

Exhibit 11

Smith, Carmen A (HIN)

From: Smith, Carmen A (HIN)
Sent: Thursday, August 29, 2019 2:00 PM
To: Coleman, Kimberly P (HIN); Backman, Jeromy; Ellena, Joseph
Cc: Graham, Angela; Yenerall, Jodi J.(HIN)
Subject: RA Reserved Parking

Importance: High

Good day,

Employee David Bourke was assigned reserved parking# 1011 which was installed by engineering. The spot is located by building 200 in the back of outpatient pharmacy. Every morning when he arrives before 6am someone is parked in his spot. He has reached out to police service several times and has not received a response. He needs a parking placard for reserved spot #1011 and he needs a number for which he can call to report the car being parking in his spot. It is the same car every morning so I am assuming that it is an employee who possibly works overnight. Please assist as this is a reasonable accommodation.

Best,

Carmen A. Smith, BSHRM, VHA-CM
Human Resources Specialist
Reasonable Accommodation Coordinator
Department of Veterans Affairs
VISN 12-HRMS
Ph: [REDACTED]
Fax: (708) 202-7345

"Half of solving any problem is the ability and willingness to admit the problem exist"

~Pastor JP Maddox



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How was your HR service today?

Exhibit 12

1 IN THE UNITED STATES DISTRICT COURT
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3 NORTHERN DISTRICT OF ILLINOIS
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5 EASTERN DIVISION

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24 DAVID BOURKE,)
Plaintiff,)
vs.) No. 22 CV 3164
DENIS McDONOUGH, SECRETARY,)
U.S. DEPARTMENT OF VETERANS)
AFFAIRS, UNITED STATES OF)
AMERICA,)
Defendants.)

The deposition of CARMEN SMITH, called for
examination pursuant to Notice and the Rules of
Civil Procedure for the United States District
Courts pertaining to the taking of depositions,
taken before Tabitha Watson, an Illinois Shorthand
Reporter, via videoconference, on the 31st day of
May, 2023, at the hour of 9:59 a.m.

Reported by: Tabitha Watson, CSR, RPR
License No.: 084-004824



1 APPEARANCES:

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16 Representing the Defendants.



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WITNESS

EXAMINATION

CARMEN SMITH

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EXHIBITS

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1 MS. REPORTER: For the record, this deposition
2 is being taken by Zoom videoconference and the oath
3 will be administered by me remotely. If there are
4 no objections to this, would counsel please state
5 so and identify themselves for the record, starting
6 with plaintiff's attorney.

7 ATTORNEY FLAXMAN: I am Kenneth Flaxman for the
8 plaintiff.

9 ATTORNEY FLORES: And I am Nicole Flores for
10 the defendant. No objection.

11 ATTORNEY FLAXMAN: Plaintiff has no objection
12 also.

13 (witness sworn via videoconference.)

14 CARMEN SMITH,
15 called as a witness herein, was examined and
16 testified as follows:

17 EXAMINATION

18 BY ATTORNEY FLAXMAN:

19 Q. Good morning. Could you state your name
20 and spell your last name for us, please?

21 A. Yes. Carmen Smith, S-M-I-T-H.

22 Q. And what's your business or occupation?

23 A. I am a lead human resource specialist with
24 the Department of Veteran Affairs.



1 Q. For how long have you worked for the
2 Department of Veteran Affairs?

3 A. For 13 and a half years.

4 Q. And what did you do before that?

5 A. I worked in the private sector HR,
6 customer service, quality assurance.

7 Q. Okay. I think in one of your e-mails you
8 told Mr. Bourke that you had served in the
9 military?

10 A. No. I've never served. My father served.

11 Q. Okay. Somebody else.

12 All right. Were you the reasonable
13 accommodation coordinator at Hines before December
14 9th of 2019?

15 A. Before December 9th, yes.

16 Q. December 9th. And did you return to that
17 position in June of 2020?

18 A. Yes.

19 Q. How did you -- what were your duties as
20 the reasonable accommodation coordinator?

21 A. As the reasonable accommodation
22 coordinator, my duties are basically a liaison
23 between management and the employee. So I am
24 responsible for walking employees and management



1 through the reasonable accommodation process,
2 ensuring that all the documents are in, and then
3 reviewing the medical documentation to determine if
4 the employee is indeed a qualified individual with
5 a disability which limits one or more major life
6 activities.

7 Q. And in the course of your work as the RA
8 coordinator, did you meet the plaintiff in this
9 case, David Bourke?

10 A. Yes.

11 Q. How did you first meet him, if you recall?

12 A. If I recall correctly, he submitted a
13 reasonable accommodation request to his supervisor
14 who then forwarded the request to me and then I met
15 him as part of the interactive process where I met
16 with both him and his supervisor to discuss his
17 reasonable accommodation request.

18 Q. Could you explain to us what you meant by
19 interactive process?

20 A. Well, the interactive process, it's a
21 communication between the employee and supervisor
22 in consultation with the reasonable accommodation
23 coordinator to determine how to best respond to the
24 employee's request.



1 Q. And did you engage in that interactive
2 process with Mr. Bourke about his reasonable
3 request?

4 A. Yes.

5 Q. Do you recall about when that was -- when
6 that began?

7 A. I engaged with him back in 2018 I believe.

8 Q. And what was the result if you recall of
9 that interactive process, Mr. Bourke's RA request?

10 A. The result of the interactive process was
11 that his supervisor listened to his request,
12 learned of his limitations, and then kind of
13 brainstormed ideas of how to best accommodate him
14 and, if I recall correctly, his request at that
15 time was approved.

16 Q. And did he get a close parking spot?

17 A. Yes, I believe that is correct. That was
18 one of his requests.

19 Q. Do you remember in August -- well, did you
20 look at any documents to prepare for this
21 deposition?

22 A. Yes, I did. I glanced at them. I can't
23 quite recall them all.

24 Q. Can you tell us which documents you can



1 recall having looked at?

2 A. I looked at the affidavit that I signed as
3 well as I did review some e-mails that were e-mail
4 communications between Mr. Bourke and myself as
5 well as management and myself.

6 Q. Do you recall if you got an e-mail from
7 August 29th of 2019 about a parking placard?

8 A. Vaguely, yes.

9 Q. Let me put that on the screen.

10 A. Okay. That would definitely help.

11 Thanks.

12 Q. If I can get that working. Is it there?

13 Yes.

14 A. Yes. Mm-hmm.

15 Q. Do you see it's marked Smith Exhibit 1 at
16 the bottom of the page and to the right it says
17 Page 1?

18 A. Mm-hmm.

19 Q. And then we're looking at an e-mail, is
20 that an e-mail that you wrote or sent?

21 A. Yes.

22 Q. On August 29th, 2019?

23 A. Yes.

24 Q. What did you mean that his reserved



1 parking numbering 1011 was installed by
2 engineering? How did engineering install a parking
3 spot?

4 A. It kind of looks like a handicapped sign
5 almost. You know how you park somewhere and they
6 put the pole with the sign? That's what that is.
7 Engineering would have installed a sign that
8 says -- I believe it says like reserved parking and
9 then it has number -- this number that was assigned
10 to him, 1011.

11 Q. Were you involved in getting that and that
12 parking spot being assigned to Mr. Bourke?

13 A. Mr. Bourke -- if I recall, the employee
14 usually bears the responsibility of telling us
15 which parking spot would be most convenient for
16 them. Hines has a huge campus, so that's the
17 policy there is that they would -- the employee
18 would let us know which parking spot would be the
19 best for them.

20 Q. Now, to change Mr. Bourke's parking spot,
21 would the procedures of the VA require that there
22 be another interactive process?

23 A. It can. The interactive process is
24 ongoing. So Mr. Bourke can definitely request to



1 re-engage or the facility, the agency can request
2 to re-engage at any time.

3 Q. Okay. Let me stop sharing so I can look
4 at my notes.

5 A. Mm-hmm.

6 Q. Stop share. Okay. Thank you.

7 Are there rules and regulations of the VA
8 that you followed in doing your job with reasonable
9 accommodation requests?

10 A. Can you please explain further? I'm not
11 sure I quite understand.

12 Q. Well, is there a policy manual at the VA
13 about -- that relates to reasonable accommodation
14 requests?

15 A. Yes. There's VA Handbook 5975.1.

16 Q. And did you follow that in your work?

17 A. Yes, sir.

18 Q. Does that policy require something about
19 an undue hardship when there's a change in a
20 reasonable accommodation?

21 A. Yes. An undue hardship is in the policy
22 manual.

23 Q. Now, did you ever learn that at some time
24 after 2019 Mr. Bourke's reasonable accommodation



1 parking spot that you had been involved with was
2 changed?

3 A. After 2019, yes, I did learn of that --
4 well, no, it wasn't changed. I believe he just had
5 some issues with it.

6 Q. Well, was he no longer able to park at the
7 same parking spot?

8 A. I believe some issues with COVID had
9 arisen where they had closed some particular doors
10 due to COVID and COVID entry and people entering
11 and things like that. I wasn't the RA coordinator
12 at the beginning of COVID, so I'm not really sure
13 exactly what transpired at the very beginning and
14 how they determined which doors would be closed.

15 Q. Why did you stop being RA coordinator?

16 A. Well, at the present time when I was the
17 RA coordinator, it only went to GS9. So there was
18 no -- there was no promotion, no room for
19 advancement. So I left RA coordinator to become a
20 recruitment -- recruitment and placement HR
21 specialist and then once I got in that role, then
22 they decided to reclassify the RA role and give it
23 promotion potential and then I was asked to reapply
24 and I did.



1 Q. Okay. After you returned to the position
2 of RA coordinator, do you remember the date in June
3 of 2020 when that happened?

4 A. No. It was early June. I can't recall
5 exactly. I believe it was early June, like maybe
6 the first pay period of June or something like
7 that.

8 Q. Okay. After you returned to RA
9 coordinator in early June, did you become involved
10 again with Mr. Bourke's RA needs?

11 A. I believe so. I don't believe it was
12 immediate, but sometime during that next tenure of
13 being the RA coordinator from 2020 to 2021, I did.

14 Q. And what's your present position?

15 A. I am the lead human resource specialist RA
16 coordinator, but I'm not with Hines VISN 12. I am
17 with VISN 20 Department of Veteran Affairs. So
18 it's on the west coast. So I left Hines April 2021
19 to join the VISN 20 team.

20 Q. So just what city are you in now?

21 A. Oh, I'm in Chicago virtually; however, I
22 service Portland, Oregon; Seattle, Washington;
23 Anchorage, Alaska; and Boise, Idaho, that region.

24 Q. Okay. Do you remember back in October of



1 2020 when there was some issue about changing
2 Mr. Bourke's reasonable accommodation parking spot?

3 A. Yeah. I did review those documents, yes.

4 Q. Okay. And was there ever a showing of an
5 undue hardship that the agency would have if they
6 didn't change his parking spot?

7 A. I don't believe, if I recall correctly,
8 that they showed an undue hardship.

9 Q. Okay. Let me -- let's go over the
10 documents if I can get this going again.

11 A. Sure.

12 Q. Let me get my magic notes, which I'll try
13 not to share. Oh, good. I think -- are we sharing
14 my magic notes, my work product?

15 ATTORNEY FLORES: I don't see anything.

16 ATTORNEY FLAXMAN: Well, all right. So ...

17 BY ATTORNEY FLAXMAN:

18 Q. Okay. Looking at Page 2 of Smith
19 Exhibit 1, is that your e-mail at the bottom of
20 that page?

21 A. Yes.

22 Q. And did you write it to Angela Morris?

23 A. Yes.

24 Q. Who was Angela Morris at that time?



1 A. I believe she was the acting associate
2 director.

3 Q. Do you know if she's still there?

4 A. I have no idea.

5 Q. And, well, in your e-mail you wrote
6 something about OGC for concurrence, do you see
7 that?

8 A. Mm-hmm.

9 Q. What is OGC?

10 A. The Office of General Counsel.

11 Q. Do you know if the VA ever went through
12 the Office of General Counsel about Mr. Bourke's RA
13 requests?

14 A. I don't recall. If they did, it would be
15 in the documentation.

16 Q. Okay. And is it -- am I correct that
17 under the procedure manual at the VA the agency
18 would have to prove undue hardship to change a
19 reasonable accommodation parking spot?

20 A. That is correct. For any reasonable
21 accommodation, they would have to prove undue
22 hardship.

23 Q. And have you ever seen any documents in
24 which the agency proved undue hardship or changing



1 Mr. Bourke's parking spot?

2 A. Not that I recall.

3 Q. Okay. Let's turn to Page 3 of Exhibit 1
4 and is this exhibit -- is this an e-mail that you
5 sent on October 13th of 2020?

6 A. Yes.

7 Q. And does it accurately summarize your
8 conversation with Mr. Bourke?

9 A. I don't recall the conversation, but if
10 that's what I put in the e-mail. That was so long
11 ago.

12 Q. Do you know if he had a scooter that he
13 used to move from place to place back in October of
14 2020?

15 A. Yeah, I do recall a scooter.

16 Q. And at the last paragraph you wrote, due
17 to the sensitivity of this matter. Do you recall
18 what you meant by that?

19 A. Wait one second.

20 Q. That paragraph starts, I am not in
21 agreement with the three suggestions.

22 A. Correct. I said -- because I'm neutral,
23 so I'm not in agreement or disagree with it. But
24 due to the sensitivity of the matter, I recommend



1 leaving the entrance open because of the employee,
2 this is a reasonable accommodation request. It's a
3 sensitive matter.

4 Q. Okay. Let's go to Page 8. And is that
5 another -- is that an e-mail that you sent on
6 October 8, 2020 at 12:36 p.m.?

7 A. Yes.

8 Q. Do you recall making the suggestion that
9 the back -- that the pharmacy entrance not be
10 closed for Mr. Bourke?

11 A. Yes. That was my recommendation per this
12 e-mail.

13 Q. Okay. And was it your assessment -- was
14 it your view back in October that Mr. Bourke's
15 reasonable accommodation was -- had been effective
16 for him?

17 A. Correct.

18 Q. Going back to Page 7, which has in the
19 middle -- is that an -- do you see the e-mail that
20 you sent on October 8, 2020 at 12:17 p.m.?

21 A. Yes.

22 Q. And then the second sentence, you wrote,
23 the facility would have to prove that this is truly
24 an undue hardship on the agency.



1 A. Correct.

2 Q. **What did you mean by that?**

3 A. The agency -- the burden is on the agency

4 to prove that the accommodation is not effective.

5 The employee states that it's effective for him.

6 So the agency would have to prove why it would not

7 be effective.

8 Q. **And would the agency have to have reduced**
9 **that in writing, its determination that a**
10 **modification of the reasonable accommodation was**
11 **required?**

12 A. Yeah. They would have to provide a
13 written justification as to why this accommodation
14 is not effective and then provide documentation to
15 support. That would then have to go to the Office
16 of General Counsel to review and then concur with
17 their decision. However, the decision --
18 concurrence from OGC or recommendation from the
19 reasonable accommodation coordinator, we don't make
20 the decision. The decision is ultimately up to the
21 agency to decide whether or not they will take the
22 recommendation or concurrence or nonconcurrence
23 from the OGC.

24 Q. **Have you ever seen any documentation that**



1 indicates that the agency made a showing of undue
2 hardship --

3 A. Not that I can recall.

4 Q. -- with respect to Mr. Bourke's parking
5 spot at any time after he got it in 2019 I think?

6 A. Not that I can recall.

7 Q. Okay. If you look at Page 6, that's an
8 e-mail from you to Samantha Tepper. Do you know
9 who Samantha Tepper was or is?

10 A. She worked in the director's office. I'm
11 not sure what her exact -- I see what her title is.
12 I'm not sure what her role, if that makes sense,
13 is.

14 Q. Okay. Does this e-mail establish an undue
15 hardship that required Mr. Bourke's parking spot be
16 changed?

17 A. No.

18 Q. Does it say who made the decision to make
19 the pharmacy entry at Hines an exit-only?

20 A. No. It doesn't state that.

21 Q. Do you know who made that decision?

22 A. No, I don't. I'm not sure. It could have
23 been -- it was someone in the -- it had to be
24 someone in the director's office. Possibly Angela



1 Morris. I'm not sure. Or that could have been a
2 compilation of director's office and engineering.
3 I'm unsure. I wouldn't be privy to that
4 information.

5 Q. If you look at Page 5, at the top is
6 another e-mail from you dated November 20th, 2020
7 at 11:53 a.m., do you see that?

8 A. Yes.

9 Q. In that e-mail, you state that the
10 employee cannot walk more than 15 feet without a
11 cane or walker. How did you make that
12 determination?

13 A. I believe it had to be from some medical
14 documentation that he would have submitted.

15 Q. And is that the same for the next
16 sentence, with cane or walker no more than 40 or
17 50 feet?

18 A. Yes.

19 Q. If we go back to -- let's go back to
20 Page 3. I think we did Page 3.

21 A. Yes.

22 Q. Let's look at Page 4. This is an e-mail
23 from December 20th. Well, it's an e-mail thread.
24 It's two e-mails. There's -- do you know who Brian



1 Fong is?

2 A. Excuse me. No. I don't believe I've ever
3 met him personally.

4 Q. Well, is there a position called facility
5 planner?

6 A. There could be. I'm not familiar.

7 Q. Did you ever learn that in December of
8 2020 Mr. Fong -- let's go back.

9 December 2, 2020, were you still the RA
10 coordinator?

11 A. No. I believe I had transitioned at that
12 time to recruitment and placement. I was
13 officially hired in recruitment and placement in
14 September of 2020, but we were waiting on a new RA
15 coordinator. So I'm not sure exactly -- I
16 transitioned sometime in December, but I'm not sure
17 if I was here or not.

18 Q. Do you know who the new RA coordinator is
19 or was?

20 A. At that time, it was Shawn Scheirer.

21 Q. Do you ever talk with Mr. Scheirer about
22 Mr. Bourke's RA?

23 A. Not that I can recall. I know when he
24 came on board, I did do a turnover report for him.



1 whether or not Mr. Bourke was included on that
2 turnover, I can't recall.

3 Q. what's a turnover report?

4 A. where I basically -- open cases that I
5 have time, when the new RA coordinator comes on
6 board, I let him know where we are in the process
7 and provide details to him so that he can pick up
8 right where I left off and begin to follow-up on
9 these cases.

10 Q. Do you still have a copy of that turnover?

11 A. No, I don't. Probably not. No.

12 Q. Do you know where we could find a copy?

13 A. Shawn may have it or the new RA
14 coordinator may still have one. I don't know.
15 It's not something that's procedure. It's just
16 something I did as a professional courtesy.

17 Q. When is the last time you spoke with
18 Mr. Bourke?

19 A. Oh, I believe he sent me an e-mail maybe
20 right after I left Hines I believe, but I haven't
21 actually spoken -- verbally spoken with him. I
22 believe the last communication was sometime right
23 after I left Hines.

24 ATTORNEY FLAXMAN: Okay. I have nothing



1 further.

2 ATTORNEY FLORES: Okay. I just have a couple
3 follow-up questions, Ms. Smith.

4 EXAMINATION

5 BY ATTORNEY FLORES:

6 Q. Just to be clear, were you the -- you
7 were -- were you the RA specialist from March of
8 2020 through May of 2020?

9 A. No.

10 Q. Okay. And then you came back and then
11 left again in December of 2020, is that what you
12 just testified to?

13 A. No. I left in December of 2019.

14 Q. 2019?

15 A. Yeah. December 2019 through June 2020 and
16 then from June 2020 to April, I believe, 2021.

17 Q. Okay. Were you involved at all in
18 Mr. Bourke's accommodations or interactive process
19 during the time period of March 2020 through May of
20 2020?

21 A. No. I wasn't in that position.

22 Q. Okay. And to your knowledge when you were
23 involved in the interactive process in 2019 with
24 Mr. Bourke, to your knowledge, did he request a --



1 a reasonable accommodation scooter as part of his
2 request for a parking spot?

3 A. Not to my knowledge.

4 Q. And when you testified earlier that the
5 agency had not documented undue hardship, were you
6 referring to the time period in which you were
7 involved in Mr. Bourke's accommodations --

8 A. Yes.

9 Q. -- after you returned?

10 A. Yes.

11 Q. Okay. So did you have any knowledge or
12 oversight into the process from March of 2020 to
13 May of 2020 --

14 A. No.

15 Q. -- and to whether or not there was undue
16 hardship to the agency at that time?

17 A. No.

18 Q. Okay. And at the time that you became
19 involved once again, in the fall of 2020, had the
20 pharmacy doors been reopened after a period of
21 being closed?

22 A. I don't recall.

23 ATTORNEY FLORES: Okay. I think that's all my
24 questions.



1 ATTORNEY FLAXMAN: I have nothing further.

2 Signature?

3 ATTORNEY FLORES: We'll review.

4 (witness excused.)

5 (Deposition concluded at

6 10:25 a.m.)

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1 IN THE UNITED STATES DISTRICT COURT

2 NORTHERN DISTRICT OF ILLINOIS

3 EASTERN DIVISION

4 DAVID BOURKE,)

5 Plaintiff,)

6 vs.) No. 22 CV 3164

7 DENIS McDONOUGH, SECRETARY,)

8 U.S. DEPARTMENT OF VETERANS)

9 AFFAIRS, UNITED STATES OF)

10 AMERICA,)

11 Defendants.)

12 This is to certify that I have read the
13 transcript of my deposition taken in the
14 above-entitled cause by Tabitha Watson, Certified
15 Shorthand Reporter, on the 31st day of May, 2023,
16 and that the foregoing transcript accurately states
17 the questions asked and the answers given by me as
18 they now appear.

19
20 _____ CARMEN SMITH

21 SUBSCRIBED AND SWORN TO
22 before me this _____ day
23 of _____, 20_____.
24 _____

Notary Public



1 STATE OF ILLINOIS)

2) SS:

3 COUNTY OF C O O K)

4 I, Tabitha Watson, an Illinois Shorthand
5 Reporter, do hereby certify that heretofore,
6 to-wit, on the 31ST day of May, 2023, personally
7 appeared before me, via videoconference, CARMEN
8 SMITH, in a cause now pending and undetermined in
9 the United States District Court, Northern District
10 of Illinois, Eastern Division, wherein DAVID BOURKE
11 is the Plaintiff, and DENIS McDONOUGH, SECRETARY,
12 U.S. DEPARTMENT OF VETERANS AFFAIRS, UNITED STATES
13 OF AMERICA are the Defendants.

14 I further certify that the said witness was
15 first duly sworn to testify the truth, the whole
16 truth and nothing but the truth in the cause
17 aforesaid; that the testimony then given by said
18 witness was reported stenographically by me in the
19 presence of the said witness, and afterwards
20 reduced to typewriting by Computer-Aided
21 Transcription, and the foregoing is a true and
22 correct transcript of the testimony so given by
23 said witness as aforesaid.

24 I further certify that the signature to the



1 foregoing deposition was reserved by counsel for
2 the respective parties.

3 I further certify that the taking of this
4 deposition was pursuant to Notice, and that there
5 were present at the deposition the attorneys
6 hereinbefore mentioned.

7 I further certify that I am not counsel for nor
8 in any way related to the parties to this suit, nor
9 am I in any way interested in the outcome thereof.

10 IN TESTIMONY WHEREOF: I have hereunto set my
11 hand this 14th day of June, 2023.

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18 TABITHA J. WATSON, CSR, RPR
19
20
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LIC. NO. 084-004824



1 McCorkle Litigation Services, Inc.
2 200 N. LaSalle Street - Suite 770
3 Chicago, Illinois 60601-1014

4 June 14th, 2023
5 ATTORNEY NICOLE FLORES
6 219 South Dearborn Street, 9th Floor
7 Chicago, Illinois 60604

8 IN RE: Bourke vs. McDonough
9 COURT NUMBER: 22 CV 3164
10 DATE TAKEN: May 31st, 2023
11 DEPONENT: CARMEN SMITH

12 Dear Ms. Flores,

13 Enclosed is the deposition transcript for the
14 aforementioned deponent in the above-entitled
15 cause. Also enclosed are additional signature
16 pages, if applicable, and errata sheets.

17 Per your agreement to secure signature, please
18 submit the transcript to the deponent for review
19 and signature. All changes or corrections must be
20 made on the errata sheets, not on the transcript
21 itself. All errata sheets should be signed and all
22 signature pages need to be signed and notarized.

23 After the deponent has completed the above, please
24 return all signature pages and errata sheets to me
25 at the above address, and I will handle
26 distribution to the respective parties.

27 If you have any questions, please call me at the
28 phone number below.

29 Sincerely,

30 Cindy Alicea
31 Signature Department

32 Tabitha Watson
33 Court Reporter

34 cc: All attorneys of record.



Exhibits	7	B	concluded	documented	find
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Exhibit 13

Neczek, Joseph

From: Bourke, David
Sent: Monday, July 6, 2020 1:39 PM
To: Neczek, Joseph
Subject: RE: Installing the scooter lift into my auto?

Cool, thanks will do.

From: Neczek, Joseph <Joseph.Neczek@va.gov>
Sent: Monday, July 6, 2020 1:27 PM
To: Bourke, David <David.Bourke@va.gov>
Subject: RE: Installing the scooter lift into my auto?

Hello Mr. Bourke,
I submitted your Prosthetics order for the lifter on July 1st after our evaluation.
If you wish, you may contact Prosthetics at 708-202-8387 x21277 for a status update.

Thank you,
-Joe

Joseph S. Neczek, MS, RKT, CDRS
Registered Kinesiotherapist/Certified Driver Rehabilitation Specialist
Assistive Technology Specialist
Kinesiotherapy Field Advisory Board & Professional Standards Board

Physical Medicine & Rehabilitation/117C
Edward Hines Jr. VA Hospital
5000 South 5th Avenue
Bldg. 228: Room: 5012
Hines, IL 60141-3030
708-202-8387 ext. 24382
joseph.neczek@va.gov

 Please consider the environment before printing this email

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From: Bourke, David <David.Bourke@va.gov>
Sent: Monday, July 6, 2020 9:19 AM
To: Neczek, Joseph <Joseph.Neczek@va.gov>
Subject: Installing the scooter lift into my auto?

Good morning Joe, I have not yet heard from anyone else since our phone call from last Wednesday when you called me at home? My family was pleased to hear you called and are looking for Hines to install the scooter lift. Do you have any idea on when or who I should be hearing from in the near future?

Thank you, David Bourke
Ambulatory surgery unit Bldg. 200
Basement room B 019 ext. 28019 or 20262 up until 2:20pm
After 2:30pm cell # [REDACTED]

Exhibit 14

1 IN THE UNITED STATES DISTRICT COURT

2 NORTHERN DISTRICT OF ILLINOIS

3 EASTERN DIVISION

4 DAVID BOURKE,)

5 Plaintiff,)

6 Vs.) No. 22-CV-3164

7 DENIS McDONOUGH, SECRETARY)

8 U.S. DEPARTMENT OF)

9 VETERANS AFFAIRS, UNITED)

10 STATES OF AMERICA,)

11 Defendant.)

12 The deposition of JON BEIDELESCHIES,

13 called for examination pursuant to the Rules of

14 Civil Procedure for the United States District

15 Courts pertaining to the taking of depositions,

16 taken remotely before Mary Kay Andriopoulos, a

17 Certified Shorthand Reporter within and for

18 the State of Illinois, on August 10th, 2023 at

19 the hour of 11:00 a.m., via Zoom

20 videoconferencing.

21

22

23 REPORTED BY: MARY KAY ANDRIOPoulos, CSR

24 LICENSE NO. 084-002248



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19 Representing the Defendant.

20
21 ALSO PRESENT:

22 MS. SHEILA FITZPATRICK
23
24



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WITNESS

EXAMINATION

JON BEIDELSCHIES

BY MR. FLAXMAN

4

BY MS. FLORES

26

EXHIBITS

NUMBER

MARKED FOR ID

BEIDELSCHIES Deposition

Exhibit No. 1

(Marked by counsel and attached)

1 (whereupon, the witness was
2 duly sworn.)

3 JON BEIDELSCHIES,
4 having been first duly sworn, was examined and
5 testified as follows:

6 EXAMINATION

7 BY MR. FLAXMAN:

8 Q. Good morning, sir.

9 My name is Kenneth Flaxman, and we are
10 here for a 30(b)(6) deposition of the Department
11 of Veteran Affairs, and you've been sworn under
12 oath.

13 My understanding is that you're here to
14 answer questions on behalf of the agency about
15 two matters.

16 The first is the process used to
17 determine which entrances would be closed for
18 COVID starting in March of 2020.

19 Is that your understanding as to the
20 first area?

21 A. Yes, that's my understanding.

22 Q. Okay. And the second area was the
23 manner in which, if at all, this process
24 considered, quote, RA parking spaces and which



1 doors would be closed.

2 Do you understand that's the second
3 question?

4 A. I understand that as well.

5 Q. And is it your understanding that RA
6 refers to Rehabilitation Act?

7 A. That's not my understanding.

8 Q. What is your understanding that RA
9 refers to?

10 A. I understand that RA refers to
11 reasonable accommodation.

12 Q. All right. Thank you.

13 Could you tell us what your position is
14 with the VA?

15 A. I'm the associate director for
16 operations at the Edward Hines, Jr. VA Hospital.

17 Hines is spelled H-I-N-E-S.

18 Q. And for how long have you been the
19 associate director?

20 A. I've been the permanent associate
21 director of operations since April of 2021.

22 I was previously detailed in the role
23 from January to April of 2021.

24 Q. And where were you employed or what was



1 your -- and what was your position in March of
2 2020?

3 A. I was the assistant director at Hines.

4 Q. Okay. Could you tell us the process
5 used to determine which entrances would be
6 closed for COVID starting in March of 2020?

7 A. Yes. To give some context, in March of
8 2020 COVID was moving its way east/west.

9 We did not have vaccinations. We were
10 seeing a lot of hospitals overrun.

11 In early March of 2020 we were given
12 approximately 48 hours notice over a weekend by
13 VA central office that the following Monday we
14 would need to implement active screening in
15 order to screen for symptoms of staff and
16 patients coming into the hospital.

17 The reason that we were screening was
18 COVID particularly at that time was viewed as
19 highly transmissible, highly virulent, and so
20 the VA central office made the determination to
21 go to active screening in order to put some
22 sorts of controls on to protect the life and
23 safety of veterans and staff.

24 Again, remember at this point there was



1 no vaccination. There was minimal testing.

2 Generally, all decisions related to
3 anything COVID, and this would include the --
4 which entrances were chosen and the manner
5 active screening would be stood up would be done
6 via the incident command structure.

7 So at the -- in the VA system when
8 major incidents take place, standard practice is
9 for the team to stand up an interdisciplinary
10 group known as incident command.

11 At Hines incident command for COVID
12 consisted of executive leadership, clinical
13 leadership, and clinical subject matter experts,
14 and administrative leadership and subject matter
15 experts.

16 Those included our chief and lead of
17 infection control, our lead of infectious
18 disease, a number of clinical leaders that fall
19 into acute medicine, cardiology, some of our
20 respiratory group, our ICU group, nursing
21 leadership.

22 Our administrative team included our
23 emergency manager, our chief of logistics, our
24 chief engineer.



1 So basically all of the key players on
2 the clinical and administrative side would come
3 together, and the incident command would serve
4 essentially as a clearinghouse for decision
5 making related to the stand up and
6 implementation of incidents command -- or excuse
7 me -- stand up and implementation of decisions
8 related to operational changes due to COVID of
9 which I would say active screening and which
10 entrances were a major part of that, and so my
11 recollection is in early March the incident
12 command convened an emergent meeting.

13 We made determinations about which
14 entrances would be open and where we would stand
15 up active screening at Hines effective that
16 following Monday morning.

17 Again, we had very little time to make
18 a determination.

19 The criteria that we used to identify,
20 we are a 147-acre campus, we have a number of
21 different administrative and clinical buildings,
22 and so there were a couple of criteria that we
23 used.

24 One was a recognition that the vast



1 majority of entrances were going to need to be
2 closed from employee or staff or veteran visitor
3 entrance.

4 There were just not enough bodies that
5 we could put towards active screening which
6 would allow us to cover all the entrances that
7 had previously remained open.

8 So we -- one factor was the number of
9 actual bodies and number of thermal handheld
10 thermometers we could deploy which would allow
11 us to take active temperature checks.

12 At that time we were pretty limited in
13 the number of thermometers that we had, and we
14 were relying on detailed or volunteer staff to
15 serve as active screeners. So that was one
16 criteria.

17 Another criteria was a geographic
18 disbursement of the entrances to allow for
19 minimizing the inconvenience to our veterans and
20 staff.

21 If we reduced the -- many hospitals at
22 that time made the decision to limit to one or
23 two entrances.

24 If we were to do that and use our main



1 entrance as the only entry into the -- into the
2 campus, that would require our veterans and
3 staff in some cases to move over a mile
4 internally to get to their work units, and so
5 what we wanted to do was disburse the entrances
6 geographically to allow for more convenience for
7 staff and veterans to be able to access their
8 work units and their clinical areas. So that
9 was the second criteria. Spreading the
10 entrances out enough to lower the impact on our
11 veteran population.

12 Again, the primary driver of our
13 determination is what we needed to do to keep
14 our veterans safe.

15 We did not have an understanding of
16 COVID, and this -- the active screening was our
17 mechanism to protect and keep our folks safe
18 during that time.

19 The third criteria would have been as
20 part of our active screening process, there was
21 an expectation that if visitors or somebody
22 coming into the building met certain symptomatic
23 criteria, that they would be redirected to a
24 secondary screening location, and so a third



1 criteria that we used were entrances that would
2 allow us proximity to a private room in which a
3 nurse could sit, and sit with a symptomatic
4 person to do further triage on their symptoms to
5 make sure if they were symptomatic, that we
6 could limit their internal movement and redirect
7 them to clinical areas where they would be able
8 to get some further care.

9 So generally, safety was the main
10 driver.

11 We were looking at very limiting
12 factors of the number of people, and especially
13 the number of thermometers.

14 I would also add to that that personal
15 protective equipment was required for those that
16 screen; so masks, gowns, gloves, so that was one
17 criteria, geographic disbursement, and then the
18 proximity to a private room we could do
19 secondary screening, those were the primary
20 drivers.

21 Q. In considering or determining which
22 entrances would be closed, was data collected
23 about the number of employees which entered
24 particular entrances each day?



1 A. I would say qualitative data was
2 utilized.

3 Quantitative data in terms of we know
4 X-number of people go through there.

5 We did not have quantitative data,
6 however, we did use qualitative data from our
7 subject matter experts, primarily those clinical
8 folks who worked in the individual buildings by
9 the entrances as well as administrative leaders
10 in other areas about where they thought we would
11 have the ability to get the maximum number of
12 people through.

13 So let me give you an example of that.

14 We know that a sizable portion of our
15 team enters -- our team and our veterans enter
16 through the 228 building, 228 entrance, which is
17 in our mental -- primarily our mental health
18 building.

19 We knew that that was an easterly
20 facing entrance. It was approximate to multiple
21 parking lots. We knew that was a high volume
22 entrance coming in.

23 Our main entrance was obviously our
24 highest volume.



1 Our emergency department was open 24/7.
2 We knew that had to be open, so we wanted to
3 look at where we could -- for lack of a better
4 term -- get the most bang for our buck while
5 also not being duplicative or redundant by other
6 proximate entrances, and so again, we're working
7 with limited staffing and limited supplies,
8 primarily the thermometers, we wanted to
9 maximize the areas we could, minimize
10 duplication, redundancy, and reduce the internal
11 barriers for the bulk of our veterans and staff.

12 **Q. Do you have the exhibits that I've**
13 **marked for today's deposition in front of you?**

14 **Is my audio working?**

15 A. I can hear you.

16 **Q. Okay. Do you have the exhibits?**

17 **Before today's deposition I marked**
18 **13 pages of Exhibit 1.**

19 **Did you get a chance to look at that?**

20 A. Oh, I thought you were directing that
21 to the court reporter. I'm so sorry.

22 **Q. No, no.**

23 A. I have seen the exhibits, yes.

24 **Q. Okay. If you look at Exhibit 1,**



1 Page 1, which is numbered USA000580 in the
2 middle on the bottom, could you tell us what
3 that is?

4 A. Could you give me one moment to pull it
5 up?

6 Q. Sure.

7 A. I've have got them in my e-mail, and I
8 had closed it out.

9 I apologize for the delay. It's taking
10 a moment to pull the deposition exhibits up.

11 Q. Okay.

12 A. All right. The exhibits are up.

13 Would you repeat the question, please?

14 Q. Okay. Looking at Page 1 --

15 A. Yes.

16 Q. -- numbered USA000580, which I think is
17 a two-page document, could you tell us -- well,
18 do you know -- have you ever seen that before?

19 A. Yes.

20 Q. Does that -- well, can you tell us what
21 it is?

22 A. This is a COVID-19 staff update No. 5.
23 It is an all employee e-mail message sent from
24 the Hines postmaster dated Thursday March 12,



1 2020, time stamped 4:25 p.m.

2 Q. Does this set out the -- does it
3 describe the entrances that are going to be open
4 and closed?

5 A. This describes the entrances that will
6 be open and closed effective Monday, March 16th,
7 2020.

8 Q. Okay. And Page 2 is a reference to
9 building 113 blind rehab?

10 A. Yes.

11 Q. And then it says blind rehab employees
12 only.

13 Are there employees at Hines who are
14 blind?

15 A. I don't know.

16 Q. Well, do you know what blind rehab
17 meant?

18 A. Yes. We have an onsite blind
19 rehabilitation center. Building 113 is our
20 blind rehabilitation center.

21 So I interpret this message to be these
22 are employees who work in our blind
23 rehabilitation center, which would be building
24 113.



1 Q. Was there a particular building or
2 entrance for executive staff?

3 A. There is -- there was not a dedicated
4 entrance for executive staff.

5 Primarily executive staff would enter
6 -- the most proximate entrance for executive
7 staff would have been building 1, G section
8 entrance. That is the northernmost entrance in
9 building one. It faces our main parking lot. I
10 would say that is probably apart from the main
11 lobby, the entrance in which the most
12 administrative staff would enter from.

13 So it is the most convenient for
14 administrative staff entering from the northwest
15 side of the parking lot.

16 It was considered to be a high volume
17 entrance area.

18 So given its proximity to the executive
19 suites, which are also in building 1, G section,
20 it's most likely that executive staff would have
21 gone through that entrance, however, that was
22 selected due to the high volume of staff who
23 used that entrance again due to its proximity to
24 the main -- to our main parking lot, which is



1 north of campus.

2 Q. Okay. Could you turn to Page 3 of the
3 exhibit, which is labeled USA000582 at the
4 bottom?

5 A. Yes, I have it.

6 Q. Could you tell us what that is?

7 A. This appears to be COVID-19 staff
8 update No. 6. It's an e-mail sent to all Hines
9 employees from the Hines postmaster. It is
10 dated Friday, March 13th, 2020, time stamped
11 12:09 p.m.

12 Q. And if you look at Page 5, can you tell
13 us what that is?

14 A. Page 5 appears to be -- my Page 5
15 appears to be a duplication of the same or --
16 let's see -- hang on one second. I just want to
17 check the timestamps.

18 It appears to be a duplication of the
19 same.

20 Q. So it's another copy of update No. 6 of
21 the policy?

22 A. I have -- my Page 5 is USA000584. It
23 is an e-mail to all Hines employees from the
24 Hines postmaster, subject line is COVID-19 staff



1 update No. 6. The date is Friday, March 13th,
2 2020. Timestamp is 12:09 p.m. I believe it's
3 the same document as Pages 3 and 4.

4 Q. Could you turn to Page 7, please?

5 A. Page 7, yes. That is -- I have that as
6 USA00 -- I'll just read the timestamp. It's an
7 e-mail to all Hines employees from the Hines
8 postmaster. The subject is COVID-19 staff
9 update No. 15-screening update. It is dated
10 Sunday, March 22nd, 2020 at 4:54 p.m.

11 Q. And am I correct that the policy at
12 Page 7 update No. 15 was slightly different than
13 the original policy of Page 1?

14 A. I have not read them side by side.

15 I assume if we were providing an
16 update, that there would be additional
17 information or reinforcing of previous
18 information.

19 Q. Are you able to tell us about the
20 process that was used to make the changes, if
21 any, between the initial policy and the policy
22 set out in update No. 15?

23 A. I don't recall specifically, but
24 generally all decisions related to COVID



1 operational changes would have been done through
2 the incident command. So a change would have
3 been proposed based on, you know, new guidance
4 from VA central office, new guidance from CDC,
5 what other data we would potentially have based
6 on kind of the experience on the ground.

7 Generally, the way decisions were made
8 through the incident command, not just the
9 entrances, is either an issue would be brought
10 to the table and discussed around the table or a
11 recommendation would be brought to the table
12 from a subgroup, and it would be decided upon in
13 the incident command.

14 I do not recall when we were making
15 decisions about entrances, if it was discussed
16 together or if it was a ratification of a
17 recommendation, but generally, that's how we
18 made decisions during that time.

19 Q. Was the process used to come up with
20 update No. 15 -- did that consider in any way
21 reasonable accommodation parking spaces?

22 A. I do not recall if reasonable
23 accommodation was discussed for this update.

24 Q. Do you recall -- well, let me ask not



1 whether you recall, but was reasonable
2 accommodation -- let me start from the
3 beginning.

4 Were reasonable accommodation parking
5 spaces ever considered in determining which
6 doors would be closed during COVID?

7 A. I recall that that was done generally.

8 I do not recall the timeline when that
9 was done.

10 Generally, my recollection is where we
11 anticipated impact to reasonable accomodation
12 the expectation is that, you know, if it was a
13 parking space, that those staff would be
14 relocated to a proximate space of an open
15 entrance.

16 Q. Was -- and in considering -- in making
17 what you -- making the analysis that you just
18 described or considering moving RA parking
19 spaces, was a determination made that not move
20 -- that providing a closer -- let me start from
21 the beginning.

22 Could you tell us -- let's go to No. 2.
23 Could you tell us the manner in which, if at
24 all, the process used to determine which



1 entrances will be closed for COVID considered RA
2 parking spaces and which doors would be closed?

3 A. As I mentioned earlier, the criteria
4 that we used to determine which spaces would be
5 open were an overarching focus on veteran and
6 staff safety; so one, which entrances did we
7 feel that we had enough staff and enough PPE,
8 and especially enough thermal thermometers to
9 cover, that was factor one.

10 Two was geographic disbursement to make
11 sure that we were able to reduce barriers within
12 the idea of keeping folks safe for, you know,
13 directional geographic layout, and then
14 particularly early proximity to rooms for
15 secondary screening.

16 I do not recall having specific
17 discussions about reasonable accommodations
18 except insofar as where there was anticipated
19 impact for reasonable accommodations that there
20 was an expectation that the team would work with
21 the person with the reasonable accommodation to
22 -- for lack of a better term -- re-accommodate
23 them to within the context of the -- of the
24 entrances.



1 Q. when you said the team would work with,
2 who made up that team?

3 A. So generally for a reasonable
4 accommodation the staff member would work with
5 their direct supervisor who would engage with
6 there is a reasonable accommodation team based
7 out of HR. I believe the acronym is the LRAC,
8 but I don't recall what the acronym stands for.
9 LAR -- LRAC I think is the acronym, but
10 basically there is a team within our human
11 resources that is responsible for the management
12 of HR, so -- excuse me -- there's a team and our
13 HR responsible for reasonable accommodation, and
14 so for any reasonable accommodation to include
15 those during COVID, the expectation is that the
16 employee would work with the supervisor who
17 would work with the reasonable accommodation
18 team to do what they could to accommodate the
19 employee.

20 Q. Well, when you say do what they could,
21 what did you mean by that?

22 A. So reasonable accommodation is an
23 employee identifies an issue that they request
24 an accommodation for.



1 There is an interactive process in
2 which the employee works with the supervisor.
3 works with the RA team to determine whether or
4 not that the agency can accommodate the
5 employee.

6 In some cases an employee will request
7 a reasonable accommodation, which we as the
8 agency are unable to accommodate, so just
9 because an employee requests a reasonable
10 accommodation, does not guarantee that they will
11 get the specific accommodation that they request
12 or that we are even able to accommodate them
13 within the context of their job.

14 Q. Well, was there -- the manner in which
15 the process considered RA parking spaces, does
16 that include the agency taking the initiative to
17 investigate each person who had an RA parking
18 spot and determine whether the COVID -- changes
19 brought about by COVID would cause an undue
20 hardship to that person?

21 A. I do not recall that happening. So if
22 it did, I was not involved with that.

23 Q. So I don't want to put words in your
24 mouth, but it sounds like you were saying that



1 the initiative would be on the employee to
2 initiate the dialogue about a new accommodation.

3 A. My understanding with a reasonable
4 accommodation is that the employee has a
5 responsibility to engage with the agency.

6 So if there was an impact of the
7 reasonable accommodation, I would expect that
8 the employee would communicate that to their
9 supervisor, the supervisor would work with the
10 employee and the reasonable accommodation team
11 to accommodate, if possible, that employee.

12 Q. Let me go back to the exhibit.

13 Looking at Page 10, which I think is
14 the next -- no -- well, Page 10, could you tell
15 us what that -- what that is?

16 A. This is an all staff e-mail. The
17 subject is COVID-19 staff update No. 19,
18 screening and access point changes. It's sent
19 from the Hines postmaster to the Hines all
20 employees. The date is Friday, March 27th,
21 2020, time stamped 2:23.

22 Q. So am I correct that that was the
23 policy revised as of -- excuse me -- March 27 of
24 2020 at 2:23 p.m.?



1 A. I would -- I understand this message to
2 communicate any changes related to screening and
3 access points and any other COVID-19 effective
4 as of March 27 -- Friday, March 27, 2020 at
5 2:23.

6 Q. Okay. And am I correct that Page 12 is
7 just a duplicate of what you just looked at?

8 A. It appears to be, yes.

9 Q. Okay. Thank you.

10 Is there anything else that we haven't
11 gotten to about question one; the process used
12 to determine which entrances would be closed for
13 COVID starting in March of 2020?

14 A. No.

15 Q. Is there anything else that we haven't
16 gotten to about question two; the manner in
17 which, if at all, this process considered RA
18 parking spaces and which doors will be closed?

19 A. No.

20 Q. Okay. I have no further questions.

21 MS. FLORES: I don't -- I'm just
22 looking at my notes.

23 I don't think I have redirect, but let
24 me make sure.



1 I think I have just a couple redirect
2 questions actually.

3 EXAMINATION

4 BY MS. FLORES:

5 Q. Mr. Beidelschies, what -- you mentioned
6 a pool of screeners that were drafted, so to
7 speak, to screen employees in March of 2020 when
8 you implemented -- when Hines implemented the
9 screening procedures.

10 **who were those screeners?**

11 A. The screeners at the start in early
12 March of 2020 would have been -- would have
13 consisted of volunteers from staff. It would
14 have consisted of staff who due to the nature of
15 either unit closures or service closures were no
16 longer able to do their normal work and were
17 detailed to a general labor pool to
18 redistribute.

19 Those primarily would have been the
20 folks who would have been conducting screening.

21 Q. And you alluded to concern over having
22 enough thermal thermometers.

23 When did resources for screening,
24 including staff and equipment, including PPE



1 become sufficiently available?

2 A. I don't know how to answer that.

3 The reason being is there was -- there
4 were always challenges with staffing and
5 supplies, you know.

6 We over the course of the two to three
7 years approached it in different ways, however,
8 the screening pool and the volunteer pool had a
9 high call-in rate. People would get sick.

10 COVID was going around, and so I would not say
11 that that's been a stable route.

12 We did ultimately approve temporary
13 positions to actually hire people into those
14 positions, but the same issues presented in
15 which you would have people call in, they
16 weren't always viewed as desirable positions,
17 and so they were not very easy necessarily to
18 fill.

19 You know, during COVID every hospital,
20 you know, clinic, everybody was trying to get
21 the same resources. So that's personal
22 protective equipment.

23 So these screeners would have to have
24 face shields and PPE gowns, and gloves, masks.



1 The thermometers were in high demand.
2 We approached several different ways that
3 initially we did handheld thermometers. Then we
4 had static standing thermal thermometers. We
5 tried a number of different things over the
6 course of two to three-year period, and we
7 literally just stood down active screening
8 within the past couple of months, I mean, it was
9 a three-year process, and so I don't know that I
10 would say we ever got to the point where things
11 were sufficient.

12 They -- we were constantly and have
13 constantly adapted to changes to COVID, changes
14 to CDC guidance, changes to VACO guidance, and
15 again, this was a -- this has been an unstable
16 pool of people. Most people were working from
17 home.

18 These are all people who came in to try
19 to keep our veterans and staff safe, and so --
20 but people got sick, people called out, people
21 didn't take the positions.

22 Q. Thank you.

23 I think that was my only -- those are
24 my only questions.



1 MR. FLAXMAN: I have nothing further.

2 Signature?

3 MS. FLORES: We'll reserve.

4 MR. FLAXMAN: Okay. We'll be ordering
5 an original.

6 THE COURT REPORTER: Did you want a
7 copy?

8 MS. FLORES: Yes, please.

9 (FURTHER DEPONENT SAITH NOT.)

10 (Deposition concluded at 11:35 a.m.)

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IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

DAVID BOURKE,)
Plaintiff,)
vs.) No. 22-CV-3164
DENIS McDONOUGH, et al.,)
Defendants.)

I, JON BEIDELSCHIES, being first duly sworn, on oath say that I am the deponent in the aforesaid deposition taken on August 10, 2023; that I have read the foregoing transcript of my deposition, and affix my signature to same.

JON BETDEFI SCHTES

Subscribed and sworn to
before me this _____ day
of _____, 2023

Notary Public



1 STATE OF ILLINOIS)

2) SS:

3 COUNTY OF C O O K)

4 I, MARY KAY ANDRIOPoulos, CSR, a notary
5 public within and for the County of Cook County
6 and State of Illinois, do hereby certify that
7 heretofore, to-wit, on August 10, 2023,
8 personally appeared before me, via Zoom
9 videoconference, JON BEIDELSCHIES, in a cause
10 now pending and undetermined in the United
11 States District Court, Northern District of
12 Illinois, Eastern Division, wherein DAVID BOURKE
13 is the Plaintiff, and DENIS McDONOUGH, et al.
14 are the Defendants.

15 I further certify that the said JON
16 BEIDELSCHIES was first duly sworn to testify the
17 truth, the whole truth and nothing but the truth
18 in the cause aforesaid; that the testimony then
19 given by said witness was reported
20 stenographically by me in the presence of the
21 said witness, and afterwards reduced to
22 typewriting by Computer-Aided Transcription, and
23 the foregoing is a true and correct transcript
24 of the testimony so given by said witness as



1 aforesaid.

2 I further certify that the signature to
3 the foregoing deposition was reserved by counsel
4 for the respective parties and that there were
5 present at the deposition the attorneys
6 hereinbefore mentioned.

7 I further certify that I am not counsel
8 for nor in any way related to the parties to
9 this suit, nor am I in any way interested in the
10 outcome thereof.

11 IN TESTIMONY WHEREOF: I have hereunto
12 set my verified digital signature this 11th day
13 of August, 2023.

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17
18
19 MARY RAY ANDRIOPoulos, CSR
20 LICENSE NO. 084-002248
21
22
23
24



1 McCorkle Court Reporters, Inc.
2 200 N. LaSalle Street Suite 770
3 Chicago, Illinois 60601-1014

4 DATE: August 11, 2023

5 UNITED STATES ATTORNEY'S OFFICE
6 MS. NICOLE FLORES
7 219 South Dearborn Street
8 9th Floor
9 Chicago, Illinois 60604

10 IN RE: DAVID BOURKE vs. DENIS McDONOUGH, et al.
11 COURT NUMBER: 22-CV-3164
12 DATE TAKEN: AUGUST 10, 2023
13 DEPONENT: JON BEIDELSCHIES

14 Dear Ms. Flores:

15 Enclosed is the deposition transcript for the
16 aforementioned deponent in the above-entitled
17 cause. Also enclosed are additional signature
18 pages, if applicable, and errata sheets.

19 Per your agreement to secure signature, please
20 submit the transcript to the deponent for review
21 and signature. All changes or corrections must
22 be made on the errata sheets, not on the
23 transcript itself. All errata sheets should be
24 signed and all signature pages need to be signed
 and notarized.

19 After the deponent has completed the above,
20 please return all signature pages and errata
21 sheets to me at the above address, and I will
22 handle distribution to the respective parties.

23 If you have any questions, please call me at the
24 phone number below.

25 Sincerely,

26 Cynthia Alecia Court Reporter Present:
27 Signature Department Mary Kay Andriopoulos, CSR



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Exhibit 15

From: [Postmaster, Hines](#)
To: [VHAHIN All Employees](#)
Subject: COVID-19 Staff Update No. 5
Date: Thursday, March 12, 2020 4:25:20 PM

**Edward Hines Jr. VA Hospital COVID-19 Staff Update
Update No. 05
Thursday, March 12, 2020**

Team Hines,

We will continue to take actions to keep all patients, visitors, and staff safe and prevent the spread of COVID-19.

Starting **Monday, March 16, 2020**, Hines is instituting additional safety measures and limiting entrance points to all individuals entering Hines VA Hospital. **All employees will be required to enter through designated entry points.**

PIV badges are required. Any Employee without a badge will be turned away from employee only entrances and directed to a visitor screening entrance.

Designated Access Points For All Employees At Hines VA Hospital:

Building 1 – C Section Entrance

Employees Only: PIV Card is required for entry
Open 5am-6pm

Building 1 – G Section Entrance

Employee Access & Patient/Visitor Screening
Open 5am-6pm

Building 228

Employee Access & Patient/Visitor Screening
Open 7am-4:30pm

Building 200 – Main Entrance Lobby

Employee Access & Patient/Visitor Screening
Open 6am-10pm

Emergency Room Entrance

Employee Access & Patient/Visitor Screening
Open 24/7

Building 45– Atrium

Employee Access & Patient/Visitor Screening
Open 6am-6pm

Building 221 – RCF

RCF Employees ONLY & Patient/Visitor Screening
Open 8am-5pm

Building 128 – SCI

SCI Employees ONLY & Patient/Visitor Screening
Open 8am-5pm

Building 113 – Blind Rehab

Blind Rehab Employees ONLY & Patient/Visitor Screening
Open 8am-5pm

Building 217 – CLC

CLC Employees ONLY & Patient/Visitor Screening
Open 8am-5pm

All exit doors will remain accessible and as a reminder Employees should not prop open any doors. We may have to make additional changes as the situation evolves. For questions please contact Police Services at extension 22013.

Thank you for helping us protect the health and safety of all who enter our Edward Hines VA Hospital campus.

Exhibit 16

From: Bourke, David
To: [Ousley, Eric](#); [Scheirer, Shawn D \(HIN\)](#)
Subject: Reasonable accommodation parking area with a dashboard placard indicating a reserved parking spot
Date: Thursday, May 14, 2020 11:02:00 AM

I have spoken to the both of you this morning Thursday 5/14/20, about having HR and Hines police, help me in obtaining a new reasonable accommodation parking spot due to my disabilities causing hardship and pain in walking. My disabilities severely limit my ability to ambulate any distance. I am hoping the Hines police and Hines human resources, can work together and quickly get a new reserved parking spot assigned to me until the back of Bldg. 200 is opened up again for entrance? I don't know of any area room or closet, in the ED department, where I could lock up my electric scooter safely and have a key to access it when needed? I understand the agreement I had, was rescinded and I understand why, but this still doesn't help me accessing my place of employment(Hines VA hospital ASU, Bldg. 200 basement room B 019. I will be forced to park out front, which will require me to try and walk a greater distance to my duty area with-in the hospital. The point of this email is to promote communication between the Hines police and Hines human resources in obtaining the closest handicap parking spot available(ASAP) to my duty station location. Please help me in re-obtaining my already awarded reasonable accommodation parking spot, and if possible find-locate a locked room-closet(which I will have my own key) for the safe keeping of my scooter up front by the Hines ED.

I would also request that the Hines police, communicate to the reporting party of my using (with an agreement which is now voided) the parking area, out-back of Bldg. 200 assigned to me by the Hines police and Hines HR and approved-assigned and marked parking spot, congratulations on a job well done, for causing a United States Veteran and Hines employee, great-hardship, pain and suffering plus the added anxiety of having the police call you, and by affect, intimate and cause stress to me, about using an entrance that a certain police person allowed and by his humanity, showed mercy on me, and allowed me to use this entrance to save me the pain of ambulating over a greater distance than necessary. I still had my temperature checked, and received a sticker which was placed on my employee PIV badge holder every day, to comply with the covid-19 access to the hospital. Your insistence of safety, is well disguised behind covid-19 fears, when its apparent you just want to cause trouble and create drama, because of your obvious unhappiness with life itself. May the powers that be, in this life and the next, take notice of your disservice to a fellow-employee and United States Veteran.

Sincerely;

David Bourke, Ambulatory surgery unit Bldg. 200
Basement room B 019 ext. 28019 or 20262.

Exhibit 17

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION
DAVID BOURKE,)
Plaintiff,)
vs.) No. 22-CV-3164
DENIS McDONOUGH, SECRETARY)
U.S. DEPARTMENT OF)
VETERANS AFFAIRS, UNITED)
STATES OF AMERICA,)
Defendant.)

The deposition of MAJOR DESHAUN MCFIELD, called for examination pursuant to the Rules of Civil Procedure for the United States District Courts pertaining to the taking of depositions, taken remotely before Johnetta Stafford Taylor, a Registered Professional Reporter within and for the State of Illinois, on July 10, 2023 at the hour of 11:00 a.m. via Zoom videoconferencing.

Johnetta Stafford Taylor

License No. 084-001583



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19
20 *****



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WITNESS

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Exhibit No. 2	10
Exhibit No. 7	15
Exhibit No. 4	21
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Exhibit No. 6	25
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1 THE COURT REPORTER: On the record.

2 This deposition is being taken by means
3 of Zoom audio/videoconference, and the oath will
4 be administered remotely by the court reporter
5 pursuant to Executive Order 2020-14 and by
6 agreement of counsel.

7 Will all counsel present please state
8 your name and agreement with this procedure.

9 MR. FLAXMAN: I am Kenneth Flaxman for the
10 Plaintiff. We agree.

11 MS. FLORES: And I am Nicole Flores for the
12 Defendant, and we agree.

13 (Whereupon, the witness was
14 duly sworn.)

15 MR. FLAXMAN: Good morning, sir.

16 Do you have a copy of the exhibits?

17 THE WITNESS: Yes, I do.

18 MR. FLAXMAN: Oh, good. All right. Thank
19 you.

20 MAJOR DESHAUN MCFIELD,
21 called as a witness herein, was examined and
22 testified as follows:



1 EXAMINATION

2 BY MR. FLAXMAN:

3 Q. Could you state your name and spell
4 your last name for us, please?

5 A. Yes. My name is Deshaun McField.

6 M-C-F-I-E-L-D.

7 Q. And what's your business, your
8 occupation?

9 A. Law enforcement.

10 Q. And by whom are you employed?

11 A. The Department of Veterans Affairs.

12 Q. How long have you worked for the
13 Department of Veterans Affairs?

14 A. Since 2007. So I would say -- what's
15 that, close to 16 years, I believe.

16 Q. And what's your present title?

17 A. Major of operations.

18 Q. And to whom do you report?

19 A. I report to Joseph Ellena, which is the
20 deputy chief of the service.

21 Q. Is he also at Hines?

22 A. He is. Yes, sir.

23 Q. Did you have law enforcement experience
24 before joining the V.A.?



1 A. Yes, sir. I was active duty Air Force.
2 I did six years active duty as a patrol officer
3 and K9 as well.

4 Q. All right. Did you ever have occasion
5 to meet a man named David Bourke?

6 A. I did. Yes.

7 Q. When did you first meet Mr. Bourke?

8 A. It was in March of 2020. Yeah, March
9 of 2020.

10 Q. And how did you have occasion to meet
11 him?

12 A. So we knocked on the door in F108 where
13 the employees are located and I came out into
14 the hallway and met with him.

15 Q. And F108, is that at Hines?

16 A. Yes, it is.

17 Q. And when you met Mr. Bourke in March
18 of 2020, was that in the course of your work for
19 the Hines Police?

20 A. Yes.

21 Q. Was anybody else present when
22 Mr. Bourke knocked on the door at F108?

23 A. No, sir.

24 Q. Did you have a conversation with him?



1 A. I did.

2 Q. What did he say to you and what did you
3 say to him?

4 A. So the conversation was he parked south
5 of Building 200 is where his parking spot was
6 located, and he was not able to get into the
7 door due to the doors being secured for the
8 COVID restrictions.

9 My answer to him was well, you will
10 have to make contact with reasonable
11 accommodation, which is our HR, today; and
12 hopefully by the end of the week, they should be
13 able to give you a temporary spot in another
14 entrance that's open. But until then, just
15 contact police operations and they'll just --
16 they'll let you in. Just tell them I said it's
17 okay for you to come in, but only for this week,
18 the end of this week.

19 Q. During this conversation, did
20 Mr. Bourke say that he had a reasonable
21 accommodation parking spot?

22 A. He did say that. Yes, sir.

23 Q. And did he appear to be unable to walk
24 the way you can walk during that conversation?



A. Well, he was actually on a motorized scooter. So I never got a chance to see him walk, so...

Q. Okay. And did you tell anyone about your conversation with Mr. Bourke?

A. I did not.

Q. Did you make any notes of that conversation?

A. I did not.

MR. FLAXMAN: Okay. Let me ask you to look at Exhibit 1.

(whereupon, Plaintiff's
Deposition Exhibit No. 1 was
marked for identification.)

MR. FLAXMAN: Do you have that in front of you?

THE WITNESS: Yes, sir. I'm opening it up now.

MR. ELAXMAN: Okay.

BY MR. FLAXMAN.

9. Have you ever seen that before today?

A. Give me one second. I'm sorry.

Q. Go ahead.

A. I'm opening it up now.



1 (Short pause.)

2 THE WITNESS: No, I have not. Not before
3 today.

4 MR. FLAXMAN: Okay.

5 BY MR. FLAXMAN:

6 Q. Who is Eric Ousley, O-U-S-L-E-Y?

7 A. Eric Ousley was the prior deputy chief
8 who was my supervisor at that time.

9 Q. And I understand he has passed.

10 A. Yes.

11 Q. When did he pass?

12 A. He passed in May of 2021, I believe.

13 Q. Back at the conversation you had with
14 Mr. Bourke, was that during the week that ended
15 on March 3 -- which included Friday, March 13?

16 A. Yes. It was that week.

17 Q. Okay. And did he tell you that he
18 entered Building 200 at the back by outpatient
19 pharmacy?

20 A. Did Mr. Bourke tell me that? That was
21 the actual question in general, and I told him
22 if he called for the rest of the week, the
23 officer will open the door for him. So that was
24 the location, yes, sir, that was in question.



Q. Did you ever have a conversation with Mr. Ousley about Mr. Bourke's RA parking spot?

A. No, sir.

MR. FLAXMAN: Let me ask you to look at Exhibit 2.

(whereupon, Plaintiff's Deposition Exhibit No. 2 was marked for identification.)

THE WITNESS: Yes, sir.

BY MR. FLAXMAN:

Q. Have you ever seen this before?

A. It's pulling up right now.

(short pause.)

THE WITNESS: I have not. No, sir.

BY MR. FLAXMAN:

Q. After that first week that ended on Friday, March 13 of 2020, did you have any further discussions that you can recall with Mr. Bourke about his parking spot?

A. No, sir.

Q. Do you know if he was entering Building 200 through the back by outpatient pharmacy door after --

A. No. I did not.



1 Q. Let me finish the question.

2 A. Sorry.

3 Q. After Friday, March 13?

4 A. No, I did not.

5 Q. When is the next time you heard about
6 Mr. Bourke and his parking spot after that
7 conversation in March of 2020 that you told us
8 about?

9 A. I do not recall that. I do not recall.
10 No, sir. I'm sorry. I don't recall the next
11 time I heard about it again.

12 Q. Did you give an affidavit to the EEOC
13 investigation of Mr. Bourke's complaint, if you
14 recall?

15 A. I probably did. I probably did. Yes.
16 I found --

17 Q. Did you look at that before today?

18 A. No, I didn't.

19 Q. After that first conversation with
20 Mr. Bourke, did you -- were you involved in
21 trying to find an alternate parking spot for
22 Mr. Bourke?

23 A. Yes. That was later on. Yes, sir.

24 Q. Do you remember when that was?



A. It may have been I want to say maybe in May. May of 2020, I believe.

Q. How did you become involved in looking for an alternate parking spot?

A. Deputy Chief Ousley -- so my job as major of operations, I kind of have everything that everybody is in uniform, I supervise them. So at that time Eric Ousley, I think he was kind of busy so he kind of asked me if I could go and take photos of a parking spot by our C section lobby. I didn't know who it was for, but yes.

Q. And did you do that?

A. Yes, I did.

Q. Did you ever learn what that was for?

A. I think later on during the email string, I did. I did.

Q. And what was it that you learned?

A. That at that time, that we were giving Mr. Bourke an alternate temporary spot until the doors would be able to --

(Court reporter clarification.)

THE WITNESS: That we were giving Mr. Bourke an alternate parking spot until COVID was over or the COVID restrictions were over.



1 BY MR. FLAXMAN:

2 Q. And do you remember where that
3 alternate parking spot was?

4 A. It was in the C, C Parking Lot adjacent
5 to the C lobby. The first parking spot adjacent
6 to the door.

7 Q. Did you look for an alternate parking
8 spot for Mr. Bourke other than in the C Parking
9 Lot?

10 A. I don't recall before then, no, sir.

11 Q. Did Mr. Ousley tell you to look in the
12 C Parking Lot?

13 A. No. This came from HR. From my
14 understanding -- no. It came from HR.

15 Q. And do you remember who it was in HR?

16 A. Shawn Schroeder [verbatim], I
17 believe -- Shawn Scheirer.

18 Q. And do you remember what your
19 instructions were?

20 A. (No response.)

21 Q. Well, let me go back.

22 Did Mr. Scheirer talk to you or to your
23 knowledge to Mr. Ousley?

24 A. I believe he talked to Mr. Ousley and



1 then Ousley gave me the instructions.

2 Q. Okay. And can you tell us as best you
3 can exactly what your instructions were?

4 A. Yes. To identify a parking spot as
5 closest to the door as possible and take the
6 photos and email them to Shawn Scheirer.

7 Q. Do you still have that email?

8 A. I'm not sure. I'm not sure, so I would
9 have to look and see.

10 Q. Would you be able to look and see?

11 A. Okay. Yes, sir.

12 Q. If you look and see and find it, would
13 you tell Miss Flores that you found it and send
14 it to her?

15 A. Yes, sir. If I do have it, yes, sir.

16 MS. FLORES: Ken, we may have -- I believe we
17 produced the photos, and I think there's an
18 email as well.

19 MR. FLAXMAN: Well --

20 MS. FLORES: If you want to take a break, we
21 can identify those in the --

22 MR. FLAXMAN: Can you identify it quicker
23 than I can?

24 MS. FLORES: I have our production up, so I



1 can probably get the Bates stamps for you.

2 MR. FLAXMAN: Oh, that would be great. Let's
3 take a break.

4 MS. FLORES: Okay. Give me five minutes.
5 Thank you.

6 MR. FLAXMAN: Okay. Five minutes.

7 (whereupon, a short break was
8 taken.)

9 (whereupon, Plaintiff's
10 Deposition Exhibit No. 7 was
11 marked for identification.)

12 BY MR. FLAXMAN:

13 Q. Sir, on the screen in front of you you
14 should have a photograph that's labeled at the
15 bottom USA265.

16 A. Yes.

17 Q. And then in handwriting, it says first
18 relocation spot.

19 Is that your handwriting?

20 A. It is not.

21 Q. Okay. Do you know where that -- well,
22 does the picture show a parking spot at the
23 Hines V.A.?

24 A. It does.



1 Q. Do you know where that parking spot is?

2 A. Yes. Adjacent to the C lobby area,

3 C section area.

4 Q. And did you identify that as a parking
5 spot for Mr. Bourke?

6 A. I did. Yes, sir. One of the
7 possible --

8 Q. Did you measure the distance from that
9 parking spot to the door?

10 A. I did not, sir.

11 Q. Do you know if anybody did?

12 A. I don't -- I think we did -- I
13 believe -- so we did -- we did. We did.

14 Q. And when you say we, who do you mean?

15 A. It wasn't done myself, but there was
16 ask of it. So I didn't personally do it myself.

17 Q. Do you know who did it?

18 A. I do not.

19 Q. Do you know someone named Fong,
20 F-O-N-G?

21 A. No.

22 Q. Okay. And do you know how far it is to
23 get from the door closest to that parking spot
24 to Mr. Bourke's workplace?



1 A. No, sir. I've never been to his
2 workplace.

3 Q. Okay. Let's look at the next page.

4 A. Yes, sir.

5 Q. That's No. 266 at the bottom, and on
6 top of that it says 1/4.

7 Do you see your handwriting on that
8 photograph?

9 A. No, sir. It's not my handwriting.

10 Q. Okay. Could you tell us, if you can,
11 what's shown in this photograph?

12 A. So I didn't take this photograph, but
13 this is -- if I'm not mistaken, this may be the
14 front entrance of Building 200, I believe.

15 Q. Do you know who took this photograph?

16 A. I do not.

17 Q. When you sent your email with the
18 photograph you took, was there more than one
19 photograph?

20 A. No. It was just the one photograph
21 that you had shown a minute ago.

22 Q. That was the 265?

23 A. Yes, sir.

24 Q. Okay. Let's look at the next page,



1 which is 267.

2 Do you know what this shows?

3 A. Same location, same vehicle. Yes, sir.

4 The parking lot in front of Building 200.

5 Q. Do you know whose handwriting that is
6 where it says second spot?

7 A. I do not.

8 Q. Did you ever identify that parking spot
9 shown in this picture as an alternative parking
10 spot for Mr. Bourke?

11 A. No, sir.

12 Q. Okay. The next one is 268.

13 Is that just the same shot from another
14 view?

15 A. Yes, sir. It appears to be. Yes, sir.

16 Q. Now, it looks from the yellow lines
17 that that's a handicapped parking spot; is that
18 right?

19 A. It appears to be. Yes, sir.

20 Q. Do you know why -- well, there are also
21 handicapped parking spots behind that car that
22 we've been looking at.

23 Do you see those?

24 A. Where the blue truck is?



1 Q. Right.

2 A. Is that what we're referring to?

3 Q. Right.

4 A. Yes, sir.

5 Q. Those spots seem to have a sign that
6 says handicapped parking.

7 Do you know why the second spot car
8 doesn't have a handicapped parking spot sign in
9 front of it?

10 A. I do not. No, sir.

11 Q. Are there handicapped parking spots at
12 Hines back in 2020 that did not have the
13 vertical sign denoting it as a handicapped --
14 for a handicapped spot?

15 A. I do not recall, sir. I'm sorry.

16 Q. Okay. 269 is the same car in the same
17 spot we've been looking at; is that right?

18 A. Yes.

19 Q. Do you know if that was -- are there
20 handicapped spots designated for employees and
21 handicapped spots designated for persons using
22 the facilities?

23 A. Can I -- so the question you're asking
24 is: Is there separate handicapped spots for



1 employees versus veterans?

2 Q. Right.

3 A. No, sir.

4 Q. Okay. And the next page is 270, which
5 has nothing to do with the pictures; is that
6 right?

7 A. Yes.

8 Q. Okay.

9 A. Well, no. This one it appears that
10 it's asking for a sign to be placed by the
11 C Door. Where it's highlighted it said by the
12 C Door, I believe that's B1, meaning Building 1
13 and B2, Building 2 parking lot. So that may be
14 what the picture you've showed -- what you
15 showed is.

16 Q. If the C Door B, is that the picture
17 that that -- well, looking at 269, there's a
18 parking spot that's shown in this picture, C2
19 whatever that was, C Door B?

20 A. No. So C Door B -- so C Door B1 would
21 be the first parking spot that I identified.
22 The very first photo.

23 Q. Is that --

24 A. Yes, sir. That would be C Door



1 Building 1.

2 Q. Looking at 265?

3 A. Uh-huh.

4 Q. Is that a handicapped spot?

5 A. It is not.

6 Q. Do you know if that was ever converted
7 to a handicapped spot?

8 A. I do not know. I'm sorry. I do not.

9 Q. Okay. Do you know if -- well -- all
10 right.

11 MR. FLAXMAN: Exhibit 4.

12 (Whereupon, Plaintiff's
13 Deposition Exhibit No. 4 was
14 marked for identification.)

15 BY MR. FLAXMAN:

16 Q. Which is your -- have you looked at
17 this before? I don't think so.

18 A. (No response.)

19 Q. Okay. I'm showing you Exhibit 4, which
20 appears to be an email from Angela Morris.

21 Do you know who Angela Morris is?

22 A. I do.

23 Q. Who is Angela Morris?

24 A. She's one of the associate directors.



1 Q. And do you remember getting a copy of
2 this email back in December of 2020?

3 A. Probably so. Sure. Yes, sir.

4 Q. Do you know why you were cc:'d on the
5 first email from Angela Morris to Carmen Smith
6 and Joseph Tumpis, T-U-M-P-I-S?

7 A. I believe so -- yes. There was a
8 crane -- they were doing construction on the
9 side of Building 200 where Mr. Bourke's parking
10 spot was. They had a big crane that we had to
11 escort from the facility back there. And so the
12 crane was placed there. And so what we did, it
13 may have affected the parking spots due to
14 safety. And so I think they were reaching out
15 to the individuals about it, if I recall.

16 Q. Now, there's a reference to Reserve
17 Parking No. 1011 and Reserve Parking No. 1010.

18 what does Reserve Parking 1011 mean?

19 A. It's the reasonable accommodation spot,
20 but I'm not sure how the numbers are placed.
21 That is done by HR.

22 Q. Have you -- well, you've been in the
23 parking lot where reserve parking is?

24 A. Yes.



1 Q. Is that right?

2 A. Yes.

3 Q. Are the reserve parking spots noted
4 with a sign of some sort?

5 A. Yes, sir. That number is placed on the
6 sign.

7 Q. And is the sign on a pole affixed to
8 the ground?

9 A. It is. Yes, sir.

10 Q. Does it have the name of the person
11 whose parking spot that is?

12 A. It does not.

13 Q. Do you remember ever getting any phone
14 calls from Mr. Bourke complaining about somebody
15 parking in his reserved parking spot?

16 A. No, sir. But we often do get
17 complaints from other -- we get complaints from
18 employees every day actually. Although not
19 particularly him.

20 Q. What's the procedure when an employee
21 complains about somebody parking in his or her
22 reserved parking spot?

23 A. They contact police. Police then
24 respond and we identify who has parked illegally



1 and we actually have them move their vehicle.

2 Q. Do they get a ticket of some sort?

3 A. For the most part, they will get a
4 ticket. It's up to the discretion of the
5 officer. It depends on if it's ever done before
6 or -- you know, so I can't say it's happened
7 every time. So I can't answer for that one.

8 Q. And there's I think another page.

9 Page 2 is numbered -- well, I can't see it here.
10 I can't see it. It includes an email from
11 Joseph Tumpis dated December 4, 2020 at
12 7:53 a.m.

13 Do you see that?

14 A. Yes, I do.

15 Q. Was there ever a large crane at the
16 south entrance of Building 200?

17 A. Yes, there was.

18 Q. Okay. Do you know if that had any
19 impact on Mr. Bourke's reserved parking spot?

20 A. I do not recall but I believe we were
21 making contact with them in reference to the
22 crane, but I don't recall if it impacted the
23 parking spot or not.

24 Q. And those pictures that we looked at



1 before, did you ever talk to anybody about the
2 picture that you took, the first relocation spot
3 picture, USA265?

4 A. No. I never talked to no one else
5 about it.

6 Q. Anybody ever tell you that that was not
7 an acceptable parking spot?

8 A. No. No one told me that. No, sir.

9 Q. Okay.

10 (Whereupon, Plaintiff's
11 Deposition Exhibit No. 5 was
12 marked for identification.)

13 MR. FLAXMAN: I think Exhibit 5 is a
14 duplicate.

15 (Whereupon, Plaintiff's
16 Deposition Exhibit No. 6 was
17 marked for identification.)

18 MR. FLAXMAN: And Exhibit 6 is a duplicate.
19 So I think I have nothing further.
20 Nicole?

21 MS. FLORES: Yes. I think I want to ask
22 Major McField just a quick couple of questions.

23 THE WITNESS: Yes, ma'am.

24 MS. FLORES: Now let me see if I can screen



1 share.

2 It's disabled for me.

3 MR. FLAXMAN: Do you want to take a break?

4 MS. FLORES: Sure. Yes. Let's take a quick
5 break and go off the record.

6 MR. FLAXMAN: Okay.

7 (whereupon, a discussion was had
8 off the record.)

9 MS. FLORES: Major McField, I just have a
10 couple of questions for you about this document.

11 (whereupon, Defendant's
12 Deposition Exhibit A was marked
13 for identification.)

14 EXAMINATION

15 BY MS. FLORES:

16 Q. Can you see this email? It looks like
17 it's from James Doelling, July 26, 2020?

18 A. Yes, ma'am.

19 Q. And for purposes of the exhibits, I
20 will scroll down to the bottom and just to get
21 the exhibit numbers, USA000663.

22 A. Yes.

23 Q. Okay. And I will scroll down.

24 Do you see in the chain of -- or in the



1 chain of emails, the email sent at 11:55 a.m. on
2 July 6 has your name in the "To:" field?

3 A. Yes, ma'am.

4 Q. Okay. And do you remember what the
5 subject of this email was?

6 A. I do not.

7 Q. Okay. Let's take a look at it.

8 So in the subject line is 22662 Due:
9 NLT.

10 Does that mean no later than?

11 A. Yes, ma'am.

12 Q. Okay. 1400 on 7/6/20.

13 Do you know what WHVA actually stands
14 for?

15 A. Yes. White House V.A.

16 Q. Okay. And the SF? Is that --

17 A. That one I'm not sure. I'm not sure
18 about that one.

19 Q. So what does that mean -- do you know
20 what that means, the White House V.A.?

21 A. Yes. which means an individual may
22 have made a complaint to the White House and the
23 White House -- we have to respond back within a
24 certain amount of time to the White House



1 complaint.

2 Q. And if you look at No. 3 where it says
3 brief statement of issue and status?

4 A. Yes, ma'am.

5 Q. If you go to the second paragraph, it
6 says Mr. Bourke also contacted the White House
7 hotline.

8 Do you see that paragraph?

9 A. Yes, ma'am.

10 Q. Okay. And it states -- I'm sorry.

11 This paragraph goes onto the next page, so I'm
12 scrolling down a little bit.

13 I'm trying to move the grid of our
14 screen. Okay. There we go.

15 Are you familiar with this issue, the
16 fact that Mr. Bourke had contacted Hines Police
17 on May 18 to assist finding a new parking spot
18 closer to another entrance that was open. Hines
19 Police found Mr. Bourke a new parking spot on
20 the same day. As of June 29, 2020, the original
21 door where Mr. Bourke previously parked has
22 since reopened.

23 Are you familiar with Mr. Bourke
24 raising the issue?



1 A. So I will say this: Normally it would
2 come from HR. So I'm not familiar with him
3 actually reaching out. But it comes from HR
4 whether the parking spot was applicable or not.

5 Q. Okay. Okay.

6 And then I'm just scrolling down here.

7 You responded to -- this is an email
8 from you providing information on May 18, Shawn
9 Scheirer -- is he in HR?

10 A. Yes, ma'am.

11 Q. Okay. Reached out to police requesting
12 if we can identify an additional parking spot in
13 the C section.

14 Now, did that relate to the photographs
15 that we were discussing earlier of the same time
16 period?

17 A. Yes, ma'am.

18 Q. And on June 29, 2020, a screener was
19 placed at the doors.

20 Do you know which doors that
21 references?

22 A. Yes. Those were the doors where
23 Mr. Bourke's parking spot is located directly
24 adjacent to.



1 Q. Okay. That's where his original
2 parking spot was located?

3 A. Yes, ma'am.

4 Q. Okay. So to your knowledge, as of
5 June 29, 2020, did Mr. Bourke have access to
6 those doors for entry into the workplace?

7 A. Yes, ma'am.

8 what happened initially is once
9 everything was closed down and secured due to
10 the restrictions, the facility did a mass hiring
11 of new screeners. The screeners that were
12 placed at the doors were the most active doors,
13 which was the main entrances and stuff like
14 that. Then as they hired and got the manpower
15 up, they started placing the screeners at the
16 other doors. So that's when a person was hired
17 for that door specifically.

18 MS. FLORES: Okay. Thank you, Major McField.

19 THE WITNESS: Yes, ma'am.

20 MS. FLORES: Those are all my questions.

21 THE WITNESS: No problem.

22 MR. FLAXMAN: I'm trying to get my picture
23 right.

24 MS. FLORES: Sorry. I'll stop screen



1 sharing. okay.

2 EXAMINATION (Further)

3 BY MR. FLAXMAN:

4 Q. You referred to particular doors as the
5 most active doors?

6 A. Yes, sir.

7 Q. Have you seen any reports or data about
8 which doors are most active?

9 A. No, sir. That was just my own
10 cognizance. But the main door was the door I
11 think they possibly had over a thousand people
12 come in. But it was just the main entrance is
13 normally what was utilized when you're speaking
14 about doors.

15 Q. Have you ever seen any data that the
16 number of employees which entered the door that
17 Mr. Bourke originally entered before COVID?

18 A. No, sir.

19 Q. Okay. And the memo you looked at was
20 dated May 18, which referred to a second parking
21 spot being designated for Mr. Bourke.

22 where was Mr. Bourke parking between
23 March 13 and May 18, if you know?

24 A. I have no idea, sir.



1 Q. Okay. Did you ever hear -- ever
2 receive a complaint or learn about a complaint
3 that Mr. Bourke was continuing to go through
4 that -- the rear door after March 13 of 2020?

5 A. No, sir.

6 Q. And in that -- the document we looked
7 at, did that relate to the second group of
8 photos that we looked at before?

9 A. No. The document employed, that was
10 actually the original parking spot.

11 Q. Well, we have to make that clear for
12 the record.

13 A. Yes.

14 Q. What do you mean by original parking
15 spot?

16 A. So when I arrived here at Hines V.A.,
17 Mr. Bourke was already -- he already maintained
18 that spot south of 200, Building 200. So that
19 was his -- well, I assumed that was his original
20 parking spot that he had been parking in for
21 since he's been approved.

22 Q. And the parking spot that you took
23 pictures of, was that a different parking spot?

24 A. It was a different parking spot. Yes,



1 sir.

2 Q. Okay.

3 A. During that time -- at that time, a lot
4 of employees had to kind of get alternate
5 parking spots. And so they were going through
6 RA, reasonable accommodation, requesting
7 alternate parking spots to doors that were
8 opened and manned by screeners.

9 Q. How many other employees were -- did
10 that to your knowledge?

11 A. That I'm not sure of, sir.

12 Q. In the email -- you looked at an email
13 from Shawn Scheirer I think dated May 18.

14 Can you recall any contact you had with
15 him before May 18 and after March 13 of 2020
16 about Mr. Bourke and his parking spot?

17 A. No, sir. Not me personally. No, sir.

18 MR. FLAXMAN: All right. Thank you.

19 I have nothing further.

20 MS. FLORES: Nothing further from me.

21 MR. FLAXMAN: All right. Signature?

22 MS. FLORES: We'll reserve.

23 MR. FLAXMAN: Thank you.

24 I'll be ordering the original, E-Tran.



1 THE COURT REPORTER: Do you need a copy,
2 Nicole?

3 MS. FLORES: Yes, please.

4 Thank you.

5 FURTHER DEONENT SAITH NOT.

6 (Deposition concluded at 11:50 a.m.)

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IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

DAVID BOURKE,)
Plaintiff,)
vs.) No. 22-CV-3164
DENIS McDONOUGH,)
Defendant.)

9 This is to certify that I have read the
10 transcript of my deposition taken in the
11 above-entitled cause by Johnetta Stafford
12 Taylor, Certified Shorthand Reporter, on
13 July 10, 2023 and that the foregoing transcript
14 accurately states the questions asked and the
15 answers given by me as they now appear with any
16 attached errata sheet(s).

MAJOR DESHAUN MCETEILD

21 SUBSCRIBED AND SWORN TO
22 before me this _____ day
of _____ 2023.

Notary Public



1 STATE OF ILLINOIS)
2) SS:
3 COUNTY OF COOK)
4 I, JOHNETTA STAFFORD TAYLOR, a
5 Certified Shorthand Reporter within and for the
6 County of Cook County and State of Illinois, do
7 hereby certify that heretofore, to-wit, on
8 July 10, 2023 remotely appeared before me via
9 Zoom videoconferencing, MAJOR DESHAUN MCFIELD in
10 a cause now pending and undetermined in the U.S.
11 District Court, Northern District of Illinois,
12 Eastern Division, wherein DAVID BOURKE is the
13 Plaintiff, and DENIS McDONOUGH, SECRETARY U.S.
14 DEPARTMENT OF VETERANS AFFAIRS, UNITED STATES OF
15 AMERICA is the Defendant.

16 I further certify that the said witness was
17 first duly sworn to testify the truth, the whole
18 truth and nothing but the truth in the cause
19 aforesaid; that the testimony then given by said
20 witness was reported stenographically by me in
21 the presence of the said witness, and afterwards
22 reduced to typewriting by Computer-Aided
23 Transcription, and the foregoing is a true and
24 correct transcript of the testimony so given by



1 said witness as aforesaid.

2 I further certify that the signature to the
3 foregoing deposition was reserved by counsel for
4 the respective parties.

5 I further certify that the taking of this
6 deposition was pursuant to Notice, and that
7 there were present at the deposition the
8 attorneys hereinbefore mentioned.

9 I further certify that I am not counsel for
10 nor in any way related to the parties to this
11 suit, nor am I in any way interested in the
12 outcome thereof.

13 IN TESTIMONY WHEREOF: I have hereunto set my
14 verified digital signature this 12th day of July
15 2023.

16 
17 
18

19 NOTARY PUBLIC, COOK COUNTY, ILLINOIS
20
21
22
23
24



1 MC CORKLE LITIGATION SERVICES, INC.
2 200 North LaSalle Street
3 Suite 770
4 Chicago, Illinois 60601

5 July 12, 2023
6
7

8
9 United States Attorney's Office
10 Ms. Nicole Flores
11 219 South Dearborn Street, 9th Floor
12 Chicago, Illinois 60604
13 IN RE: Bourke vs. McDonough
14

15 Dear Ms. Flores:

16 Attached is your copy of the deposition
17 of Major Deshaun McField taken on July 10, 2023
18 in the above-entitled action.

19 Please submit the transcript to the
20 deponent for review and signature. The errata
21 sheets have been provided for any changes or
22 corrections the deponent wishes to make. All
23 changes or corrections must be made on the
24 errata sheets, not on the transcript itself.
Then have the deponent sign the signature page
and have the signature notarized. All errata
sheets should also be signed.

25 After the deponent has completed the
26 above, please email the signature page and
27 errata sheet(s) to me at the email address
28 below, and I will provide copies to the
29 respective parties.

30 If you have any questions regarding the
31 above procedure, please feel free to contact me
32 at (312) 263-0052.

33 Sincerely,
34 Cynthia Alicea, calicea2@mcdeps.com
35 McCorkle Litigation Services, Inc.

36 cc: All Attorneys Ordering Transcript



Exhibits <p>Plaintiff's Ex. 1 3:14 8:11,13 Plaintiff's Ex. 2 3:15 10:5,7 Plaintiff's Ex. 3 Plaintiff's Ex. 4 3:17 21:11,13,19 Plaintiff's Ex. 5 3:18 25:11,13 Plaintiff's Ex. 6 3:19 25:16,18 Plaintiff's Ex. 7 3:16 15:10 Defendant's Ex. A 3:20 26:12</p> <hr/> <p>1 1 8:11,13 20:12 21:1 1/4 17:6 1010 22:17 1011 22:17,18 11:50 34:6 11:55 27:1 13 9:15 10:17 11:3 31:23 32:4 33:15 1400 27:12 16 5:15 18 28:17 29:8 31:20,23 33:13,15</p> <hr/> <p>2 2 10:5,7 20:13 24:9 200 7:5 9:18 10:22 17:14 18:4 22:9 24:16 32:18 2007 5:14 2020 6:8,9,18 10:17 11:7 12:2 19:12 22:2 24:11 26:17 28:20 29:18 30:5 32:4 33:15 2020-14 4:5 2021 9:12 22662 27:8 26 26:17 265 17:22 21:2 266 17:5 267 18:1 268 18:12 269 19:16 20:17 270 20:4</p>	<p>29 28:20 29:18 30:5</p> <hr/> <p>3 3 9:15 28:2</p> <hr/> <p>4 4 21:11,13,19 24:11</p> <hr/> <p>5 5 25:11,13</p> <hr/> <p>6 6 25:16,18 27:2</p> <hr/> <p>7 7 15:10 7/6/20 27:12 7:53 24:12</p> <hr/> <p>A a.m. 24:12 27:1 34:6 acceptable 25:7 access 30:5 accommodation 7:11,21 22:19 33:6 active 6:1,2 30:12 31:5,8 actual 9:21 additional 29:12 adjacent 13:4,5 16:2 29:24 administered 4:4 Affairs 5:11,13 affected 22:13 affidavit 11:12 affixed 23:7 agree 4:10,12 agreement 4:6,8 ahead 8:23 Air 6:1 alternate 11:21 12:4,19,23 13:3,7 33:7 alternative 18:9 amount 27:24 Angela 21:20,21,23 22:5 appears 18:15,19 20:9 21:20</p> <hr/> <p>C C2 20:18 called 4:21 9:22 calls 23:14 car 18:21 19:7,16 Carmen 22:5 cc:'d 22:4 chain 26:24 27:1 chance 8:2 chief 5:20 9:7 12:5</p>	<p>clarification 12:21 clear 32:11 close 5:15 closed 30:9 closer 28:18 closest 14:5 16:23 cognizance 31:10 complaining 23:14 complains 23:21 complaint 11:13 27:22 28:1 32:2 complaints 23:17 concluded 34:6 construction 22:8 contact 7:10,15 23:23 24:21 33:14 contacted 28:6,16 continuing 32:3 conversation 6:24 7:4,19,24 8:5,8 9:13 10:1 11:7,19 converted 21:6 copy 4:16 22:1 34:1 counsel 4:6,7 couple 25:22 26:10 court 4:1,4 12:21 34:1 COVID 7:8 12:23,24 31:17 crane 22:8,10,12 24:15,22</p> <hr/> <p>D data 31:7,15 dated 24:11 31:20 33:13 David 6:5 day 23:18 28:20 December 22:2 24:11 Defendant 4:12 Defendant's 26:11 denoting 19:13 Department 5:11,13 depends 24:5 DEPONENT 34:5 deposition 4:2 8:13 10:7 15:10 21:13 25:11,16 26:12 34:6</p>	<p>deputy 5:20 9:7 12:5 Deshaun 4:20 5:5 designated 19:20,21 31:21 directly 29:23 directors 21:24 disabled 26:2 discretion 24:4 discussing 29:15 discussion 26:7 discussions 10:18 distance 16:8 document 26:10 32:6,9 Doelling 26:17 door 6:12,22 7:7 9:23 10:22 13:6 14:5 16:9,23 20:11,12,16, 19,20,24 28:21 30:17 31:10,16 32:4 doors 7:7 12:20 29:19,20, 22 30:6,12,16 31:4, 5,8,14 33:7 due 7:7 22:13 27:8 30:9 duly 4:14 duplicate 25:14,18 duty 6:1,2</p> <hr/> <p>E E-TRAN 33:24 earlier 29:15 EEOC 11:12 Ellena 5:19 email 12:15 14:6,7,18 17:17 21:20 22:2,5 24:10 26:16 27:1,5 29:7 33:12 emails 27:1 employed 5:10 32:9 employee 23:20 employees 6:13 19:20 20:1 23:18 31:16 33:4,9 end 7:12,18 ended 9:14 10:16 enforcement 5:9,23 entered 9:18 31:16,17 entering 10:21</p> <hr/> <p>G gave 14:1 general 9:21</p>
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	M-C-F-I-E-L-D 5:6	O-U-S-L-E-Y 9:6			
	made 27:22				



share 26:1 sharing 31:1 Shawn 13:16,17 14:6 29:8 33:13 short 9:1 10:13 15:7 shot 18:13 show 15:22 showed 20:14,15 showing 21:19 shown 17:11,21 18:9 20:18 shows 18:2 side 22:9 sign 19:5,8,13 20:10 23:4,6,7 Signature 33:21 sir 4:15 5:22 6:1,23 7:22 8:17 9:24 10:3, 9,14,20 11:10,23 13:10 14:11,15 15:13 16:6,10 17:1, 4,9,23 18:3,11,15,19 19:4,10,15 20:3,24 22:3 23:5,9,16 25:8 31:6,9,18,24 32:5 33:1,11,17 Smith 22:5 sort 23:4 24:2 south 7:4 24:16 32:18 speaking 31:13 specifically 30:17 spell 5:3 spot 7:5,13,21 10:2,19 11:6,21 12:4,10,19, 23 13:3,5,8 14:4 15:18,22 16:1,5,9,23 18:6,8,10,17 19:7,8, 14,17 20:18,21 21:4, 7 22:10,19 23:11,15, 22 24:19,23 25:2,7 28:17,19 29:4,12,23 30:2 31:21 32:10,15, 18,20,22,23,24 33:16 spots 18:21 19:5,11,20,21, 24 22:13 23:3 33:5,7 stamps 15:1 stands 27:13 started 30:15 state 4:7 5:3 statement 28:3 states 28:10 status 28:3	stop 30:24 string 12:16 stuff 30:13 subject 27:5,8 supervise 12:7 supervisor 9:8 sworn 4:14 <hr/> T T-U-M-P-I-S 22:6 talk 13:22 25:1 talked 13:24 25:4 temporary 7:13 12:19 testified 4:22 thousand 31:11 ticket 24:2,4 time 9:8 11:5,11 12:8,18 24:7 27:24 29:15 33:3 title 5:16 today 7:11 8:21 9:3 11:17 told 9:21 11:7 25:8 top 17:6 truck 18:24 Tumpis 22:6 24:11 <hr/> U Uh-huh 21:3 unable 7:23 understand 9:9 understanding 13:14 uniform 12:7 USA000663 26:21 USA265 15:15 25:3 utilized 31:13 <hr/> V V.A. 5:24 15:23 27:15,20 32:16 vehicle 18:3 24:1 verbatim 13:16 versus 20:1 vertical 19:13	veterans 5:11,13 20:1 view 18:14 <hr/> W walk 7:23,24 8:3 week 7:12,17,18 9:14,16, 22 10:16 White 27:15,20,22,23,24 28:6 WHVA 27:13 work 6:18 worked 5:12 workplace 16:24 17:2 30:6 <hr/> Y years 5:15 6:2 yellow 18:16 <hr/> Z Zoom 4:3
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Exhibit 18

Scheirer, Shawn D (HIN)

From: Bourke, David
Sent: Monday, May 18, 2020 10:08 AM
To: Scheirer, Shawn D (HIN)
Subject: RE: Reasonable accommodation parking area with a dashboard placard indicating a reserved parking spot

I still want my parking outback of pharmacy #1011 when the back opens up.

From: Scheirer, Shawn D (HIN) <Shawn.Scheirer@va.gov>
Sent: Monday, May 18, 2020 10:00 AM
To: Graham, Angela <Angela.Graham@va.gov>; Alexander, Tiffany M. (HIN) <Tiffany.Alexander2@va.gov>; Wirtjes, Christopher J. <Christopher.Wirtjes@va.gov>; Mabrito, Cristine J <Cris.Mabrito@va.gov>
Cc: Bourke, David <David.Bourke@va.gov>
Subject: RE: Reasonable accommodation parking area with a dashboard placard indicating a reserved parking spot

Angela,

Great news thank you so much for your hard work in this matter. I will contact police services to identify a spot in that lot.

Shawn Scheirer, MPA

Human Resources Specialist
Reasonable Accommodation Coordinator
Department of Veterans Affairs
Edward Hines Jr. VA Hospital
5000 S. 5th Avenue
Hines, IL 60141
Ph: [REDACTED]



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From: Graham, Angela <Angela.Graham@va.gov>
Sent: Monday, May 18, 2020 9:57 AM
To: Alexander, Tiffany M. (HIN) <Tiffany.Alexander2@va.gov>; Wirtjes, Christopher J. <Christopher.Wirtjes@va.gov>; Mabrito, Cristine J <Cris.Mabrito@va.gov>
Cc: Scheirer, Shawn D (HIN) <Shawn.Scheirer@va.gov>; Bourke, David <David.Bourke@va.gov>
Subject: RE: Reasonable accommodation parking area with a dashboard placard indicating a reserved parking spot

I spoke with David Bourke and meet him down in the C section to show him where he could park his scooter. If we can have David parking space moved over to Blg 1 C section for now. I will speak with Patient Advocate to inform them about David scooter

From: Alexander, Tiffany M. (HIN) <Tiffany.Alexander2@va.gov>
Sent: Monday, May 18, 2020 8:46 AM
To: Wirtjes, Christopher J. <Christopher.Wirtjes@va.gov>; Mabrito, Cristine J <Cris.Mabrito@va.gov>; Graham, Angela <Angela.Graham@va.gov>
Subject: RE: Reasonable accommodation parking area with a dashboard placard indicating a reserved parking spot

Ok.

Sorry I was on leave last week and I am catching up on emails.

Thanks for addressing Angela!

From: Wirtjes, Christopher J. <Christopher.Wirtjes@va.gov>
Sent: Monday, May 18, 2020 8:45 AM
To: Alexander, Tiffany M. (HIN) <Tiffany.Alexander2@va.gov>; Mabrito, Cristine J <Cris.Mabrito@va.gov>; Graham, Angela <Angela.Graham@va.gov>
Subject: RE: Reasonable accommodation parking area with a dashboard placard indicating a reserved parking spot

Angela met with David. I spoke with Shawn. I believe they will offer him a parking spot near the C lobby where he can store his scooter.

From: Alexander, Tiffany M. (HIN) <Tiffany.Alexander2@va.gov>
Sent: Monday, May 18, 2020 8:21 AM
To: Wirtjes, Christopher J. <Christopher.Wirtjes@va.gov>; Mabrito, Cristine J <Cris.Mabrito@va.gov>; Graham, Angela <Angela.Graham@va.gov>
Subject: RE: Reasonable accommodation parking area with a dashboard placard indicating a reserved parking spot

This is the first that I have seen regarding David's parking space.

Angela-please work with David and Shawn Scheirer to address.

Thanks,

Tiffany Alexander

From: Wirtjes, Christopher J. <Christopher.Wirtjes@va.gov>
Sent: Friday, May 15, 2020 8:00 AM
To: Mabrito, Cristine J <Cris.Mabrito@va.gov>; Alexander, Tiffany M. (HIN) <Tiffany.Alexander2@va.gov>
Subject: FW: Reasonable accommodation parking area with a dashboard placard indicating a reserved parking spot

From: Wirtjes, Christopher J. <Christopher.Wirtjes@va.gov>
Sent: Thursday, May 14, 2020 12:55 PM
To: Yenerall, Jodi J.(HIN) <Jodi.Yenerall2@va.gov>
Cc: Beidelschies, Jon E (HIN) <Jon.Beidelschies@va.gov>; Coleman, Evelyn V <Evelyn.Coleman@va.gov>; Ifabiyi, Candace (HIN) <Candace.Ifabiyi@va.gov>
Subject: RE: Reasonable accommodation parking area with a dashboard placard indicating a reserved parking spot

Yes, this is a PAS employee. This is first that I have heard of this concern. I will reach out to the supervisor to see what has been done to assist this employee.

Thanks,
Chris

From: Yenerall, Jodi J.(HIN) <Jodi.Yenerall2@va.gov>
Sent: Thursday, May 14, 2020 11:59 AM
To: Wirtjes, Christopher J. <Christopher.Wirtjes@va.gov>
Cc: Beidelschies, Jon E (HIN) <Jon.Beidelschies@va.gov>; Coleman, Evelyn V <Evelyn.Coleman@va.gov>; Ifabiyi, Candace (HIN) <Candace.Ifabiyi@va.gov>
Subject: FW: Reasonable accommodation parking area with a dashboard placard indicating a reserved parking spot
Importance: High

Is he a PAS employee?

From: Bourke, David <David.Bourke@va.gov>
Sent: Thursday, May 14, 2020 11:02 AM
To: Ousley, Eric <Eric.Ousley@va.gov>; Scheirer, Shawn D (HIN) <Shawn.Scheirer@va.gov>
Subject: Reasonable accommodation parking area with a dashboard placard indicating a reserved parking spot

I have spoken to the both of you this morning Thursday 5/14/20, about having HR and Hines police, help me in obtaining a new reasonable accommodation parking spot due to my disabilities causing hardship and pain in walking. My disabilities severely limit my ability to ambulate any distance. I hoping the Hines police and Hines human resources, can work together and quickly get a new reserved parking spot assigned to me until the back of Bldg. 200 is opened up again for entrance? I don't know of any area room or closet, in the ED department, where I could lock up my electric scooter safely and have a key to access it when needed? I understand the agreement I had, was rescinded and I understand why, but this still doesn't help me accessing my place of employment(Hines VA hospital ASU, Bldg. 200 basement room B 019. I will be forced to park out front, which will require me to try and walk a greater distance to my duty area with-in the hospital.

The point of this email is to promote communication between the Hines police and Hines human resources in obtaining the closest handicap parking spot available(ASAP) to my duty station location. Please help me in re-obtaining my already awarded reasonable accommodation parking spot, and if possible find-locate a locked room-closet(which I will have my own key) for the safe keeping of my scooter up front by the Hines ED.

I would also request that the Hines police, communicate to the reporting party of my using (with an agreement which is now voided) the parking area, out-back of Bldg. 200 assigned to me by the Hines police and Hines HR and approved- assigned and marked parking spot, congratulations on a job well done, for causing a United States Veteran and Hines

employee, great-hardship, pain and suffering plus the added anxiety of having the police call you, and by affect, intimate and cause stress to me, about using an entrance that a certain police person allowed and by his humanity, showed mercy on me, and allowed me to use this entrance to save me the pain of ambulating over a greater distance than necessary. I still had my temperature checked, and received a sticker which was placed on my employee PIV badge holder every day, to comply with the covid-19 access to the hospital. Your insistence of safety, is well disguised behind covid-19 fears, when its apparent you just want to cause trouble and create drama, because of your obvious unhappiness with life itself. May the powers that be, in this life and the next, take notice of your disservice to a fellow-employee and United States Veteran.

Sincerely;

David Bourke, Ambulatory surgery unit Bldg. 200
Basement room B 019 ext. 28019 or 20262.

Exhibit 19

Graham, Angela

From: Graham, Angela
Sent: Friday, May 15, 2020 10:43 AM
To: Wirtjes, Christopher J.; Scheirer, Shawn D (HIN)
Subject: RE: Sorry about on the phone for EEO complaint

As I spoke with Shawn earlier, I think moving David RA parking spot to C section would be better. This will allow for better parking, screening and less walking to access his scooter.

From: Wirtjes, Christopher J. <Christopher.Wirtjes@va.gov>
Sent: Friday, May 15, 2020 10:38 AM
To: Graham, Angela <Angela.Graham@va.gov>; Scheirer, Shawn D (HIN) <Shawn.Scheirer@va.gov>
Subject: RE: Sorry about on the phone for EEO complaint

Doors are scheduled to be open at 5. Why does he need to be at work an hour early? I may not have the whole story, but I am trying to find what is not reasonable about this. From your perspective, what do you think?

From: Graham, Angela <Angela.Graham@va.gov>
Sent: Friday, May 15, 2020 10:32 AM
To: Wirtjes, Christopher J. <Christopher.Wirtjes@va.gov>; Scheirer, Shawn D (HIN) <Shawn.Scheirer@va.gov>
Subject: RE: Sorry about on the phone for EEO complaint

The C section is where I park my scooter overnight. With David shift starting at 6am, he is worried that the door are not open at 5am for screening.

From: Wirtjes, Christopher J. <Christopher.Wirtjes@va.gov>
Sent: Friday, May 15, 2020 10:17 AM
To: Graham, Angela <Angela.Graham@va.gov>; Scheirer, Shawn D (HIN) <Shawn.Scheirer@va.gov>
Subject: RE: Sorry about on the phone for EEO complaint

I don't think we can have a scooter parked in the ED on off tours as this can be a high traffic area on off tours. Is there a place to store his scooter near the C section and is his parking spot available near the C section?

From: Graham, Angela <Angela.Graham@va.gov>
Sent: Friday, May 15, 2020 9:49 AM
To: Scheirer, Shawn D (HIN) <Shawn.Scheirer@va.gov>
Cc: Wirtjes, Christopher J. <Christopher.Wirtjes@va.gov>
Subject: FW: Sorry about on the phone for EEO complaint

David, does not wish to use the C section to enter and park his scooter. David states he will like to enter thru the Emergency room and suffer the pain with walking in. Upon speaking with David about the screening and the Pandemic, David continue on stating that no one is trying to help him out with his situation. David got very upset stating he was going home for the day because everyone is telling him he was wrong with not following the guild lines. David feels that he did nothing wrong with making a deal with an office and sending out abrupt emails in regards to coming thru the exit only door. Shawn the only solution I have now is maybe David could park the scooter over by the ER waiting area against the back wall. There is a outlet there that he can used to charge up the scooter.

BOURKE, DAVID P has submitted a leave request for 4:30 hours starting on 05/15/2020 and ending on 05/15/2020.

From: Bourke, David <David.Bourke@va.gov>
Sent: Friday, May 15, 2020 8:48 AM
To: Graham, Angela <Angela.Graham@va.gov>
Subject: Sorry about on the phone for EEO complaint

I'm available to speak now?

David

Exhibit 20



1st
Relocation
Spot.

1/4

USA000266

000219



2nd Spot

2/1

USA000267



2nd Spot

000220

3/4

USA000268



2nd Spot

000221

4/4

USA000269



2nd spot

000222

Scheirer, Shawn D (HIN)

From: Garcia, Eliseo C. (HIN)
Sent: Tuesday, May 19, 2020 8:42 AM
To: Scheirer, Shawn D (HIN); Tumpis, Joseph
Cc: Yenerall, Jodi J.(HIN); Graham, Angela; Wirtjes, Christopher J.
Subject: RE: Parking spot

WORK ORDER # SI200519-001

1) PRIMARY EMPL: 2) REQ DATE: MAY 19, 2020@08:38
3) REQ MODE: COMPUTER 4) LOCATION: C LOBBY-1
5) BED #: 6) STATUS: IN PROGRESS
7) TASK DESC: Reasonable Accommodation
8) CONTACT: SCHEIRER,SHAWN D 9) PHONE: 25347
10) ENTERED BY: GARCIA,ELISEO C 11) SHOP: SIGN SHOP
12) DATE ASSIGNED: 05/19/20 13) PRIORITY: HIGH
14) EQUIP ID#: 15) LOCAL ID:
16) EQUIP CAT: 17) CONDITION:
18) MFGR:
19) MODEL:
21) OWNER/DEPT:
23) PARTS ORDER:
25) WORK CTR:
26) TOTAL HOURS:
28) TOTAL LABOR COST:
30) *ASSIGNED TECH*
32) WORK PERFORMED:
Press <RETURN> to continue, '^' to escape...
33) COMMENTS:

reserved parking spot with the number 1050 to be placed at C door B. 1
by B. 2 parking lot.

Eliseo C. Garcia III
Edward Hines Jr. VA Hospital
Work Order Clerk
Bldg. 2 Rm.205
Eliseo.Garcia@va.gov
708-202-8387
Ex.22558



From: Scheirer, Shawn D (HIN) <Shawn.Scheirer@va.gov>

Sent: Tuesday, May 19, 2020 8:32 AM

To: Tumpis, Joseph <Joseph.Tumpis@va.gov>; Garcia, Eliseo C. (HIN) <Eliseo.Garcia@va.gov>

Cc: Yenerall, Jodi J. (HIN) <Jodi.Yenerall2@va.gov>; Graham, Angela <Angela.Graham@va.gov>; Wirtjes, Christopher J. <Christopher.Wirtjes@va.gov>

Subject: FW: Parking spot

Engineering,

I am requesting a rush installation of a reserved parking spot with the number 1050 to be placed at C door B. 1 by B. 2 parking lot. This is a reasonable accommodation and this is a high priority. Thank you for everything your service does to fill accommodation request.

Shawn Scheirer, MPA

Human Resources Specialist

Reasonable Accommodation Coordinator

Department of Veterans Affairs

Edward Hines Jr. VA Hospital

5000 S. 5th Avenue

Hines, IL 60141

Ph: 708.202.5347



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From: McField, Deshaun <Deshawn.McField@va.gov>

Sent: Monday, May 18, 2020 5:27 PM

To: Yenerall, Jodi J. (HIN) <Jodi.Yenerall2@va.gov>; Scheirer, Shawn D (HIN) <Shawn.Scheirer@va.gov>

Cc: Coleman, Kimberly P (HIN) <Kimberly.Coleman@va.gov>; Ousley, Eric <Eric.Ousley@va.gov>

Subject: RE: Parking spot

This parking spot is located directly in front of the C door of building 1, there is a pole in the ground however the spot does not belong to anyone. Will this be acceptable?

From: Coleman, Kimberly P (HIN) <Kimberly.Coleman@va.gov>
Sent: Monday, May 18, 2020 1:52 PM
To: McField, Deshaun <Deshaun.McField@va.gov>
Cc: Yenerall, Jodi J.(HIN) <Jodi.Yenerall2@va.gov>; Scheirer, Shawn D (HIN) <Shawn.Scheirer@va.gov>
Subject: FW: Parking spot

Please follow-up on this today.

From: Yenerall, Jodi J.(HIN) <Jodi.Yenerall2@va.gov>
Sent: Monday, May 18, 2020 10:37 AM
To: Ousley, Eric <Eric.Ousley@va.gov>; Scheirer, Shawn D (HIN) <Shawn.Scheirer@va.gov>
Cc: Coleman, Kimberly P (HIN) <Kimberly.Coleman@va.gov>
Subject: RE: Parking spot

C door B. 1 by B. 2 parking lot

From: Ousley, Eric <Eric.Ousley@va.gov>
Sent: Monday, May 18, 2020 10:36 AM
To: Scheirer, Shawn D (HIN) <Shawn.Scheirer@va.gov>; Yenerall, Jodi J.(HIN) <Jodi.Yenerall2@va.gov>
Cc: Coleman, Kimberly P (HIN) <Kimberly.Coleman@va.gov>
Subject: RE: Parking spot

Is he asking to park n front of the 228 bldg?

Sent with BlackBerry Work
(www.blackberry.com)

From: Scheirer, Shawn D (HIN) <Shawn.Scheirer@va.gov>
Date: Monday, May 18, 2020, 10:33 AM
To: Yenerall, Jodi J.(HIN) <Jodi.Yenerall2@va.gov>
Cc: Coleman, Kimberly P (HIN) <Kimberly.Coleman@va.gov>, Ousley, Eric <Eric.Ousley@va.gov>
Subject: RE: Parking spot

The employee is now requesting a parking spot in the C Parking lot in front of C Section. That way he can be screened and get right on the scooter.

Shawn Scheirer, MPA
Human Resources Specialist
Reasonable Accommodation Coordinator
Department of Veterans Affairs
Edward Hines Jr. VA Hospital
5000 S. 5th Avenue
Hines, IL 60141
Ph: 708.202.5347



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From: Yenerall, Jodi J.(HIN) <Jodi.Yenerall2@va.gov>

Sent: Monday, May 18, 2020 10:30 AM

To: Scheirer, Shawn D (HIN) <Shawn.Scheirer@va.gov>

Cc: Coleman, Kimberly P (HIN) <Kimberly.Coleman@va.gov>; Ousley, Eric <Eric.Ousley@va.gov>

Subject: RE: Parking spot

Shawn,

Did the employee request by C door or by the ED?

From: Ousley, Eric <Eric.Ousley@va.gov>

Sent: Monday, May 18, 2020 10:28 AM

To: Scheirer, Shawn D (HIN) <Shawn.Scheirer@va.gov>

Cc: Coleman, Kimberly P (HIN) <Kimberly.Coleman@va.gov>; Yenerall, Jodi J.(HIN) <Jodi.Yenerall2@va.gov>

Subject: RE: Parking spot

Same images sir...different angles...the spot is close to the ED doors so he doesn't have too far of a walk.

Sent with BlackBerry Work
(www.blackberry.com)

From: Scheirer, Shawn D (HIN) <Shawn.Scheirer@va.gov>

Date: Monday, May 18, 2020, 10:25 AM

To: Ousley, Eric <Eric.Ousley@va.gov>

Cc: Coleman, Kimberly P (HIN) <Kimberly.Coleman@va.gov>, Yenerall, Jodi J.(HIN) <Jodi.Yenerall2@va.gov>

Subject: RE: Parking spot

The images I have them 5/15 are from the front of the hospital. The image sent before then were from a different parking spot

Shawn Scheirer, MPA

Human Resources Specialist
Reasonable Accommodation Coordinator
Department of Veterans Affairs
Edward Hines Jr. VA Hospital
5000 S. 5th Avenue
Hines, IL 60141
Ph: 708.202.5347



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From: Ousley, Eric <Eric.Ousley@va.gov>
Sent: Monday, May 18, 2020 10:24 AM
To: Scheirer, Shawn D (HIN) <Shawn.Scheirer@va.gov>
Cc: Coleman, Kimberly P (HIN) <Kimberly.Coleman@va.gov>; Yenerall, Jodi J.(HIN) <Jodi.Yenerall2@va.gov>
Subject: RE: Parking spot

That is C Section!

Sent with BlackBerry Work
(www.blackberry.com)

From: Scheirer, Shawn D (HIN) <Shawn.Scheirer@va.gov>
Date: Monday, May 18, 2020, 10:22 AM
To: Ousley, Eric <Eric.Ousley@va.gov>
Cc: Coleman, Kimberly P (HIN) <Kimberly.Coleman@va.gov>, Yenerall, Jodi J.(HIN) <Jodi.Yenerall2@va.gov>
Subject: RE: Parking spot

The employee has requested C Section. The one that was sent was for the front of the hospital

Shawn Scheirer, MPA
Human Resources Specialist

Reasonable Accommodation Coordinator
Department of Veterans Affairs
Edward Hines Jr. VA Hospital
5000 S. 5th Avenue
Hines, IL 60141
Ph: 708.202.5347



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From: Ousley, Eric <Eric.Ousley@va.gov>
Sent: Monday, May 18, 2020 10:22 AM
To: Scheirer, Shawn D (HIN) <Shawn.Scheirer@va.gov>
Cc: Coleman, Kimberly P (HIN) <Kimberly.Coleman@va.gov>; Yenerall, Jodi J.(HIN) <Jodi.Yenerall2@va.gov>
Subject: RE: Parking spot

Shawn check your email I sent you a space and the pictures.

Sent with BlackBerry Work
(www.blackberry.com)

From: Scheirer, Shawn D (HIN) <Shawn.Scheirer@va.gov>
Date: Monday, May 18, 2020, 10:20 AM
To: Ousley, Eric <Eric.Ousley@va.gov>
Cc: Coleman, Kimberly P (HIN) <Kimberly.Coleman@va.gov>, Yenerall, Jodi J.(HIN) <Jodi.Yenerall2@va.gov>
Subject: Parking spot

Deputy Chief Ousley,

Can you please dispatch a unit to identify a parking spot in the C section parking lot. This is a high priority because we have displaced in the current spot. Thank you

Shawn Scheirer, MPA

Human Resources Specialist
Reasonable Accommodation Coordinator
Department of Veterans Affairs
Edward Hines Jr. VA Hospital
5000 S. 5th Avenue
Hines, IL 60141
Ph: 708.202.5347



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