

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

-vs-

Case No. 86-CV-75435-DT  
Hon. Patrick J. Duggan

CITY OF WARREN and CITY  
OF WARREN POLICE AND  
FIRE CIVIL SERVICE  
COMMISSION,

Defendants.

U.S. DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
JUN 16 1 27 PM '96  
FILED

The Deposition of KENNETH MYERS  
taken before me, Judith Jettke, CSR-1398, Notary Public  
for the County of Macomb, acting in and for the County of  
Wayne, at 150 W. Jefferson, Suite 2500, City of Detroit,  
State of Michigan, on Monday, June 24, 1996, commencing at  
or about the hour of 2:15 p.m.

APPEARANCES:

LESLIE ANNEXSTEIN  
CLARENCE C. JONES, JR.  
United States Department of Justice  
Employment Litigation Section  
P.O. Box 65968  
Washington, DC 20035-5968  
Appearing on behalf of the Plaintiff

WALTER B. CONNOLLY, JR.  
Miller, Canfield, Paddock & Stone  
150 W. Jefferson, Suite 2500  
Detroit, Michigan 48226  
Appearing on behalf of the Defendants

Also Present: George Constance

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T A B L E O F C O N T E N T S

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WITNESS

PAGE

KENNETH MYERS

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EXHIBITS

(NONE)

1 Detroit, Michigan  
2 Monday, June 24, 1996  
3 At or about 2:15 p.m.

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K E N N E T H M Y E R S

7 was thereupon called as a witness herein, and after  
8 having been first duly sworn to tell the truth, the  
9 whole truth and nothing but the truth, was examined  
10 and testified as follows:

11

EXAMINATION

12 BY MR. CONNOLLY:

13 Q Mr. Myers, we started this deposition last week or  
14 the week before. You prepared a report which is  
15 Deposition Exhibit Number One in your deposition; do  
16 you recall that?

17 A Yes, I do.

18 Q That was a report that you prepared at the request of  
19 my office for the City of Warren; is that correct?

20 A That's correct.

21 Q Mr. Myers, would you tell the court what your  
22 background and experience is with particular emphasis  
23 on efforts made to either help people find jobs or  
24 evaluating whether or not individuals are, in fact,  
25 actively looking for employment?

1     A     I have been a management consultant since completing  
2           graduate school in 1964. I have been in that  
3           capacity continuously since that time.

4                     My work has consisted of helping  
5           companies, municipalities, state governments, federal  
6           government and foreign government, for that matter,  
7           in processes to improve what they do, to be all that  
8           they can be, to realize a potential from a cost-  
9           effectiveness perspective.

10                    Employing disciplines in four or  
11           five areas; organizational design being a very  
12           important part of that, computer technology,  
13           industrial engineering techniques which we call  
14           operation management and the process of planning  
15           and reporting in what we do to measure performance.

16                    That work as might be in evidence  
17           from what I have just said, oftentimes involves  
18           organizational units that are going to expand or  
19           contract, and almost inevitably change in some form  
20           which creates opportunities for people to hire new  
21           people into the organizations, and in certain  
22           instances to change the size of the work unit which  
23           might mean in current terminology, some downsizing.

24     Q     Specifically, you have worked for Touche Ross, Plante  
25           Moran, Peat Marwick from the mid 1960s until the

1 time you set up your own consultant firm in --

2 A Consulting Resource Associates in 1991.

3 Q And so, you have been in -- you've had thirty-six  
4 years of industry and government experience?

5 A That's correct.

6 Q You mentioned that you have done work for federal,  
7 state and local governments and foreign governments.

8 Could you just briefly, and briefly  
9 is the word here, briefly describe your experience in  
10 the public sector?

11 A The public sector is significant. Brief is hard to  
12 do.

13 I began right after I went into the  
14 professional pursuit of management consulting with  
15 the City of Highland Park here in Michigan. I did a  
16 full review of all the departments of city  
17 government, with an eye on determining is the  
18 structure appropriate? Is the staffing appropriate?  
19 Is the use of technology in the 1960s where  
20 technology was in its infancy appropriate?

21 That led to a following engagement,  
22 as it turned out, with the City of Highland Park  
23 Police Department, in which we became involved in  
24 virtually all they did in crime prevention and  
25 pursuit of people that allegedly had engaged in

1 criminal acts.

2 So, we got involved in the tactics.  
3 We got involved in the information. We got involved  
4 in the organizational structure, and the entire  
5 process of measuring performance.

6 Q Was part of that the recruiting and the hiring of  
7 individuals?

8 A It was recruiting and hiring. It was also in certain  
9 cases career redirecting.

10 Q Retention or --

11 A Retention or lack thereof.

12 Q Now, in the last thirty-six years, how many cities  
13 have you done work for?

14 A Probably several dozens throughout the United States.  
15 The City of Detroit, again, was one of those where --

16 Q Just mention a number in the metropolitan Detroit  
17 area?

18 A City of Detroit, Highland Park, River Rouge, Grand  
19 Rapids that come to mind. I'm sure there are many  
20 others here in the state of Michigan.

21 Q You have also done work for state government; is that  
22 correct?

23 A That's correct.

24 Q Which state?

25 A I worked at probably about eighteen states, very

1 heavily in ten states including New York, California,  
2 Michigan, Virginia, Tennessee, Arkansas, Georgia, New  
3 Jersey.

4 Q That's enough for me. In those ten states that you  
5 have worked, did any of your work involve recruiting  
6 and employment and retention of employees?

7 A It did in a great part because the work involved the  
8 creation of a new processing system to support the  
9 Title Nineteen Medicaid programs in those states.

10 We were completing completely new  
11 organizational units. So, we were doing recruiting  
12 and hiring from within state, through the Civil  
13 Service system and in many instances, going outside  
14 the state because of the skills that would be  
15 required.

16 Q In terms of the federal government, you are talking  
17 about our federal government?

18 A I worked for the United States Federal Government in  
19 the Department of Health and Human Services. I  
20 worked for the government of the country of New  
21 Zealand and the government of the United Kingdom, one  
22 of my direct assignments --

23 Q Okay. In terms of your vast experience both in the  
24 public and private sector, will you describe for the  
25 court what your experience has been in either the

1 helping of individuals find jobs or redirection of  
2 efforts to find employment?

3 A I'd really start with my own work and my own  
4 professional career.

5 For most of my career, I have been  
6 in what is referred to as a practice leader within  
7 the organizations in which I have participated.

8 I have been in charge of the  
9 management consulting function, in which instance,  
10 when you add up the -- since 1964 when I got into  
11 this, it literally would be hundreds and hundreds of  
12 people that I have been involved in hiring.

13 In an equal way, if for no other  
14 reason and the fact that historically in the  
15 consulting and accounting profession, there has been  
16 a policy referred to as up or out.

17 A person gets to a certain level and  
18 then might be admitted to the partnership. If that  
19 person reaches a level and growth doesn't appear  
20 apparent, oftentimes that person's career is  
21 redirected.

22 I have been involved -- only about  
23 five percent of the people that are hired into this  
24 profession end up reaching a partnership level. So,  
25 about ninety-five percent of these people are



1 involved in career redirection.

2 Q Can you estimate how many of the hundreds and  
3 hundreds of people you have helped, tried to find  
4 jobs for?

5 A I would say probably in that time period -- I've  
6 never tried to count it out, it would be at least  
7 five hundred people.

8 Q Mr. Myers, would you tell the court whether or not  
9 there is any difference between trying to help  
10 someone find a job as president of a company or a  
11 secretary or a meter reader or an account clerk in a  
12 company?

13 A Well, as I set forth in what is Exhibit One, the  
14 document that I prepared for this matter, it is my  
15 view and I think it is the view of virtually anyone  
16 who works in career counseling and helping people  
17 find work or helping people leave work, that there  
18 are some basic blocking and tackling fundamentals  
19 that apply across the board.

20 I have tried to articulate them in  
21 this exhibit. I believe that no matter -- whether  
22 you're seeking a senior-level job or an entry-level  
23 hourly position, that the nature of finding the job  
24 is very, very similar. Albeit, you are talking at  
25 different levels.

1 Q And have you in your career read numerous books and  
2 learning treatises and articles about this topic?

3 A I have done much of that, and I have included a  
4 listing, a bibliography of a number of these  
5 documents in Exhibit One.

6 Quite frankly, the purpose in having  
7 that reference source is because in my counseling of  
8 people, oftentimes I am asked, is there something I  
9 can deal with to address this particular concern or  
10 anxiety.

11 So, over time, if for no other  
12 reason than trying to be effective in what I do, I  
13 have accumulated this kind of a listing to have as a  
14 reference point.

15 And, quite frankly, it has been very  
16 helpful to me as I go about my work in helping these  
17 people.

18 Q Are the recommendations that you have made in your  
19 report which is referred to as Exhibit One, the  
20 bibliography contained on pages six, seven and eight  
21 of your report?

22 A Yes.

23 Q So, the recommendations that are going to follow are  
24 going to be based not only on these treatises and  
25 books and articles, but also on your own personal

1 experiences?

2 A Yes. I would really like to put it in reverse.

3 Q Do it.

4 A I would really like to say that my personal  
5 experience is something that -- is a puristic  
6 process; I have learned from what I've learned over a  
7 lot of years. Each experience teaches lessons. I  
8 think as is the case in every discipline, there is a  
9 body of knowledge that sits behind it that becomes a  
10 reference point.

11 But I would say my ongoing  
12 experience in this arena is what I rely on.  
13 Hopefully, it's a process of being able to learn from  
14 it.

15 Q Mr. Myers, going back to the basic blocking and  
16 tackling technique that you referred to in terms of  
17 finding a job, whether it be someone who is president  
18 of a company or whether it is someone who is looking  
19 for an entry-level laborer's position, are those  
20 briefly outlined in this report?

21 A They are briefly outlined in this report on pages ten  
22 through twelve.

23 Q Without having to take you through each and every one  
24 of these issues, would you just briefly tell the  
25 court, and by the way, your deposition is going to be

1 taken in haec verba and given to the judge.

2 Would you briefly tell the court  
3 which of these things are directly applicable to the  
4 police officer candidates, meter readers, clerk  
5 typists and account clerks, in terms of these  
6 recommendations and suggestions on pages ten, eleven  
7 and twelve? Do they apply to this particular job?

8 A I believe they certainly apply, with some points  
9 being more strongly adhered to than others, depending  
10 on the circumstance as is true in any job search.

11 Q Would you just sort of briefly explain, an individual  
12 who wants to be a police officer, or an account  
13 clerk, a meter reader, or a clerk typist, what basic  
14 steps one would take to engage in a reasonably  
15 diligent job search?

16 A I start with the premise that searching for a job is  
17 a difficult process for anyone at any level. We do  
18 not make a career out of looking for a job. It's an  
19 abnormal stage in our life experience at any level,  
20 normally.

21 The average person would like to  
22 have a position and follow that position for a very,  
23 very long time and not have that career activity  
24 interrupted by act of looking for a job.

25 So, the premise upon which I set

1           forth, basic blocking and tackling fundamentals is  
2           based on the view that searching for a job is very  
3           difficult to do for anyone.

4                        So, whether it be the police officer  
5           position, the clerical position, the meter reader  
6           position, I believe that the individual starts by  
7           sitting down and going through a planning for the job  
8           search exercise if that individual is serious in that  
9           pursuit.

10                      There are two stages to that  
11           planning. One is initial preparation and the second  
12           is detailed preparation, which might follow,  
13           obviously.

14                      In the initial preparation we are  
15           trying to focus on things that will end up ultimately  
16           product differentiating the job seeker in the pursuit  
17           of the job.

18                      As the years have gone along, the  
19           one thing that has become very obvious is that no  
20           matter what the position, whether it be clerical or  
21           whether it be a senior vice-president of a company,  
22           there are lots of candidates.

23                      The key challenge here is to product  
24           differentiate and put together a picture and a  
25           presentation of one's self that says I am better than

1 the two hundred other people applying for the job.  
2 That's just the reality of the situation.

3 So, I believe the individual should  
4 sit down and say, what is it that makes me special  
5 for the job? Every person has some thoughts about  
6 how that individual feels good about him or herself  
7 as it relates to their personal characteristics, to  
8 their technical skills to their functional skills.

9 So, we write down the product  
10 differentiators as one of the initial preparation  
11 steps. Then in the normal sense, and we can comment  
12 more specifically to the plaintiffs involved in this  
13 particular matter, then we should say, what kinds of  
14 positions fit those product differentiating  
15 characteristics.

16 If I am a meter reader, I probably  
17 want to have strong legs. I need to have good feet.  
18 I need to have decent eyes. I need to be semi-  
19 dexterous because I need to carry a book and an  
20 umbrella in the same act, and have a pencil while  
21 working.

22 Coincidentally, I served a period as  
23 a meter reader during a management training program  
24 of Public Service Electric and Gas Company after  
25 finishing college, so I can talk about that life.

1                   Then I would move to a detailed  
2 preparation step again in this planning activity.  
3 Again, everything I am focusing on is product  
4 differentiation; that's the name of the game.

5                   Depending on the position that I am  
6 seeking, I would want to accumulate what I refer to  
7 as a portfolio. That sounds like an onerous kind of  
8 a thing, but I'm saying, pull together something that  
9 demonstrates what I have done.

10                  If I am a relatively new entry in  
11 the job market and what I have done is have a  
12 clerical position, one thing that might go in a  
13 portfolio would be an attendance record. When we are  
14 looking for entry-level hourly workers, one thing the  
15 employer is definitely interested in seeing in any  
16 environment, whether it be municipal or private  
17 sector, is someone who is going to be reliable and be  
18 there on time.

19                  So, I might bring my attendance  
20 record. I would certainly put in my portfolio any  
21 rating of job performance evaluation documents that I  
22 received as part of counseling in whatever work I  
23 have done.

24                  I would put in there any skill  
25 measurement documents. If I am a typist, I might

1 want to put in my most recent typing examination that  
2 would show my speed and error rate, words-per-minute  
3 and errors.

4 Q You would show the actual test itself?

5 A I would do anything that I could do to product  
6 differentiate myself. These are the kinds of  
7 documents at that level.

8 When you get up to a police officer  
9 position, the opportunities are very great. You have  
10 opportunities for service and performance records.  
11 You have opportunities to display commendations.

12 Depending on your length of service,  
13 opportunity to show promotion, all kinds of  
14 achievement.

15 There is a stronger view and  
16 feedback process in police work which permits the  
17 presentation of significant information, I believe,  
18 in a portfolio if one chooses to change those jobs.

19 Q What other things would you quickly look at? We  
20 don't have to go through each of these that are  
21 outlined in your report.

22 A I will just mention quickly and then move to an area  
23 I would like to comment on more fully.

24 I believe that at any level,  
25 reflecting back on my earlier comment, my premise,



1           that finding a new job is not an easy thing to do.  
2           But having a mentor for the job search process is  
3           very, very critical.

4                         We don't go out and play basketball,  
5           we don't go out and play football without a coach.  
6           We don't go out and play and do it without a play  
7           book.

8                         When we do something poorly, we  
9           receive proper feedback for our performance in an  
10          athletic environment. When you are searching for a  
11          job, you are doing something very, very hard. If you  
12          try and do it on your own, that's wonderful, but it  
13          is filled with foxholes and potential opportunities  
14          for failure.

15    Q     All of the books that write about this topic also  
16          suggest --

17    A     Yes, I believe it has just become the practical  
18          experience. To identify a mentor, it can be a family  
19          member, it can be a friend, it can be a business  
20          associate, but someone who is going to coach you  
21          through the tough parts of finding a job.

22    Q     Let me just ask you to focus on page twelve, point  
23          2.1; perform job specific activities to optimize  
24          job search effectiveness.

25                         Would you take the court through

1           that particular point in terms of how you would go  
2           about identifying where I can get a job if I am  
3           really interested in working as distinguished from  
4           collecting SUB benefits from General Motors or  
5           unemployment compensation or waiting for a job that I  
6           really would prefer in some other area to open up?

7    A       Effectively looking for a job is a full-time pursuit.  
8           If you are going to properly manage that full-time  
9           effort which is at least a forty-hour-a-week effort,  
10          you need to provide some focus to what you are going  
11          to do.

12                            You just don't wake up in the  
13          morning and say, I wonder what I am going to do next.

14                            So, in the specific instance which I  
15          have outlined in section 2.1, we're trying to  
16          optimize job search effectiveness by first, if we're  
17          looking in a municipal setting or even a company  
18          setting, let's first isolate the targeted  
19          organization or entities we want to try and make  
20          contact with.

21                            Let's not just wake up in the  
22          morning and start throwing darts at a Triple A map.  
23          Let's get up and figure out what are the targeted  
24          communities, cities or companies that I want to go  
25          after?

1                   When you live in an urban setting  
2                   like metropolitan Detroit or southeast Michigan, that  
3                   is very easy to do. That is not typical for anyone  
4                   to do.

5                   The next thing to do is to identify  
6                   where should I go to be considered for a position?  
7                   Do I walk in the front door of a corporate world  
8                   headquarters? Is there an employment office? Is  
9                   there a Civil Service office within a municipality  
10                  that I should come in contact with? Is there a  
11                  personnel director who will literally give me the  
12                  road map on how I make an application?

13                  Then again, you product  
14                  differentiate. If possible, I would find the names of  
15                  these people who run these departments because at  
16                  some point I have to make -- the individual searching  
17                  for the job, has to make the call. When you call and  
18                  say my name is and don't mention the other person's  
19                  name or say, what is your name, that doesn't do any  
20                  product differentiating.

21                  If you call and say, Mr. Connolly,  
22                  my name is Ken Myers and I am interested in a  
23                  position with your city, could you direct me on the  
24                  process to make an application.

25                  Sometimes in the throws of business,

1 just that act itself causes the receiver of that call  
2 to sit up and take notice. It's a product  
3 differentiating act.

4 Q Let's go through these points.

5 I would identify -- let's assume  
6 that some cities have residency requirements and I'm  
7 looking for a job in the 1970s and 1980s, but there  
8 are hundreds of other municipalities that don't have  
9 residency requirements.

10 How would I go about targeting a  
11 municipality for a potential job for myself?

12 A I have a situation right now where I have been  
13 involved in some mentoring to a person seeking a  
14 librarian job in a municipality who doesn't know much  
15 about that.

16 So, what we did is we literally got  
17 a state map. This individual is interested in  
18 looking in two cities. We got a compass and we drew  
19 a fifty-mile radius.

20 Q She's interested in living in two cities?

21 A Two cities, yes. So, we took the fifty-mile radius  
22 from each of these two cities and drew the circle,  
23 and then identified within that, the cities that  
24 fell.

25 Then we went to the Birmingham

1           Public Library, I believe it was, and found an index  
2           which I have later determined is on the Internet, of  
3           all municipal job positions in the state of Michigan,  
4           including all library jobs.

5                         So, not only do I have the fact that  
6           there is a library and a library job, I also have  
7           interestingly the salary level available to me, which  
8           was one of the things I was looking for.

9                         Interestingly in the same data base,  
10          I found that we have job information in terms of  
11          positions and salary information for every other  
12          municipal job within these municipalities. It's not  
13          just library, it's all the jobs.

14    Q        If I was doing this though in the 1970s and 1980s  
15              before it was on the Internet --

16    A        I could go to the library.

17    Q        -- I can still draw the same fifty-mile --

18    A        And the worst case scenario, I could say, well,  
19              they're the top ten because the dots get larger as  
20              the cities get larger.

21                         I could get in my car and start  
22           driving around and calling on these people. That's  
23           what it really takes. You have to get out on the  
24           street. You have to make a presence. You want to go  
25           in with something that will product differentiate you

1 walking in the door.

2 Q If I really wanted a job in a municipality whether it  
3 be 1975, 1979, 1980, 1982 or whatever, and that's  
4 what I wanted to do, how many places would you expect  
5 I should visit until I found a job?

6 A In southeast Michigan?

7 Q Yes.

8 A I would view that -- my comment on that is  
9 speculative, but I would say until you found a job  
10 you might go between five and twenty municipalities.  
11 I think it's within that range.

12 Q Before you would find a job?

13 A Before you would find a job. You'll find job  
14 openings everywhere, but they may not fit you and you  
15 might not be qualified for them. You might not win  
16 in the contest.

17 Q And if I didn't find one in the first five or twenty,  
18 what would I do?

19 A I would go back and get some advice and say to  
20 myself, what have I done wrong here because in the  
21 1970s and 1980s, except in circumstances like Detroit  
22 where we had the economic layoff situation, there  
23 were a lot of situations around this state that were  
24 very positive for jobs, as we have demonstrated from  
25 doing some research in that regard.

1 Q Would you agree with me that in the 1970s and 1980s,  
2 there were literally hundreds of municipalities and  
3 companies recruiting people in the jobs that you have  
4 looked at here?

5 A Very definitely. That's indisputable. That could be  
6 confirmed from any number of sources, not just my  
7 comment.

8 Q And you mention other sources in looking at jobs at  
9 MESC and the library and other places?

10 A I was certainly taking in all of those, and then  
11 finally as a last quarter resort, the newspapers.

12 Q In your experience, what percentage of job  
13 opportunities do you usually find advertised in the  
14 newspapers?

15 A I have never done specific research in that regard,  
16 but people have stated that we see something  
17 between ten and fifteen percent available positions  
18 finding their way into the published media.

19 Q So, eighty-five to ninety percent of potential jobs  
20 that are out there in the real world for individuals  
21 to obtain, are not advertised in the newspapers?

22 A That's correct.

23 Q That is something that the books that you alluded to  
24 earlier have so indicated?

25 A Certainly a lot of study on that. Particularly in

1 municipalities where we are operating with a Civil  
2 Service system and with a posting process.

3 You know, in the 1970s and 1980s,  
4 one of the most important physical plan items in a  
5 municipal government building was the bulletin board.  
6 That's where the postings for opportunities went. In  
7 many, many instances, that's how jobs were filled.  
8 And even today, continued to be filled in a municipal  
9 environment; the posting goes up on the board.

10 Q Is there anything else in terms -- before we get into  
11 the individuals here, that you want to tell the court  
12 in terms of what it takes to find a job, regardless  
13 of job and regardless of what year?

14 A I think I have alluded to it, but not said it  
15 explicitly, anyone looking for a job at any level,  
16 the important thing is to be out on the street,  
17 making those contacts, walking in, affording yourself  
18 the opportunity to be exposed to someone in the  
19 personnel office, and hopefully some sort of a  
20 personnel officer who might have at least front-end  
21 screening possibility for candidates for a job.

22 People do not get jobs sitting at  
23 home, ever, in any level.

24 Q An individual whose primarily focus in trying to find  
25 employment is done over the phone, how would you



1 characterize their efforts to find a job?

2 A That is doomed for total failure on almost every  
3 case.

4 I had a case this weekend in which a  
5 very senior executive made headlines in the Wall  
6 Street Journal on Friday. He sought me out for  
7 counseling yesterday in my office and indicated to me  
8 something I believe is very right.

9 He said, Ken, I'm not even going to  
10 take a day off. I'll be in California considering a  
11 situation late this week and in Minneapolis  
12 concerning a situation at the end of the week, both  
13 of which are live opportunities.

14 I commended him for that and told  
15 him, you should not go after one of the two positions  
16 for a number of reasons. But here is a man who  
17 although he very abruptly lost a position, a very  
18 senior position with a major national corporation,  
19 was on his feet instantly. Not letting any  
20 opportunity to pull down a curve in his job pursuit.

21 Q You have indicated in your report that looking for a  
22 job is a full-time job?

23 A Yes, I have.

24 Q Is that true regardless of the job that you are  
25 looking for?



1 with many people responding, interestingly to those  
2 ads that we see in the paper as that quarter of last  
3 resort kind of solicitation of candidates.

4 We have to do everything we can to  
5 put our best foot forward in that job pursuit effort  
6 and that means lots of hours and whether they  
7 occur at funny times during the day or not, is  
8 another matter.

9 Q One last question before we get to the individuals.

10 Are you able to conclude anything  
11 about individuals who have sort of settled into a  
12 job, accepted a job, and yet, haven't gone out and  
13 sought other employment in terms of whether or not  
14 they're seriously looking for employment or as  
15 distinguished from being satisfied with whatever  
16 their new position might be like; do you follow me?

17 A Could I ask you --

18 MS. ANNEXSTEIN: I didn't.

19 THE WITNESS: -- to repeat the  
20 question?

21 BY MR. CONNOLLY:

22 Q Okay. If an individual has, in fact, obtained  
23 employment whether it be after a layoff or  
24 independent of a layoff. They have a job and  
25 they're working full-time and they are not out

1 looking for other employment in an aggressive manner.  
2 They may be looking at one job a year or two jobs a  
3 year when they decide to read the newspaper.

4 Is there anything that you can  
5 conclude about that individual and the fact that they  
6 have not gone out and looked to find other  
7 employment?

8 A That's a fairly generic question and I would give a  
9 fairly generic response, that that person is not  
10 engaged in a pursuit of looking for a job by any  
11 stretch of the imagination.

12 In my professional view, that person  
13 has a very limited chance of ever being successful in  
14 the job search effort.

15 What you just said does not negate  
16 the need to go full bore at this with all the basic  
17 fundamental blocking and tackling steps that need to  
18 be applied to the job search effort.

19 In looking at two ads a month and  
20 sending a poorly constructed resume, which I didn't  
21 have a chance to comment on, or a poorly constructed  
22 transmittal letter and doing nothing else, is almost  
23 a waste of time.

24 Q Now, what about an individual who for months or years  
25 at a time had accepted a job and not gone out and

1 physically applied for other employment.

2 Do you have any conclusion as to  
3 whether they are satisfied with the position they are  
4 in and have taken themselves off the job market?

5 A My opinion is a common sense opinion; they are not on  
6 the job market at that juncture. I think those  
7 people would be the first to tell you that.

8 Q Now, if you will turn to fourteen, Mr. Myers.

9 Let me ask you, you have had a  
10 chance to review -- before we get to Mr. Fears, you  
11 have looked at both a series of ads your organization  
12 has pulled from the Detroit News and the Detroit Free  
13 Press for police jobs, meter reader jobs, account  
14 clerk jobs and clerk typists jobs?

15 A That's correct.

16 Q In some instances you have gone all the way back to  
17 1974 and 1975 for police officer positions; correct?

18 A Whatever those recorded dates are.

19 Q And we have also prepared summaries of that, of the  
20 ads which you have seen?

21 A That's correct.

22 Q You have also obtained from the Michigan Municipal  
23 League, copies of the courts who may have tested for  
24 individuals into these same job classifications; am I  
25 correct?

1 A That's correct.

2 Q That is all information you relied upon for purposes  
3 of drawing conclusions as to the eight individual  
4 claimants that the Department of Justice purports to  
5 represent?

6 A It's information I've relied upon, but it is not the  
7 sole basis for my examination.

8 Q Okay. Let's go to the first individual on page  
9 fourteen, Mr. Joseph Fears.

10 On Mr. Fears, what are your  
11 conclusions as to whether or not Mr. Fears was a  
12 serious candidate for a police officer position in  
13 1979 through 1985 when he was hired by the City of  
14 Detroit?

15 A Well, my conclusion is stated on page twenty. I have  
16 observed that there is a total failure in Mr. Fears  
17 to engage in any form of search for a police  
18 department position or any position.

19 Such that in this instance, I can in  
20 an unqualified way, say that he has failed to engage  
21 in anything even resembling a job search, which would  
22 qualify for anything, let alone a claim that he is  
23 attempting to mitigate a claim for damages.

24 Q Now, from what I can gather, Mr. Myers, at some point  
25 in time Mr. Fears was hired by the City of Detroit in

- 1           1985; do you see that?
- 2    A       That's correct.
- 3    Q       He claims to have made several phone calls to a  
4           variety of cities in an effort to find jobs in police  
5           departments?
- 6    A       My research of his deposition indicates that in  
7           twenty-two years, he applied for two police  
8           department positions; the one he had and one that he  
9           applied for in Warren which he elected to take  
10          himself out of after he applied for it by his failure  
11          to follow through in the interview and testing  
12          process.
- 13   Q       When you consider that Mr. Fears in 1979 by making  
14          phone calls to a variety of communities, that that  
15          satisfies even the minimal level of diligence it  
16          would take to find a police officer position?
- 17   A       Oh, I don't think he would get to first base with the  
18          effort he applied.
- 19   Q       Do you have an opinion as to whether there was one  
20          police department that Mr. Fears wanted to work at in  
21          this state?
- 22   A       I think by his own actions he wanted to work for the  
23          US Postal Service and not any police department.
- 24   Q       He did ultimately get a job in the City of Detroit  
25          Police Department?

1 A For a brief period.

2 Q Without getting into why he was terminated from the  
3 City of Detroit Police Department, do you have any  
4 conclusions because of the fact that he has applied  
5 and then hired by the City of Detroit, whether or not  
6 that was the only city he was seriously interested in  
7 working for?

8 A It appears that was the only city he was ever  
9 interested in working for. His downturn in his  
10 career sort of took him out of consideration for any  
11 other city in that capacity.

12 Q Now, is there any observations you have about Mr.  
13 Fears' job hunting efforts back in 1979 and 1980 for  
14 police officer positions?

15 A His contacts for police jobs were almost nonexistent.  
16 His alleged contact with a police department or any  
17 place of employment is not documented in any way.

18 Which again, I believe is a basic  
19 and fundamental aspect of engaging in a minimal level  
20 of diligence in a job search.

21 Q If Mr. Fears was committed to the proposition of  
22 being a police officer in a city other than the City  
23 of Detroit in 1979, what would you have expected to  
24 have seen in his job hunting efforts?

25 A Well, clearly, leaving his house. And by his own



1 testimony, he never left his house to look for this  
2 position of police officer anywhere.

3 The contact that one has,  
4 particularly in the smaller municipalities in looking  
5 for a police officer position, is very important in  
6 the process.

7 The initial impression one makes,  
8 calling up on the phone is probably a quick road to a  
9 quick end to the phone call. One has to get out of  
10 the house. One has to go to the municipal  
11 department. One has to walk into the police  
12 department and physically show up and say, I am  
13 interested in this position. And in so doing,  
14 demonstrate the kinds of things that police folks are  
15 looking for when the individual comes in the door.

16 Everyone can't be a police officer.  
17 I don't think I could be a police officer. I don't  
18 know you well enough to know whether you could be a  
19 police officer, but police officer work takes a  
20 certain kind of individual. I learned that when I  
21 was spending my time in the patrol cars in Detroit  
22 and in Highland Park. It's not a position I could  
23 ever do.

24 I think when you are of that nature,  
25 you tend to demonstrate qualities in your personality

1 and the way you carry yourself, whether you be a man  
2 or a woman that says, I can be a police officer.  
3 That's part of the product differentiation when you  
4 go into that department, if in fact there is a need  
5 for a position. If there is a position open, the  
6 people are looking at you.

7 We all know when we go into most  
8 police departments, the first thing we hit is the  
9 desk. Those people are looking at you.

10 If you go to Detroit, which I have  
11 done and you walk into that desk and you carry  
12 yourself in any way but the way they think you  
13 should, they are already making remarks about you  
14 right in front of your face

15 So, it's very important to be on the  
16 street. That's the key, to be on the street.

17 Q Mr. Myers, could you estimate how many hundreds of  
18 police officer positions might have been available  
19 between 1979 and 1985 which Mr. Fears didn't avail  
20 himself of?

21 A The only numbers I have in front of me are a hundred  
22 and forty-six positions we recently examined in the  
23 Free Press. There were hundreds of other positions  
24 we looked at earlier, which I believe have been made  
25 part of this trial in this matter that have been

1           turned over.

2                               But the number is hundreds, and that  
3           again is published ads which means there were many,  
4           many more jobs that never reached that state.

5    Q    And you don't know of the hundreds of ads how many  
6           police jobs were filled through the hundreds of ads?

7    A    I do not know that.

8    Q    It could be ten or twenty times that for each --

9    A    Because of the fact that with the Civil Service  
10           system, with the job posting process, the point at  
11           which a municipality says I am going to spend the  
12           money to go into paper with an ad, which in this  
13           community is not an inexpensive process, says that I  
14           have grown out of candidates from my posting and  
15           broadcasting that opportunity on a local basis.

16                               And even in many instances, I have  
17           called other municipalities and said, do you have any  
18           candidates that you could refer to me for this  
19           opening.

20                               So, the job itself ends up being the  
21           last quarter resort in this and many other instances.

22    Q    Mr. Myers, if some of these cities had residency  
23           requirements and someone was not a resident of that  
24           city, would you have expected them to show up and  
25           apply for a job in that city anyway?

1     A     Certainly in the time that I was with the City of  
2            Detroit and the City of Highland Park, there were  
3            residency requirements as I recall, in both places  
4            and it will be my view that you go down there and  
5            apply.

6     Q     If for some reason someone did meet the minimum  
7            qualifications for a job, would you believe that they  
8            still should go and make an effort to find a job in  
9            that community?

10    A     If you are in a job search activity the requirement  
11            is to permit yourself the opportunity to be exposed  
12            to as many instances where applications are being  
13            received.

14                            I say that for this reason. All of  
15            us who do hiring end up with a particular view of  
16            what we want that person we hire to be. Rarely do we  
17            fill that view in its entirety.

18                            Often, and particularly right now as  
19            an example in this state, we may compromise off our  
20            own specification for the job. So, going in and  
21            filling out the application, hopefully showing  
22            something that product differentiates me; attendance  
23            records, a nice personality, a demonstration of some  
24            energy, might carry the day when I had no idea  
25            reading the description that it would.

1                   And there is another comment I  
2                   should make, that rarely in a published ad to which I  
3                   am going to respond, are the qualifications so nailed  
4                   down that I wipe myself out of consideration.

5                   If it says that I have to have a  
6                   master's degree in physics and ten years working in a  
7                   nuclear power plant turning off the key valve, then I  
8                   am wiped out of the position. But for a clerical,  
9                   for accounting positions, rarely is the specification  
10                  so tight that I would make a judgment back in my home  
11                  that I shouldn't apply for that job.

12    Q            Let's turn our attention to Brady Foreman.

13                                What are your conclusions as to Mr.  
14                   Foreman's desire to be a police officer, if he had  
15                   such a desire.

16    A            Mr. Foreman, by his deposition testimony, was a  
17                   General Motors employee for virtually his entire  
18                   career. He clearly by his own actions, wanted a  
19                   position that I would call a, in quote, safe security  
20                   position, as contrasted with a dangerous position  
21                   that I would describe as being a police position.

22                                His entire career has been at  
23                   General Motors except during his layoffs when he  
24                   took positions that all GM people take in layoff. I  
25                   might comment on something that is not commonly known,

1           and that is in a General Motors layoff, there is not  
2           often an initial inclination to go out and even get  
3           temporary work.

4                           I would like to make two comments.  
5           In a General Motors layoff the expectation of most  
6           people in that circumstance is they are going to be  
7           called back. And, in fact, with Mr. Foreman, that  
8           did occur.

9                           The second thing is, that there is a  
10          Supplemental Uemployment Benefit that historically  
11          has been part of the negotiated work package with the  
12          bargaining unit, in which instance, when we hear  
13          about a plant closing or we read in the Wall Street  
14          Journal that the plant in Ohio has closed for a week.  
15          The workers are still, historically in the past, have  
16          been drawing a substantial piece. I believe it was  
17          about seventy-five percent or if not actually  
18          seventy-five percent of their wages during that lay-  
19          off period which lasted for a certain amount of time.

20                          Certainly in a one week plant  
21          closing people almost rejoice because they've been  
22          working overtime and they go to their cottages.

23                          In Mr. Foreman's case, he had the  
24          opportunity to collect this supplemental while his  
25          expectation was that he was going to be called back.

1 He did go out and get some other work in these lay-  
2 off periods, but when you look at Mr. Foreman, he's a  
3 General Motors employee.

4 Q You are aware that Mr. Foreman claimed to have  
5 applied for jobs in the City of Pontiac, City of  
6 Lansing, City of Saginaw and City of Detroit back in  
7 1974?

8 A He made some applications for work when he finished  
9 college in 1974, as most people finishing college do.

10 And in September, he made a decision  
11 to go with General Motors in a job that is not  
12 dissimilar from the job he had at the last reported  
13 time of these deposition, which I believe was 1994.

14 Q Are you aware that the Justice Department believes  
15 that the City of Warren should have hired him in  
16 1974?

17 A I am not aware specifically of that, but it isn't  
18 incomprehensible.

19 Q Is there anything in his job hunting efforts for a  
20 police officer back in 1974 prior to him taking his  
21 lifetime job at General Motors, that leads you to  
22 the conclusion that this particular individual was  
23 truly interested in being a police officer?

24 A There is no indication at all, and he had some pretty  
25 quick feedback when he made these applications. In

1 two instances he failed tests or exams or some phase  
2 of the employment process.

3 At that point he took a position  
4 with General Motors. It was very clear that for  
5 whatever reasons that weren't disclosed in the  
6 materials I was furnished, he wasn't suited for  
7 police work and he figured that out very quickly. He  
8 was employed before the summer break was over in a  
9 security position with GM, which he has enjoyed all  
10 his life.

11 Q Is there any conclusion that you have about Mr.  
12 Foreman in terms of whether or not he was seriously  
13 looking for a police officer position back in 1974,  
14 other than what you have already told me?

15 A No, there is absolutely none. He was not in any way  
16 looking for a police position. Having him doing so,  
17 he would have continued to look for a police  
18 position.

19 With all the municipalities for  
20 which there were police positions available, there  
21 would have been some evidence that to him, that he  
22 could have gone out and looked for a job and he never  
23 did it, ever.

24 Q Do you have an opinion based on the fact in the last  
25 twenty-one years, he has only allegedly applied for





1           made some applications. And again, he didn't go  
2           after any police department positions. I don't know  
3           how he viewed that at that point, but except for this  
4           period, right after college when he found out he  
5           wasn't going to be an acceptable candidate, there was  
6           no display of interest in a police department job at  
7           any time.

8                               MS. ANNEXSTEIN: Objection. This  
9           witness doesn't know whether Mr. Foreman found out he  
10          wasn't an acceptable candidate in the police  
11          departments he applied for.

12                              This is all speculation on this  
13          witness's part and goes beyond the scope of his  
14          report.

15 BY MR. CONNOLLY:

16 Q       Have you seen anything in Mr. Foreman's deposition or  
17       records that suggest that he was ever offered a job  
18       in the police department?

19 A       No. What I was referring to in my prior comment was  
20       that in his testimony, he indicated that in applying  
21       for police department jobs upon graduation from  
22       college, there were two instances where he failed  
23       exams.

24                              Therefore, he had immediate and  
25       direct feedback on his qualifications for the

1 position. There was no indication in the deposition  
2 what he failed, whether it was an intelligence test  
3 or a character test or some background check, but he  
4 failed two of those situations. And very shortly  
5 thereafter, took the position with General Motors.  
6 That is the point to which I am referring.

7 Q Okay. Let's turn our attention to the next  
8 individual in your report, Ms. Deborah Garnett.

9 What are your conclusions as to  
10 whether or not Ms. Garnett should have been hired in  
11 1978 by the City of Warren?

12 A Ms. Garnett was an employee of the Michigan  
13 Department of Social Services, almost throughout --  
14 throughout almost her entire career. Except for a  
15 brief break for personal reasons where she took a job  
16 not dissimilar from that in Texas for a year or a  
17 year-and-a-half, her career pursuit has been  
18 advancement with MDSS; Michigan Department of Social  
19 Services.

20 Q Have you seen any indication from Ms. Garnett after  
21 1978 that she had any interest in working for anybody  
22 other than the State of Michigan?

23 A I saw no interest in that at all. She did receive  
24 advancement at MDSS, and her advancement included  
25 salary increases which she obviously did not reject

1 and accepted.

2 She evidently was or has been a good  
3 employee with MDSS.

4 Q Do you have an opinion, Mr. Myers, as to whether or  
5 not had Ms. Garnett wished to increase her income,  
6 whether there were other places outside of the public  
7 sector that she could have gone to between 1978 and  
8 present to seek employment in jobs for which she was  
9 qualified?

10 A Well, I think we all know there were thousands of  
11 opportunities in that broad time period for her to  
12 seek employment in the private sector, which  
13 certainly had the potential to exceed a municipal or  
14 in her case, a state level wage level.

15 Q Are you familiar with pay scales in the state versus  
16 pay scales in municipalities?

17 A I am in the state of Michigan.

18 Q And which would be higher paying?

19 A In many instances the State of Michigan is a higher  
20 paid situation than a municipal position.

21 Q Do you have any other conclusions relative to Ms.  
22 Garnett and whether or not she could have mitigated  
23 her damages to the extent that she was damaged, by  
24 engaging in additional efforts to find employment  
25 since she was hired by the state in the summer of

1 1978?

2 A Well, I noticed one thing from her deposition that in  
3 the two months she was at Chrysler, she did not apply  
4 for a single job, even though there were dozens if  
5 not hundreds of clerical position ads even in that  
6 two-month period.

7 She left that job without a job and  
8 then began her job search. So, her interest in  
9 securing work while at Chrysler, even though it was  
10 only for a sixty-day period, appears to have been  
11 nonexistent.

12 Q Can you see anything in her record that suggests that  
13 one of her focal points for purposes of employment  
14 was working for a municipality?

15 A No. I think she has demonstrated very clearly from  
16 her career history at MDSS, that that was her job  
17 pursuit.

18 Q Do you have any conclusion as to whether or not one  
19 of her options in life that she looked favorably upon  
20 was working for a municipality?

21 A There was no evidence of that whatsoever in her  
22 deposition testimony.

23 Q Now, turning your attention, Mr. Myers, to Mr.  
24 William Holland.

25 What are your conclusions -- and whose

1 analysis starts on page thirty-four, what  
2 conclusions do you have as to Mr. Holland?

3 A Again, Mr. Holland unlike the other persons we have  
4 so far discussed, didn't appear to have job pursuit  
5 as an interest in general.

6 There was a period, at least from  
7 the testimony I reviewed, where almost 1979 through  
8 1985 that he was not employed. And there may have  
9 been some employment, but it is not discernible from  
10 my reading of that material.

11 He had gotten involved in carpet and  
12 tile laying which he seemed to enjoy until his real  
13 estate holdings mysteriously crept up in the  
14 depositions, and he became a land owner and manager of  
15 properties, which is interesting to me.

16 In more recent years as a result of  
17 a fire that burned down one of these properties, he  
18 has evidently been living off the proceeds of the  
19 insurance and managing other properties, according to  
20 his deposition.

21 So, as I look at Mr. Holland, his  
22 serious interest in work has been somewhat limited.  
23 Work in general, let alone specific work with  
24 somebody or some place in some position.

25 Q Have you seen anything in his job hunting efforts

1 over the last sixteen, seventeen years, that  
2 suggested that his focal point in terms of employment  
3 was working for a municipality?

4 A No, he had no focal point about a municipality or  
5 anything else.

6 On page thirty-five in the third  
7 paragraph, I tried to outline and report on his  
8 description of his approach to a job search, which I  
9 comment as a sketchy and incomplete description of  
10 the way he looked for jobs, because I believed his  
11 approach to looking for jobs was sketchy and  
12 incomplete.

13 Q Do you believe that Mr. Holland was engaged in a  
14 reasonably diligent job search from 1980 to the  
15 present?

16 A By no standard would he have been engaged in any form  
17 of job search that would qualify as a minimal level  
18 of diligence.

19 Q Any of the other individuals that you have already  
20 talked about, do you believe that any of those  
21 individuals were engaged in a reasonably diligent job  
22 search, other than in the jobs that they found  
23 themselves in?

24 A No.

25 Q Are there any other conclusions you have about Mr.

1 Holland, over and above that which is contained in  
2 this report?

3 A Not over and above that which is contained in the  
4 report.

5 Q How many account clerk and meter reader jobs --  
6 strike that.

7 How many account clerk jobs would  
8 you expect have been available for Mr. Holland to  
9 have applied for from the last time he was an account  
10 clerk which was in 1975 to the present?

11 A Thousands. Maybe more than thousands.

12 Q In terms of water meter reader positions, where would  
13 one go about trying to find a water meter reader job?

14 A Are you asking meter reader or water meter reader?

15 Q Well, meter reader job.

16 A Well, a meter reader job is -- in this market would  
17 be Detroit Edison or Consumers Power or Michigan  
18 Consolidated Gas.

19 Water meter jobs which are also  
20 meter reading jobs exist in every municipality that  
21 provides its citizens with water, which I think is  
22 all of them.

23 Q All in the entire state?

24 A All in the entire state.

25 Q Were you able to identify whether or not Mr. Holland



1           showed any indication that he seriously pursued a  
2           meter reader position, whether it be in the public or  
3           the private sector, from 1979 to the present?

4    A    Absolutely none.

5    Q    How many jobs in the meter reader area do you believe  
6           would have been available during that period of time,  
7           assuming that was something that was within his  
8           career interest and level, were part of his career  
9           interests?

10   A    I would say a meter reader job would be considered  
11          all meter reader jobs; gas, electric and water, there  
12          would be hundreds if not more than hundreds.

13                    But those jobs are typically posted  
14          jobs in the municipalities within the process that  
15          the civil system calls for posting. Those jobs are  
16          highly desirable.

17                    Therefore, candidates have to get  
18          off their -- get out of their homes and go to those  
19          municipalities and provide an indication of their  
20          interest in those positions if they are ever going to  
21          be considered for them. Those jobs are typically  
22          viewed as nice ways to make a living for a number of  
23          reasons.

24   Q    Do you have any conclusions, other conclusions as to  
25          whether Mr. Holland was engaged in a reasonably

1 diligent job search from 1979 to the present?

2 A The only other comment I would make is that at some  
3 point he reported on his recollection of the hours he  
4 spent in job pursuit, hours per week in various  
5 years, which is a remarkable recollection.

6 The hours he reported which range  
7 from three to five a week and at the high end, ten to  
8 fifteen a week in any job pursuit, do not constitute  
9 engaging in a minimum level of diligence in the job  
10 pursuit effort than in the hours he reported.

11 Q Now, would you agree with me that in terms of a  
12 reasonable diligent job search, it minimally requires  
13 responding to all ads?

14 A Absolutely.

15 Q It minimally requires using the Michigan Employment  
16 Security Commission?

17 A I would say very definitely.

18 Q And networking?

19 Q Networking is very critical, very, very critical,  
20 even in municipal work.

21 Q If someone were truly interested in municipal work,  
22 would minimal effort require physically going to  
23 cities that have no residency requirements prior to  
24 1986?

25 A Without question.

1 Q Now, let's turn your attention to Ms. Vanessa Jones,  
2 on page forty-two.

3 What are your conclusions as to  
4 whether or not Ms. Jones hungered and thirsted to be  
5 a police officer after her layoff from the City of  
6 Detroit Police Department?

7 A My conclusion by her own testimony is that she had no  
8 interest in a police department job.

9 Q Do you have any conclusions based on the fact that  
10 she turned down jobs with the City of Grand Rapids  
11 and the City of Detroit Police Department?

12 A I think she turned down -- yes, it was -- do I have a  
13 conclusion concerning that?

14 Q Whether or not as to her -- whether or not she was  
15 interested in getting back into police work after her  
16 layoff from the City of Detroit in 1979?

17 A It's very, very clear that her actions themselves  
18 demonstrate complete rejection of that action for her  
19 to go to work in a police department.

20 And then the follow-up action she  
21 engaged in to become employed in a security firm, in  
22 a management job, is a further indication of that  
23 lack of desire to pursue police work.

24 Q The fact that Ms. Jones has been in security work  
25 since 1981, fifteen years, do you have any

1 conclusions as to whether or not during that fifteen  
2 year period, she was interested in working for the  
3 police department in Warren, or anywhere else in the  
4 world?

5 A My conclusion is based on her own actions that she  
6 has had no interest whatsoever in working in any  
7 police department, or she would have demonstrated  
8 that interest with some effort that is discernible.

9 Q Is there any conclusion you have relative to Ms.  
10 Jones as to whether or not she engaged in a  
11 reasonably diligent job search for a police officer  
12 position upon her layoff from the City of Detroit?

13 A My conclusion is that without any qualification, she  
14 did not engage in a minimal level of diligence in her  
15 job pursuit.

16 Q Okay. Let me turn your attention to the next  
17 individual. Do you have any other conclusions you  
18 would like to tell the court that relates to Ms.  
19 Jones?

20 A I believe not.

21 Q Turning your attention to Ms. Carolyn Pace.

22 What conclusions do you have as to  
23 Ms. Pace?

24 A Ms. Pace is a person who has moved in her  
25 professional career from job to job periodically.

1           Staying in and settling into each of those jobs for  
2           periods of time until whatever triggered her, caused  
3           her to move into another job.

4                         She basically had all her work in  
5           the private sector until she attended a job fair  
6           where she was exposed to a position, I believe --

7    Q     In the City of Dearborn?

8    A     In the City of Dearborn which she then took.  But  
9           other than that, her work had all been private  
10          sector.  It had not been a plotted kind of a thing;  
11          she took a job, would settle into the job, stay at  
12          the job and then for whatever reason, and a lot of  
13          people do this, said now I'm going to go get another  
14          job.

15                        She would go find a job in the  
16          private sector and settle into that job.  So, that  
17          has been her career pursuit.

18   Q     Have you seen any indication that prior to 1989 when  
19          she took a job for the City of Dearborn, that she had  
20          any interest in working in the public sector up until  
21          that point?

22   A     Absolutely none.

23   Q     Is there any indication that from 1985 -- strike  
24          that.

25                        Given Ms. Pace's background and

1           experience, how many jobs would you estimate have  
2           been available to her in either the clerk typist  
3           categories or the account clerk positions from 1985  
4           to the present?

5     A     We saw in 1985 and 1986, five hundred and thirteen  
6           jobs, just in that short period.

7                                 So, my answer to your question would  
8           probably be thousands.

9     Q     Would you agree with me, Mr. Myers, if Ms. Pace had  
10           any interest in increasing her income over and above  
11           what she earned either with Temporary Resources,  
12           Allnet, Metric Labs, Medical Labs or the City of  
13           Dearborn, that there were hundreds and hundreds of  
14           opportunities for her?

15    A     Literally hundreds.

16    Q     Do you have any other conclusions as to whether Ms.  
17           Pace was engaged in a reasonably diligent job search  
18           of the kind and nature required to mitigate any  
19           damages, if she indeed was entitled to any, from the  
20           City of Warren?

21    A     She did not engage in a minimal level of diligence in  
22           her job search effort.

23    Q     And that would be true from 1985 until the present?

24    A     Yes.

25    Q     Turning your attention to Mr. Landy Smith who starts

1 on page fifty-seven.

2 What are your conclusions as to Mr.  
3 Smith, and whether or not he was interested in being  
4 a police officer in any place in the world other than  
5 the City of Detroit?

6 A Well, I believe -- strike that. May I start over?

7 Q Yes.

8 A The report of his job history as he made that report  
9 in his deposition states that after his layoff from  
10 Detroit, he took a position with a security firm and  
11 as many officers felt in Detroit, two things; one  
12 that they were going to be recalled any day, which  
13 didn't happen to him for awhile, and when that didn't  
14 happen, he simply stayed with Raney Security, seeming  
15 quite content with that position.

16 At a later point he was recalled and  
17 has had a career with the City of Detroit Police  
18 Department, which evidently has been quite  
19 successful.

20 Q Since his hire by Raney Security in 1981, have you  
21 seen any indication that Mr. Smith was engaged in a  
22 reasonably diligent job search to find a job as a  
23 police officer anywhere in our country?

24 A He asked someone with whom he played basketball if  
25 there were any opportunities for work with the State

1 Police. And he stopped a patrol car at one time and  
2 asked that patrol car -- and I don't remember which  
3 patrol car that was. Whether the city the patrol car  
4 was representing was doing any hiring.

5 On one other occasion he took a two-  
6 week trip to Ft. Lauderdale, Florida, during which  
7 time he allegedly made an application for a job to  
8 the City of Ft. Lauderdale. He didn't produce any  
9 record of that application, but he says he did while  
10 he was there for his two weeks.

11 Q Other than his two-week vacation to Florida, was  
12 there anything that you saw that suggested that Mr.  
13 Smith had any desire to be a police officer in any  
14 community other than the City of Detroit within the  
15 state of Michigan?

16 A He only made a handful of inquiries in that Raney  
17 Security period, and those inquiries by his own  
18 testimony were very casual and informal.

19 My conclusion is that he was banking  
20 on a recall or continuation at Raney Security, and  
21 that the recall occurred.

22 Q Are you aware that he went to a job fair and talked  
23 to people in a variety of cities outside the state,  
24 made some phone calls to a variety of law enforcement  
25 agencies in the state.



1                   Do you have an opinion as to whether  
2                   that constitutes a reasonably diligent job search for  
3                   someone who reportedly wants to be a police officer?

4     A           Well, one day on this four or five year period where  
5                   he was at Raney Security, he went to a job fair, one  
6                   day at Cobo Hall. He reports that he talked to  
7                   booths from Los Angeles, Houston, Atlanta, Fairfax  
8                   County. And it wasn't clear from the deposition  
9                   whether Fairfax County and Virginia were two talks or  
10                  one talk.

11                                That's walking around the fair and  
12                   having these casual comments. I would call that not  
13                   even close to engaging in a minimal level of  
14                   diligence in a job search effort. Not even the  
15                   beginning of that process.

16    Q           What about these phone calls that he made in 1981,  
17                   allegedly to various communities in the state of  
18                   Michigan where he actually got on the phone and he  
19                   called somebody.

20                                Would you consider that an  
21                   indication that he was interested in police work?

22    A           Well, I think if we count up these phone calls that  
23                   he allegedly made; Sterling Heights, Metro Park One,  
24                   Southfield, Highland Park and Dearborn, Madison  
25                   Heights. That, I believe, comes to seven.

1                   That is seven phone calls in  
2                   something like five years or four-and-a-half years.  
3                   Searching for a job is a full-time pursuit. Seven  
4                   phone calls in four-and-a-half years is a ridiculous  
5                   commentary about an attempt to being engaged in a  
6                   minimal level of diligence in a job search effort.

7       Q       Let's say he made three times as many phone calls in  
8                   that five year period. Would you consider that a  
9                   reasonably --

10      A       When I look at someone -- first of all, phone calls I  
11                   don't believe are the right attack on looking for a  
12                   police department position to begin with. But if  
13                   that is part of his attack, I would expect him to be  
14                   applying in his part-time work, a reasonable amount  
15                   of time to this job search effort that would amount  
16                   to ten or fifteen calls every week. The calls would  
17                   be accompanied by some on-site visits to these  
18                   departments. These police departments are open  
19                   twenty-four hours a day. They don't close down at  
20                   five p.m.

21                   People come in looking at the board  
22                   for postings for all kinds of positions in police  
23                   departments at all times of the day or night.

24      Q       So, if I was working forty hours a week from 1981 to  
25                   1985, in order to engage in a reasonably diligent job

1 search to mitigate damages, what would you expect to  
2 have seen from Mr. Smith?

3 A I would expect to see him working -- if he's  
4 seriously engaged in pursuit of a job of any kind, I  
5 would expect to see four to six hours a day of  
6 something relating to those steps in the job search  
7 effort.

8 Q Over and above his eight hours a day?

9 A Absolutely. Absolutely. And I think that can be  
10 demonstrated by countless people who engage in job  
11 search diligently by incurring that kind of an  
12 effort.

13 Q Is that something you see all the time in terms of  
14 individuals who are presently employed who are  
15 looking for jobs, whether it be secretarial jobs,  
16 librarian jobs or presidents of corporations?

17 A I don't recall any instance in the hundreds of  
18 circumstances I have been involved in, where someone  
19 is successful in a job search pursuit by doing it  
20 willy-nilly, in a casual informal way.

21 It is a concentrated, plotted, heavy  
22 application of time and energy kind of an activity.

23 Q Let's turn our attention to the last individual, Mr.  
24 Edward Walters who the Justice Department claims the  
25 City of Warren should have hired in 1980 as a police

1 officer.

2 Do you have any conclusions as to  
3 whether or not Mr. Walters from the end of 1979 to  
4 the present showed any interest in working for a  
5 police department anywhere in the world?

6 A I see no evidence of him having any interest in  
7 anything other than food stores, insurance and lawn  
8 care. And by his own testimony, he did not apply or  
9 consider applying to Warren for a position.

10 So, because I have not been involved  
11 in the full discussion and deliberation in this  
12 matter, don't understand how the Warren thing crops  
13 into his job search.

14 Q I want you to assume that Mr. Walters claims,  
15 underline the word claims, that he applied for a job  
16 at the Detroit Police Department in 1979 and the  
17 Michigan State Police Department in 1979. And that  
18 since that time has applied to no police departments  
19 anywhere in the country.

20 Do you have a conclusion as to  
21 whether or not in 1980 Mr. Walters was a serious  
22 candidate for a police department position?

23 A In 1980 he took a position with Prudential Insurance  
24 Company as an insurance salesman, which he kept until  
25 he was fired for an unfortunate embezzling incident.

1 MS. ANNEXSTEIN: Objection.

2 MR. CONNOLLY: To what?

3 MS. ANNEXSTEIN: To the term  
4 embezzlement. That is certainly not on the record.  
5 That certainly is not established.

6 It's in this report. It assumes  
7 facts that are not in evidence, and facts that are  
8 unprovable, and should not be part of this record.

9 BY MR. CONNOLLY:

10 Q We'll use the term improper borrowing, Mr. Myers --

11 A I'll just say because of some incident that occurred.

12 Q Okay. Independent of whether he was terminated by  
13 Prudential for borrowing or whatever, is there  
14 anything in the record that suggests that Mr. Walters  
15 was looking for police officer positions in a  
16 reasonably diligent manner ever in his life?

17 A He was never looking for those positions. After he  
18 finished with Prudential, he went to Jackson National  
19 and then American National Insurance, and then  
20 Metropolitan Life Insurance, and then House Doctor as  
21 an insurance salesman.

22 Q From 1986 to the present, he has been working in the  
23 lawn care?

24 A He then went into lawn care. I'm stumbling a little  
25 bit to the present. I have to search my record. I'm

1 not sure of that. Is that germane?

2 Q It probably isn't, but for purposes of your  
3 conclusions, do you -- have you seen anything in the  
4 record that suggested that Mr. Walters was a serious  
5 candidate for police officer positions at any time in  
6 his life, much less 1979?

7 A First of all, I have seen nothing in his record that  
8 suggests that. I also believe he testified that he  
9 was afraid to become an officer after 1984. I don't  
10 know the circumstances of his fear.

11 I also believe from his record that  
12 he never applied to Warren. He didn't even consider  
13 applying to Warren, as reported in his deposition.

14 Q Now, if there were other -- strike that.

15 We have five individuals here who  
16 were police officer candidates allegedly; three had  
17 worked in police work and two allegedly inspired to  
18 be police officers.

19 Do you have any conclusions as to  
20 what one might have expected to have seen as to those  
21 five individuals if they truly wanted to be a police  
22 officer in some suburban area in the state of  
23 Michigan?

24 A First of all, I think they would put together a very  
25 strong resume indicating why they are capable

1 candidates for that position.

2 I believe they would have put  
3 together something that I refer to as a portfolio,  
4 whatever that might mean to demonstrate their  
5 competencies to be considered for that position.

6 I would then have expected these  
7 candidates to have been able to come back today and  
8 tell us that they have called on all the police  
9 departments over that long time period within a  
10 reasonable radius of their domiciles.

11 I would expect them to be able to  
12 support the activity in making contact with records  
13 of those calls, which anyone engaging in a reasonable  
14 level of diligence in a job search maintains, if for  
15 no other reason to manage his or her time and effort  
16 and follow-up activity.

17 Q Why do you think follow-up is necessary as part of  
18 the job hunting process?

19 A Well, in virtually any job that we secure, whether it  
20 be in a municipality through a Civil Service process  
21 or in a private sector environment, the act of being  
22 hired or employed for a position usually involves  
23 multiple steps.

24 To keep track of all these steps if  
25 we're engaging in this pursuit diligently, is a task

1           that I think very few people could do in their heads  
2           ever. As a consequence, keeping that follow-up and  
3           to-do list kind of a log, is basic fundamental  
4           blocking and tackling in a job search effort.

5       Q     Does the fact that someone had a resume in and of  
6           itself suggest that that would be enough to satisfy a  
7           reasonably diligent job search?

8       A     Absolutely not.

9       Q     The fact that someone called various cities, would  
10          that in and of itself satisfy a reasonably diligent  
11          job search?

12      A     No.

13      Q     The fact that someone went to the MESC on occasion,  
14          would that satisfy a reasonably diligent job search?

15      A     No. I would expect to go to the MESC all the time,  
16          not on occasion. The on occasion takes it out of the  
17          category of a reasonable job search effort -- a  
18          reasonable level of diligence in a job search effort.

19      Q     And if someone on occasion looked at ads in the  
20          Detroit News and the Detroit Free Press, would that  
21          be suggestive of a reasonably diligent job search?

22      A     It would not be.

23      Q     If someone was indeed interested in finding a job in  
24          the public sector, whether it be police or otherwise,  
25          other than the News and the Free Press, what



1 newspaper would you have expected them to have gone  
2 to and looked to for help?

3 A Again, by doing a little mapping, I would then  
4 determine the local newspapers that exist within each  
5 of these municipalities or that serve each of these  
6 municipalities like for us, the Macomb newspaper, the  
7 Grosse Pointe paper, the Oakland Press, the Eccentric  
8 which covers and has covered for years many  
9 municipalities in southeast Michigan.

10 When you go out state, just a little  
11 bit farther, the Flint Journal, the downriver papers.  
12 There are just a plethora of newspapers --

13 Q Ann Arbor newspapers?

14 A Ann Arbor newspapers. The Lansing papers. If you  
15 want to go up to Lansing, it's a little bit out of  
16 the fifty-mile radius. Every -- there are just a  
17 plethora of newspapers in which these kinds of  
18 positions are advertised on an ongoing basis, and  
19 that is not something that is not discoverable by a  
20 job candidate.

21 Q Does the fact that three of the individuals were  
22 hired as City of Detroit police officers suggest to  
23 you that these individuals were interested in police  
24 officer jobs in cities other than the City of  
25 Detroit?

1 A The City of Detroit for a police officer, unless  
2 something has changed very recently, has always been  
3 viewed as the police officer job, with the pay, the  
4 hours, the opportunity for extra hours.

5 For a serious police department  
6 person, Detroit is the city in the state of Michigan  
7 for police work.

8 Q If someone wanted while working for the City of  
9 Detroit and didn't have the benefit of overtime  
10 because the job they were in did not lend itself to  
11 overtime, is it your opinion that there would be  
12 other jobs that they could have obtained in the form  
13 of moonlighting to increase the number of hours they  
14 work in a given week?

15 A Could you just repeat the front of the question?

16 Q Sure. Let's assume a police officer who works for  
17 the City of Detroit is in a job that does not have a  
18 lot of overtime opportunities either because of the  
19 shift that he or she is on, or because of the unique  
20 part of the job; is in an area where they don't have  
21 a lot of court room work or whatever.

22 Would there be opportunities for  
23 those individuals to supplement their income through  
24 part-time employment throughout the community?

25 A Absolutely.

1 MR. CONNOLLY: I have nothing  
2 further. Let's take a short break  
3 (Whereupon an off-the-record  
4 discussion was held)

5 EXAMINATION

6 BY MS. ANNEXSTEIN:

7 Q Mr. Myers, you testified that you are familiar with  
8 municipal employment practices; is that right?

9 A I am familiar with municipal employment practices in  
10 certain municipalities, that's correct.

11 Q And specifically, through your work with the City of  
12 Highland Park and Detroit?

13 A Highland Park, Detroit, River Rouge and certainly  
14 employment practices up in Lansing at the State of  
15 Michigan, as well as other states.

16 Q So, does that mean you are familiar with municipality  
17 practices of giving examinations to hire entry-level  
18 clerical people?

19 A That's correct.

20 Q And a municipality's practice of giving examinations  
21 as the initial screening device to hire police  
22 officers?

23 A After an application, yes.

24 Q Wouldn't you agree after this initial stage of the  
25 employment practices of a municipality, a portfolio

1           such as you suggested does not come into play?

2    A       I don't agree with that at all and let me tell you  
3           why.

4                        It is true that we live in a  
5       municipal setting oftentimes under a fairly rigorous  
6       civil service setting; that is true.

7                        But what we're still dealing with  
8       here is employment. A lot of things come into play  
9       in employment, including the occasion of ties are so  
10      close to call that we have to make a decision or we  
11      have to modify our specification.

12                      So, my advice to anyone in this  
13      pursuit or this kind of a pursuit, and in fact, in  
14      any setting whether it be municipal or non-municipal,  
15      is to play every card in the deck from the very  
16      outset.

17                      I have seen countless situations  
18      where the specification has changed either over a tie  
19      or something too close to call, or because what I  
20      wanted just wasn't quite available so I did something  
21      else.

22                      I would say that that situation  
23      cannot be thrown out when you are in the position of  
24      looking for a job.

25    Q       Is it your understanding that the City of Warren

1 found -- let's say 1970 through 1984, followed those  
2 same practices of giving examinations to hire  
3 clerical workers as well as police officers?

4 A The honest fact is I haven't examined the specifics  
5 and I think we covered that in the prior deposition.

6 Q Is it your experience that when a city administers an  
7 exam, let's say, for a police officer position and  
8 the passing score is a seventy-five and two  
9 individuals received a seventy-five, that they would  
10 break that tie by looking at a portfolio?

11 A What I am saying to you is I think it is conjecture  
12 on my part as an adviser or anyone's part as an  
13 adviser, to say this is exactly how the decision on  
14 the hire is going to be made.

15 I believe that judgment and common  
16 sense come into play in many, many hiring instances.  
17 I have just seen that occur too many times to be able  
18 to sit here in an all knowing position and say, hold  
19 back on something because of a process. I would  
20 never advise someone to do that.

21 My view is if I or you or anyone  
22 have a chance to be considered for employment and we  
23 go through whatever process is rigorously in front of  
24 us, it is not in our best interest to come looking  
25 like we were in a fight last night or without our

1 very best foot forward.

2 That is what I am really saying  
3 here. In every instance, job search -- I would like  
4 to start my paragraph -- not change it, just add a  
5 comment.

6 The whole effort of a job search is  
7 to get to a point where someone is going to consider  
8 you. There are infinite amounts of energy spent  
9 getting to that point when you consider the job  
10 search effort taken as a whole. Getting to that  
11 point where someone will consider you.

12 You walk in the gate and in fact,  
13 here is a municipality that has a position open for  
14 which it is seeking a candidate. A lot of people who  
15 don't make the effort, never get to that point.

16 Q I understand what you are saying, but it is not  
17 responsive to my question --

18 A Once we get to that --

19 Q I don't think you understood my question. Let me ask  
20 it again.

21 MR. CONNOLLY: Excuse me a second,  
22 Mr. Myers. What she is interested in is would a  
23 portfolio help in the interview process --

24 MS. ANNEXSTEIN: No, that's not my  
25 question.

1 BY MS. ANNEXSTEIN:

2 Q My question is: At the point where police officer  
3 candidates have taken an examination and there are  
4 two police officer candidates who have scored a  
5 seventy-five percent. Let's say they're numbers ten  
6 and ten on the list and there are ten people they are  
7 going to take.

8 A At that point in time?

9 Q Yes, at that point in time.

10 A So we're ready to do a hire.

11 Q In your experience while we're ready to go on in the  
12 process, in your experience with Highland Park,  
13 Detroit, River Rouge or Grand Rapids, have those  
14 cities used a portfolio to decide which of those  
15 candidates to let go on to the next process when  
16 there are two tied scores?

17 A I believe they use whatever evidence they have of the  
18 individual's capabilities, not just limited to --  
19 what I am referring to is a portfolio and I hope the  
20 definition of that is understandable. Sometimes it  
21 isn't as formal as a physical portfolio.

22 Even the demeanor of the individual  
23 I think comes into play particularly in police work.

24 Q I understand that.

25 A That's part of the portfolio.

1 Q We're talking about a situation where all these  
2 individuals have done is take a written examination.

3 A They filled out an application.

4 Q There has been no interview yet because we are at the  
5 very initial stage which we agree on is an  
6 examination.

7 A How many police people might they have touched to get  
8 to that point? I mean, touched by visual --

9 Q I'm just asking you in your experience, a  
10 municipality has then said, we've got two guys with a  
11 tied score. We're picking ten, but we have eleven  
12 because two of them have a tied score.

13 Let's go to the portfolio and decide  
14 which one to knock out; has that been your  
15 experience?

16 A I'm going to answer it this way. I think every  
17 positive thing I can do walking in the gate of a  
18 police department to even ask if there is a position  
19 through the process of filling out an application,  
20 through the exam, through the subsequent interviews,  
21 all of that comes into play in the hiring decision.

22 Q Okay. Did you give any kind of employment counseling  
23 to individuals in the 1970s and 1980s?

24 A Oh, yes, very definitely.

25 Q Can you turn to page three of your report, please?



1                   If you look at pages three through  
2                   five of your report, it is a listing of people who  
3                   you have advised on their career change and/or job  
4                   search approach; is that right?

5                   MR. CONNOLLY: That's starting in  
6                   April of 1981?

7                   MS. ANNEXSTEIN: Yes. Right?

8                   THE WITNESS: So far.

9 BY MS. ANNEXSTEIN:

10 Q               Now, this list begins with someone on 8-19-91 and  
11                 goes through May 17, 1996. I don't see anybody  
12                 listed here from the 1970s or the 1980s; is that  
13                 right?

14 A               That's correct. And may I answer your question a  
15                 little more fully?

16 Q               The question is did you advise any individuals in the  
17                 1970s and 1980s?

18 A               Yes. Since 1964 I have maintained a Leather Smith  
19                 appointment book exactly like this one, which is  
20                 1995. Unfortunately I brought the wrong one with me  
21                 today.

22                               When I prepared this list, it was  
23                               done quite frankly for another purpose and I went  
24                               back to 1991. I could literally -- I became a  
25                               partner in Touche Ross in 1969. I became a manager

1 in 1967. I was employed there in 1964.

2 I was in the business of hiring,  
3 career redirecting and counseling from 1967 for real.  
4 Informally before that, I'm sure that if we went back  
5 and looked through the appointment books we would  
6 find this.

7 In fact, in the 1980s and 1970s when  
8 I was in the country, there was a period of time when  
9 this activity was much, much heavier than this. I  
10 have a very, very full consulting schedule today.  
11 So, my availability to even engage in this is very  
12 restricted in these more recent years.

13 And literally, we could go back and  
14 do this for -- all the way back to 1967 with great --  
15 with a reasonable assurance that we have strong  
16 records to support this.

17 Q When you were at Touche and Ross in 1967 when you  
18 were counseling people --

19 A Touche Ross and Company.

20 Q Touche Ross and Company, I'm sorry. How much did you  
21 charge for an individual counseling session?

22 A The counseling that we did at Touche Ross -- I  
23 thought I -- probably didn't make this clear before.

24 The counseling we did at Touche Ross  
25 was of two kinds; it was with our own people that we

1           were either hiring or career redirecting, which was  
2           part of the job. So, my pay for that was within my  
3           salary or my partner participation when I became a  
4           partner.

5                           I mentioned this in our last  
6           deposition period, a lot of the work I did with  
7           outside people occurred as part of another  
8           engagement. So that the actual pricing of the work  
9           wasn't segregated to that particular activity, but my  
10          hourly rate back in the 1970s --

11                           MR. CONNOLLY: She doesn't care about  
12          that.

13                           THE WITNESS: Okay. It cost  
14          somebody a lot of money.

15   BY MS. ANNEXSTEIN:

16   Q   And this was typically the employer of who you were  
17          charging, who you had this general contact with?

18   A   It was that and it was a third -- the employer for  
19          our consulting services, and then the third area as I  
20          mentioned before would be people who would be sent to  
21          me by other executives or of their own freewill come  
22          to see me, on a consultation basis in a career thing.

23                           Those circumstances were normally  
24          circumstances where the person's career had been  
25          interrupted in some way, and that person was seeking

1           counsel on how to pursue a position.

2                           That could have been anything from  
3           an executive to a secretary for an executive, and  
4           that still goes on today.

5    Q    Now, back -- I want to take you to the period between  
6           1974 and 1985.

7    A    Okay.

8    Q    Do you recall if you had any black clients at that  
9           time who you counseled, and I mean individuals  
10          looking for employment?

11   A    Yes.

12   Q    Did any of those individuals ever discuss with you  
13          race discrimination that they may have faced in  
14          seeking a job?

15   A    In depth.

16   Q    Did you advise those individuals on how they might  
17          approach a job search that may have differed from  
18          what you have listed today in light of those  
19          discussions?

20   A    When asked. I never have tried to know more than I  
21          know. When asked in the circumstances you are  
22          referring to, I have made a commentary when requested  
23          to make a commentary that is in addition to anything  
24          we have talked about here today, as an observation,  
25          when asked.



1           that.

2    Q       I understand.

3    A       My comment and I have a little bit of recall on this  
4           because I have had a conversation of a similar nature  
5           lately in a totally different context, is to first  
6           try and understand all of the -- I've started it this  
7           way. You've got me on ground which I am very  
8           sensitive to it. I have some very strong valued  
9           views about.

10                        I have started this way. There is  
11           no way in God's earth that I can ever understand how  
12           you feel and how you have come through this earth and  
13           onto this earth and what you experienced.

14                        So, don't expect me to pretend to be  
15           at that level of empathy with your life's  
16           circumstance. Then I said, if you will forgive me  
17           that level of ignorance, then I would say this: Get  
18           all the issues of the other party on the table.  
19           Require them to talk through how they feel, how they  
20           think.

21                        Understand the playing field fully.  
22           And then if the circumstances of the playing field  
23           merit comment, inquire slowly and quietly and with  
24           your intelligence. Respond in the constructive  
25           problem solving way that I know you can apply to

1           that.

2                                 Don't try to come out with any kind  
3           of a response or any observation or any commentary  
4           until you feel you have a reasonable grasp for the  
5           playing field.

6                                 That's the nub of it. My  
7           recollection isn't so good as it ought to be on that,  
8           but I have had with one of our community leaders in  
9           Detroit who is black, a conversation on this subject  
10          very recently where we both agreed as it turned out  
11          that that seemed to be a sensible approach when that  
12          unfortunate kind of thing develops.

13                                 I hope I have been --

14                                 MR. CONNOLLY: Enough.

15                                 THE WITNESS: I feel that is a  
16          subject that requires a lot more answer than we have  
17          given here.

18   BY MS. ANNEXSTEIN:

19   Q    Have you interviewed Mr. Joseph Fears or met with  
20          him?

21   A    No, I have not met any of the plaintiffs.

22   Q    You mentioned some advertisements that you polled for  
23          each one of the claimants and I am going to go  
24          through them --

25   A    That we researched and found, yes.

1 Q Yes, that I have been provided with.

2 Do you know if Mr. Fears was  
3 qualified for each and every one of the  
4 advertisements that you researched?

5 A The answer to that is no, and that is not a judgment  
6 that is germane to the process of searching for a  
7 job.

8 We don't -- as a job searcher, we do  
9 not try and make a decision at the point where we see  
10 the ad, is this my job or is this not my job?

11 What we decide is should I engage in  
12 a process to get myself in front of the potential  
13 employer. My response to everyone that asks for my  
14 counsel in this regard is, if there is the slightest  
15 degree of expectation that you might in some way fit,  
16 by all means, throw out all your horses at that  
17 opportunity.

18 Q So, to save some time, in response to all of the  
19 individuals, that being Brady Foreman, Deborah  
20 Garnett, William Holland, Vanessa Jones, Carolyn  
21 Pace, Randy Smith and Edward Walters, you do not know  
22 if they were qualified for each and every one of the  
23 advertisements that you provided?

24 A I don't view that as an important element. I didn't  
25 consider that because that's not really a decision



1           that is made at that point in the job search.

2    Q       Whether it is important or not, do you know if they  
3           were qualified?

4    A       Of course not.

5    Q       I take it from your comments then that your advice in  
6           a counseling situation would be, if you want the job,  
7           just apply for it regardless of their qualifications?

8    A       No, that would be not a responsible way to state it.

9                            If you would like me to state what I  
10           would say, I would say that if this -- if the notice  
11           of the job opportunity whether it be oral or written  
12           or advertised leads you to believe that you have an  
13           opportunity to be considered for that position, by  
14           all means apply.

15                           There are lots of examples that are  
16           very categorical on that that I could cite. Where,  
17           for example, an individual might not have time and  
18           grade as a radiology technician where time and grade  
19           were mentioned in the ad.

20                           I still say apply because the  
21           chances are, by the time we get to advertising this  
22           in the paper, the time and grade thing has become  
23           such a degree of difficulty issue, that the potential  
24           employer is willing to compromise. I can take that  
25           all the way through the process.

1                   I have hired people in my office  
2                   support staff whose reported word processing skills  
3                   have not been at the level that I would normally  
4                   expect because I had never viewed that exam as really  
5                   a measure of ultimate success. I think it's work  
6                   environment and how you mentor and train and give  
7                   people chances to grow in to that position.

8                   So, I am looking at a lot of  
9                   characteristics in that, not just a speed and error  
10                  test. I think that is an example in my own life  
11                  experience that says, go for it, put your best foot  
12                  forward. That is what you are trying to accomplish  
13                  when you're in a job search if you are seriously  
14                  pursuing it.

15    Q            During the 1970s and 1980s when you say that you  
16                  provided individual counseling, did you provide such  
17                  employment counseling to individuals seeking police  
18                  officer positions in the greater Detroit metropolitan  
19                  area?

20    A            I don't recall any police officer position  
21                  consultations. I do recall a situation for -- I  
22                  should take that back.

23                                I do recall an individual who wanted  
24                  to counsel with me about a state police position.  
25                  So, the answer would be I have done it, but it's a

1 very isolated circumstance. I would certainly agree.

2 Q What is the hourly fee you charge today?

3 A Two hundred and sixty or two hundred and seventy-five  
4 dollars, depending on where in the country it is.

5 Q What was the hourly fee you charged between 1974 and  
6 1985?

7 A As we were using a little while ago, I just don't  
8 have good recall on that.

9 My hourly rate has dropped from the  
10 time I was with Peat Marwick. When I formed my own  
11 firm I reduced my rate substantially.

12 Q So, it would have been more than two hundred and  
13 sixty dollars?

14 A In which years?

15 Q In 1974 to 1985.

16 A I sort of doubt it, to be honest with you. Those  
17 rates go along with everything else and I don't  
18 think they were at that level in the 1970s and early  
19 1980s.

20 My billing rate at Peat Marwick  
21 when I left was I think three-ninety in 1991. I  
22 started with Peat Marwick in 1982. I'm going to  
23 guess it was probably around a hundred and sixty or a  
24 hundred and eighty then. I don't have good recall on  
25 that. Nobody has ever asked me that question.

1 Q Would you agree that if someone finds a job and  
2 becomes employed that that person has been successful  
3 in their search for a job?

4 A I would agree with that if the person says that.  
5 People sometimes take positions in an interim  
6 solution without any view that they have been  
7 successful in their pursuit.

8 So, the test I believe is to sit  
9 with the individual and to ask that individual, is  
10 this what you want? Is this the goal you have been  
11 after?

12 Now, if I had been in a mentoring  
13 role, I don't have to ask that question.

14 A thing that always happens in that  
15 instance is the individual will come and say this --  
16 if it isn't the ultimate thing, will come and say,  
17 Ken, this is a situation where I think I can do well  
18 in as an interim step while I am pursuing these other  
19 opportunities. These people almost always say, what  
20 do you think about that? Is it a positive thing --  
21 notch on the gun holster or is it something that  
22 would look detrimental.

23 If I take a chauffeur job and I'm  
24 trying to be a market research director, that may say  
25 something to people who are considering me for market

1 research. I might say that's a deviation from the  
2 path you're trying to carve.

3 MS. ANNEXSTEIN: No further  
4 questions.

5 MR. CONNOLLY: I just have a couple.

6 REEXAMINATION

7 BY MR. CONNOLLY:

8 Q Do you believe an individual who is engaged in a  
9 reasonably diligent job search should have applied  
10 for all jobs that they were qualified for?

11 A I always have believed that and I have advocated that  
12 in all the work I have done in this area.

13 Q And you believe that they should have applied for all  
14 jobs that they were qualified for on a regular and  
15 continuing basis?

16 A Yes.

17 Q Until they found a job that took themselves out of  
18 the market for jobs?

19 A That they have defined as being the solution to their  
20 job search effort.

21 Q If an individual felt that there were certain  
22 employers who would not hire African Americans, do  
23 you think they should focus their attention on  
24 cities, counties, state, federal governments and  
25 employers that have large African American

1 populations and work forces?

2 A I'd almost have to answer that question in the  
3 specific instance of the question because I'd almost  
4 be prone to say, sure, it makes sense to pursue the  
5 latter.

6 Q Would you stop there?

7 A No, not for a minute because in -- what I hope is a  
8 changing and positive society, we don't get anywhere  
9 until we tap on the door, any of us; men, women, race  
10 or religion and we have to tap on the door.

11 That seems to have been what in my  
12 lifetime has been a major force in movement, in all  
13 aspects of our society.

14 Q Would you expect African Americans at the very least  
15 who are engaged in a reasonably diligent job search  
16 including the eight that are involved here, would at  
17 the very least have applied to cities, counties and  
18 state governments that had large African American  
19 population of work forces at the very least?

20 A At the very least, sure.

21 Q Do you believe that they should have also applied to  
22 cities and counties and states that have hired  
23 African Americans in the past?

24 A Yes.

25 Q As part of a reasonably diligent job search?

1 A Yes, but I wouldn't limit it to that.

2 Q If they had not even done that, would you think that  
3 they had not engaged in a reasonably diligent job  
4 search?

5 A What is the that?

6 Q They had not applied to either cities, counties or  
7 the state with large African American populations  
8 and/or work forces, if they hadn't even done that,  
9 would you think they engaged in a reasonably diligent  
10 job search?

11 A I'm not hesitating because I don't know the answer,  
12 I'm hesitating because of the double-negative in your  
13 question.

14 Q I apologize. Let me try it again.

15 African Americans who feel deterred  
16 from applying for jobs in communities. Would you  
17 agree with me at the very least they should have  
18 applied for jobs in communities that have large  
19 African American populations?

20 A Yes, definitely.

21 Q And have large African American work forces?

22 A Yes.

23 Q And that that in and of itself to engage in a  
24 reasonably diligent job search, that would not be  
25 enough?

1 A That would be not enough, and it wouldn't have been  
2 the smart thing to do in the 1970s and 1980s.

3 MR. CONNOLLY: I have nothing  
4 further.

5 MS. ANNEXSTEIN: One last question.

6 REEXAMINATION

7 BY MS. ANNEXSTEIN:

8 Q For the record, Mr. Myers, what is your race?

9 A I'm caucasian.

10 MS. ANNEXSTEIN: Thank you. No  
11 further questions.

12 (Deposition concluded at 4:20 p.m.)

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