

OFFICIAL REPORT OF PROCEEDINGS

BEFORE THE

NATIONAL LABOR RELATIONS BOARD

REGION 2

In the Matter of:

Trustees of Columbia University Case No. 02-RC-225405
in the City of New York,

Employer,

and

Columbia Postdoctoral Workers
and United Automobile,
Aerospace and Agricultural
Implement Workers of America
(CPW-UAW),

Petitioner.

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UNITED STATES OF AMERICA
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IN THE CITY OF NEW YORK,

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AND UNITED AUTOMOBILE,
AEROSPACE AND AGRICULTURAL
IMPLEMENT WORKERS OF AMERICA
(CPW-UAW),

Petitioner.

Case No. 02-RC-225405

The above-entitled matter came on for hearing, pursuant to notice, before **MATTHEW MURTAGH**, Hearing Officer, at the National Labor Relations Board, 26 Federal Plaza, Suite 3614, New York, NY 10278, on **Thursday, August 23, 2018, 9:23 a.m.**



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I N D E X

<u>WITNESS</u>	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u>	<u>RECROSS</u>	<u>VOIR DIRE</u>
Manu Vanaerschot	129	139	149	150	
Tulsi Patel	157	168	177		

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P R O C E E D I N G S

1
2 HEARING OFFICER MURTAGH: And this is day two of the
3 hearing in Trustees of Columbia University in the City of New
4 York, Case 02-RC-225405.

5 And I'll just ask if counsel can reintroduce themselves
6 for the record today.

7 We'll start with the Petitioner.

8 MR. MEIKLEJOHN: For the Petitioner, Thomas Meiklejohn.
9 Livingston, Adler, Pulda, Meiklejohn & Kelly, 557 Prospect
10 Avenue, Hartford, Connecticut.

11 HEARING OFFICER MURTAGH: And then for the Employer?

12 MR. PORZIO: For the University, Steven Porzio from
13 Proskauer Rose, and with Bernie Plum, also from Proskauer Rose.

14 HEARING OFFICER MURTAGH: Okay. And if we can just begin
15 with the preliminary matters we discussed off the record.

16 So first, Mr. Porzio, the offer of proof and the letter
17 concerning briefs?

18 MR. PORZIO: Sure. So Tom, the letter will be Employer
19 Exhibit 9, which I already did it. It's Employer Exhibit 9.

20 And the offer of proof will be Employer 10.

21 MR. MEIKLEJOHN: Have you got another copy of this or no?

22 MR. PORZIO: Offer of proof?

23 MR. MEIKLEJOHN: Yeah.

24 MR. PORZIO: Sure.

25 So the University moves what's been marked for



1 identification as Employer Exhibit 9 and 10 into evidence.

2 HEARING OFFICER MURTAGH: And Mr. Meiklejohn, any
3 opposition?

4 MR. MEIKLEJOHN: To the receiving the document?

5 HEARING OFFICER MURTAGH: Yeah.

6 MR. MEIKLEJOHN: I mean I oppose the briefs, as I have
7 expressed and is expressed in the letter. You know, this isn't
8 a complex case. It involves familiar principles.

9 But I have no objection to the receipt of the letter.

10 HEARING OFFICER MURTAGH: Okay. And the offer of proof?

11 MR. MEIKLEJOHN: I have no objection to the offer of proof
12 going into the record.

13 HEARING OFFICER MURTAGH: Okay. So Employer Exhibits 9
14 and 10 are received.

15 **(Employer Exhibit Numbers 9 and 10 Received into Evidence)**

16 HEARING OFFICER MURTAGH: We're going to off the record
17 for a moment so I can bring this to the Director. And we will
18 go off the record now.

19 (Off the record at 9:53 a.m.)

20 HEARING OFFICER MURTAGH: And Mr. Meiklejohn, you can call
21 your first witness.

22 MR. MEIKLEJOHN: Petitioner calls Manu Vanaerschot.

23 Yeah? So that means you're supposed to go up and sit in
24 the chair.

25 HEARING OFFICER MURTAGH: And Mr. Vanaerschot, if you can

1 please raise your right hand for me?

2 Whereupon,

3 **MANU VANAERSCHOT**

4 having been duly sworn, was called as a witness herein and was
5 examined and testified as follows:

6 HEARING OFFICER MURTAGH: Okay. You can go ahead and
7 state and spell your name for the record.

8 THE WITNESS: My name is Manu Vanaerschot. M-A-N-U. And
9 last name, Vanaerschot, V-A-N-A-E-R-S-C-H-O-T.

10 HEARING OFFICER MURTAGH: All right.

11 **DIRECT EXAMINATION**

12 Q BY MR. MEIKLEJOHN: Good morning, Mr. Vanaerschot.

13 A Good morning.

14 Q I'm getting better at that? Am I --

15 A Yes. Very good.

16 Q Okay. All right. By whom are you employed?

17 A I'm employed by Columbia University.

18 Q What is your position at Columbia University at this time?

19 A I'm an associate research scientist.

20 Q In what department?

21 A The Department of Microbiology and Immunology.

22 Q And who is your -- who supervises your work?

23 A That's David Fidock. He's the PI of the lab.

24 Q And can you describe generally the area of your research?

25 A So I do research in malaria drug discovery and drug

1 resistance.

2 Q And what degrees do you have?

3 A I have a Master in Biomedical Sciences from University of
4 Antwerp in Belgium, and a PhD in Biomedical Sciences, also from
5 the University of Antwerp in Belgium.

6 Q And when did you receive your PhD?

7 A I received my PhD in December, 2011.

8 Q And what did you do after receiving your PhD?

9 A I stayed in the same lab where I was for about three years
10 as a postdoc.

11 Q And when did you come to Columbia?

12 A I came to Columbia in March, 2015.

13 Q And what job classification did you start at --

14 A As a --

15 Q Wait till I finish.

16 A That's right.

17 Q Even though it's really obvious.

18 What job classification did you start at Columbia?

19 A As a postdoctoral research scientist.

20 Q Okay.

21 MR. MEIKLEJOHN: And I'd like this document marked as

22 Petitioner's Exhibit 3.

23 Q BY MR. MEIKLEJOHN: Have you had an opportunity to review
24 Petitioner's Exhibit 3?

25 A Yes.

1 Q That's the paper in your hand. Okay. And what is this?

2 A This is the offer letter that I received after applying
3 for the job as postdoctoral research scientist.

4 Q Just keep your -- can you keep your --

5 A Yeah. Okay.

6 Q Try to keep your voice up at the end of the sentence.

7 MR. MEIKLEJOHN: Okay. I move the admission of
8 Petitioner's 3.

9 HEARING OFFICER MURTAGH: Mr. Porzio?

10 MR. PORZIO: Just one moment, please.

11 HEARING OFFICER MURTAGH: Sure.

12 MR. PORZIO: No objection.

13 HEARING OFFICER MURTAGH: Okay. Petitioner's 3 is
14 received.

15 **(Petitioner Exhibit Number 3 Received into Evidence)**

16 Q BY MR. MEIKLEJOHN: Now, at the time you got this
17 appointment, you already had been a postdoc three years?

18 A Yes. About three years, yeah.

19 Q Does the -- the letter on the -- at the top of the second
20 page accurately describe work that you did, the research that
21 you did as a postdoc?

22 A Yes. Exactly.

23 Q Okay. Now, moving ahead to 2017, which would be two years
24 after you started as a postdoc at Columbia, was there some
25 major progress or development in your work?

1 A Yes. So my research project was doing well. I managed to
2 publish it in the NCBI (phonetic) Journal, as we do as
3 scientists.

4 Q When was it published?

5 A It was published -- it was accepted for publication in
6 August, 2017.

7 Q After your research was accepted for publication, did your
8 work change at that point?

9 A No. It's the same work.

10 Q Okay. After your publication, or when was accepted for
11 publication, did you have some discussions with Dr. Fidock,
12 your PI, about your status?

13 A Yeah. So when you publish a good paper, you have a bit
14 more leverage to get like a salary bump or something, and that
15 is something I went to discuss with my PI. And then he
16 proposed to make me associate research scientist, which would
17 come with additional salary bump basically.

18 Q And did you -- or well, you've testified that you are an
19 associate research scientist. When did you become an associate
20 research scientist?

21 A That was December, 2017.

22 Q And did you receive a new letter like Petitioner's Exhibit
23 3 describing your -- or offering you the position and
24 describing your work?

25 A No, I did not.

1 Q Now, if you could look again at the back of page 2 of the
2 letter, after becoming a postdoctoral research scientist, did
3 you continue to conduct research on mechanisms of antimalarial
4 drug resistance in the malarial parasite?

5 A Yes.

6 Q Did you explore the acquisition of resistance to
7 preclinical candidates in the malarial parasite in support of
8 projects funded by the Malaria Venture and the Bill Gates
9 Foundation?

10 A Yes.

11 Q Did you continue to explore novel chemo types with
12 antimalarial activity to determine their mode of action and
13 inhibitory properties throughout the parasite life cycle?

14 A Yes.

15 Q And did you continue to work to develop novel drug screens
16 using transgenic parasite lines to identify active agents
17 against liver stages?

18 A Yes

19 Q Did you continue to work in support of the project with
20 the Novartis Institute?

21 A Yes.

22 Q When did -- how long did you continue to work on the
23 Novartis Institute?

24 A That was only for a few months more, because -- well,
25 actually that project finished in 2016. So I'm no longer

1 working on that specific project.

2 Q Okay. But you --

3 A Because we don't have that project any more.

4 Q But you continued to work on the rest of these items after
5 you became --

6 A Yes, yes.

7 Q Okay.

8 A I mean, yeah.

9 Q And your -- the change from working for the Novartis
10 Institute had nothing to do with you becoming a postdoctoral
11 research scientist?

12 A No. That project finished before I became associate
13 research scientist.

14 Q When you became a postdoctoral research scientist, what
15 changed?

16 A When I became a postdoctoral research scientist?

17 Q I'm sorry. No. When you became an associate research
18 scientist.

19 A Yeah. My salary changed. But the rest of the work is the
20 exact same thing. I work on the same projects, same work
21 hours, same type of reporting that I do towards my boss, my PI,
22 David Fidock. It's the same.

23 Q And did you remain on the same health insurance for some
24 period of time?

25 A No. So I changed health insurance as well, being a

1 postdoc, to that of my wife, because it was better benefits
2 basically that she had than here at Columbia. So I did not
3 have health insurance from Columbia -- through Columbia at
4 least while being an associate research scientist.

5 Q Who else conducts research in Dr. Fidock's laboratory?

6 A So in total, we are 15 people, including David Fidock.
7 That includes three associate research scientists -- including
8 me -- four postdocs, four graduate students -- or three
9 graduate students, and then some lab managers and somebody who
10 does specifically data analysis -- research associate
11 scientist, I think.

12 Q And let's -- I guess just focus on the postdocs and
13 the -- first of all, with respect to the postdocs, do you know
14 whether they're postdoctoral research scientists or
15 postdoctoral fellows?

16 A We have one clinical -- postdoctoral clinical fellow in
17 the lab. One -- yeah.

18 Q And with respect to the postdocs and the associate
19 research scientists, could you describe how they work -- how
20 people work with Dr. Fidock?

21 A So Dr. Fidock writes the research projects, gets the
22 grants, gets the money to do the research, and divides those
23 projects among all of us basically. Most of us have our own
24 research projects that we work on.

25 We also collaborate a lot, of course, because there's like

1 similar techniques that are being used in different projects.

2 So, yeah.

3 Q And that is the same for postdoctoral research scientists,
4 the postdoctoral fellow, and associate search scientists?

5 A Yeah. Exactly. They do the same work.

6 Q Do you have laboratory meetings?

7 A Yes. We have lab meetings every Monday, yeah.

8 Q And what takes place at the lab meetings?

9 A At lab meetings, it's the postdocs and the associate
10 research scientists that present their work. So every Monday,
11 it's one person, and then it rotates every week through
12 letters. And then you present your research project, your
13 findings, difficulties you might have, and everybody tries to
14 help everybody out basically.

15 Q Are there any other associate search scientists in your
16 laboratory who have been promoted to postdoctoral research
17 scientist?

18 A Yes. Nina Gnadig in our lab. She was a postdoc for I
19 think about -- yeah, for four years, because she started the
20 year before me, and then became associate research scientist
21 after.

22 Q And do you know how it is or why it is that she was
23 promoted to associate research scientist at that time?

24 A Well, there's apparently a rule that you can only be four
25 years a postdoc, and so she was going very close to that, and

1 then they decided to make her associate research scientist,
2 because, of course, the project is still going on, and she was
3 still interested in the doing the work, so --

4 Q As an associate research scientist to now, are you still
5 interested in becoming a PI yourself?

6 A Yes, yes. I mean, it's part of the track of the current
7 PI.

8 MR. MEIKLEJOHN: Nothing further.

9 MR. PORZIO: Can we have a few minutes, please?

10 HEARING OFFICER MURTAGH: Yes. I have a few clarification
11 questions.

12 So at what years did you work as a postdoc research
13 scientist?

14 THE WITNESS: I worked from March 2015, until
15 November -- including November 2017 -- as a postdoctoral
16 research scientist, and then after until currently as an
17 associate research scientist.

18 HEARING OFFICER MURTAGH: Okay. And how many people did
19 you say were in the lab?

20 THE WITNESS: Fifteen, including the PI.

21 HEARING OFFICER MURTAGH: Okay. And do you know the job
22 title of the PI? Is it just PI?

23 THE WITNESS: He recently had some fancy title sponsored
24 by -- I forgot the name actually. It's not HHMI, but it's
25 something similar where he's a professor endowed by this

1 organization.

2 HEARING OFFICER MURTAGH: All right.

3 And Mr. Porzio, do you want a few minutes before we --

4 MR. PORZIO: Please.

5 HEARING OFFICER MURTAGH: Okay.

6 MR. MEIKLEJOHN: Actually, can I just follow up quickly to
7 clarify your clarifications before I --

8 HEARING OFFICER MURTAGH: Sure. Yeah.

9 MR. MEIKLEJOHN: I think it'll -- all right.

10 Q BY MR. MEIKLEJOHN: First of all, the -- on the answer to
11 the first question, the period that you were a postdoc from
12 March of 2015 to November of 2017, that was the period at
13 Columbia, correct?

14 A At Columbia. Yes, exactly.

15 Q There was that earlier period in Belgium?

16 A Before, I was a postdoc in Belgium as well, yeah. I
17 thought you referring only to Columbia.

18 HEARING OFFICER MURTAGH: I'm sorry.

19 Q BY MR. MEIKLEJOHN: And Dr. Fidock is some level or some
20 title --

21 A Yeah. He's a tenured professor at Columbia, yeah.

22 Q But and he has some specific endowed title?

23 A Some specific endowment as well, but.

24 Q But -- okay. Thank you.

25 HEARING OFFICER MURTAGH: Now, we can go off the record

1 for a minute.

2 (Off the record at 10:13 a.m.)

3 HEARING OFFICER MURTAGH: And Mr. Porzio, you can go
4 ahead.

5 MR. PORZIO: Thank you.

6 **CROSS-EXAMINATION**

7 Q BY MR. PORZIO: So and is it -- it's Vanaerschot?

8 A Vanaerschot, yeah.

9 Q Vanaerschot. Okay.

10 So I'm an attorney for the University. I'm just going to
11 ask you some questions about your testimony.

12 So you had mentioned that you were a postdoctoral research
13 scientist for three years at -- I believe you said Antwerp
14 University?

15 A Yeah. Collaboration within Institute of Tropical
16 Medicine, yeah.

17 Q Okay. And are you familiar with a rule at Columbia
18 about -- I think you mentioned in your testimony -- that at
19 Columbia, you can only be a postdoc for four years, I believe
20 was your testimony?

21 A Yeah, yeah.

22 Q Is that specific to your lab? Because our understanding
23 is that the max is three years, absent an exception to get a
24 fourth year. Is that your understanding?

25 A The fourth year, the thing that I've -- is something that

1 I've heard. It's not something that I've read somewhere,
2 because it's pretty hard to --

3 Q Okay. So you're not sure that it's a fourth year max?

4 A No. That's what I've heard.

5 Q Okay. Okay. Are you familiar with the rule at Columbia
6 that the three-year cap that we're talking about is for years
7 of service as a postdoc at Columbia as opposed to postdoc
8 service at other universities?

9 A Yeah. I think that's how it generally works, right, at
10 universities.

11 Q Okay.

12 A Yeah.

13 Q So the years that you were a postdoc at University of
14 Antwerp wouldn't count against the total number of years at the
15 postdoc at Columbia University?

16 A No.

17 Q Okay. So I have a copy of Union Exhibit 3, which I
18 believe you have in front of you --

19 A Yeah. Right, the letter.

20 Q -- which is the offer letter. Did you receive an offer
21 letter for when you were moved to the associate research
22 scientist spot?

23 A No.

24 Q No offer letter?

25 A No.

1 Q Okay. Were you told by anyone at the University that
2 either an offer letter or even an appointment letter was
3 forthcoming, that you had received one going forward?

4 A No.

5 Q But you weren't -- you don't -- you haven't been told that
6 you were not going to receive one?

7 A No. But yeah.

8 Q Okay. So can I direct your attention on Union Exhibit 3
9 to the back page? Under "Research project", where the
10 description of the work you were to perform is described, I
11 noticed in the sentence probably three-quarters of the way
12 down, starting "Finally, you will help lead the effort to
13 develop novel drug screens using transgenic parasite lines to
14 identify agents active against liver stages."

15 And so on and so forth. When it says "lead the effort",
16 does that mean you were in charge of a specific portion of that
17 project?

18 A Well, in theory and in practice, it's the PI who's in
19 charge of everything, and he directs the work to you -- tells
20 you what to do.

21 Q Okay.

22 A Of course, you have some leeway in how you design the
23 specific aspects, because I mean there's a lot of different
24 options, right? But that's always in discussion with your PI,
25 yeah.

1 Q Okay. And this was when were you a postdoctoral research
2 scientist, correct?

3 A Yeah.

4 Q Okay.

5 A I'm still working on that right now also.

6 Q Sure.

7 A Yeah.

8 Q And I believe you said the composition within the lab
9 includes some associate research scientists, some postdocs, and
10 some grad students as well?

11 A Yes.

12 Q Were any grad students helping you with the developing the
13 novel drug screens using transgenic parasite lines?

14 A With this specific project, no.

15 Q No. Was anyone helping you with that?

16 A Well, I was doing this together with another associate
17 research scientist at that time.

18 Q Okay. So I believe your testimony was when you were moved
19 to the ARS position, this was after a conversation you had with
20 the PI after you were coming up on your -- a couple years as
21 being a postdoctoral research scientist within lot (phonetic)?

22 A No. It happened because I had this paper, right, and I
23 wanted a salary bump basically.

24 Q Okay.

25 A Which is a fair thing to ask at that stage.

1 And then this came out basically, because there's a
2 rule -- at least that's what I was told -- that you can only
3 have -- if you want more than a five percent bump, it has to go
4 through a whole paper thing at the department, and then
5 associate research scientist would actually be an easier
6 solution to that. And also because I was a postdoc for so many
7 years before as well.

8 Q Uh-huh.

9 A They said that I would be certainly eligible for that
10 position.

11 Q Sure. So are you familiar with the rule at Columbia that
12 positions for associate research scientists have to be put to a
13 competitive process?

14 A Yes. And that happened, yeah.

15 Q Okay. And that happened in your case?

16 A Yeah.

17 Q Okay.

18 A I know that -- I don't know where exactly they published
19 it, but it was published, and I had to apply formally for it.

20 Q Okay. So it's not -- because I think your testimony was
21 that the PI said that as a -- in honor of the research that you
22 had done, that he was going to -- you were going to exercise
23 your leverage to help get a promotion and he would -- and he
24 kind of put you into that spot.

25 A Yeah. That's how it happened, yeah.

1 Q But in reality, there was a competitive process where this
2 was put out, a posting, and other people could have applied for
3 it?

4 A Other people could have applied for that, yeah.

5 Q Okay.

6 A But it was pretty certain that I would be the
7 applicant -- the main applicant, right? And of course, this is
8 made so specifically when they post this job description, that
9 it's really tailored to your specific field.

10 Q Okay. So I just -- I want to go back to one part of your
11 testimony. When you said you were moved to the associate
12 research scientist spot, you said the only thing that changed
13 was your salary, essentially.

14 So let me ask you, isn't it true though that you would
15 have a greater ability to have some independent work for
16 yourself in the lab as associate research scientist as compared
17 to a postdoc research scientist?

18 A No. Because that really depends on how -- a lot of these
19 things depend on how your PI organizes the lab, right? I'm not
20 sure what it says on paper, but in reality, it's the exact same
21 and the exact same relationship with my PI as before. Of
22 course, throughout the years, you learn during your job as you
23 do with any other job, right?

24 Q So --

25 A But, yeah.

1 Q So is it your testimony that as an associate research
2 scientist in the lab, can you ask or give mentorship or
3 training to a postdoctoral research scientist or even a
4 graduate research assistant and ask them to do things on your
5 behalf?

6 A No. That's actually my PI would do that. I cannot just
7 go to someone and say hey, do this. I'd say, you might
8 collaborate as you do as a postdoc as well.

9 Q Okay.

10 A But --

11 Q Does the PI, given your experience in lab and given your
12 title -- does a PI give you some latitude in terms of being
13 able to ask other individuals to help you with certain
14 projects?

15 A No. That I would always have to discuss with him, and --
16 but in general, I do most of the work by myself, yeah.

17 MR. PORZIO: No further questions.

18 MR. MEIKLEJOHN: No further questions.

19 HEARING OFFICER MURTAGH: The -- I was hoping you can
20 expand on just this last line of questioning from Mr. Porzio
21 about the kind of day-to-day life in the lab.

22 And so for the reader of the record here, I think, you
23 know, kind of a very simple and concrete example of how the
24 various classifications are working together or not would be
25 helpful.

1 And so kind of a very simple example of what a scope of
2 the PI's research would be, and then how people are advancing
3 whatever that scope is and their own research as well.

4 And so, you know, in your experience, you can, you know,
5 testify firsthand regarding, you know, what the postdoc
6 research scientists do and then what the ARSs do, but then to
7 the extent also kind of what a postdoc would be doing on the
8 same day. So are you all in the lab together? How is this
9 working?

10 THE WITNESS: Okay. So really for postdocs coming to the
11 lab, we have a lot of culture work, a lot of physical lab work
12 to do, right, -- experiments, test tubes, and stuff.

13 And it's the exact same for a postdoctoral research
14 scientist in our lab as it is for an associate research
15 scientist. Nothing in that's changed.

16 In terms of how we interact with each other, in the end,
17 we all see ourselves as postdocs. And we provide advice to
18 each other, but there's no hierarchy or anything between
19 associate research scientists or postdocs in our lab -- none at
20 all even.

21 So the day-to-day schedule of a postdoc in our lab and an
22 associate research scientist in our lab, it would be the exact
23 same thing. Of course, it depends a bit on your projects, and
24 that's why some people might have a slightly different
25 schedule, having more computer work to do of other ones -- in

1 terms of data analysis then, I mean. Or the other person has a
2 bit more lab work to do, but that changes throughout the year
3 as well. So that goes into both directions for both postdocs
4 and associate research scientists.

5 HEARING OFFICER MURTAGH: And then when -- so when you're
6 doing your own research, how is that relating to the work of
7 the PIs? Is it generally -- you know, the PI is doing malarial
8 work, and so you're doing a specific aspect of that? Or is it
9 you're really doing your own independent research just onto the
10 broader rubric of the grant that has come in through the PI?

11 THE WITNESS: No. So the PI gets specific grants,
12 research projects, and I am working on several of those. And
13 other people are also working on some of the same projects, but
14 we each have different aspects that we focus on, basically.

15 I might be focusing more on getting resistance parasites,
16 define the drug targets, while somebody else might be focusing
17 a little bit more on whether the effects of this resistance on
18 current treatments and so on.

19 But it all fits within a clearly outlined research
20 process. Because that's what the lab is getting money for,
21 right, either from the NIH or from -- the Medicines for Malaria
22 Venture or the Gates Foundation and so on.

23 And so it's pretty defined what we have to do as a lab,
24 and then our PI kind of distributes that to different people.

25 HEARING OFFICER MURTAGH: And do you have postdoc research

1 fellows in the lab as well?

2 THE WITNESS: We have one postdoctoral clinical fellow,
3 yeah, who just recently joined.

4 HEARING OFFICER MURTAGH: And as far as you're aware, is
5 that different from a research fellow or -- yes -- what the
6 classification is (phonetic).

7 MR. PORZIO: Mr. Hearing Officer, if I could just -- not
8 object -- but we've already concluded that the postdoctoral
9 research -- or postdoctoral clinical fellows are not -- are
10 specifically excluded.

11 HEARING OFFICER MURTAGH: All right. Okay, yeah. Yeah.

12 MR. PORZIO: And we don't really have a lot of background
13 on that.

14 HEARING OFFICER MURTAGH: Okay.

15 MR. PORZIO: And I think that question may confuse the
16 record.

17 HEARING OFFICER MURTAGH: Yeah. Okay. I think that's
18 fair.

19 The -- one kind of final question. You know, if you have
20 to take a day off where you're going to be late one day,
21 how -- who do you communicate with and how do you -- how do you
22 do the --

23 THE WITNESS: I communicate that to my PI, to David
24 Fidock, yeah.

25 HEARING OFFICER MURTAGH: Okay.



1 HEARING OFFICER MURTAGH: I have no further questions. Does
2 any -- Tom, do you want to follow up, or --

3 MR. MEIKLEJOHN: Let me follow up --

4 HEARING OFFICER MURTAGH: -- or Mr. Porzio?

5 MR. MEIKLEJOHN: -- little bit maybe, it'll --

6 HEARING OFFICER MURTAGH: Okay.

7 MR. MEIKLEJOHN: -- this period be helpful.

8 **REDIRECT EXAMINATION**

9 Q BY MR. MEIKLEJOHN:

10 Q BY MR. MEIKLEJOHN: I mean, I think it's clear from your
11 testimony already, most of your time was spent actually doing
12 experiments and analyzing the results; is that correct?

13 A Yeah. Exactly.

14 Q What does the -- from your observation, what does the PI
15 do most of the time?

16 A So it's the PI's main job to get money for these
17 experiments, which is not to be underestimated because these
18 things cost a lot of money, and so he writes all of the
19 research projects. Sometimes we help out a little bit, but he
20 does all the writing. He makes all the decisions, and we
21 discuss our research with him, if he wants to redirect
22 some -- some -- some experiments, for example. And he helps us
23 write papers, so we, of course, make the first drafts and do
24 the first versions of these papers and -- but he has to find
25 the approval of that because that -- that's his responsibility

1 as the last author also.

2 Q Does he -- he does maintain -- he keeps track of the
3 progress and what's happening?

4 A Yeah. Yeah. Yeah.

5 Q With your research?

6 A Very much so, yeah.

7 Q And with everybody else in the lab as well?

8 A Yeah. Yeah.

9 Q Okay. Does he ever actually do -- well, strike that.
10 That's not good.

11 Okay. I hope that's somewhat helpful.

12 HEARING OFFICER MURTAGH: Mr. Porzio, any -- any final
13 questions?

14 MR. PORZIO: Please.

15 **REXCROSS-EXAMINATION**

16 Q BY MR. PORZIO:

17 Q BY MR. PORZIO: So I -- I believe I heard, in response to
18 the Hearing Officer's questions, that -- that you said
19 essentially being a post-doctoral research scientist, an ARS is
20 the same; are you familiar with the Columbia University faculty
21 handbook?

22 A No.

23 Q Could the court reporter please give the witness a copy of
24 Employer Exhibit 1?

25 MR. MEIKLEJOHN: I guess I would object since the

1 testimony was no, he's not familiar with it. I'm not sure what
2 purpose --

3 MR. PORZIO: Well, I'm -- I'm going to ask him to --

4 MR. MEIKLEJOHN: -- would be served.

5 MR. PORZIO: -- take a look at it.

6 HEARING OFFICER MURTAGH: Yeah. I'm going to allow the --

7 MR. PORZIO: Okay.

8 HEARING OFFICER MURTAGH: -- questioning.

9 Q BY MR. PORZIO: If I could direct your attention to the
10 second page of the handbook, top third. If you could read
11 where -- where it starts in italics, "Associate research
12 scientist scholar"?

13 A Yeah. Yep.

14 Q What it says here -- it says, "Their junior officer
15 qualifications are equivalent to those of an assistant
16 professor." Do you see that?

17 A Yeah.

18 Q And then I'd like to point your direction to lower on that
19 page where it says, under "Postdoctoral officers of research",
20 there are four grades, and I'd like you to just take a quick
21 skim through that paragraph and let me know if -- if you see
22 any language about "equivalency for that of a professor".

23 MR. MEIKLEJOHN: Objection. The document speaks for
24 itself. There's no point in asking these questions of a
25 witness who is not familiar with the document.

1 HEARING OFFICER MURTAGH: Well, we'll see -- we'll
2 let -- we'll let the question be asked, and then you can object
3 depending on what the question is.

4 MR. MEIKLEJOHN: He did. The question was, Do the words
5 "equivalent" --

6 HEARING OFFICER MURTAGH: Okay.

7 MR. MEIKLEJOHN: -- "to an assistant professor" appear in
8 the --

9 HEARING OFFICER MURTAGH: I --

10 MR. MEIKLEJOHN: -- in that paragraph.

11 HEARING OFFICER MURTAGH: I -- I do --

12 MR. MEIKLEJOHN: They're not --

13 HEARING OFFICER MURTAGH: I -- well, I --

14 MR. MEIKLEJOHN: I'll stipulate; they're not there.

15 HEARING OFFICER MURTAGH: I didn't -- I didn't hear a
16 question. I think it was, you know, directing the witness to
17 what specifically he --

18 MR. PORZIO: Sure.

19 HEARING OFFICER MURTAGH: -- should be looking for.

20 Q BY MR. PORZIO: Yeah. If you could -- if you could take a
21 look at that first paragraph, please.

22 A Okay. I looked at it.

23 Q Okay. So I'd asked you before about your understanding
24 about the four-year cap; does -- does reading this paragraph
25 make it clear that the cap is three years, under the Columbia

1 University rules?

2 A Yeah.

3 Q Okay.

4 A It's three years.

5 Q All right. And you don't see anywhere in that paragraph
6 anything about being the equivalent of -- of an associate
7 professor -- assistant professor at the -- at Columbia
8 University?

9 MR. MEIKLEJOHN: I'll renew my objection now.

10 HEARING OFFICER MURTAGH: I'm going to allow the question.

11 MR. PORZIO: Thank you.

12 HEARING OFFICER MURTAGH: You can answer.

13 THE WITNESS: No. It's not mentioned there.

14 Q BY MR. PORZIO: Okay. And if I could then direct your
15 attention back to Union Exhibit 3; do you have that in front of
16 you? That's your offer letter.

17 A Yes. I do.

18 Q Okay.

19 A Yep.

20 Q And I noticed that -- that this document's not signed by
21 you, but did you sign this --

22 A Yeah. Yeah.

23 Q -- at some point?

24 A Of course. Yeah.

25 Q Okay.

1 A This is just the one that I received, but it's -- there
2 should be a signed copy, yes --

3 Q Understood. Okay.

4 A -- on hand.

5 Q So if you could look up under the second paragraph on the
6 back page where it says, "As an officer of research, you're
7 subject to the policies and procedures outlined in the faculty
8 handbook."

9 This -- this is the faculty handbook. When I say "this"
10 I'm talking about Employer Exhibit 1, correct, that -- that you
11 said that you weren't familiar with?

12 A Does it say faculty handbook somewhere on this page?

13 Q This is an excerpt --

14 A Oh, okay.

15 Q -- it's from the faculty handbook, yes.

16 A No. Okay, then. Yeah.

17 MR. MEIKLEJOHN: Well, I mean, I guess I -- I -- well, all
18 right. I -- I'm going to object to asking him questions about a
19 document that he's obviously not familiar with. We can all
20 look at it and figure out what it says it is, and we've agreed
21 that is what it says it is, but -- but there's nothing that's
22 gained by questioning the witness about the document.

23 MR. PORZIO: Yeah. That's fine. I -- that was -- that
24 was the only question I had on that.

25 Q BY MR. PORZIO: So let me ask you, Doctor, based on your

1 testimony, I -- I believe, if I heard you correctly, the only
2 lab that you've worked in at Columbia is Dr. Fidock's lab?

3 A Yeah.

4 Q Is that correct?

5 A Exactly.

6 Q Okay. And so you -- you have not -- well, sorry, let me
7 take that back. I don't want to mislead you.

8 The only lab at Columbia that you've worked in has been D.
9 Fidock's lab; is that correct?

10 A Yes.

11 Q Okay. So the description that you're giving about the
12 level of autonomy in Dr. Fidock's lab that -- that the
13 individuals working that lab have may be different in other
14 labs at Columbia; is that correct?

15 A That may be. It depends, though, on the PIs of course.

16 Q Okay.

17 A I know about other -- I have friends, of course, in other
18 labs, but yeah.

19 Q Okay. Do you have -- do you currently have a vacation
20 allowance?

21 A What is a vacation allowance?

22 Q Are -- and -- and the question was asked whether if -- by
23 the Hearing Officer: If you wanted to take a day off,
24 you -- you would talk to the PI?

25 A Yep.

1 Q Do you have a certain number of days in the year that you
2 can take off?

3 A There might be -- I don't know the exact dates that I'm
4 allowed to have off, but it's always -- I always discuss with
5 my PI, and I think it's two weeks or something, so.

6 Q Okay. Do you -- do you know if you have a different
7 allotment when you're a post-doctoral research scientist as
8 compared to an assist -- associate research scientist?

9 A I'm not aware of that.

10 Q No?

11 A No.

12 MR. PORZIO: Okay. No additional questions.

13 MR. MEIKLEJOHN: No questions.

14 HEARING OFFICER MURTAGH: Okay. You may step down. Thank
15 you very much for your testimony today.

16 THE WITNESS: Thank you.

17 HEARING OFFICER MURTAGH: Mr. Meiklejohn, your next --

18 MR. MEIKLEJOHN: Can we --

19 HEARING OFFICER MURTAGH: -- witness?

20 MR. MEIKLEJOHN: Can we take a very short break?

21 HEARING OFFICER MURTAGH: Of course. Yeah. Off the
22 record.

23 (Off the record at 10:39 a.m.)

24 HEARING OFFICER MURTAGH: Mr. Meiklejohn, you may call
25 your next witness.

1 MR. MEIKLEJOHN: The Petitioner calls Tulsi Patel.

2 HEARING OFFICER MURTAGH: Ms. Patel, could you please
3 raise your right hand?

4 Whereupon,

5 **TULSI PATEL**

6 having been duly sworn, was called as a witness herein and was
7 examined and testified as follows:

8 HEARING OFFICER MURTAGH: Okay. And if you could please
9 state and spell your name for the record.

10 THE WITNESS: Yes. I'm Dr. Tulsi Patel, T-U-L-S-I
11 P-A-T-E-L.

12 HEARING OFFICER MURTAGH: Okay. Mr. Meiklejohn?

13 **DIRECT EXAMINATION**

14 Q BY MR. MEIKLEJOHN:

15 Q BY MR. MEIKLEJOHN: Dr. Patel, by whom are you employed?

16 A I'm employed by Columbia University Medical Center.

17 Q And what is your current classification?

18 A I am a post-doctoral research fellow.

19 Q And what -- what department do you work in?

20 A I worked in the Department of Pathology and Cell Biology.

21 Q Who is your PI? Who oversees your work?

22 A Yeah. That's Dr. Hynek Wichterle.

23 Q And at some point or other, you're going to have to spell
24 that, so why don't you do that --

25 A Yeah.

- 1 Q -- now?
- 2 A That's H-Y-N-E-K, Wichterle, W-I-C-H-T-E-R-L-E.
- 3 Q Could you describe briefly your educational background?
- 4 A Yes. I have a B.Sc. in genetics from the University of
- 5 Georgia.
- 6 Q What is a BFC?
- 7 A Bachelor in Science, B.S.
- 8 Q Oh. BFC or B.S?
- 9 A B.S.
- 10 Q Okay.
- 11 A Sorry. No.
- 12 Q Okay. Sorry.
- 13 A It's okay. And then I have a PhD from Columbia University
- 14 in genetics and development.
- 15 Q When did you receive your PhD from -- from Columbia?
- 16 A May 2016, I think is the year.
- 17 Q 2016?
- 18 A Yes.
- 19 Q And who was your advisor during your time as a -- when you
- 20 obtained your doctorate?
- 21 A Yeah. It was Dr. Oliver Hobert.
- 22 Q How did you go about seeking a position to fill after your
- 23 graduation -- after you got your PhD?
- 24 A Sure. So when I thought I had about 6 to 12 months left
- 25 in my PhD, I started looking for labs that would be compatible

1 for me to pursue a post-doctoral research career in, based on
2 my science interests, you know -- career interests, so I ended
3 up applying to four different labs; three at NYU, and one,
4 Hynek's, at Columbia. I interviewed at all these places and
5 the interview process is one to two days long. I mean, I give
6 a talk about my PhD research, then I talk to the PI about the
7 kind of work that's happening in the lab and what I'm
8 interested in doing there, and I also talk to the individual
9 lab members in the lab about what they're doing, to get a sense
10 of, you know, how the lab works also. And after the four
11 interviews, I heard back from all the PIs, and I chose to join
12 Hynek's Lab because it was the most compatible for my
13 scientific interests, personality-wise, and also, I thought
14 he'd be a good PI generally.

15 Q And when did you reach the understanding with Dr.
16 Wichterle that you'd be -- it's his lab, right?

17 A Yes.

18 Q Now, when did you reach the understanding you'd be working
19 with him?

20 A It was -- I think it was May 2015.

21 Q Now, did you receive any formal appointment letter at that
22 time or at any other time?

23 A No. I -- we exchanged emails about -- you know, I said, I
24 would like -- he said, he -- I could join his lab. I said I
25 would like to join his lab, and he said, great. And then we

1 talked. We discussed projects, and when I did join, I did sign
2 an appointment letter which I -- which is somewhat similar to
3 the previous witnesses', but I don't have a copy of mine.

4 Q Okay. Now, what position, what classification were you
5 in -- well, strike that.

6 When did you start working for Columbia as a -- after you
7 completed your grad -- after your PhD was completed?

8 A Yes. I started June 15th, 2016.

9 Q And what was your position? What capacity did you start
10 as?

11 A I started as a post-doctoral research fellow.

12 Q Now, how did you go about obtaining the funding for your
13 fellowship?

14 A Yes. So before -- so once, and again, I had agreed that I
15 would come to the lab. We had an agreement that he had enough
16 funds in the lab, so that I could be paid through his grants
17 when I -- when I joined the lab, but we also agreed that I
18 would apply to fellowships because it's good for my career and
19 also good for the lab to just have extra funding. And I had
20 applied to one fellowship in December of 2015, which I didn't
21 receive, and then I received a second fellowship that I applied
22 to in May 2016, so just a month before I was going to join the
23 lab, and that's the fellowship that I started on when I started
24 in the lab.

25 Q And who was the fellowship fund from?

1 A It's a T32, so it's funded ultimately by the NIH, but --

2 Q Okay.

3 A -- it -- yeah.

4 Q Okay. And how do you actually receive the money from the
5 fellowship?

6 A I applied to --

7 Q No. I'm sorry. No.

8 A Okay.

9 Q So who -- who gets the money from your -- who got the
10 money from that grant -- from that fellowship?

11 A It was a depart -- a department at Columbia -- I think
12 it's a neurobiology and behavior department -- applied for the
13 T32 from NIH, and then they distribute the funds to graduate
14 workers and post-docs at Columbia working in the relevant
15 research areas, which is neurobiology.

16 Q So maybe I should go -- go -- you should finish the
17 questions that you started asking. Describe the process
18 of -- of applying for the grant.

19 A Okay. It was -- I -- I wrote an application, which was a
20 two-page proposal, and my CV to one of the administrators in
21 the neurobiology department, and it was, I assumed, reviewed by
22 the PIs who administer the -- the T32 grant within the
23 University. And I was selected to receive it, and then it just
24 had to be approved through the NIH website to get it.

25 Q Did you personally submit anything directly to NIH?



1 A No.

2 Q So you started on June 15th of 2016, correct?

3 A Yes. Um-hum.

4 Q Could you describe the research or the work that you did
5 in the laboratory during that first year as a post-doctoral
6 research fellow?

7 A Yes. I work on motor neurons which are neurons in the
8 spine that control the motion, and we work specifically -- or I
9 work specifically towards trying to understand how they change
10 as an organism or individual gets older, and I studied this
11 because in diseases like ALS -- or Lou Gehrig's Disease, motor
12 neurons are fine for many years and then during adulthood or
13 later, start to degenerate.

14 So the essential -- the main question I was trying to
15 answer was: How are adult motor neurons different from younger
16 motor neurons which seem to escape disease. And I studied this
17 in mice and also in motor neurons derived in culture from mouse
18 stem cells, so during the first year, my experiments involved
19 deriving or collecting motor neurons from mice of different
20 ages and collecting RNA and DNA from the neurons, and trying to
21 understand what genes they're expressing and how this is
22 regulated and how this changes with age, and at the same time,
23 I would also culture motor neurons and see which of those
24 processes we can look at in culture without having to derive
25 them from mice.

1 Q And what is the overall area of research conducted by Dr.
2 Wichterle?

3 A It is a lot of ALS research and just general motor neuron
4 biology.

5 Q So what was the -- the term or the length of your -- your
6 first fellowship?

7 A Yeah. That one was for exactly a year, so it lasted from
8 June 2016 to June 2017.

9 Q And then what happened in June of 2017 when your
10 fellowship year was up?

11 A Yes. I was rehired as a post-doctoral research scientist.

12 Q And as a post-doctoral research scientist, what did you
13 do?

14 A I continued to work on my project, trying to understand
15 motor neuron maturation during adulthood. I'd made some
16 progress in my first year, so of course, some of the
17 experiments progressed or changed slightly, but I was, you
18 know, still isolating neurons from mice, still growing motor
19 neurons in culture, collecting DNA and RNA, and trying to
20 understand the changes with age in motor neurons.

21 Q And how long did you continue as a post-doctoral research
22 scientist?

23 A For three months.

24 Q And what happened after three months?

25 A During my first year as a post-doctoral research fellow,

1 I'd also applied for other fellowships because I knew that this
2 one was only -- only going to last for a year, and one of those
3 I got funded, so I became a fellow again.

4 Q When did that happen?

5 A I think in September 2017. Right?

6 Q Okay.

7 A Yeah. Three months, yeah.

8 Q Yeah. That's -- no, no, no. That's right. That's right.
9 When you went from being a post-doctoral research fellow to
10 being a post-doctoral research scientist, what changed?

11 A To scientist.

12 Q In other words, June of 2017, right.

13 A Yeah. Right. So in my work, nothing really. In my
14 relationship with my boss or other members of the lab, nothing
15 really. I -- I used to get paid as a fellow -- or all fellows
16 get paid, I think, once a month. I started to get paid
17 bimonthly. I remained on the same Columbia employees' health
18 insurance that I was on as a fellow. I think I got a couple
19 extra benefits as a scientist. I had a retirement account for
20 three months, and transportation -- pre-tax transportation
21 benefits.

22 Q And when you back to being a fellow --

23 A Yes.

24 Q -- were there any changes?

25 A Well, I didn't have a retirement account anymore and I

1 didn't have the transportation benefits, but I think everything
2 else stayed the same. I went back to getting paid monthly.

3 Q Who else works in Dr. Wichterle's lab?

4 A Besides me, there's one post-doctoral research scientist,
5 one associate research scientist, three graduate workers, two
6 technicians.

7 Q And could you describe -- well, can you describe the work
8 of the -- the other -- of the post-doctoral research scientists
9 and the associate research scientists in that lab?

10 A Yes. The post-doctoral research scientist works on
11 understanding timing in motor neuron development, so she tries
12 to understand -- humans develop slower than mice, so she's
13 trying to --

14 Q Okay.

15 A -- understand the mechanism of the timing, so she studies
16 motor neurons derived from human cells and motor neurons
17 derived from mice cells. And her experiments involve
18 collecting them at different time points in culture, and seeing
19 where the timings match up and what's similar and different
20 about the regulation.

21 Q What was her name?

22 A Sumin Jang.

23 Q Okay.

24 A Dr. Sumin Jang.

25 Q All right. And who is the associate research scientist?

1 A It's Dr. Emily Lowry.

2 Q What does Dr. Lowry do?

3 A Yes. So she studies also a -- she studies ALS. She grows
4 motor neurons that have ALS mutations and motor neurons that
5 don't have ALS mutations, and treats them with different drugs
6 in culture to try to see if any of the ALS -- if the ALS motor
7 neurons are responsive or do better in response to any of the
8 drugs.

9 Q Does she work on mice as well?

10 A She does some experiments with mice, but mostly in
11 culture.

12 Q How does Dr. Wichterle oversee the work of the -- of the
13 people in the lab?

14 A So we have lab meetings, and we have joint lab meetings in
15 conjunction with two other labs and two other PIs. We
16 present -- so everybody besides the technicians, who can
17 present if they want, but the graduate workers and all the
18 post-doc categories present, I think, it turns out being, once
19 every three months. We present every week, but different
20 people present every week.

21 And so that's one way of keeping track of, you know, how
22 everybody's doing and how the experiments are progressing. And
23 in addition, we meet with Dr. Wichterle, and the meetings are
24 dependent on, you know, how the project's going and how often
25 you need to just confer about how to make progress or improve

1 things, but everyone meets with him probably at least once a
2 month or maybe more.

3 Q Okay. And other than meeting with the -- the people who
4 work in the lab, what does Dr. Wichterle do?

5 A He writes grants. He funds all the experiments in the
6 lab, so even when I have my own fellowship that pays my salary,
7 or I think most of my salary, and Dr. Wichterle pays for all
8 the experiments to happen and, you know, employs all the other
9 people in the labs -- he's writing grants or working on papers
10 or, you know, he's -- he belongs on committees of graduate
11 workers and is advisor to other people, so he's usually in
12 meetings or in committee meetings or writing grants or papers.

13 Q Does he also keep track of what everybody's doing in the
14 lab?

15 A Yes. Certainly.

16 Q And --

17 (Counsel confer)

18 Q BY MR. MEIKLEJOHN: And what is Dr. Wichterle's overall
19 area of research?

20 A Motor neuron development and ALS biology.

21 Q I did ask that --

22 A Yes.

23 Q -- before, didn't I?

24 A Yeah.

25 Q All right.

1 A It's okay.

2 MR. MEIKLEJOHN: That was what I asked over here. I
3 couldn't remember. Well, that'll give me important clues. I
4 have no further questions for the witness.

5 HEARING OFFICER MURTAGH: Mr. Porzio?

6 MR. PORZIO: Do you have questions?

7 HEARING OFFICER MURTAGH: I don't --

8 MR. PORZIO: Okay.

9 HEARING OFFICER MURTAGH: -- as of yet, no.

10 MR. PORZIO: Could we -- could we have a few minutes --

11 HEARING OFFICER MURTAGH: Yes.

12 MR. PORZIO: -- please?

13 HEARING OFFICER MURTAGH: Of course.

14 MR. PORZIO: Thank you.

15 HEARING OFFICER MURTAGH: Now we'll go off the record.

16 (Off the record at 11:04 a.m.)

17 HEARING OFFICER MURTAGH: Employer Counsel, you can -- we
18 can do questioning, and if you'd just introduce yourself for
19 the record?

20 **CROSS-EXAMINATION**

21 Q BY MR. PLUM:

22 Q BY MR. PLUM: Yeah. Good morning, Dr. Patel. I'm -- I'm
23 Bernie Plum. I'm a lawyer for Columbia.

24 A Good morning.

25 Q And I'm going to be asking you some questions about your



1 testimony. So you -- are you currently a fellow? You're
2 currently a fellow?

3 A Yes. I am.

4 Q And what kind of grant do you have right now?

5 A I have an F32 from the NIH.

6 Q And F32 from the NIH. And how did you apply -- how did
7 you come to get that grant?

8 A Yes. So I applied for it directly to the NIH. It goes
9 through the department -- our grants admissions department
10 directly to the NIH with a proposal, and for the NIH, there's
11 also a lot of other paperwork that I have to submit, which
12 includes why I chose Dr. Wichterle's lab to do a post-doc, how
13 will that enhance my career, why I chose Columbia, so on and so
14 forth and various other documents, including a letter from
15 Hynek of support.

16 Q Sort of take me through that a little more slowly;
17 you -- you first applied -- is there an application form that
18 you have to --

19 A Yes. There is. There is an application form that you
20 fill out and add a lot of attachments to, and these attachments
21 are, you know, research proposal, choice of institute, choice
22 of mentor, career plans, various other documents. And that's
23 submitted by the Columb -- by my department -- grants
24 department, I guess. This is two or three people who submit
25 the NIH grants because they have to be reviewed by the

1 department and made sure everything is correct before they get
2 submitted to the NIH, and then it gets submitted to the NIH.

3 Q Are they -- as far as you understand, are they looking at
4 it to make sure that it conforms to the -- the format that the
5 NIH wants it?

6 A Exactly. It conforms to the format and that nothing's
7 missing, because these are really bulky applications, and the
8 department also -- they wrote my budget for me.

9 Q I'm sorry?

10 A They wrote the budget part of the --

11 Q They wrote the budget part?

12 A Yeah.

13 Q Okay. Does -- did the people who review the grant at
14 Columbia, do they look at the substance of your proposal?

15 A No.

16 Q So this is essentially your proposal to the NIH which is
17 filtered through Columbia for formatting and budget purposes?

18 A Yes. So I wrote the proposal -- I mean, with guidance
19 from and feedback from my PI, from Hynek, but yes, it gets it
20 through them, right, as you said.

21 Q Okay. And then it gets submitted to the NIH? You have to
22 speak up for the recorder.

23 A Oh, yes.

24 Q Otherwise it'll sound like -- it'll look on it like you
25 didn't answer. And about how long does it take until you hear

1 back from the NIH?

2 A It takes about -- I think it took about three months to
3 get a score, and then about a week or so after that, I get a
4 written report of what the -- it's usually a group of
5 professors who are reviewing several grants together, of what
6 they said about it generally, and then the specific review from
7 each of the three reviewers, which also comes with a score.
8 And then a few weeks after that, if -- you find out whether or
9 not you'll actually get funded, but the score usually gives you
10 an indication of where you stand in comparison to the other
11 grants that were submitted.

12 Q So you actually get feedback from the reviewers as to the
13 merit of the proposal or --

14 A Merits and demerits.

15 Q And demerits?

16 A Yes.

17 Q So they might even give you suggestions as to how to
18 change the project?

19 A They might not -- sometimes they do give direct
20 suggestions or in their critiques, you can learn what they want
21 changed, so if you don't get it funded that time, you can
22 reapply.

23 Q Oh, I see. And does anyone else get a copy of the report
24 and the score or just you?

25 A It goes to -- it's sub -- it's basically delivered to me



1 through the eRA Commons which is the NIH portal -- website,
2 which I have access to, but also the department grant
3 administration has access, too.

4 Q They have access to your grant -- to the decision on your
5 grant, or they have access to the portal?

6 A So, yeah. At different times, they have access to
7 different things, because they're helping me, you know, finish
8 up this application, so at different times they have access to
9 different things, and I'm not exactly clear on how much at what
10 times.

11 Q So when -- when you got the score, did you report on that
12 to Dr. -- I want to make sure I get his name right --

13 A Wichterle.

14 Q Wichterle.

15 A Yeah.

16 Q Did you report that back to Dr. Wichterle?

17 A Yes. I immediately forwarded him the review -- or first,
18 I got only the score, so the score, and then as soon as I got
19 the review, the review.

20 Q And so he was notified of this by you?

21 A Yes. Yes.

22 Q And when you got -- so you say it was about three months
23 until you finally learned that you had received the grant?

24 A It was -- yes. It was probably more than three months by
25 the time I knew for sure that I was going to get the money.

1 Q And what happens then? What process has to be followed
2 once you have the -- you become a fellow? What happens?

3 A There's some activation paperwork that has to be signed by
4 me and Hynek, and the department grants administrator and once
5 that all get processed, submitted to the NIH, the NIH routes
6 the funding to the department which then, you know, pays me.

7 Q And when you applied for this F32 grant were -- was it
8 specific to Columbia?

9 A Yes.

10 Q Was your application based specifically on your being at
11 Columbia?

12 A Yes. Absolutely. So it was based specifically on my
13 being in Hynek's lab at Columbia. Part of the scoring is
14 actually -- so there's, I think, five -- four or five criteria
15 for scoring. One of them is a proposal. One of them are my
16 merits as a scientist. One of them are merits of my PI as a
17 scientist and his ability to support and nurture my career, and
18 the last one is the institutional support. So Columbia gets a
19 score. Hynek gets a score. I get a score, and the research
20 proposal gets a score.

21 Q Okay. So I want to talk -- go back to your testimony
22 about sort of life in the lab, and how people in the lab
23 communicate with each other and communicate with Wichterle;
24 are -- how often -- I think you said there are meetings of
25 everybody in the lab?

1 A Yes.

2 Q Every so often about -- about how often was that?

3 A So the lab meetings are every week, but they're in
4 conjunction with two other labs and two people present at every
5 lab meeting, so everyone ends up having a turn every three
6 months, and, you know, so we just present our work.

7 Normally, it's the progress we've made in the last few
8 months, and sometimes it's, if we are about to give a big talk
9 in front of a larger audience, we do a practice for that in lab
10 meeting. And then we get feedback from our lab, other PIs and
11 other labs, and these other two labs do -- not very similar,
12 but similar enough that it's productive to do a lab meeting
13 together.

14 Q And do you have any other interactions with Dr. Wichterle
15 other than these weekly lab meetings?

16 A Yes. So he -- his office is in the lab, so he walks by
17 every day and often will stop by and say, Hey, what's happening
18 with such-and-such experiment, to everyone. And of course, we
19 can also meet with him any time we want. His door -- he has a
20 pretty open door policy, and sometimes some people have
21 scheduled meetings with him if they're getting very close to
22 submitting a paper, then often we'll meet with him every week.
23 I haven't done that in the lab yet, but I've seen other people
24 do it in the lab.

25 Q So they're -- so people have individual meetings or just

1 casual --

2 A Yes.

3 Q He stops by, checks in on what people are doing?

4 A Yes.

5 Q And you said that some people meet with him on a weekly
6 basis?

7 A Yes. It's very individual. If anybody wants to meet with
8 him every week, he welcomes it. If you don't want to do that,
9 he's fine with that, too.

10 Q And those meetings are just one-on-one, that's --

11 A Yes.

12 MR. PLUM: Okay. Just -- if I can just go off the record
13 for another --

14 HEARING OFFICER MURTAGH: Sure.

15 MR. PLUM: -- minute or two?

16 HEARING OFFICER MURTAGH: Off the record.

17 (Off the record at 11:21 a.m.)

18 HEARING OFFICER MURTAGH: Okay, Mr. Plum.

19 Q BY MR. PLUM: Dr. Patel, do you know what the T in the T32
20 stands for?

21 A Yes.

22 Q What does that mean?

23 A I think it's a training grant that -- yeah.

24 Q A training grant, correct?

25 A Yes.

1 Q And the F in the F32?

2 A I want to say fellowship but it's also a training grant.

3 I'm --

4 Q For --

5 A Maybe -- yeah, training fellowship. I'm not sure. I'm
6 not sure what the F stands for.

7 Q But the T32 is designated by the NIH as a training grant,
8 correct?

9 A Yes. Almost all fellowships given to post-docs and
10 students are a training grant.

11 Q And the application process for the T32 and the F32 are
12 considerably different?

13 A Yes.

14 Q As you've testified?

15 A Um-hum.

16 Q Do you know if you made a decision to leave Dr.
17 Wichterle's lab and go to a different lab -- whether you could
18 take the F32 with you?

19 A From what I understand, it would have to be rereviewed, so
20 it's not a guarantee that I could take it with me. I would
21 have -- and the application process involves a lot of writing;
22 why this project will be successful in Dr. Wichterle's lab.
23 And at Columbia, there's actually a page that you just -- where
24 you just list equipment available to you in the lab, so you
25 would have to -- from what I understand, you have to retalk to

1 NIH and figure out exactly what parts you would have to
2 rewrite, and it would have to go through the approval process
3 again.

4 Q But it is portable in that sense? Once you satisfy the
5 requirements that you've described, it could be portable?

6 A I mean, it's -- would be very highly unlikely that it
7 would get funded in any other lab, but I mean, in -- you know.

8 Q Because of the nature of the work, you mean?

9 A Yes. Because of the nature of the work and a lot of the
10 reviews that say this -- there's a very good compatibility
11 between a project that I was proposing and the lab I was
12 proposing to do it in.

13 Q Do you know whether there's a similar provision for re-
14 view if you wanted to take a T32 grant elsewhere?

15 A With the T32, you certainly could not leave the
16 institution, because the grant is awarded to the institution.
17 If you switched labs, I'm not sure, but it
18 would -- I'm -- yeah, I'm not sure.

19 MR. PLUM: I have nothing further.

20 **REDIRECT EXAMINATION**

21 Q BY MR. PLUM:

22 Q BY MR. MEIKLEJOHN: Just one follow-up to the last couple
23 of questions. The money from the F grant also goes to
24 Columbia, correct?

25 A Yes.

1 Q And Columbia pays you monthly out of that -- those funds?

2 A Exactly.

3 MR. MEIKLEJOHN: Okay. Nothing further.

4 MR. PLUM: I have nothing further.

5 HEARING OFFICER MURTAGH: All right. And I have no
6 further questions. Thank you very much for your testimony
7 today. You may step down.

8 THE WITNESS: Thank you.

9 HEARING OFFICER MURTAGH: Okay. If we can just go off the
10 record for a minute.

11 (Off the record at 11:29 a.m.)

12 HEARING OFFICER MURTAGH: We're back on the record. So
13 during off-the-record discussions, Mr. Meiklejohn, you
14 indicated that you would like to introduce a piece of evidence
15 at this time; is that correct?

16 MR. MEIKLEJOHN: That is correct.

17 HEARING OFFICER MURTAGH: Okay. You can go ahead.

18 (Counsel confer)

19 MR. MEIKLEJOHN: I would propose the following
20 stipulation; the document that was just marked for
21 identification as Union Exhibit 4 is a list of associate
22 research scientists or associate research scholars employed by
23 Columbia during calendar year 2018, who were previously
24 classified as post-doctoral research scientists, scholars, or
25 post-doctoral research fellows.

1 MR. PORZIO: At Columbia?

2 MR. MEIKLEJOHN: At Columbia, correct.

3 MR. PORZIO: So stipulated.

4 MR. MEIKLEJOHN: So -- okay, so we agree on that. The
5 list contains dates of appointments for these individuals as
6 associate research scientists; those dates reflect the current
7 appointment under which the -- at least in -- yes. Those dates
8 reflect the current appointments under which those associate
9 research scientists operate, but do not necessarily indicate
10 the dates on which these individuals were first appointed as
11 associate research scientists; do we agree with that?

12 MR. PORZIO: I would just say, for clarity of the record,
13 I would be specific about which columns, and that would be
14 "appointment appt_EFFDT", and then the fourth column,
15 "appoint_N_DT", those are the dates of the appointment for the
16 ARS -- the current ARS.

17 MR. MEIKLEJOHN: That is their -- their current
18 appointment?

19 MR. PORZIO: Correct.

20 MR. MEIKLEJOHN: So as -- as is reflected in Employer
21 Exhibit 1, the associate research scientists are operating
22 under one-year appointments which are renewable and are
23 frequently renewed, but the records --

24 MR. PLUM: I'm sorry.

25 MR. MEIKLEJOHN: -- that this was taken from --

1 MR. PLUM: What was -- what was the --

2 MR. MEIKLEJOHN: --apparently just showed --

3 HEARING OFFICER MURTAGH: I think Bernie --

4 MR. MEIKLEJOHN: -- the current appointments --

5 HEARING OFFICER MURTAGH: -- has a clarifying --

6 MR. PLUM: What was the last thing you said? I'm sorry.

7 You said it -- in there --

8 MR. MEIKLEJOHN: I said, They're frequently renewed.

9 MR. PLUM: Well, that's not demonstrated by Exhibit 1.

10 MR. MEIKLEJOHN: No. No, that's --

11 MR. PLUM: That's --

12 MR. MEIKLEJOHN: By Employer Exhibit 1?

13 MR. PLUM: Right, that they're frequently renewed.

14 MR. MEIKLEJOHN: Well, maybe not, no. I'm sorry. Yeah.

15 MR. PLUM: Okay.

16 MR. MEIKLEJOHN: I guess my only point is that the
17 appointment effective date does not indicate the dates on which
18 they first became associate research scientists.

19 MR. PLUM: Well, it may or may not.

20 MR. PORZIO: Not necessarily.

21 MR. MEIKLEJOHN: It does not -- yes.

22 MR. PLUM: Yeah.

23 MR. MEIKLEJOHN: And -- okay, so we have agreement on
24 that, and I just -- the reason I'm pointing this out, I would
25 like to emphasize, is that if you just go by the dates that are

1 on the document, it appears that in most instances, there was a
2 gap between the time that these people were post-doc research
3 scientists or other categories, and the dates on which they
4 became associate research scientists, and in fact, the dates
5 cannot be relied upon to indicate that.

6 MR. PORZIO: To indicate --

7 MR. MEIKLEJOHN: That there was a gap.

8 MR. PORZIO: I think it's -- it can't be relied on as
9 definitive evidence that there was a gap or was not a gap.
10 There -- there may have been, and I think the data -- I don't
11 want to be over-inclusive or under-inclusive -- I think
12 it's -- it doesn't say one way or the other, based on my
13 understanding of the data.

14 MR. MEIKLEJOHN: Right. That's -- yeah. That's what I
15 tried to say.

16 MR. PORZIO: Okay.

17 MR. PLUM: Okay.

18 MR. MEIKLEJOHN: There are -- it does not indicate whether
19 or not there was a gap.

20 HEARING OFFICER MURTAGH: Are you moving --

21 MR. MEIKLEJOHN: Oh, I'm moving Union 4 based upon all of
22 that.

23 HEARING OFFICER MURTAGH: Okay. Any opposition?

24 MR. PORZIO: No objection.

25 HEARING OFFICER MURTAGH: Okay. Petitioner 4 is received

1 into evidence.

2 **(Petitioner Exhibit Number 4 Received into Evidence)**

3 HEARING OFFICER MURTAGH: Okay. Now, are there any
4 remaining matters before I move into, you know, the offer of
5 proof and the request for briefs, that anyone would like to
6 discuss at this stage?

7 MR. MEIKLEJOHN: Petitioner rests.

8 MR. PORZIO: So when do you want to take up the polling
9 locations and polling times?

10 HEARING OFFICER MURTAGH: We'll do that in a little while.

11 MR. PORZIO: Okay.

12 HEARING OFFICER MURTAGH: Yeah. Okay. So the -- so this
13 morning, the Employer introduced Exhibits 9 and 10. Exhibit 9
14 is -- was a request for filing briefs. Exhibit 10 was an offer
15 of proof concerning the employee status from section 2.3 of the
16 act, of post-doctoral trainees as -- as I refer to in the offer
17 of poof itself.

18 The Regional Director has agreed to allow a briefing in
19 this matter. He is currently deciding the amount of time that
20 we'll be allowed for briefs, and once that decision is made, I
21 will let the parties know.

22 Regarding the offer of proof, the Regional Director has
23 considered it, but has decided to preclude evidence concerning
24 the 2.3 status of the post-doctoral trainees as he is bound by
25 the Columbia University decision reported at 364 NLRB number

1 90, and by Boston Medical Center reported at 330 NLRB 152.

2 However, to the extent that that evidence, you know, may
3 have come into the record, going towards the community of
4 interest factors, he will of course consider that as part of
5 the community of interest analysis.

6 So now, moving to brief closing statements; so
7 the -- because the Regional Director is allowing briefing here,
8 both parties will have full opportunity to, you know, make
9 any -- any arguments they would like on brief. However, to
10 wrap up the hearing, the Regional Director has asked for just a
11 brief -- a brief discussion of the respective positions of the
12 parties. And after that, we will talk about the election
13 details.

14 And so we -- we can start with the Petitioner and then
15 move to the Employer.

16 MR. MEIKLEJOHN: I will be very brief. With respect to
17 the post-doctoral fellows having a community of
18 interest -- being employees and sharing a community of interest
19 with the post-doctoral research scientists and scholars, I
20 would submit; one, that the argument that they're not -- that
21 they're not employees of the University is similar to
22 the -- the 2.3 argument that was submitted previously, is
23 precluded by Columbia as well.

24 Page 18 of the Columbia decision addresses employees
25 working pursuant to training grants that are received at the

1 University and processed out of the University. And the -- and
2 in fact, one of the types of grants that one fellow witness
3 operated under is a training grant of the very same type as was
4 involved in the Columbia graduate assistant case. The evidence
5 leaves no doubt that the fellows work under the direction and
6 supervision and guidance of their PIs, and that there is, in
7 all practical work-related senses, no difference between what
8 they do and what the post-doctoral research scientists and
9 scholars do. They clearly -- the -- the manner in which they
10 perform their duties -- if the contention is, which I guess
11 we're going to hear that they're independent contractors under
12 the law, the evidence is clear that they do -- they receive the
13 same direction, supervision, and guidance as the post-doctoral
14 research scientists and have under -- and work under their
15 control in -- in the same fashion as admitted employees.

16 With respect to the inclusion of associate research
17 scientist in the same unit with the post-docs, we heard
18 testimony this morning that -- about an employee moving through
19 essentially a promotion from one classification to the other.
20 The evidence and Doctor -- the first witness yesterday, the
21 gentleman who testified made it -- acknowledged that they do
22 essentially -- that in both cases, they spend a vast majority
23 of their time doing essentially the same kinds of laboratory
24 work. As I understand it, the alleged distinctions are; one,
25 that they're temporary employees, but in fact, Employer Exhibit

1 1 shows that all of the petitioned-for employees are appointed
2 for a one-year period, which is renewable, and the only
3 distinction is that there is either a three or a four-year
4 limit on how many times a post-doctoral research scientist or
5 scholar can be appointed to that position, and once that time
6 runs out, if they are to continue their research at Columbia,
7 they have to do it in a different capacity, and that apparently
8 happens frequently. Again, we heard the testimony of Manu
9 about how that happened in his case.

10 Union Exhibit 4 contains a list of, I'm told, close to or
11 maybe in excess of 500 post-doctoral -- I'm sorry, 500
12 associate research scientists who previously worked as post-
13 doctoral research scientists, so that -- or fellows. So that
14 it is clearly a -- almost a matter of routine for post-doctoral
15 research scientists to continue their careers and their work as
16 associate research scientists. I guess I didn't -- I didn't do
17 the comparison. The 500 -- the number of post-doctoral -- I'm
18 sorry, the number of associate research scientists who
19 previously worked as post-doctoral research scientists is more
20 than half of the size of the current bargaining unit, so
21 the -- the distinction, based upon temporary status, is totally
22 unpersuasive. They clearly have a very strong community of
23 interest.

24 With respect to the issue of training status; again, the
25 first witness yesterday acknowledged they spend the vast

1 majority of their time conducting the research, regardless of
2 whether they are post-doc -- classified as post-docs or they're
3 classified as associate research scientists. And testimony of
4 the witness today shows that in fact they do the work in the
5 same fashion, under the same direction and supervision of their
6 principal investigator.

7 So the fact that -- well, so the trainee status is -- the
8 materials regarding the training of post-doctoral research
9 scientists does not create any significant distinction in the
10 two classifications.

11 HEARING OFFICER MURTAGH: Okay.

12 MR. MEIKLEJOHN: No, that was a period. That was the end
13 of the paragraph, whatever.

14 MR. PLUM: It was the final period?

15 MR. MEIKLEJOHN: Yeah. That was the final period.

16 HEARING OFFICER MURTAGH: Okay.

17 MR. MEIKLEJOHN: Well, sometimes I think my speech is all
18 one sentence.

19 HEARING OFFICER MURTAGH: Mr. Plum, and Mr. Porzio?

20 (Counsel confer)

21 MR. PORZIO: Would you like us to do close or --

22 HEARING OFFICER MURTAGH: I mean, it's your opportunity to
23 do so if you want, or you can wait to summarize on brief.

24 MR. PLUM: Oh, okay.

25 HEARING OFFICER MURTAGH: Whatever you wish.

1 MR. PLUM: I thought -- I thought we would be asked to do
2 it. If we -- if we are not being asked to do it, we can just
3 as well do it in the brief.

4 HEARING OFFICER MURTAGH: Okay. Okay, perfect.

5 MR. MEIKLEJOHN: I thought we were being asked to do it.
6 I was -- I might've said the same thing.

7 HEARING OFFICER MURTAGH: If --

8 MR. MEIKLEJOHN: But let me just -- you did earlier ask
9 one -- or say you were going to ask one specific question about
10 what -- and I don't think we ever got that on the record as to
11 what the contention -- what the Employer's contention is
12 regarding the status of the post-doctoral research fellows,
13 whether you're contending they're employed by somebody else, or
14 independent contractors, or what you --

15 MR. PLUM: I asked that question.

16 MR. PORZIO: Yeah. It was already on the record.

17 MR. MEIKLEJOHN: Was that that? Was that on the record?

18 HEARING OFFICER MURTAGH: I believe we were off the record
19 then.

20 MR. PLUM: Oh, okay.

21 HEARING OFFICER MURTAGH: Yeah.

22 MR. MEIKLEJOHN: That was my -- yeah.

23 MR. PLUM: Okay. I think what we said -- I think the
24 answer to this is -- to the question is that we view them as in
25 the nature of an independent contractor. They bring their own

1 funds to the job, and they have more independence. They have
2 greater independence.

3 HEARING OFFICER MURTAGH: Okay. So now, moving to the
4 election details themselves; the -- actually, before we do
5 that, one of the other subjects that we discussed off the
6 record was the 2.3 status of the ARSs, and so if you could just
7 briefly outline the various factors that --

8 MR. PLUM: You're saying -- the question is why we believe
9 they're --

10 HEARING OFFICER MURTAGH: Yes.

11 MR. PLUM: -- employees?

12 HEARING OFFICER MURTAGH: Yeah. Yes. And then just very,
13 very briefly.

14 MR. PLUM: Okay. The -- as was testified to by Dr. Purdy,
15 the -- I saw you frown -- the ARS works in a job. It's true
16 they're appointed annually, but that's true of every faculty
17 member as well, so the expectation with respect to an
18 ARS -- sorry -- yes, with respect to an ARS, is that they are
19 no longer in training, that they are being employed on a
20 permanent basis to the extent that anyone is employed on a
21 permanent basis. There's no expectation that they're going to
22 be leaving in any set time, and that the University doesn't
23 have the same kind of training obligation, and that the ARS
24 doesn't have the same training expectation as a post-doc.

25 By contrast, the post-doc, as we've talked about, is there

1 for a -- yes, everybody has a one-year appointment, as Mr.
2 Meiklejohn has said, but there -- there's a cap on post-doc
3 appointments. And even more so, there's an expectation that
4 the post-docs are there for a limited period for the purpose of
5 being trained, not for the -- not for the purpose of seeing
6 that as a permanent part of their career. As -- again, as Dr.
7 Purdy testified, the ARS is the equivalent of an assistant
8 professor at the University. And no one -- I don't think
9 anyone would contend that the assistant professor is anything
10 other than an employee.

11 HEARING OFFICER MURTAGH: Okay. Anything further from
12 that side? Okay. Now, moving, you know, to the election
13 details. The -- and, you know, the Employer may be the better
14 person to answer some of these questions regarding unit size
15 and at the various locations, but I will start with the main
16 campus and, you know, if -- if we can break it down by
17 classification, that would also be helpful, but if not, of
18 course, we can't.

19 MR. PLUM: Wait a minute. I -- so why don't -- why don't
20 we -- you -- you have questions for us, and I'm not sure we
21 have the answers today.

22 HEARING OFFICER MURTAGH: Okay.

23 MR. PLUM: Okay?

24 HEARING OFFICER MURTAGH: So the -- to the extent we don't
25 have --

1 MR. PLUM: I'm suspecting we don't, but --

2 HEARING OFFICER MURTAGH: Yes. So in terms of, you know,
3 starting with -- with main campus; is there a particular
4 location that you would prefer to have the election in?

5 MR. PLUM: I think we'd have the same site as last time.
6 (Counsel confer)

7 MR. PLUM: Earl Hall on the main campus.

8 HEARING OFFICER MURTAGH: Okay. So the parties agree that
9 Earl Hall will be the location on campus for -- on main campus
10 for the election now; is that correct?

11 MR. PLUM: Correct.

12 HEARING OFFICER MURTAGH: Okay. And to the extent you can
13 estimate the total number of employees there and then within
14 the classifications, I invite you to do so now. If that's just
15 not possible, then --

16 MR. PORZIO: Yeah. It's going to be very difficult for us
17 to do that. We can --

18 HEARING OFFICER MURTAGH: Okay.

19 MR. PORZIO: We could try to analyze the data and
20 get -- get you an answer on that, but we won't be able to do it
21 now.

22 HEARING OFFICER MURTAGH: Okay. And then in terms of
23 dates and times --

24 MR. MEIKLEJOHN: Do you want locations at the other sites
25 as well?

1 HEARING OFFICER MURTAGH: We are. We're going to go site
2 by site.

3 MR. MEIKLEJOHN: Oh, okay.

4 HEARING OFFICER MURTAGH: Yeah. So dates and times for
5 main campus at Earl Hall, is there --

6 MR. PORZIO: Well, I think it's based on your point, Mr.
7 Hearing Officer, I think the Regent's position is that the
8 days and the duration of polling during those days is going to
9 be dependent on the number of individuals that are typically in
10 that building or in or around that building, so I think -- and
11 I think this is might be where Mr. Meiklejohn was going --
12 maybe if we identify the locations, pin those down, and then
13 once we analyze the data, we can say, main campus has 70
14 percent of the unit, and therefore that's going to need two
15 days at this time.

16 HEARING OFFICER MURTAGH: Okay.

17 MR. PORZIO: That might be a better way to do it.

18 HEARING OFFICER MURTAGH: So do you --

19 MR. MEIKLEJOHN: I wasn't necessarily saying that. I
20 mean, certainly at both of the two principal locations. I
21 think both parties agreed; we need two dates, right?

22 MR. PLUM: You -- you're saying we need two days at each
23 principal location?

24 (Counsel confer)

25 HEARING OFFICER MURTAGH: Well, so moving to the second

1 principal location which would be the Medical Center;
2 what -- you know, we'll start with the Employer.
3 Where -- which hall or location would you propose for the --
4 (Counsel confer)

5 MR. PORZIO: Hammer -- Hammer Building.

6 HEARING OFFICER MURTAGH: Okay.

7 MR. MEIKLEJOHN: yeah. We agree. That's at Hammer
8 Building.

9 HEARING OFFICER MURTAGH: Okay. And so both --

10 MR. MEIKLEJOHN: You just have to be careful how you prop
11 open the door, and it's no problem.

12 HEARING OFFICER MURTAGH: So both parties agree that two
13 full days are likely for those two sites; is that correct?

14 MR. MEIKLEJOHN: Let me -- I think so. I mean, we've --
15 (Counsel confer)

16 MS. CATAPANO: Yeah.

17 HEARING OFFICER MURTAGH: Okay. And -- and by "full day"
18 I believe the petition was 9:00 a.m. to 8:00 p.m.; is that what
19 both sides would consider a full day?

20 MR. MEIKLEJOHN: Yes.

21 MR. PLUM: Yep. That's fine.

22 HEARING OFFICER MURTAGH: Okay. And then moving to
23 Lamont-Doherty; and so -- so those two main locations; does the
24 Employer have an estimate as to how many are going to be
25 covered by those two?

1

2 HEARING OFFICER MURTAGH: Is it the 75 percent that you
3 indicated or --

4 MR. PORZIO: That was a made up number.

5 HEARING OFFICER MURTAGH: Okay.

6 (Counsel confer)

7 MR. PORZIO: We're trying to help, Mr. Hearing Officer.
8 It's just hard to give you --

9 HEARING OFFICER MURTAGH: Okay.

10 MR. PORZIO: -- these answers without -- with any
11 precision.

12 HEARING OFFICER MURTAGH: Okay. And so now moving over to
13 Lamont-Doherty, now that -- and we'll start with the Employer,
14 the location and then the time that you think would be required
15 there?

16 MS. CATAPANO: I don't remember the name of the building.

17 MR. MEIKLEJOHN: Pardon?

18 MS. CATAPANO: I don't remember the name of the building
19 that we want, do you?

20 HEARING OFFICER MURTAGH: We did Sutton House? Is that
21 where we had it? Yeah, Sutton House.

22 MS. CATAPANO: Sutton House.

23 MR. MEIKLEJOHN: I don't know. That's what's on the piece
24 of paper in front of me.

25 MS. CATAPANO: That's where we were before.



1 HEARING OFFICER MURTAGH: So everyone is okay with Sutton
2 House?

3 MR. PLUM: If that's where we were before, yeah.

4 MR. MEIKLEJOHN: There weren't any problems at Doherty or
5 (phonetic) Nevis so --

6 HEARING OFFICER MURTAGH: Okay. And the amount of time?
7 Petitioner, you might be the better one to answer this. How
8 much time do you envision for --

9 MR. MEIKLEJOHN: One day. One day for Lamont-Doherty.
10 And that is sufficient.

11 HEARING OFFICER MURTAGH: But when? One day in -- you
12 know, 9 a.m. to 8 p.m., or smaller?

13 MR. MEIKLEJOHN: Okay. We're asking for a full day at
14 Lamont-Doherty.

15 HEARING OFFICER MURTAGH: Okay. And do you have an
16 approximate number of voters at that location?

17 MR. MEIKLEJOHN: It's probably less than 100.

18 HEARING OFFICER MURTAGH: Okay. Is there any way you can
19 narrow down the polling time if there's only 100 people there?

20 MR. MEIKLEJOHN: Well, let's go through the rest of the
21 process and -- and maybe I'll -- I'll talk.

22 HEARING OFFICER MURTAGH: Okay. And so now moving over to
23 Nevis, and we can start with the Employer and then go over to
24 Petitioner.

25 MS. CATAPANO: I would say half a day. Half a day,

1 Thomas?

2 MR. MEIKLEJOHN: That would be plenty at Nevis, yes.

3 MS. CATAPANO: Yeah, that would be plenty on the library.

4 HEARING OFFICER MURTAGH: Okay. Is that at 136 Broadway?

5 MS. CATAPANO: It's -- yeah. It's where it was last time.

6 HEARING OFFICER MURTAGH: Okay. And, I'm sorry, if you
7 could just introduce yourself for the record to make sure that
8 the --

9 MS. CATAPANO: Oh, Patricia Catapano.

10 MR. PORZIO: She did note herself for the record.

11 HEARING OFFICER MURTAGH: Yes. Yeah. I'm just -- I saw
12 the movement over here.

13 Okay, so Nevis would the library. And a half day, would
14 that be a morning poll? An afternoon poll?

15 MR. MEIKLEJOHN: Afternoon, I bet, is better. Or do you
16 think people --

17 MS. CATAPANO: I'd say the morning.

18 MR. PORZIO: Last time I think it was 10 to 2.

19 MS. CATAPANO: We only had one person vote, and that was
20 Ross Fine (phonetic).

21 MR. MEIKLEJOHN: All right.

22 MS. CATAPANO: I think -- I think half day is -- in the
23 morning.

24 MR. MEIKLEJOHN: It is. But does, like, four hours in the
25 middle of the day make most sense for this group, or does it

1 make more sense to push it earlier so people can stop in when
2 they're arriving for work?

3 MR. PLUM: Yeah, I would do 10 to 2.

4 MR. MEIKLEJOHN: Okay, 10 to 2.

5 HEARING OFFICER MURTAGH: Okay. So the parties are
6 proposing 10 to 2 at Nevis. And Petitioner, do you have an
7 estimate as how many voters might be at that location?

8 MR. MEIKLEJOHN: Not very confident.

9 HEARING OFFICER MURTAGH: Okay. So now moving to
10 Manhattanville, and the statement of Petitioner, I see the
11 Greene Building was proposed. Is that --

12 MS. CATAPANO: Greene Building. It's the only one that's
13 functioning.

14 MR. MEIKLEJOHN: Okay. Now, that's, what -- the Jerome L.
15 Greene Science Center?

16 MS. CATAPANO: Yeah.

17 HEARING OFFICER MURTAGH: Okay. So the Jerome L. Greene
18 Science Center will be the formal name, okay? And in terms of
19 polling time?

20 (Counsel confer)

21 MR. MEIKLEJOHN: Okay. There's apparently a lot of --
22 there may be close to 200 people there, so we're asking for the
23 two full days.

24 HEARING OFFICER MURTAGH: Two full days?

25 MR. MEIKLEJOHN: Um-hum.

1 MS. CATAPANO: Two full days at Manhattanville? There
2 aren't that many people at Manhattanville.

3 MR. MEIKLEJOHN: How many do you think there are?

4 MS. CATAPANO: How many do I think there are? There are
5 only five departments there, and not even -- not even full
6 departments. I would -- I would say that 200 people total in
7 the building, that would be a lot.

8 MR. MEIKLEJOHN: Well, ultimately, this is going to be
9 based on more precise data about how many people there are in
10 each location, right? We are looking for that.

11 HEARING OFFICER MURTAGH: Um-hum.

12 MR. MEIKLEJOHN: Yes.

13 HEARING OFFICER MURTAGH: But so you are -- but at this
14 point, you're proposing two full days?

15 MR. MEIKLEJOHN: Correct.

16 HEARING OFFICER MURTAGH: Okay.

17 MR. MEIKLEJOHN: I mean, and it -- I mean, and say for the
18 record that --

19 HEARING OFFICER MURTAGH: And two full days being 9 a.m.
20 to 8 p.m.?

21 MR. MEIKLEJOHN: And I guess just --

22 MR. PLUM: Do you really need that? I mean, Pat says
23 there's not even 200 people in the building. What would
24 that --

25 MR. MEIKLEJOHN: If we get -- that's -- we have different

1 understandings about that, so --

2 MR. PLUM: Oh, do you really have a different
3 understanding?

4 (Counsel confer)

5 MR. MEIKLEJOHN: I mean, our information is there's a lot
6 more people working there than --

7 MS. CATAPANO: Fine. Then --

8 MR. MEIKLEJOHN: We might be off. But we're going to --

9 MS. CATAPANO: When we find out how many, if it's not that
10 many, then we can agree to narrow it to one day?

11 MR. MEIKLEJOHN: Well, I think ultimately, the Regional
12 Director is going to be making these decisions, right?

13 HEARING OFFICER MURTAGH: Yes.

14 MR. MEIKLEJOHN: And even -- and even if we agree, we may
15 not get what we ask for.

16 HEARING OFFICER MURTAGH: Yes. Okay.

17 MR. MEIKLEJOHN: The other -- the other -- I mean, so I
18 have two other points to make. One is that our understanding
19 is there is -- that there is a lot -- there are people being
20 moved into this building, like, as we speak, regularly. So
21 that whatever numbers we come up with, the people working
22 there, they need to -- there needs to be an emphasis on making
23 it current.

24 And second, I mean, one of the issues with asking for
25 these long time periods is the difficulty that these people

1 have in leaving their research at -- you know, at any -- any
2 point in time. They just -- you know, they're conducting
3 experiments that require them to be there. Not all of these
4 people, but many of them.

5 HEARING OFFICER MURTAGH: Okay. Now, on the voter list
6 included with the statement of position, some of those
7 individuals appear to potentially be out of state or out of the
8 country. So what are the parties' positions on a mail ballot
9 if necessary? And we'll start with the Employer.

10 MR. PORZIO: Do you mean a --

11 HEARING OFFICER MURTAGH: A mixed mail.

12 MR. PORZIO: -- exclusively mail? I mean --

13 HEARING OFFICER MURTAGH: No, no, mixed mail, yes.

14 MR. PORZIO: Yeah. Our position is a manual ballot would
15 be acceptable.

16 HEARING OFFICER MURTAGH: All right. And Mr. Meiklejohn?

17 MR. MEIKLEJOHN: I -- we forgot to talk about this.

18 HEARING OFFICER MURTAGH: Okay. Why don't we go off the
19 record for a minute?

20 (Off the record at 1:06 p.m.)

21 HEARING OFFICER MURTAGH: Okay. And so, Mr. Meiklejohn,
22 your position on the need for mixed manual mail here?

23 MR. MEIKLEJOHN: We would like a little more time to
24 research the -- the addresses of the people who are listed --
25 or the information about the people that are listed being

1 overseas before we state a position on that.

2 HEARING OFFICER MURTAGH: Okay.

3 MR. MEIKLEJOHN: It's a long list. We've only had it for
4 two days. And we aren't clear on whether all of those
5 addresses are where people really live or just reflect an
6 address that's in the University's records, people who are
7 actually closer to the campus.

8 HEARING OFFICER MURTAGH: Okay. And so if you can just
9 include your position in your post-hearing brief, that would be
10 appreciated.

11 MR. MEIKLEJOHN: Sure. We could get it -- I'm sure we
12 could get it sooner than that, but -- the brief should be --
13 yeah, that should be fine.

14 HEARING OFFICER MURTAGH: Okay.

15 MR. MEIKLEJOHN: When are we going to be getting
16 information about the numbers that the Employer's records
17 indicate are at the different locations?

18 HEARING OFFICER MURTAGH: So why don't we go off the
19 record.

20 (Off the record at 1:09 p.m.)

21 HEARING OFFICER MURTAGH: So I'll now ask the parties to
22 give an estimated date for the election, and we'll start with
23 Petitioner.

24 MR. MEIKLEJOHN: Petitioner's position is that the
25 election should be -- we request that the election be scheduled

1 for the second week following the week in which the DD&E
2 issues. So that would -- if the decision were to issue
3 September 7th, for example, then we would ask -- oh, come on,
4 calendar -- we would ask that the election be scheduled for the
5 19th and 20th of September, which would be the Wednesday and
6 Thursday of the second week after the week in which the
7 decision issues. Is that clear?

8 HEARING OFFICER MURTAGH: I think so. Okay. And Mr.
9 Plum?

10 MR. PORZIO: So the University's position, as laid out in
11 our statement of position marked as Board Exhibit 3, is that
12 the election should take place no sooner than 25 days after any
13 potential issuance of a direction -- decision and direction of
14 election.

15 HEARING OFFICER MURTAGH: While it might be a moot point,
16 I am required to ask, you know, if an election is directed,
17 does any parties entitled to receive a voter list wish to waive
18 the 10-day or any portion of the 10-day requirement?

19 MR. MEIKLEJOHN: And I would say if it's necessary in
20 order to fit the election with that -- within the time frame
21 that I just outlined, then we would be willing to waive it.
22 Obviously, depends on -- I think -- I guess if it issued on a
23 Friday, we might have to waive it by a day.

24 HEARING OFFICER MURTAGH: Okay. And does any party
25 anticipate a need for the notice of election ballots to be

1 translated? Meiklejohn?

2 MR. MEIKLEJOHN: No.

3 HEARING OFFICER MURTAGH: No? Mr. Plum? No? Okay. Let
4 the record reflect that the Employer said no.

5 And are there any other facts that the Regional Director
6 should be aware of before scheduling an election, should one be
7 directed?

8 MR. PORZIO: So I have two points -- one point, actually.
9 The University would request a variation in the Regional
10 Director's rules in terms of when our voter eligibility list is
11 due. And under the current rules, it's typically two business
12 days from the date that decision and direction of election is
13 issued. This is a pretty significant-sized unit. And given
14 some of the testimony that we heard where people are flip-
15 flopping back and forth, potentially, between, you know, post-
16 doctoral research, scientist or fellow, and given the
17 importance of the integrity of the data and the ramifications
18 to the University should it not have the information extremely
19 accurate, we'd ask that we be given additional time in which to
20 produce the voter eligibility list so we can get that turned
21 around, vetted, checked, and submitted. So we'd ask that we
22 get five days in which to submit the list.

23 HEARING OFFICER MURTAGH: And Mr. Meiklejohn, what's your
24 position on that?

25 MR. MEIKLEJOHN: There's really only a limited number of

1 combinations of employees that could be included in the
2 decision direction of election. I mean, we anticipate that it
3 will be the full group that we asked for. And we see no reason
4 why the Employer could not begin and -- begin preparing its
5 eligibility list and have it ready when the decision issues.
6 And certainly two days after the decision issues, they were
7 able to produce their lists attached to the position
8 statements, which turned out to be more accurate than we had
9 thought they were.

10 This is not like the graduate student employee cases in
11 which employees are moving in and out of, and applying for --
12 applying and being selected for positions, but not getting
13 logged into the payroll system properly. Yes, people do move
14 from one classification to another, but it's not on the same
15 kind of ad hoc basis. It's a very systematic methodology. And
16 the normal -- the reasons to depart from the normal procedures
17 in a graduate assistant case are not applicable here.

18 HEARING OFFICER MURTAGH: Okay.

19 MR. PORZIO: So if I may, while we appreciate the
20 compliment, we didn't have two days to produce a list for the
21 statement of position. We actually had seven -- and actually
22 more, given that we had an extension. The statement of
23 position contains only four characteristics of the data we have
24 to produce for the voter eligibility list. It's those four,
25 plus personal email addresses, personal cell phone numbers,

1 home addresses, which I think, as Mr. Meiklejohn already
2 pointed out, there may be some uncertainty as to what their
3 actual home addresses are.

4 So while I'm not saying the University is going to sit on
5 their hands and not do any prep work in advance, there's no
6 certainty for us when the decision and direction of election is
7 going to come out. Some of these titles change even during the
8 processing of the semester. So, you know, there's no real good
9 way to have a list in the can and be ready to be distributed
10 two -- merely two business days after. So, again, for the
11 reasons stated before, I don't think we're being unreasonable
12 asking for merely five days in which to turn around a more
13 substantive list than we had nine days to produce the statement
14 of position list.

15 MR. MEIKLEJOHN: I guess if I -- I'm sure we don't want to
16 keep going back and forth on this too many times. But if they
17 start working on it now, and the briefs are due August 30th,
18 and the Regional Director's decision were to issue on August
19 31st, all of which seem like an -- a very fast turnaround time
20 on all of this, they would still have two business days after
21 August 31st, which must be something like September 5th, maybe
22 the 4th.

23 HEARING OFFICER MURTAGH: But so --

24 MR. MEIKLEJOHN: Which would give -- which gives them more
25 than two weeks to prepare this -- to prepare this list.

1 HEARING OFFICER MURTAGH: Well, before we continue on this
2 point for too long, I will refer the matter to the Regional
3 Director. In the event that he does direct an election here,
4 that will be subject to -- he can address that.

5 MR. PLUM: The only thing I would add is that given the
6 time of year, and the fact that we have a lot of people out on
7 vacation, even if we were to start now, we're a little hobbled.
8 So I think that should be taken into consideration when we're
9 asking for a couple days more, or three days more.

10 MR. PORZIO: Yeah. And the final point, Matt, is that --
11 or Mr. Hearing Officer, is that given the issues that the
12 University has raised, there's real doubt as to which
13 classification will or will not be included in this unit. So,
14 you know, we'd be shadowboxing to try to do much of this work
15 ahead of time, given that a good number of the unit
16 compositions in question at this point.

17 HEARING OFFICER MURTAGH: Okay. And then one final matter
18 regarding the election details and mechanics, the eligibility
19 period in the most recent payroll ending date; there was some
20 testimony the people are paid on bimonthly or monthly
21 schedules. So what would -- at least as of now, what would be
22 the most recent payroll date?

23 And we can start with the Employer.

24 MR. PORZIO: So based on our understanding, you are
25 correct, Mr. Hearing Officer, that some individuals are paid on

1 a monthly basis while some are paid on a bimonthly. The
2 information I have is that the close of the last payroll period
3 was August 15th, 2018. We can check to see if that coincides
4 with the monthly and bimonthly, or if there's a separate
5 payroll closing period date for the monthlies that will be
6 coming later this month.

7 HEARING OFFICER MURTAGH: Okay. And Mr. Meiklejohn?

8 MR. MEIKLEJOHN: My understanding about the August 15th is
9 correct for bimonthlies. I guess I'm not sure why I believe
10 this, but my understanding was that the monthlies are paid the
11 end of the month. Maybe it's the beginning of the month. But
12 I think the payroll period would end at the end of the month,
13 right? I believe it's the end of the month for the monthly
14 people.

15 HEARING OFFICER MURTAGH: Okay. Now, for the Employer,
16 the on-site representative, you know, we would be looking for
17 one for each side, of course. I don't know if now would be the
18 ideal time to do it or if you would prefer to just include it
19 in your post-hearing brief. So it would be five
20 representatives with name, address, email, phone number.

21 MR. PORZIO: So I've handled a number of multi-location
22 elections before. I've never given a employer rep for each of
23 the five.

24 HEARING OFFICER MURTAGH: Um-hum.

25 MR. PORZIO: I'm certainly happy to give you one



1 representative that's going to be the point person --

2 HEARING OFFICER MURTAGH: Okay, so why don't --

3 MR. PORZIO: -- and that those -- that information get
4 disseminated to whoever else is going to be in charge of
5 specific locations.

6 HEARING OFFICER MURTAGH: Perfect. Okay. So why don't we
7 do that?

8 (Counsel confer)

9 MR. PORZIO: Yeah. So Mr. Hearing Officer, I'll send you
10 an email and copy the unit on it in terms of who the on-site
11 rep will be for notices.

12 HEARING OFFICER MURTAGH: Okay. Why don't we go off the
13 record?

14 (Off the record at 1:23 p.m.)

15 HEARING OFFICER MURTAGH: Back on the record. So one
16 additional preliminary matter, both directed to Petitioner and
17 the Employer, if an election is directed, may the Region
18 communicate with your election observer regarding election
19 procedures and any issues that arise during the election, pre-
20 election conference, and the ballot count?

21 MR. MEIKLEJOHN: Say that one again?

22 HEARING OFFICER MURTAGH: So if an election is directed,
23 may the Region communicate with your election observer
24 regarding election procedures and any issues that arise during
25 an election, the pre-election conference, and the ballot count.

1 MR. MEIKLEJOHN: Yes.

2 HEARING OFFICER MURTAGH: Yes. Okay.

3 MR. PORZIO: Yes.

4 HEARING OFFICER MURTAGH: Okay. Now, turning to our off-
5 the-record discussions, so first, the Regional Director has
6 considered Employer Exhibit 9. As we discussed earlier, he is
7 permitting a briefing here. Briefs will be due on September
8 4th, a Tuesday, which should be seven days after receipt of the
9 briefs by parties.

10 We'll close the hearing today but, you know, leave it open
11 with --pending receipt of what will be numbered Employer
12 Exhibit 11. And as we discussed off the record, that will be a
13 document which contains the contact information of the onsite
14 rep, and will also have a rough breakdown on the number of
15 voters per location, you know, as accurate as can be put
16 together in that period of time.

17 Whether or not that comes in, the record will be closed on
18 September 4th. So that document will be due on September 4th,
19 which is the same day as the briefs. It shouldn't be included
20 as an exhibit to the briefs. It should be a separate document
21 numbered as an Employer exhibit.

22 Further, during off-the-record discussions, Mr.
23 Meiklejohn, you indicated that you sought to amend the petition
24 at this time; is that correct?

25 MR. MEIKLEJOHN: That's correct. The Employer has



1 objected to the inclusion in the unit description of the phrase
2 "or anyone with substantially equivalent qualifications who
3 conducts similar work" in the inclusions. And we have
4 considered their objections to that language, and we have
5 agreed to amend the petition to remove that phrase so that it
6 would read -- and the unit description, "included all post-
7 doctoral researchers who have received a doctorate, or its
8 professional equivalent, who provide services to the
9 University, including post-doctoral research
10 scientists/scholars, post-doctoral research fellows, and
11 associate research scientists/scholars, at all of the
12 Employer's facilities."

13 By doing so, we are not waiving the right to raise any
14 issues if we find someone who appears to fit the unit
15 description and has been misclassified.

16 HEARING OFFICER MURTAGH: And Mr. Porzio?

17 MR. PORZIO: No objection. We appreciate the Union
18 modifying the petition accordingly.

19 HEARING OFFICER MURTAGH: Okay. I will, at this time,
20 defer the ruling on that to the Regional Director's decision
21 and direction of election.

22 And so moving on, so the Regional Director will issue a
23 decision in this matter as soon as practical, and will
24 immediately transmit the document to the parties and their
25 designated representatives by email, facsimile, or by overnight

1 mail if neither an email address nor facsimile number is
2 provided.

3 If an election is directed, the Employer must provide the
4 voting list to be timely filed and served. The voter list must
5 be received by the Regional Director and the parties need the
6 direction within two business days after the issuance of the
7 direction list, a longer period based on extraordinary
8 circumstances, as specified in the decision and direction of
9 election. And for the record, I will refer him or her to Mr.
10 Porzio's position on a five-day period discussed earlier in the
11 hearing.

12 A certificate of service on all parties must be filed with
13 the Regional Director when the voter list is filed, and the
14 Region will no longer serve the voter list. The Employer must
15 submit the voter list in electronic format approved by the
16 General Counsel unless the Employer certifies that it does not
17 have the capacity to produce the list in the required format.

18 The list must be filed in common, everyday electronic file
19 formats that can be searched. Accordingly, unless otherwise
20 agreed to by the parties, the list must be provided in a table
21 in a Microsoft Word file or a file that is compatible with
22 Microsoft Word.

23 The first column of the list must begin with each
24 employee's last name, and the list must be alphabetized overall
25 or by Department by last name. Because the list will be used

1 during the election, the font size of the list must be
2 equivalent to Times New Roman 10 or larger. That font need not
3 be used, but the font must be that size or larger. And a
4 sample optional form for the list is provided on the NLRB
5 website at www.nlr.gov.

6 The Board stated that it is presumptively appropriate for
7 the Employer to produce multiple versions of the list where the
8 data required is kept in separate databases or filed, so long
9 as all of the list link the information to the same employees,
10 using the same names and the same order as provided within the
11 allotted time.

12 If the Employer provides multiple lists, the lists used at
13 the election will be the list containing the Employer's (sic)
14 names and addresses. List must include full names, work
15 location, shifts, job classifications, and contact information,
16 including home addresses, available personal email addresses,
17 and available home and personal cellular numbers of all
18 eligible employees.

19 Employer must also include a separate section of that
20 list, the same information for those individuals the parties
21 have agreed will be permitted to vote subject to challenge, or
22 those individuals who, according to the decision and direction
23 of election, will be permitted to vote subject to challenge.

24 So the parties have already presented their closing
25 arguments. The Regional Director, as we've discussed, will be



1 permitting the filing of post-hearing briefs to be received by
2 Tuesday, September 4th.

3 The parties are reminded at this time that they should
4 request an expedited copy of the transcript from the court
5 reporter. Late receipt of the transcript will not be grounds
6 for an extension of time to file briefs if the Regional
7 Director has allowed the filing of post-hearing briefs.

8 If nothing is further, the hearing will now be closed
9 pending receipt of Employer's Exhibit 11 on September 4th. Are
10 there any final matters the parties wish to discuss? Mr.
11 Meiklejohn?

12 MR. MEIKLEJOHN: Nothing further.

13 HEARING OFFICER MURTAGH: Okay.

14 MR. PORZIO: One minor point, Mr. Hearing Officer. Given
15 that we have -- I think there's agreement between the
16 Petitioner and the University that there will be -- if there's
17 an election, it will be conducted over five or -- multiple
18 polls, let's just say. Will the direction -- decision and
19 direction of election, if one issues, indicate whether the
20 voter eligibility list should be compiled based on location, or
21 one master list based on alphabetical order?

22 HEARING OFFICER MURTAGH: The decision will outline how it
23 should be provided. I presume it will be similar to the format
24 that the list was included with the statement of position. So
25 a searchable Excel document --

1 MR. PORZIO: And sorry, maybe I wasn't clear. If there
2 are, let's say, for example, 100 petition for individuals at
3 the Nevis location, will the Regional Director want a list of
4 those 100 for Nevis, or will that -- will the Regional Director
5 prefer a list of all the individuals and, you know, their
6 department location listed? The reason I'm asking is, in the
7 event that there's an election scheduled, typically, the Board
8 can either have anyone vote at any of the polling locations or
9 they're designated to vote at a polling location. I'm trying
10 to figure out if there's been any sense of that so we can have
11 our list be done accordingly.

12 HEARING OFFICER MURTAGH: I have not heard. I think with
13 the - the prior Columbia cases could be a useful guide --

14 MR. PORZIO: Okay. Fine.

15 HEARING OFFICER MURTAGH: -- but I will --

16 MR. MEIKLEJOHN: Can I -- can I speak to that?

17 HEARING OFFICER MURTAGH: I asked -- yeah.

18 MR. MEIKLEJOHN: In my experience, the way that it's
19 consistently done is that you have a list specifying the people
20 who work at a given location.

21 MR. PORZIO: Um-hum.

22 MR. MEIKLEJOHN: But you also have a master list --

23 MR. PORZIO: Absolutely.

24 MR. MEIKLEJOHN: -- so that if somebody shows up to vote
25 at a different location --

1 MR. PORZIO: There would be a challenge.

2 MR. MEIKLEJOHN: -- they can vote subject to challenge.
3 But if you don't have the location-by-location lists, then in
4 theory, people could go from location to location and vote five
5 times, and you'd have no way of preventing that. So I think it
6 really has to be done --

7 MR. PORZIO: Yeah, that's certainly our preference to do
8 it by location, so --

9 HEARING OFFICER MURTAGH: Yes. And that would be ours, as
10 well.

11 MR. PORZIO: Okay.

12 MR. MEIKLEJOHN: But we still need the master list, as
13 well.

14 MR. PORZIO: Correct, yeah.

15 HEARING OFFICER MURTAGH: But that will, you know, be
16 outlined in the decision direction of election, of course.

17 Okay. So hearing nothing further, the hearing is now
18 closed. Of course, pending receipt of Employer Exhibit 11.
19 Upon receipt, we will issue an order; or receive no document on
20 September 4th, we will issue an order formally closing the
21 hearing at that time. Okay. Thank you.

22 **(Whereupon, the hearing in the above-entitled matter was closed**
23 **at 1:53 p.m.)**

24

25

C E R T I F I C A T I O N

1
2 This is to certify that the attached proceedings before the
3 National Labor Relations Board (NLRB), Region 2, Case Number
4 02-RC-225405, Trustees of Columbia University in the City of
5 New York and Columbia Postdoctoral Workers and United
6 Automobile, Aerospace and Agricultural Implement Workers of
7 America (CPW-UAW), at the 26 Federal Plaza, Suite 3614, New
8 York, NY 10278, on August 23, 2018, at 9:23 a.m. was held
9 according to the record, and that this is the original,
10 complete, and true and accurate transcript that has been
11 compared to the reporting or recording, accomplished at the
12 hearing, that the exhibit files have been checked for
13 completeness and no exhibits received in evidence or in the
14 rejected exhibit files are missing.

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ADRIAN MORRIS

19 Official Reporter
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