messages – and has produced all responsive documents in his possession. Again, I believe you said that you would confirm this with Mr. Colborn when you speak on Monday, but if I'm incorrect in my recollection, I would ask now that you do so regardless.

Correct. The search was not limited to email messages and text messages.

6. You stated that Plaintiff's position is that he has produced all documents providing the factual basis for his damages claims and calculations. We note the lack of information provided regarding Mr. Colborn's pension and hospital wages. Does the April 6 production you made cover that, or should we expect that more such financial documents are forthcoming?

Please note that any hospital or pension income should be reflected in Mr. Colborn's tax returns, which we have now produced. Please advise whether this satisfies your request.

7. Plaintiff has not produced documents regarding mitigation of damages or financial opportunities that he has been offered in relation to his prominence from *Making a Murderer*, such as speaking opportunities or agreements with the producers of *Convicting*. Please produce such documents or confirm in writing that Mr. Colborn's position is that no such documents exist.

Correct; to our knowledge, no such documents exist, other than to the extent text messages already produced may have referenced speaking engagements that Mr. Colborn did not attend.

8. While I don't believe we raised this at the meet and confer calls, I note that Plaintiff has produced in discovery negative messages he received from the public, but he has not provided any more positive messages, including "fan mail" that he has referenced receiving in his writings. Please produce any such positive messages and fan mail related to *Making a Murderer*.

It was my impression that the term "fan mail" may have been used sarcastically, to refer to negative messages. However, Mr. Colborn does not have any positive "fan mail" related to Making a Murderer in his possession other than anything that was already produced, unless there may be some documents in materials provided to Jerilyn Dietz. Mr. Colborn may abandon privilege claims as to some materials that he provided to Ms. Dietz, but not as to other confidential communications with Ms. Dietz while she was assisting him in attempting to pursue the claims that ultimately were filed in this case.

9. Plaintiff will supplement certain discovery responses, including responses to RFA 1 and Interrogatories 1, 2, 5, and 7 from the Producer Defendants. Please let me know if I'm mistaken as to the specific items for which Mr. Colborn has agreed to supplement.

It is our goal to supplement the indicated responses by the end of this week, barring additional interruptions, particularly those related to this case.

10. We discussed working together to resolve issues with accessing the media attachments to the text messages that Mr. Colborn produced. It is not clear to me whether that has been completely resolved, or whether we still have to finish addressing the issue.

If you need to have your tech staff reach out to Debra Bursik to further address these issues, please feel free to have them contact her at 920-437-0476.

11. You stated that Plaintiff's position is that he does not possess certain documents or communications that I identified in my March 23, 2022 letter, as missing from production, despite Plaintiff's direct references to them in other documents, but you would confirm this with Mr. Colborn on Monday. The specific documents and communications are:
 - Physical files, including "fan mail" dropped off at Jerilyn Dietz's law offices in February 2016, as referenced in January 2016 emails with Jerilyn Dietz.
 - February 2017 emails to numerous individuals, including the DOJ and DA, circulating an article and jailhouse confession letter, referenced in text messages with Brandy Rima and several other individuals.
 - October 2017 emails with Mark Wiegert regarding Kevin Rahmlow and the November 2005 call to dispatch, referenced in October 2017 text messages with Mark Wiegert.
 - Communications with Joe Kriel and others reflecting opportunities to "make some serious cash on the speaking circuit" and the agreements with the *Convicting* producers that prevented him from taking such opportunities, referenced in October 2017 text messages with Joe Kriel.

With respect to "fan mail," please see the discussion of that issue, above. With respect to the other identified bullet points, you are correct that Mr. Colborn does not believe that he has any such documents in his possession and we have not been able to find them in the messages extracted from his phones.

1. Please clarify one point that seemed to be a source of confusion. In her April 5, 2022 email, April explained Plaintiff's discovery responses referring to MTSO's production by saying "We attempted to inform you that we would not be including in Mr. Colborn's responses copies of the very same documents that were obtained from the Manitowoc County production." Defendants understood this to mean that Colborn has some copies of emails included in the MTSO production that he did not produce himself. But then during the April 7, 2022, I believe Debra represented that there were no duplicates and that **Plaintiff had produced all emails in his possession.**
 - To the extent Mr. Colborn independently possesses "the very same documents that were obtained from the Manitowoc County production," please produce them. We are glad to address duplicates on our end and are most concerned with a complete search and production. If there are no such duplicate documents, then please confirm here so we're clear.

The yellow highlight statement above is correct. This is not correct: ". . . Colborn has some copies of emails included in the MTSO production that he did not produce himself."

- One item I would note: It is apparent from the MTSO production that there are MTSO emails exchanged with the "[REDACTED]" email account that Plaintiff did not produce in his email production. Please produce those and any other responsive emails that Plaintiff did not previously produce to us.

If responsive email messages existed in exchanges with the [REDACTED] email account, they do not appear to exist there now, to our knowledge. We have reviewed the specific examples that you identified to confirm this. If there are additional specific examples that you would like to bring to our attention, please identify them.

1. As I mentioned on the call, the Producer Defendants have another production forthcoming in the coming days. Given the breadth of the requests served by Plaintiff on the Producer Defendants in March, it has taken time to compile the voluminous responsive documents, but we are diligently working to produce this final set of documents.

Thank you,

Kevin