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BEFORE THE BOARD OF TRUSTEES OF THE  
LISLE POLICE PENSION FUND

IN THE MATTER OF THE  
DISABILITY APPLICATION OF:

OFFICER JOHN PERRELL,  
  
Applicant.

---

REPORT OF PROCEEDINGS had at the  
hearing of the above-entitled cause, before the  
BOARD OF TRUSTEES OF THE LISLE POLICE PENSION  
FUND, held on the 13th day of March, 2019, at the  
hour of 6:00 p.m., at 5040 Lincoln Avenue, Lisle,  
Illinois, before MICHELLE N. MARVIN, C.S.R.,  
Notary Public.

BOARD MEMBERS PRESENT:

- MR. BRETT LAUTEN, President;
- MR. LARRY ROGERS, Vice President;
- MS. JODIE WISE, Secretary;
- MS. LORA KMIECIAK, Trustee;
- MR. GARY LEDVORA, Trustee.

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COUNSEL PRESENT:

THE LAW FIRM OF REIMER & DOBROVOLNY,  
by  
MR. RICHARD J. REIMER  
15 Spinning Wheel Road, Suite 310  
Hinsdale, Illinois 60521  
(630) 654-9547  
rreimer@rdlaborlawpc.com  
on behalf of the Lisle  
Police Pension Board;

THE LAW OFFICE OF JEROME F. MARCONI, by  
MR. JEROME F. MARCONI  
555 W. Jackson Boulevard, Suite 700  
Chicago, Illinois 60661  
(312) 930-5645  
jerry@marconilawoffice.com  
on behalf of the Applicant.

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EXAMINATION OF D C RD RC  
TIM DEMPSEY

By Mr. Marconi 16 32

By The Board 23

JOHN PERRELL

By Mr. Marconi 34

By Mr. Reimer 70  
102

By The Board 78

EXHIBITS RECEIVED INTO EVIDENCE

Board Exhibits 1 - 16 10

Applicant Group Exhibit 1

MOID 50  
ADMITTED 69

Applicant Group Exhibit 2

ADMITTED 69

1 MR. LAUTEN: Okay. It's 10 after 6:00,  
2 and I will call this special meeting of the Lisle  
3 Police Pension Fund from March 13th of 2019 to  
4 order.

5 I will ask for a roll call from  
6 everybody and, for the stenographer, can you make  
7 sure you phonetically spell your last name as  
8 well?

9 So President Brett Lauten,  
10 L-A-U-T-E-N, here.

11 MS. KMIECIAK: Lora Kmieciak,  
12 K-M-I-E-C-I-A-K.

13 MR. ROGERS: Larry Rogers, R-O-G-E-R-S,  
14 Vice President.

15 MS. WISE: Jodie Wise, J-O-D-I-E,  
16 W-I-S-E, Secretary.

17 MR. LEDVORA: Gary Ledvora,  
18 L-E-D-V-O-R-A.

19 MR. REIMER: Very good. A quorum is  
20 present.

21 This is a hearing being conducted  
22 pursuant to Article 3 of the Illinois Pension Code  
23 to determine the disability claim or application  
24 of Officer John Perrell, the Applicant in this

1 case.

2 The Applicant was previously sent a  
3 Notice of Hearing advising him of his right to be  
4 represented by legal counsel, advising him of his  
5 right to present evidence and to respond to any  
6 evidence before the Lisle Police Pension Fund.

7 Officer Perrell, do you acknowledge  
8 receipt of the Notice of Hearing and are you ready  
9 to proceed?

10 MR. PERRELL: Yes.

11 MR. REIMER: Counsel, would you identify  
12 yourself, please?

13 MR. MARCONI: Sure. Jerry Marconi, for  
14 the record.

15 MR. REIMER: Thank you, sir.

16 The first motion I'd like the Board  
17 to entertain would be a motion to appoint me the  
18 hearing officer.

19 What that means is I'll preside  
20 over the hearing. I'll make sure everything runs  
21 in an orderly fashion. I'll rule on any legal or  
22 evidentiary matters or objections. I'll attend  
23 your board deliberations, if you want me to attend  
24 those with you, and I will ultimately prepare the

1 draft decision and order that's necessary to put  
2 finality to this matter.

3 But as the hearing officer, I'm not  
4 here to prosecute in any way. I'm not here to  
5 influence your decision. I certainly don't vote.  
6 That's why you get all the big bucks to be on this  
7 Board.

8 I'm here to advise you on the law,  
9 make sure you get all the facts, and if for some  
10 reason somebody doesn't like your decision, I will  
11 go to court and defend it for you. And I don't  
12 charge extra for it.

13 MR. MARCONI: Oh, he charges.

14 MR. REIMER: You taught me. So if  
15 anyone --

16 MR. LAUTEN: I make the motion to appoint  
17 Attorney Rick Reimer the hearing officer.

18 MR. LEDVORA: I second.

19 MR. LAUTEN: We have a motion and a  
20 second. All those in favor signify by saying aye,  
21 please.

22 (WHEREUPON, all Board Members  
23 responded aye.)

24 MR. LAUTEN: Is there any opposed? And

1 the motion passes unanimously. We'll turn it over  
2 to Rick.

3 MR. REIMER: All right. The hearing  
4 procedures to be utilized in this case are as  
5 follows:

6 Number one: You, as the Applicant,  
7 bear the burden of proving your entitlement to a  
8 disability pension.

9 Number two: During the hearing, we  
10 will allow Mr. Marconi to make an opening  
11 statement.

12 Number three: You can then present  
13 any evidence, including testimony and  
14 documentation, in support of your claim.

15 Number four: The Board or its  
16 legal counsel, me, as the hearing officer, can ask  
17 any questions.

18 Mr. Marconi, as your legal counsel,  
19 can ask questions or make legal objections to any  
20 of the documentation or evidence.

21 Number six: Rulings on all legal  
22 matters, in other words objections, will be made  
23 by me, as the hearing officer.

24 However, if I rule on an objection

1 and you don't like my objection, this is  
2 democracy. Do a roll call vote. Three people  
3 will overrule my objection.

4 Number seven: During the hearing,  
5 the technical and formal rules of evidence and the  
6 Rules of Civil Procedure will not apply. However,  
7 rules of fundamental fairness, for example, we're  
8 all familiar with -- many of you, the hearsay  
9 rule. If there's an objection, we'll address it,  
10 and that would be an applicable rule that will  
11 apply here.

12 Number eight: In the event that  
13 this hearing cannot be completed on this date, it  
14 will be continued from time to time to dates  
15 agreeable to all parties until it's completed. I  
16 don't think that's going to be a problem here.

17 Number nine: At the conclusion of  
18 the hearing, we'll allow Mr. Marconi to make a  
19 closing statement or closing argument.

20 And number ten: The Board will  
21 then render a written decision and order that will  
22 become the final decision and order for purposes  
23 of this disability claim.

24 However, my understanding is the



1 Board is going to try to at least deliberate  
2 tonight. They would vote orally, so you'll know  
3 what the Board's decision is. That would be  
4 followed up in a couple weeks with a written  
5 decision and order.

6 Any questions, Mr. Marconi, or  
7 questions or objections to the hearing procedures?

8 MR. MARCONI: No, sir.

9 MR. REIMER: Okay. So to try to expedite  
10 this matter, I have what I've marked as Board  
11 Exhibit Numbers 1 through 16. Board Exhibit  
12 Numbers 1 through 16 have been distributed to each  
13 of the five trustees for their review prior to  
14 today's hearing, subject to any objections that  
15 Officer Perrell might have.

16 I've also sent a copy of Board 1  
17 through 16 to Mr. Marconi. Mr. Marconi, do you  
18 acknowledge receipt of Board 1 through 16 in, I  
19 guess, USB drive format; correct?

20 MR. MARCONI: Yes, I do, and I did share  
21 that with Officer Perrell via Google Drive.

22 MR. REIMER: Good luck with that.

23 MR. MARCONI: So it took a couple times,  
24 right, but we -- but we did it.

1 MR. PERRELL: We finally got it.

2 MR. REIMER: So you've got them, and do  
3 you have any objection to admission of Board 1  
4 through 16?

5 MR. MARCONI: No.

6 MR. REIMER: So the record should reflect  
7 that Board Exhibit Numbers 1 through 16 are  
8 admitted into the administrative record without  
9 any further authentication or foundation.

10 Do you have any additional  
11 documents that you'd like to have marked and  
12 admitted?

13 MR. MARCONI: We're going to have some  
14 photographs, and then we -- I believe we have like  
15 an internal order.

16 MR. PERRELL: Some policies.

17 MR. MARCONI: We can do that later as I  
18 show them. We made six copies, so we've got  
19 enough for the Board.

20 MR. REIMER: So you have them marked for  
21 ID now? We don't need to distribute them ahead of  
22 time.

23 MR. MARCONI: We'll probably have to mark  
24 them at the time. We can mark them -- Applicant's

1 Exhibit 1 could be the photos.

2 MR. REIMER: So make it Applicant Group  
3 1?

4 MR. MARCONI: Yeah.

5 MR. PERRELL: There are six.

6 MR. MARCONI: Michelle, do you want to  
7 put a sticker on them now?

8 (WHEREUPON, a discussion was held  
9 off the record.)

10 MR. REIMER: This will be Applicant Group  
11 1, and that consists of six photos?

12 MR. PERRELL: Eight photos.

13 MR. REIMER: Eight photos.

14 MR. PERRELL: Eight photos, six copies.

15 MR. REIMER: Okay. Is there another  
16 Applicant exhibit?

17 MR. MARCONI: Yes.

18 MR. REIMER: So we'll make that 2.

19 MR. PERRELL: Do you want those policies?

20 MR. MARCONI: Yeah.

21 MR. REIMER: So I'm assuming this is like  
22 a Lisle PD policy or procedure?

23 MR. MARCONI: Correct, yes.

24 MR. PERRELL: Yes.

1 MR. REIMER: Okay.

2 MR. PERRELL: I don't have extra copies,  
3 but I'm sure we can make some.

4 MR. REIMER: You know what? Why don't we  
5 mark it and we'll get copies when we take a break.

6 MR. PERRELL: Okay.

7 MR. REIMER: So for the record, it looks  
8 like three pages. I'm going to mark it as  
9 Applicant -- this is going to be a group as well,  
10 because it looks like it's different policies.  
11 And I'm going to, for ID purposes only, Applicant  
12 Group 2, pages one, two and three.

13 And so the record is clear, this  
14 will be -- the first page is respiratory  
15 protection program, 407.8 8, use of respirators.

16 Page number two of Applicant Group  
17 Exhibit Number 2 is policy number 700,  
18 Department-Owned Personal Property.

19 Page three of Applicant Group  
20 Number 2 is Lisle policy number 705 captioned  
21 Personal Protective Equipment.

22 Okay. So I'll tender that back to  
23 you. Okay. Any other exhibits?

24 MR. MARCONI: No.

1 MR. REIMER: All right. Did you want to  
2 make an opening statement?

3 MR. MARCONI: I'm assuming everybody --  
4 did everyone get the exhibits? No. If they have  
5 them and they've seen the application, it's pretty  
6 straightforward.

7 MR. REIMER: So if I may, there's always  
8 two issues in every case. One is whether or not  
9 the officer is disabled; and the second one is  
10 whether -- if the officer is disabled, is this a  
11 line-of-duty disability within the meaning of the  
12 statute and the case law.

13 So is there, based on what you've  
14 read, do we want Mr. Marconi to focus on the  
15 actual disability, or whether or not this is  
16 line-of-duty, was it an act of duty? Or do you  
17 want to hear all the medical?

18 MR. MARCONI: And my intent was not to  
19 spend a lot of time on it. There's thousands of  
20 pages of medical, and I wasn't -- because the  
21 three doctors are all consistent, I wasn't going  
22 to spend a lot of time talking about -- I'm going  
23 to go over it but, you know, in a summary fashion  
24 as opposed to going through every single record.

1 MR. LAUTEN: Is everybody good with a  
2 summarization at this point?

3 MS. WISE: I'm good with that, yes.

4 MR. MARCONI: And everyone has the right  
5 to ask him anything they want after that. So it's  
6 not like --

7 MR. LEDVORA: We can ask afterwards?

8 MR. LAUTEN: We can highlight.

9 (Multiple speakers.)

10 MR. REIMER: Sometimes --

11 MR. MARCONI: I'll go through the  
12 treatment and whatever, you know, but I'm not  
13 going to spend an hour and a half going through  
14 his treatment.

15 MR. REIMER: Sometimes attorneys that are  
16 getting paid by the hour will want to go through  
17 treatment Band-Aid by Band-Aid. So Mr. Marconi  
18 would never do that.

19 Just so we're clear as well, Board  
20 Number 1, line item 9, Officer Perrell has asked  
21 the Board for a line-of-duty disability.

22 Do you want us, the Board, to  
23 consider this in the alternative without prejudice  
24 for a non-duty disability?

1           And what this means is if, for  
2           example, you go through the hearing after you've  
3           heard all the evidence, you find that there's  
4           evidence that there's a disability, but you don't  
5           believe it rises to the level of a line-of-duty  
6           disability pension within the meaning of the case  
7           law and the statute, you would be free to award  
8           him a non-duty disability. And he's not waiving  
9           any rights to appeal should that happen.

10           I don't have any reason to believe  
11           that that's what's going to happen, but we ought  
12           to all know the rules before we start playing. So  
13           it's pretty common to do this. And, again, it's  
14           without prejudice or waiver to any appeal rights.

15           MR. MARCONI: Yeah, and I've explained  
16           everything to Officer Perrell. This is a matter  
17           of course, generally. He understands it, and it  
18           doesn't mean that forecloses his right to appeal  
19           if he's denied line-of-duty, but it doesn't  
20           necessarily mean he's going to walk out of here  
21           with zero. So we would ask that the application  
22           be amended on its face.

23           MR. REIMER: Thank you. So the Applicant  
24           is making an oral motion to amend the application

1 on its face. This will now be an alternative  
2 claim for -- primarily he believes he'll get a  
3 line-of-duty disability pension, but you do have  
4 the freedom, if you believe the evidence supports  
5 it, a non-duty disability. And Officer Perrell is  
6 not waiving any rights or agreeing that this isn't  
7 a line-of-duty disability. So it is very standard  
8 practice.

9 Very good. Okay. You wanted to  
10 waive. Did you want to call your first witness?

11 MR. MARCONI: Sure. I'm going to call  
12 Sergeant Dempsey, who I believe is identified in  
13 the application, and he's not going to be a long  
14 witness.

15 MR. REIMER: Raise your right hand and  
16 this young lady will swear you in.

17 (WHEREUPON, the court reporter  
18 swore in the witness.)

19 **TIM DEMPSEY,**  
20 **called as a witness herein, having been first duly**  
21 **sworn, was examined and testified as follows:**

22 **DIRECT EXAMINATION**

23 **BY MR. MARCONI:**

24 Q. Sir, will you please state your name and



1 spell your name for the court reporter?

2 A. My name is Tim Dempsey, D-E-M-P-S-E-Y.

3 Q. And where are you currently employed?

4 A. Village of Lisle Police Department.

5 Q. What is your rank?

6 A. Sergeant.

7 Q. And were you a sergeant on August the  
8 14th of 2017?

9 A. Yes, sir.

10 Q. Do you see the defendant in court today?

11 MR. REIMER: Defendant? On the advice of  
12 legal counsel, don't answer the question.

13 BY MR. MARCONI:

14 Q. Do you know Officer Perrell?

15 A. Yes.

16 Q. Was he on your shift on August 14th,  
17 2017?

18 A. We were on shift together.

19 Q. And what time do you have roll call in  
20 the morning?

21 A. Roll call is at, usually, a couple  
22 minutes past 7:00.

23 Q. Okay. And prior to roll call, are the  
24 officers required to do anything with respect to

1 their equipment?

2 A. Oh, yeah. They are required by the  
3 beginning of roll call to have all patrol gear in  
4 the cars and to be logged on to their beat.

5 Q. Okay. So roll call doesn't necessarily  
6 initiate the shift. They're doing work prior to  
7 roll call; is that correct?

8 A. Yes.

9 Q. And that would be -- now, when you say  
10 their property, what does that generally entail?

11 A. Well --

12 Q. Does it depend on the officer?

13 A. It will vary slightly from officer to  
14 officer, but required gear, patrol rifle. Every  
15 officer has what we would call a duty bag, which  
16 contains reference materials, maybe an IVC,  
17 traffic stop sheets, administrative toll  
18 paperwork. Any paperwork or equipment that they  
19 might need during the day. A lot of officers also  
20 carry water or snacks as well. Most carry that in  
21 a duty bag.

22 And everyone also has a secondary  
23 bag which carries other mandated equipment,  
24 ballistic helmet, reflective vest, a rain coat,

1 the respirator face mask.

2 I can probably think of more, but  
3 that -- each officer I've seen carries at least  
4 two bags worth of gear that has to be in the car,  
5 and they have to be logged on, and that's prior to  
6 roll call.

7 Q. Now, prior to going in the car, is it  
8 generally locked up in the officer's locker?

9 A. Yes.

10 Q. Okay. And just for the record and for  
11 the --

12 A. Most of it. Rifles are in a cage  
13 downstairs.

14 Q. Okay. And just for the record, the  
15 lockers are on like -- is this a second floor?

16 A. This is the second floor.

17 Q. Okay. And then we kind of went today,  
18 kind of walked through the crime scene, so to  
19 speak. When you go to roll call, you go  
20 downstairs to the cars. You got to go down --  
21 there's a set of stairs where you go down?

22 A. Right.

23 Q. Do you remember on the 14th of August --  
24 I think I asked you this -- roll call is like at

1 7:10 in the morning; is that correct?

2 A. Roughly.

3 Q. Were you with Officer Perrell just prior  
4 to that?

5 A. Yes.

6 Q. Getting your stuff out of the locker  
7 room?

8 A. I was getting my uniform on. Sergeants  
9 have an office. So all that gear that I described  
10 to you sits in my office. The patrol officers  
11 don't have that option, so their gear is upstairs.

12 So, yeah, I was upstairs getting my  
13 uniform and dressed as Jay was, but when we went  
14 downstairs, I might have carried my lunch. He's  
15 got to carry all his gear.

16 Q. Okay. Do you remember going down? Were  
17 you in front of him or behind him?

18 A. I was behind him.

19 Q. Okay. And at some point was Officer  
20 Perrell carrying these bags?

21 A. All the way he was carrying the bags.

22 Q. Okay. As you were going down the stairs,  
23 did anything unusual happen that you saw?

24 A. Yeah.

1 Q. What?

2 A. Well, I was behind Jay four or five  
3 steps, so back, back six, eight feet and probably  
4 up three or four, and his -- he was walking down.

5 The gear in his right hand got hung  
6 up on maybe the spindles of the railing, the  
7 vertical bars that support the handrail. His gear  
8 got hung up on that.

9 Jay wound up twisting towards --  
10 his left went forward because the right side was  
11 hung up.

12 Q. Do you remember one way or the other  
13 whether there were certain things like hanging off  
14 the duty bag? In other words, everything wasn't  
15 necessarily inside of it? If you know, if you  
16 recall.

17 A. I couldn't tell you that for certain.

18 Q. All right. Did Jay say anything at that  
19 point?

20 A. He said "ow."

21 Q. Okay. Did he go down? Did he --

22 A. He didn't fall.

23 Q. Okay.

24 A. He definitely -- his forward progress was

1 halted. He did not fall.

2 Q. Okay. So he just basically made a  
3 comment like "ow," "ouch," or whatever?

4 A. Yeah, "I just twisted my knee."

5 Q. Did it seem like he continued then on the  
6 roll call and everything seemed to be more or less  
7 okay?

8 A. He said he was going to keep going.

9 Q. Okay.

10 A. And he did go to roll call.

11 Q. Okay. Now, Jay will testify about a  
12 couple calls he went on afterward. Did you have  
13 anything to do after roll call?

14 Well, did you go on any calls with  
15 him? Did you monitor any calls with him?

16 A. No.

17 Q. Okay. At some point mid-morning, did Jay  
18 come back in the station?

19 A. Yeah.

20 Q. And did you see him then?

21 A. Yeah. We talked in my office.

22 Q. Okay. And what did you talk about?

23 A. His knee.

24 Q. Did he show you his knee?

1           A. Yeah. He said that he had thought that  
2 he could walk this one off, and it was getting  
3 worse. And he rolled up both his pant legs, and I  
4 could see that the one, the right knee, was  
5 considerably swollen.

6           Q. Okay. And he didn't show you that at  
7 7:00-ish in the morning?

8           A. No.

9           Q. This came later mid-morning; correct?

10          A. Yeah. It was a couple hours later.

11                  MR. MARCONI: Okay. All right. I don't  
12 have anything else.

13                  MR. REIMER: Any Members of the Board  
14 have any questions of Sergeant Dempsey?

15                  MR. LEDVORA: Do you mind if I ask a  
16 question?

17                  THE WITNESS: Sure.

18                                   **EXAMINATION BY THE BOARD**

19           **BY MR. LEDVORA:**

20           Q. I'm not -- I'm not a police officer by  
21 any means, so some of the terminology I'm not as  
22 familiar with. If you can help me walk through a  
23 couple things.

24                                   When you say "roll call," and I'm

1 thinking the old -- if you remember Hill Street  
2 Blues kind of thing, and I hope Lisle is not --

3 A. It's not that formal. Roll call is,  
4 let's say, an exchange of information at the start  
5 of each shift.

6 Q. Amongst all the officers?

7 A. Yeah.

8 Q. Led by --

9 A. Led by the shift --

10 Q. Not by --

11 A. -- sergeant.

12 MR. REIMER: Hold on. You got to be --  
13 make sure you let Gary ask the question, then you  
14 answer, because she's going to make us all sound  
15 smart.

16 THE WITNESS: Got it.

17 BY MR. LEDVORA:

18 Q. My depositions never sound smart. I'm  
19 sorry.

20 So just to kind of walk through,  
21 the officers arrive in -- I'll call it in civilian  
22 clothes, and then all the officers change in the  
23 locker room or --

24 A. It varies by officer. Some come in in



1 uniform. Some change here.

2 Q. And then it sounds like all the officers  
3 have this equipment, and that's unique to each  
4 officer?

5 A. Yes.

6 Q. And this equipment then is stored up  
7 here, and they -- they have to walk down these  
8 stairs to -- for the roll call?

9 A. Yes.

10 Q. And in walking down, are you -- all the  
11 officers carry the same, or the bags can vary, it  
12 sounds like, in weight?

13 A. To some extent. The equipment is  
14 basically the same and the bags are basically the  
15 same but, obviously, everyone will have some  
16 individuality to it.

17 Q. Are you aware of anyone else falling?

18 A. On those stairs?

19 Q. Yes.

20 A. In the same circumstance?

21 Q. Just falling, I guess.

22 A. Yeah.

23 Q. And frequently, or I want to say  
24 even ...

1           A. Not compared to the number of times it's  
2 successfully traversed, no.

3           Q. Once a month or ...

4           A. No. I couldn't say how --

5           Q. I'm just trying --

6           A. I'm just aware of one officer who fell.

7           Q. No, no. I understand. I understand. And  
8 you were the officer. It was just your normal  
9 speed. It's not like you were -- you were going  
10 to roll call. It's not as if you're running  
11 to ...

12          A. Correct. There was no rush.

13          Q. And then at roll call is when you talk  
14 amongst the other officers about matters?

15          A. Yes.

16          Q. But this particular with the knee or  
17 discomfort, I guess, none of that was brought up  
18 at the roll call?

19          A. No. I already knew about it.

20          Q. Okay. But like it was later in the day,  
21 a swelling and all that?

22          A. Yeah.

23          Q. And none of that discomfort, apparently,  
24 was brought up at the ...

1           A. I already knew his knee hurt.

2           Q. Okay. And -- and -- and when you saw  
3 that -- the condition of the knee, did you say do  
4 you have any ice or --

5           A. No, my reaction was to say that he should  
6 leave.

7           Q. Yeah. Did he leave then?

8           A. After I had him complete the insurance  
9 paperwork, yeah.

10          Q. Okay. I was just curious.

11          A. Okay.

12                 MR. LEDVORA: Thank you.

13                 THE WITNESS: Sure.

14                 MR. REIMER: Anyone else?

15         **BY MS. KMIETCIAK:**

16                 Q. I do have one question, and just trying  
17 -- I'm trying to picture what could have gotten  
18 hooked up in the spindles. I was trying to  
19 imagine that, and so I don't understand what the  
20 bags -- or what could have gotten --

21                 A. Well, Jay told me later what got hung up.  
22 I'm okay to testify to it?

23                 MR. REIMER: Sure, unless there's an  
24 objection.

1 BY THE WITNESS:

2 A. It was a door wedge, which is a piece of  
3 gear that's handed to us.

4 Picture sometimes we go to a  
5 business, a residence, any building where maybe  
6 the door is going to close and lock. And I get  
7 there first, and I know Jay or Brett or Jodie is  
8 going to come to help me, and I'm going to wedge  
9 the door open for them.

10 So it's a piece of plastic. It's  
11 -- at one end, it's designed to go into the  
12 doorjamb between, you know, the door and the  
13 hinges, so that the door, when it tries to close,  
14 it's now impeded by this piece of hard plastic;  
15 which also at one end is kind of a rectangle, and  
16 then there's a straight bar with a hook at the  
17 end. My understanding is that that's what caught  
18 on the rail.

19 MS. KMIECIAK: So that was somehow, I  
20 don't know, hanging out of your bag, if you will,  
21 or I don't know.

22 MR. MARCONI: Well, you know, and then --

23 MR. REIMER: Hold on. We'll get to him.

24 So wait until he testifies, and you can ask him as

1 many questions as you want.

2 MS. KMIECIAK: Okay. That helps. That  
3 helps.

4 THE WITNESS: Would it help to see one?

5 MS. KMIECIAK: No, I understand what it  
6 is.

7 MR. MARCONI: I had the same question you  
8 had, so later on we'll get into that, and I think  
9 you can ask if you do want to see it.

10 MS. KMIECIAK: All right.

11 MR. REIMER: Any other questions?

12 MS. WISE: Would it be proper for me to  
13 answer one of Gary's questions or not?

14 MR. REIMER: I don't want to make you a  
15 witness.

16 MS. WISE: Okay.

17 MR. REIMER: Let me see if -- Mr.  
18 Marconi, do you want one of the Members of the  
19 Board to answer a question?

20 MR. MARCONI: I have no objection to it,  
21 as long as it creates a full record.

22 MS. WISE: I have fallen down those  
23 stairs in the same circumstances. I was carrying  
24 both bags, and you don't have a way to hold a

1 railing when you're carrying both bags. And I  
2 tripped, because my -- I carry my rifle upstairs,  
3 and it caught my -- the back of my ankle. So it  
4 stopped my ankle as it's going forward, and then I  
5 basically slid down the wall with my hand, with my  
6 hand still on one of my bags. So it does happen.

7 MR. LAUTEN: One question for Sergeant  
8 Demsey.

9 **BY MR. LAUTEN:**

10 Q. Is there a policy or general order about  
11 the reporting of the injuries or illness to your  
12 supervisor?

13 A. There is. It basically says if you are  
14 injured at work, report it to your supervisor.

15 Q. And you being a supervisor and witnessing  
16 it, it was followed?

17 A. He reported it multiple times, really.  
18 He told me right away. He told me that he didn't  
19 know that it was so bad. He thought he could work  
20 through the day.

21 And then I'm guessing as soon as he  
22 realized he couldn't, that's when he came and  
23 found me in my office, and that was the end of it.  
24 So ...

1           Q.   And once he reported that it was in a  
2 worse condition than it was initially, was he  
3 required to then fill out any other paperwork  
4 or notification?

5           A.   Yeah.  That's what I said about the  
6 insurance.  You know what IRMA is, but for those  
7 that don't, IRMA stands for Intergovernmental Risk  
8 Management Agency.  It's the village's insurance  
9 company.

10           MR. LEDVORA:  The worker's comp.  Maybe  
11 that's the wrong term, but ...

12           THE WITNESS:  Well, I didn't do any  
13 worker's comp.  I think IRMA has a company that  
14 deals with worker's comp.

15                   I had Jay complete the standard  
16 IRMA paperwork.  There's -- we have folders with a  
17 ton of paper, and there's a guide at the front  
18 that you find what type of incident you're looking  
19 to report, and then follow and see which of these  
20 particular color-coded sheets you have to fill in.  
21 So that's what we did.  And then I sent him away.

22           MR. LAUTEN:  Okay.

23           MR. REIMER:  Any other questions of  
24 Sergeant Dempsey?  There being none, redirect?

**REDIRECT EXAMINATION**

1  
2 **BY MR. MARCONI:**

3 Q. No. I think what you're talking about --  
4 do you remember filling out a Form 45? I thought  
5 I saw it at some point. Is that the form you're  
6 talking about for the worker's comp and for the --  
7 if there's an injury? It's an employer's first  
8 report of injury?

9 A. I don't know what a Form 45 is. I may  
10 have filled one out, but I don't know what it is.

11 Q. I'm going to show you -- so this is --  
12 it's in the IRMA records, Bates-stamped 147.

13 Rick, help me out. What number  
14 would that be? It's got to be Exhibit 10  
15 something.

16 MR. REIMER: It's --

17 MR. MARCONI: Oh, 10-A.

18 MR. PERRELL: 10-G.

19 MR. MARCONI: 10-G.

20 **BY MR. MARCONI:**

21 Q. So I'm showing you Exhibit 10-G, and it  
22 looks like it's Bates-stamped 147. And at the top  
23 of it it says I'm filling out a Form 45,  
24 Employer's First Report of Injury?



1           A.    Okay.  Yeah, I'm familiar with that form.  
2    I'm not familiar with it being called a Form 45.

3           Q.    Okay.  And I wanted to see -- there's --  
4    I think there's somebody that signs at the bottom.  
5    That's him, though, Jay Perrell.

6           A.    That's my handwriting at the top.

7           Q.    Did you complete this form?

8           A.    It certainly looks like I started it.  
9    That's my handwriting at the top portion of it,  
10   and then that's Jay's at the bottom.

11          Q.    Okay.  All right.  So it looks like you  
12   might have started it and he signed it?

13          A.    Yes.

14          Q.    And that's in that packet you're talking  
15   about?

16          A.    Correct.

17               MR. MARCONI:  Okay.  I don't have  
18   anything else.

19               MR. REIMER:  Any recross?  Any other  
20   questions of Sergeant Dempsey?  If not, thank you,  
21   sir.

22               MR. PERRELL:  Thank you, Tim.

23               THE WITNESS:  All right.  Thank you.

24               MR. REIMER:  Do you want to call your

1 next witness?

2 MR. MARCONI: Call the defendant. Call  
3 the Applicant, I mean.

4 (WHEREUPON, the court reporter  
5 swore in the witness.)

6 MR. REIMER: Your witness.

7 **JOHN PERRELL,**  
8 **called as a witness herein, having been first duly**  
9 **sworn, was examined and testified as follows:**

10 **DIRECT EXAMINATION**

11 **BY MR. MARCONI:**

12 Q. Sir, could you please state your name and  
13 spell your name for the record?

14 A. John Perrell, P-E-R-R-E-L-L. I commonly  
15 go by Jay, so there may be some John or Jay being  
16 thrown out through here.

17 Q. Where are you currently employed?

18 A. Currently with the Village of Lisle  
19 Police Department.

20 Q. How long have you been with Lisle?

21 A. Since November 12th of 1998.

22 Q. Were you with any other departments prior  
23 to Lisle?

24 A. Yes.

1 Q. Where at?

2 A. New York City Police Department.

3 Q. How long were you a New York City police  
4 officer?

5 A. Approximately two years.

6 Q. And before New York?

7 A. No other police work.

8 Q. You submitted an application for  
9 disability pension benefits; is that correct?

10 A. Correct.

11 Q. And I'll show you what was marked as  
12 Board Exhibit Number 1, and I think you've seen  
13 this. This is the Lisle Police Pension Board  
14 application for disability pension benefits; is  
15 that correct?

16 A. Yes.

17 Q. And did you fill that out?

18 A. I did.

19 Q. Did you recently review it?

20 A. Yes, yes.

21 Q. Are there any corrections that need to be  
22 made on it, or did you notice anything, any  
23 mistakes on it, from when you originally filled it  
24 out?

1 A. No.

2 Q. And it looks like you submitted it on  
3 July 27th -- is that 27 or 23?

4 A. It's the 27th.

5 Q. 27th, 2018; correct?

6 A. Correct.

7 Q. Now, when you were injured, and I think  
8 we have the date of August the 14th of 2017, what  
9 was your rank?

10 A. Patrol officer.

11 Q. And have you been patrol throughout your  
12 entire career in Lisle?

13 A. Yes. I was assigned to the detective  
14 division, but that's also a part of the patrol  
15 rank.

16 Q. And when were you a detective?

17 A. December, 2003 to March, 2011.

18 Q. Okay. There -- in the medical records,  
19 there is an indication that at some point, I think  
20 it might have been 2002, you had a serious -- I  
21 think it was a softball injury to your right knee;  
22 is that correct?

23 A. That's correct.

24 Q. An ACL reconstruction back then; is that

1 correct?

2 A. Correct.

3 Q. After you suffered that injury and went  
4 through treatment, you did return back to full  
5 duty?

6 A. Yes.

7 Q. And throughout your career with Lisle,  
8 were you ever mandated to undergo physical  
9 training or a physical test?

10 A. Annually.

11 Q. And what did that consist of?

12 A. It's a physical agility test that the  
13 department asks all patrol officers to do. It's  
14 typically done in April of every year.

15 It starts out in a squad car in the  
16 west lot here of the Police Department. You have  
17 to -- they give you a description over the radio.  
18 You get out of the vehicle. You run to a fence,  
19 approximately five, six feet. You have to jump  
20 the fence and then run, I'd say, a couple of  
21 hundred yards into the building, up the two  
22 flights of stairs, or the two sections of stairs.  
23 One flight up to the second floor. Crawl under a  
24 table in the hallway. Go into what's the weight

1 room. You have to drag a dummy approximately 10  
2 feet, and give out the description of the alleged  
3 suspect that they called out initially on the  
4 radio. And that has to be done in one minute and  
5 32 seconds.

6 Q. And did you do that -- you did that  
7 annually?

8 A. Yes.

9 Q. Any problem?

10 A. No.

11 Q. How did you generally score in that?

12 A. Always in the top 10 percent.

13 Q. Okay. And was there a transition period  
14 between detective and when you went back out on  
15 patrol?

16 A. Yes.

17 Q. What did that consist of? Did you need  
18 to undergo any other training or testing?

19 A. No.

20 Q. Okay.

21 A. No other testing.

22 Q. Okay. So on the date of the injury in  
23 this claim, were you a hundred percent in terms of  
24 ability and in terms of working on the street?

1           A. Absolutely.

2           Q. Okay. Between 2002 and 2017, did you  
3 ever get any treatment for that right knee?

4           A. No.

5           Q. And I think there -- in the records there  
6 was some other -- there was another injury, I  
7 believe, to the ankle; is that correct?

8           A. Left ankle.

9           Q. And that's got nothing to do with this;  
10 is that correct?

11          A. Correct.

12          Q. All right. Any other injuries that were  
13 noted?

14          A. I hurt an elbow once on a call. I was  
15 seen, did some physical therapy, but nothing that  
16 disabled me.

17          Q. Okay. And then apart from the job, were  
18 you physically active in the 10 years leading up  
19 to this injury?

20          A. Yes.

21          Q. How so?

22          A. Coached my kids' baseball. Coached my  
23 daughter's soccer. Played softball after my  
24 injury in '02 to about 2008 when I hurt my left

1 ankle. Then I stopped playing softball. But, you  
2 know, just normal activity, going to the gym,  
3 working out and whatnot.

4 Q. Okay. Now, on August the 14th, you heard  
5 your sergeant testify about, you know, roll call  
6 and the duty bags and everything; correct?

7 A. Correct.

8 Q. That testimony was accurate? You have to  
9 put everything in your car prior to roll call; is  
10 that correct?

11 A. Yes.

12 Q. So tell the Board about what your bags  
13 consisted of.

14 A. Okay. I have two bags. One is a duty  
15 bag that sits on the passenger seat next to me in  
16 the squad. That consists of the Illinois Vehicle  
17 Code, Illinois Compiled Statutes book, numerous  
18 forms, paperwork, folders, any sort of  
19 documentation that we may need on -- throughout  
20 the day because, in essence, that's our office out  
21 in the squad.

22 Along with, it'll have a Haz-Mat  
23 book in there, gloves, headband for, you know,  
24 inclement weather.



1           And then there's another bag that  
2           is commonly known as a go-bag. This is kind of a  
3           large backpack. And, in that, I have my ballistic  
4           helmet with shield, my department -- and that's  
5           department issued. Department-issued gas mask  
6           with filters. My rain gear. I think maybe  
7           another hat. Maybe a bottle of water. I think  
8           that's it.

9           Q. Where is this property kept?

10          A. It's always secured in my locker, which  
11          is up here on the second floor.

12          Q. Okay. And prior to the hearing, you  
13          brought a couple of policies of Lisle. Did that  
14          deal with property?

15          A. Yes.

16          Q. And what -- without reading the whole  
17          policy, just what's your understanding of your  
18          responsibility?

19          A. The department-issued equipment, such as  
20          the ballistic helmet and also the gas mask, the  
21          respirator, is required to be carried with us out  
22          on patrol. So and it's also required to be  
23          safe-kept in our locker.

24                   As Sergeant Dempsey said, we don't

1 have offices, so our storage is in the locker here  
2 on the second floor.

3 So I'm -- per policy, I'm supposed  
4 to carry or maintain it in the locker and then  
5 have it out with me out on patrol every day.

6 Q. Okay. And that's department-issued  
7 equipment; is that correct?

8 A. Correct.

9 Q. Okay. Now, in the -- and I don't  
10 remember where I saw it. I thought I saw a  
11 reference of the bags weighing 15 pounds. That's  
12 not entirely correct. True?

13 A. That was an approximate weight, yes.

14 Q. Okay. I asked you today to weigh the  
15 bags; is that correct?

16 A. Yes.

17 Q. What did each bag weigh?

18 A. The bags have been kept in the same  
19 condition as it was the day of the accident, so  
20 they have not been altered at all.

21 The duty bag that sits on the seat  
22 beside me, which I was holding in my left hand  
23 walking down the stairs, that weighed 28 -- one  
24 second. Let me just reference the weight on this.

1 That was 25 pounds.

2 And my go-bag, which I was carrying  
3 in my right hand going down the stairs, weighs 18  
4 pounds.

5 Q. Okay. And so both your hands were in  
6 use; is that correct?

7 A. Yes.

8 Q. And then were you aware of any other  
9 officers falling on the stairs? It just came up  
10 today?

11 A. I've heard of other officers, but none  
12 specifically. I didn't know about Jodie, but I  
13 did know of another officer that had fallen and  
14 actually cut her head when she went into the wall.

15 Q. All right. One of the Board Members was  
16 asking your sergeant about things that might have  
17 been on the exterior bag, trying to visualize what  
18 might have got caught up.

19 Can you explain what might have  
20 been hanging from your bags?

21 A. It's a door stop, is the best -- I don't  
22 know the official name of it but -- and it's  
23 clipped onto the outside of my bag. That was also  
24 issued from the department, and it's just a tool

1 that we use on calls, like Sergeant Dempsey said,  
2 when we need to prop open doors for when  
3 additional units are coming into the building, or  
4 prop it up open if something needs to be aired  
5 out. Just a tool we use. Rather than finding a  
6 landscaping brick to prop open the door, we always  
7 have that.

8 Q. Okay. Do you know, one way or the other,  
9 whether that was what got caught up in the rails?

10 A. I believe that's what it was that got  
11 caught up between the two metal spindles.

12 Q. So describe what actually happened.  
13 You're on your way to roll call; correct?

14 A. Correct.

15 Q. And you're coming from the locker room up  
16 here and going down the stairs?

17 A. Correct.

18 Q. And then what happens? What do you  
19 recall?

20 A. I was carrying my go-bag in my right hand  
21 and my duty bag in my left hand. It's a two  
22 staircase flight of stairs.

23 So I went down the first staircase  
24 that's going west, then you do a 90-degree turn

1 and go down the second flight of stairs heading  
2 east.

3 Sergeant Dempsey was behind me,  
4 like he said, probably five, six stairs. I don't  
5 know exactly how far he was, but we exited, at the  
6 same time, the locker room.

7 Probably about halfway down the  
8 second staircase, again with my go-bag in my right  
9 hand, something -- I don't know exactly, but I'm  
10 assuming that that doorstep, the doorjamb,  
11 whatever it's called, got hung up in the spindles  
12 and jarred me.

13 And you have the steel spindles of  
14 the staircase. You have the ballistic helmet  
15 which, in essence, is like a concrete block, and  
16 my knee. And I lost my balance and, obviously, my  
17 knee was the one that gave out rather than the  
18 steel spindle or ballistic helmet.

19 So I lost my balance. I did not  
20 fall, but I lost my balance and caught myself  
21 almost like on the landing where there's another  
22 little 90-degree turn with a couple of steps down  
23 into the vestibule there.

24 And, you know, Sergeant Dempsey

1 said, you know, "What happened?" I said, "I don't  
2 know. That was weird. I just tweaked my knee."

3 I thought I could continue, which  
4 typically we, I believe, all have in time where  
5 you get dinged up at work and you just -- you  
6 know, if we get dinged up every time and we leave,  
7 we would never be here. So I just figured that I  
8 would be able to work through my shift.

9 I then proceeded to the radio room,  
10 got my radio, got my rifle, proceeded out to my  
11 car, loaded up my squad, signed on, and then went  
12 into the roll call.

13 Q. So at this point, you didn't notice any  
14 swelling to the knee?

15 A. I did not. It was -- it was -- something  
16 happened on the stairs with my knee with the shift  
17 of my weight, but to what extent, I don't know.

18 Q. Okay. You were able to go through roll  
19 call; is that correct?

20 A. Went through roll call.

21 Q. You started your normal day?

22 A. Yes.

23 Q. What is the first call you remember  
24 receiving?

1           A. First call, and I have the calls for  
2 service, this is the official reporting that the  
3 department uses, was a traffic stop that I  
4 conducted. It originated at 9:05 a.m. on the  
5 14th.

6           Q. Okay. Routine traffic stop?

7           A. There's no such thing as a routine  
8 traffic stop.

9           Q. Well, all right. How long did this  
10 traffic stop take?

11          A. I actually cleared the stop in a little  
12 over five minutes.

13          Q. Okay. All right. So you didn't make a  
14 huge drug bust on this particular stop?

15          A. I did not.

16          Q. Any problem with the stop?

17          A. No.

18          Q. With your -- with your knee?

19          A. No. It was pretty clear-cut. It was on  
20 Maple Avenue at the McDonald's. She pulled -- the  
21 female driver pulled into the McDonald's lot where  
22 I met her, issued her a warning, and let her go.

23          Q. Okay. Did you continue on routine  
24 patrol?

1 A. Yes.

2 Q. Did you get another call?

3 A. Yes.

4 Q. What was the nature of that call?

5 A. At 9:19 -- actually, 9:19 and 59 seconds,  
6 so 9:20, I guess, if you want to it be  
7 approximate, I was dispatched to a residence on  
8 Rolling Drive, 1039 Rolling, for a homeowner who  
9 was reporting that the wooded area behind his  
10 house, he was told by landscapers that there were  
11 needles, hypodermic needles, that he was calling  
12 for us to come recover.

13 Q. Were you familiar with this area?

14 A. Yes.

15 Q. Were you familiar with this wooded area?

16 A. Yes.

17 Q. And how would you describe it?

18 A. That's the pictures that -- that I have.  
19 When I met the homeowner at his residence, 1039,  
20 which is actually four houses east of 53, and  
21 seven houses west of Center Avenue, there's a --  
22 it's kind of a steep creek bed, I guess you'd call  
23 it.

24 So he actually told me to meet him



1 at the entrance to the creek bed off of Center,  
2 which is immediately right behind what's now  
3 Walgreens.

4 So I drove my squad over there. He  
5 met me over there, and he told me, you know, the  
6 needles were in this area.

7 Walked in. You probably walk down  
8 about a six-foot embankment. Then I had to walk  
9 probably a hundred yards or so to what was the  
10 area behind his house, which is where he told me  
11 where the needles were.

12 There were eight needles and  
13 syringes located there, which I then secured. And  
14 then I walked back to the area where I originally  
15 entered.

16 Q. How long did this call take?

17 A. I would -- on the records here it shows  
18 that I cleared the call or closed the call at  
19 10:30, but that is after all the paperwork and,  
20 you know, reporting to Sergeant Dempsey. I was  
21 probably on scene for maybe 20 minutes.

22 So approximately 9:45, I would say  
23 I was there, and then I came to the Police  
24 Department, and that's when I told Sergeant

1 Dempsey that my knee was hurting me very bad and  
2 it had swollen up on me.

3 Q. How long did you -- did you walk for all  
4 that 20 minutes while you were looking for the  
5 needles and being taken to the place?

6 A. Yes. We walked all the way to the area,  
7 again, probably, you know, a hundred yards or so  
8 to the area behind his house, and it's all  
9 different terrain. It's not level.

10 Q. You went out and took pictures; is that  
11 correct?

12 A. I did.

13 Q. And you brought the pictures today that  
14 we marked as --

15 MR. REIMER: Applicant's 1 Group.

16 MR. MARCONI: If you want to give them.

17 THE WITNESS: There's five.

18 MR. REIMER: The witness is handing me --  
19 let's go off the record for a second.

20 (WHEREUPON, a discussion was held  
21 off the record.)

22 (Applicant's Group Exhibit No. 1  
23 was marked for identification.)

24 MR. REIMER: All right. So we're going

1 to go back on the record. We have marked for  
2 identification purposes only at this time  
3 Applicant's Group Exhibit Number 1 that consists  
4 of eight photographs of the area that Officer  
5 Perrell is testifying that he went to on a call  
6 after he injured his knee. Your witness.

7 BY MR. MARCONI:

8 Q. Okay. Now, these are pictures you took;  
9 is that correct?

10 A. Yes.

11 Q. There seems to be like a grate in, I  
12 don't know, maybe three of them?

13 A. A sewer grate, yes.

14 Q. Where is that in relation to where you  
15 were walking, just for a frame of reference?

16 A. In the first photo, I'm on Center facing  
17 west, and that sewer grate is maybe 50 feet off  
18 the -- there's no curb there, so off the end of  
19 the pavement of the street.

20 Q. And then just, in general, what these  
21 pictures show is the area that you were walking in  
22 and the terrain as you were looking for these  
23 hypodermic needles; is that correct?

24 A. Yes. And, obviously, this incident

1 happened in August so, you know, the brush is all  
2 bare right now in these pictures.

3 It was full of leaves and whatnot,  
4 so to navigate through it was much more difficult  
5 at the time with all the leaves on the bushes and  
6 trees and whatnot.

7 Q. Okay. So it's uneven rocks and it looks  
8 like an incline?

9 A. Yeah. Once you get where that utility --  
10 the yellow support line is for the utility pole,  
11 that's where it's all brush. And you can see the  
12 drainage grate, and that's probably five feet  
13 below the surface of the roadway that you have to  
14 walk down.

15 And then in front of that grate are  
16 a bunch of rocks of all different sizes that I had  
17 to walk across to get through to kind of an open  
18 path at that point, which faced west.

19 And I walked that path, like I  
20 said, probably for about a hundred yards to the  
21 area behind the residence that made the phone call  
22 to us.

23 And then the needles were -- if you  
24 look on the back of photo number seven, you have

1 the walking path. And then up to the left about  
2 five feet up is the fence that separates the  
3 wooded area from the rear of the shopping center  
4 of Walgreens. The needles were up at the base of  
5 the fence.

6 Q. Okay.

7 A. So I had to walk down five feet by that  
8 drain, walk a hundred yards, and then walk up to  
9 the fence line to collect the needles and then  
10 retrace my movements out.

11 Q. Okay. Was this -- was this the last call  
12 that you could do?

13 A. Yes.

14 Q. Did you physically -- what did you  
15 physically feel upon concluding that call?

16 A. Once I -- once I got out of there and I  
17 started walking on level ground, I knew that it  
18 was not right.

19 And, you know, even walking back  
20 after I collected the needles, there's a lot of  
21 small trees and branches of larger trees that I  
22 was actually using for support to assist me in  
23 walking back to the level ground.

24 Q. Okay. You went to the station then?

1           A. I got in my car and came immediately to  
2 the station and spoke to Sergeant Dempsey.

3           Q. And Sergeant Dempsey, what he said today  
4 was accurate, that you rolled up both pant legs  
5 and your right knee was swollen?

6           A. That's correct.

7           Q. And did he tell you to go to the  
8 hospital?

9           A. He did.

10          Q. Okay. Now, I'm just going to kind of do  
11 an overview of your treatment. You go to the  
12 hospital. You go where?

13          A. Edward Hospital, the corporate health.

14          Q. Any MRIs at that point?

15          A. No.

16          Q. X-rays?

17          A. X-rays, yes.

18          Q. Okay. You're released with what  
19 instructions?

20          A. To stay off of it. Yeah, we had x-rays  
21 and released me and I should follow-up with an  
22 ortho for a possible MRI.

23          Q. Knee brace?

24          A. Yes.

1 Q. From the ER?

2 A. I believe I was -- I can't recall if I  
3 got the knee brace from the ER or from my ortho.

4 Q. Okay. You end -- in the records, you end  
5 up with Dr. Arndt?

6 A. Correct, yes.

7 Q. How do you get to Dr. Arndt?

8 A. I -- being that I had an ACL surgery back  
9 15 years earlier, that was with M & M Orthopaedic.  
10 Since then, they have been absorbed by DMG, DuPage  
11 Medical Group. So I had luck in the past with my  
12 ACL surgery with M & M, so I went back to that  
13 same practice.

14 Q. Okay. Did Dr. Arndt order an MRI?

15 A. Yes.

16 Q. Did you go on August 22, 2017, and have  
17 an MRI?

18 A. I did.

19 Q. Did you go back to Arndt to discuss the  
20 results of the MRI?

21 A. Yes, on August 24th, two days later.

22 Q. Did he recommend surgery?

23 A. He stated that the MRI revealed I  
24 ruptured the ACL and some minor tears in my

1 meniscus and he recommended surgery.

2 Q. So there was no physical therapy at that  
3 point?

4 A. No.

5 Q. It was straight to surgery?

6 A. Correct.

7 Q. Did you undergo surgery September 15th,  
8 2017?

9 A. Yes.

10 Q. Was that an ACL reconstruction surgery?

11 A. Yes.

12 Q. And after that, when is the next day you  
13 went back after the surgery?

14 A. Six days later on the 21st of September.

15 Q. And you had your staples removed?

16 A. Fourteen staples and six stitches.

17 Q. Was there physical therapy that was  
18 ordered?

19 A. Yes.

20 Q. Where did you go?

21 A. ATI Physical Therapy, which I don't know  
22 the -- oh, I do have the exact address.

23 MR. REIMER: We don't need it.

24



1 BY MR. MARCONI:

2 Q. There's a lot of physical therapy  
3 records.

4 A. It's the one at Naper and 75th.

5 Q. From the size of Mr. Reimer's book there,  
6 you went a lot to physical therapy?

7 A. Yeah, three days a week right from the  
8 onset, and my first day was September 25th.

9 Q. Okay.

10 A. Which was 10 days postop.

11 Q. In addition to physical therapy, did they  
12 also put you in a program to try to get you back  
13 to work?

14 A. Eventually, yes.

15 Q. Is that work hardening or work  
16 conditioning?

17 A. Yes. That wasn't until March of 2018.

18 Q. All right. With the physical therapy,  
19 were you able to get back to work?

20 A. I did go back light-duty briefly in  
21 October, which I then told my surgeon that I  
22 believe it was too much, because he had me working  
23 six hours a day, five days a week; which I was  
24 just coming off of crutches, so my movement was

1 pretty limited at that point.

2 So I called him again and said I  
3 don't think I should be on light-duty at this  
4 point. So he rescinded the light-duty, and then I  
5 started light-duty on January 3rd of 2018.

6 Q. Okay. Were you still under the care of  
7 Dr. Arndt?

8 A. Yes.

9 Q. Were you still having problems with your  
10 knee?

11 A. Yes.

12 Q. What were those problems it?

13 A. All during the time with physical  
14 therapy, I was unable to accelerate. And the big  
15 thing with the knee injury is you have a lot of  
16 weakness to your quad. So the one thing they'd  
17 like to do is build your quad strength, which  
18 helps all the ligaments below that.

19 So the first portion of PT for the  
20 first couple of months postop was getting my  
21 strength back. And then as I progressed with  
22 that, trying to get me on a treadmill to get my  
23 speed up.

24 And at that point, I could walk at

1 best on the treadmill. Any sort of speed where I  
2 had to increase speed to accelerate, I was unable  
3 to because of the pain in my knee.

4 Q. Okay. All during this time you had a  
5 nurse case manager; is that correct?

6 A. She was with me at every appointment.

7 Q. And I think in the records there's  
8 EagleOne Case Management Solutions. Is that who  
9 that was?

10 A. Yeah. There were like two or three  
11 different case managers, but someone from EagleOne  
12 was at every appointment.

13 Q. Okay. So they're overseeing your  
14 treatment and overseeing your rehabilitation?

15 A. They described themselves as like the  
16 middleman between me and IRMA.

17 Q. Okay. After you weren't getting back to  
18 work with Dr. Arndt, did they suggest you see  
19 another doctor?

20 A. I was having pain in March, and when we  
21 had surgery in September, it was expected that,  
22 you know, six months I should be back to  
23 full-duty.

24 Well, six months was quickly

1       approaching and I was still having significant  
2       pain in my knee which was preventing me from even  
3       running at that point.

4                       So I raised those questions to Dr.  
5       Arndt at a visit with him at my appointment on  
6       March 7th, and at that point he really couldn't  
7       tell me why the knee was still giving me these  
8       problems where I still was unable to accelerate.  
9       I hadn't even started doing any side-to-side  
10      motion. So at that point, he ordered a second  
11      MRI.

12              Q.   And did you undergo that MRI, I think, on  
13      March 17th, 2018?

14              A.   March 16th.

15              Q.   16th?

16              A.   Yes.

17              Q.   Did you go back to Arndt or did you go to  
18      a different doctor at that point?

19              A.   On March 19th, I went back to Dr. Arndt  
20      for the results of those MRIs -- or of the MRI, I  
21      should say.

22              Q.   And then did you -- subsequently, Dr.  
23      Arndt could not give you a diagnosis or a reason  
24      why you were having these problems?

1           A.    Correct.  He told me that the MRI  
2           revealed that the new ACL was showing signs of  
3           fraying, and also that there was small tears in  
4           the medial and lateral meniscus and a chronic MCL  
5           sprain.

6                        I asked him why a brand new ACL  
7           would already be showing signs of fraying.  He  
8           couldn't give me a real clear answer as to why.  
9           So at the end of the appointment, I spoke with my  
10          case manager about this, and both of us were under  
11          the impression that we should ask for a second  
12          opinion.

13                Q.    Did you do that?

14                A.    I did.

15                Q.    Did you get to Dr. Bush-Joseph?

16                A.    Yes.

17                Q.    Is that a recommendation by IRMA's case  
18          manager?

19                A.    Yes.  They said they use him usually for  
20          a lot of IMEs.

21                Q.    And the records indicate you did go and  
22          see Dr. Bush-Joseph; is that correct?

23                A.    Yes.

24                Q.    And he recommended a second surgery; is

1 that correct?

2 A. Yes.

3 Q. Do you know what he did in the second  
4 surgery?

5 A. The terminology, I know that there's a  
6 thing called notchplasty. I think in layman  
7 terms, he shaved a portion of my femur bone. And  
8 if I can describe -- Rick, can I describe it as  
9 far as --

10 MR. REIMER: You can.

11 BY THE WITNESS:

12 A. Okay. What was happening was I was still  
13 having a limp in March. And what he said was that  
14 there was growth on the femur bone, and without  
15 the meniscus. So at the joint in my knee, was  
16 bone on bone. So I could not straighten my knee  
17 to walk normal without a limp.

18 So what he did was he shaved a  
19 portion of the femur bone to increase the spacing  
20 between the two bones so that I could flex my knee  
21 to a straight position, which would allow me, at  
22 least at that point, to walk without any gait or  
23 limp and then hopefully build up.

24 And he told me that he shaved some

1 area under what was needed under my kneecap as  
2 well.

3 BY MR. MARCONI:

4 Q. Okay. Was the whole point of this  
5 operation basically to get you back to work?

6 A. Yes.

7 Q. Was that Dr. Bush-Joseph's goal, to get  
8 you back to work?

9 A. Yes.

10 Q. And is that what you guys were working  
11 to?

12 A. Absolutely.

13 Q. And then did he send you back to physical  
14 therapy to see if you can build up that knee to  
15 get back to work?

16 A. Correct. Prior to surgery at the end of  
17 March, I did start a work conditioning program.  
18 We stopped light-duty where I was doing work  
19 conditioning, which is five days a week,  
20 approximately four to six hours a day, also at  
21 ATI.

22 He said, after surgery, to continue  
23 with the work conditioning at my -- you know, as  
24 pain permitted.

1 Q. Were you subsequently discharged from  
2 physical therapy?

3 A. Yes.

4 Q. Why?

5 A. In July, at a follow-up with Dr.  
6 Bush-Joseph, I was still having the pain. And at  
7 that point is when he said that the knee is as  
8 good as it's going to be. It's not going to get  
9 any better. And so he put me at MMI, maximum  
10 medical improvement, and told me that he would --  
11 that I would have to start the disabled process  
12 with the pension.

13 Q. Did you -- any home exercises or anything  
14 that he gave you to strengthen the knee?

15 A. All the time with ATI they always said,  
16 you know, whenever you're, you know, sitting on  
17 the couch, keep moving your knee. But nothing  
18 specific. That was all done at work conditioning  
19 which, like I said, was four to six hours a day.

20 Q. How about medication?

21 A. As needed. But, you know, at that point,  
22 I was usually taking ibuprofen every day. No  
23 narcotics. I was off of that. That was only, you  
24 know, right after surgery when I was doing the



1       narcotics.

2               Q.   You touched on light-duty.  Do you know  
3       one way or the other whether Lisle has a permanent  
4       light-duty position?

5               A.   I don't know, but I was told once -- Dr.  
6       Bush-Joseph told me that I cannot and will not  
7       return to full-duty.  I was contacted by Chief  
8       Dave Anderson on the 18th.  Dr. Bush-Joseph told  
9       me about the full MMI on July 17th.

10               So on the 18th is when Chief  
11       Anderson called me and told me that light-duty is  
12       going to be terminated, because the way he  
13       explained it is light-duty is only a bridge to get  
14       you from being sick or injured to getting to be  
15       full-duty.

16               And knowing that I was not going to  
17       be full-duty, I did not qualify for any  
18       light-duty.  So the 18th was the last day of work,  
19       of July.

20               Q.   Okay.  Do you know what PEDA benefits  
21       are?

22               A.   I do.

23               Q.   Did you receive a full year of PEDA  
24       benefits?

1           A. I did.

2           Q. Was that -- you didn't receive it all in  
3 one lump, it was kind of intermittent?

4           A. Correct. When I was out, you know, with  
5 -- prior to the first surgery and then shortly  
6 after. So PEDAs started the day of the injury, I  
7 believe, on the 14th of August, 2017, and carried  
8 me through the first week, I believe it was  
9 November 12th of 2018, is when my PEDAs benefits  
10 were exhausted.

11          Q. Okay. Are you currently receiving  
12 worker's compensation benefits, temporary total  
13 disability benefits?

14          A. Yes.

15          Q. Okay. And that's so you're getting  
16 whatever, 66-2/3?

17          A. It's 66-2/3. And it was explained that  
18 it's 66-2/3 of my 2016/2017 salary. A year prior  
19 to the injury is the salary that they use.

20          Q. Okay. Pursuant to the application you  
21 filed, the Pension Board directed you to undergo  
22 independent medical examinations; correct?

23          A. Yes.

24          Q. You saw a Dr. Hutchinson on January 9,

1 2019; is that correct?

2 A. Yes.

3 Q. What did he do? Did he -- do you know  
4 one way or -- did he order diagnostic testing?

5 A. No.

6 Q. Did he -- do you know, one way or the  
7 other, whether he reviewed your diagnostic  
8 testing, MRIs, x-rays?

9 A. He told me that he had.

10 Q. Okay. Did he perform a physical  
11 examination?

12 A. Yes.

13 Q. What did he do?

14 A. He asked me to get on the table. He, you  
15 know, checked the maneuver, or a pull-tug maneuver  
16 on my knee. And then he actually asked me to walk  
17 down the hall, walk on my heels, walk on my toes.  
18 He asked me if I could squat or crawl. He asked  
19 me to climb up onto a table that was roughly this  
20 height, you know, three feet high.

21 Q. So it was a full exam?

22 A. Yes.

23 Q. Pretty thorough?

24 A. I believe so.

1 Q. How about Dr. Samo? You saw him on  
2 January 10, 2019 for a physical exam?

3 A. Yes.

4 Q. To the best of your knowledge, he  
5 reviewed all your records; is that correct?

6 A. Yes.

7 Q. And you also saw Dr. James Hill on  
8 January 14, 2019. Did he also do a physical exam?

9 A. James Hill was on the 11th of January.

10 Q. 11th?

11 A. January 11th.

12 Q. Did he do a physical?

13 A. Yes.

14 Q. Order any further diagnostic, or do you  
15 know if he reviewed your diagnostic?

16 A. He reviewed. He said he had boxes of my  
17 medical records.

18 Q. Okay. What are your current problems?

19 A. I still have pain. I cannot accelerate  
20 at all. The best speed I can do is just a  
21 controlled walk. If I go to run or jog, I have  
22 intense pain on the inside portion of my knee.

23 I cannot squat. I cannot kneel on  
24 my right knee. If I'm sitting down for a while,

1 by the time I get up, it takes me two, three, four  
2 strides to actually get my motor going, for lack  
3 of a better term. I just can't jump up and get  
4 into normal walking position.

5 Q. Okay. So do you think you could get back  
6 and fulfill the duties of a Lisle patrol officer?

7 A. I wish, but I could not.

8 MR. MARCONI: Okay. I don't have  
9 anything else.

10 MR. REIMER: Very good. Anybody need a  
11 break?

12 (Trustees nodding.)

13 MR. REIMER: Take five or whatever you  
14 need and we'll resume.

15 (WHEREUPON, a short recess was  
16 taken.)

17 MR. REIMER: Before you tender the  
18 witness, do you want to move for admission of  
19 Applicant's Group 1 and Group 2?

20 MR. MARCONI: I do.

21 MR. REIMER: Okay. So the record should  
22 reflect that Applicant's Group 1 and Group 2 will  
23 be admitted. We are going to have to make  
24 additional copies of Applicant's Group Exhibit

1 Number 2. We probably should have done that.

2 If you want, this is the Board's  
3 opportunity to ask questions. I've got some  
4 questions I'm going to ask. Do you want me to go  
5 ahead or do you want to go first?

6 MR. LEDVORA: Go ahead.

7 MR. REIMER: All right.

8 **CROSS-EXAMINATION**

9 **BY MR. REIMER:**

10 Q. Jay, as you know, I don't vote. I'm just  
11 a lawyer. These aren't trick questions. I'm just  
12 asking questions that I hope will elicit  
13 information that the five-member Board can use to  
14 make a decision in your case. Okay?

15 A. Okay.

16 Q. So if I ask you a question and you don't  
17 understand it, ask me to repeat it and I'll be  
18 glad to do so.

19 Easy ones: Your current age?

20 A. Fifty-one.

21 Q. How many total years of credible service  
22 do you have with Lisle PD?

23 A. November was 20, so a little over 20  
24 years right now.

1 Q. Are you currently married?

2 A. Yes.

3 Q. Spouse's name, your bride's name?

4 A. Kristina with a K.

5 Q. All right. And this is probably the  
6 hardest question you'll answer tonight. What's  
7 the date of marriage?

8 A. 10 -- October 18th, 1997.

9 Q. Okay. Final answer?

10 A. Final answer.

11 MR. REIMER: Did he get it right?

12 MRS. PERRELL: He did.

13 MR. REIMER: That's good. Most officers  
14 don't get that.

15 BY MR. REIMER:

16 Q. Do you have any dependent children? By  
17 "dependent," I don't mean financially. I mean  
18 children under the age of 18 or children over the  
19 age of 18 dependent because of a physical or  
20 mental disability.

21 A. In that case, I would have one under 18,  
22 my daughter.

23 Q. Okay. What's your daughter's name?

24 A. Emma.

1 Q. All right. And how old is Emma?

2 A. She'll be 17. She's 16.

3 Q. She's 16 now?

4 A. Yes. I'm sorry.

5 Q. I won't ask her birth date on the record.

6 A. I got it. And to be clear, you just want  
7 under 18; correct?

8 Q. Correct.

9 A. Because my son is over, okay.

10 Q. Correct. All right. So still dependant,  
11 but not -- when she attains 18, she's no longer  
12 considered dependant.

13 A. Okay.

14 Q. Prior to getting appointed here by the  
15 Lisle PD, did you have to undergo a pre-employment  
16 medical exam by the police commission?

17 A. Yes.

18 Q. And generally what did that consist of?

19 A. The medical is -- you know, I believe  
20 it's just, you know, your vitals, weight, height.  
21 I don't think they do anything like blood or  
22 anything like that.

23 Q. Was there a physical examination?

24 A. Yes.



1 Q. Meaning, did a doctor manipulate your  
2 joints, ask you questions, anything of that  
3 nature?

4 A. I don't recall.

5 Q. Okay. Prior to your appointment date,  
6 which was November 12th of 1998, prior to getting  
7 appointed here, had you ever had any right knee  
8 symptoms?

9 A. No.

10 Q. Prior to that same -- that same date now,  
11 had you had any right knee injury?

12 A. I don't think to my knee. I had some  
13 right ankles but, you know, just from --

14 Q. I'm just asking about the knee.

15 A. No.

16 Q. Just so we're real clear, the knee is --  
17 the right knee is the only reason you're asking  
18 this Board to award you a disability?

19 A. Correct.

20 Q. And I assume, then, there would be no  
21 treatment prior to your appointment to your right  
22 knee.

23 A. Correct.

24 Q. Correct?

1                   So after that, you've testified to  
2                   the 2002 softball injury. So between the softball  
3                   injury which was off-duty and your date of  
4                   appointment, so 1998 to 2002, any treatment,  
5                   symptoms or injuries to your right knee?

6                   A. No.

7                   Q. So right knee is good until the softball  
8                   injury?

9                   A. Correct.

10                  Q. You're off work as a result of that  
11                  injury?

12                  A. Correct.

13                  Q. How long were you off work?

14                  A. I returned full-duty -- the surgery was  
15                  in July of 2002, and I returned, I believe,  
16                  February of 2003.

17                  Q. Okay. And February of 2003 you returned  
18                  to full and unrestricted duty?

19                  A. Correct.

20                  Q. You were released by your doctor?

21                  A. Yes.

22                  Q. And that was Dr. Arndt?

23                  A. No, that was actually Dr. Reilly, John  
24                  Reilly.

1 Q. All right.

2 A. Also with, at the time, M & M  
3 Orthopaedics.

4 Q. Very good. And after you returned to  
5 duty, full-duty in February of 2003, did you have  
6 any ongoing symptoms to your right knee?

7 A. None.

8 Q. Knee was good?

9 A. Yes.

10 Q. When you show up for work on the date of  
11 this injury, August 14th of 2017, before this  
12 incident happened, were you under the care and  
13 treatment of any doctor for anything related to  
14 your right knee?

15 A. No.

16 Q. Was the day of this incident that brings  
17 you here, this was the last day you worked full,  
18 unrestricted duty?

19 A. Correct.

20 Q. Other than periods of light-duty that you  
21 were paid a hundred percent of your salary?

22 A. Correct.

23 Q. Do you have a pending worker's  
24 compensation case arising out of this injury?

1 A. I do.

2 Q. What's -- is it pending now?

3 A. Yes.

4 Q. In other words, you haven't settled it?

5 A. Correct.

6 Q. You believe your PEDDA stopped on or  
7 about -- it looks like November 12th of '18?

8 A. Yes.

9 Q. Do you know, would that have been the  
10 first day you went on TTD or was that -- was the  
11 PEDDA paid through November 12th, '18, and the  
12 following day is the day you started TTD?

13 A. I believe the 12th was the first day that  
14 I was receiving the payment from IRMA directly --

15 Q. Okay.

16 A. -- for the TTD.

17 Q. And you continue to get TTD as you sit  
18 here?

19 A. Yes.

20 Q. Do you know what the biweekly or weekly  
21 amount is?

22 A. \$2,419 -- \$2,419.26.

23 Q. Okay. And that's, obviously, biweekly?

24 A. Yes.

1 Q. Have you been told by the work comp  
2 carrier when that will terminate?

3 A. I have not.

4 Q. And if the Board awards you a disability,  
5 what date are you asking it to be effective?

6 A. I would think immediately.

7 Q. So tomorrow?

8 A. If that's how it works. I'm not sure how  
9 the process works.

10 Q. All right. And the chief informed you  
11 that there was no permanent light-duty that would  
12 be offered or made available to you here, and that  
13 was based on a conversation you had with Chief  
14 Anderson on July 18th of 2018?

15 A. Correct.

16 Q. Has any doctor that's either treated or  
17 evaluated you for your right knee injury told you  
18 you could go back to full, unrestricted duty?

19 A. No.

20 Q. And I'm going to focus just on your  
21 treating doctors, so Bush-Joseph and Arndt and  
22 anybody else that treated you, not examined you.

23 Did you follow all your treating  
24 physicians' treatment recommendations?

1 A. Yes.

2 Q. In other words, there was nothing that  
3 they recommended that you try that you refused to  
4 do?

5 A. No.

6 Q. Have you been employed in any other  
7 capacity since this injury?

8 A. No.

9 MR. REIMER: That's all I have. So this  
10 is your opportunity to ask questions of Officer  
11 Perrell, and ask whatever question you want, and  
12 if there's an objection, I'm sure Mr. Marconi will  
13 wake up and make an objection.

14 MR. MARCONI: You never know.

15 MR. ROGERS: Do you want to start and go  
16 around?

17 MR. REIMER: However you want to do it.

18 **EXAMINATION BY THE BOARD**

19 **BY MR. LEDVORA:**

20 Q. Officer Perrell, I have a few different  
21 things.

22 A. Sure.

23 Q. For the 2002, the accident you had, that  
24 was playing softball?

1 A. Correct.

2 Q. And that was also a torn ACL?

3 A. Yes.

4 Q. And you had surgery for that?

5 A. I did.

6 Q. And did you play softball then  
7 afterwards?

8 A. Yes.

9 Q. And but you recovered fully from that --

10 A. Yes.

11 Q. -- it sounds like.

12 A. Yes.

13 Q. And are you still playing softball or --

14 A. No.

15 Q. And so when did you quit playing  
16 softball or --

17 A. In 2008, I hurt my left ankle, and since  
18 then I have not played softball.

19 Q. And the knee had been fine, etcetera?

20 A. Yes.

21 Q. And the -- you're still -- since the  
22 accident, you're not doing any sports or --

23 A. No, I'm very limited.

24 Q. -- anything like that?

1 A. No.

2 Q. And then you -- you said --

3 A. Can I -- I'm sorry. Can I clarify,  
4 actually? Dr. Bush-Joseph, who was my last  
5 surgeon, he did say that I could go on an easy  
6 bike ride, play golf, but nothing like basketball,  
7 tennis, anything like that that involves cutting  
8 movement. So when you say "sports," certainly not  
9 baseball, basketball, but I have golfed, yes.

10 MR. ROGERS: Leisure sports?

11 THE WITNESS: Yes.

12 BY MR. LEDVORA:

13 Q. And you've also passed this annual test  
14 that you referred to earlier?

15 A. Yes.

16 Q. And the duty bag, you measured or relayed  
17 that was 25 pounds, and the gas -- the other gas  
18 bag or --

19 A. Go-bag.

20 Q. Go-bag, sorry.

21 A. That's okay.

22 Q. Is 18 pounds. That's approximately 42  
23 pounds. And then so the Village doesn't have any  
24 requirements then, I take it, for maximum weight



1 or anything that anyone, any officer, for that  
2 matter?

3 A. Not that I know of.

4 Q. Because you also said you got -- I think  
5 got on something else?

6 A. I had my vest on, my gun belt on.

7 Q. So you're carrying over -- several --  
8 several pounds over that 42 pounds of those two  
9 bags?

10 A. 43, I think, yeah correct.

11 Q. 43-ish. And none of the stairs, they  
12 weren't wet or anything?

13 A. No.

14 Q. And you had said that it was a normal day  
15 that you -- the start of a normal day, going to --  
16 it was nice to have a tour -- going to the locker  
17 room.

18 A. Yes.

19 Q. And then putting on a uniform, getting  
20 your go-bag and your duty bag and then coming down  
21 the stairs to go to roll call?

22 A. Correct.

23 Q. So you went to the roll call, and then  
24 you had your first -- you mentioned your first

1 traffic call at 9:05?

2 A. Yes.

3 Q. And that -- could you just say a little  
4 bit -- so you didn't have any other call. You  
5 didn't have a -- going down, there was no -- you  
6 weren't on a call? And I'm also learning a little  
7 bit of the police functions, I guess.

8 But you weren't on a call. You  
9 were on-duty, but you weren't on a call?

10 A. Correct. I was on-duty and my first  
11 dispatch call that I went on -- not even dispatch  
12 because I initiated it, but it was -- it was the  
13 traffic stop.

14 Q. And when you say "initiate," so you leave  
15 the building, put your stuff in the car, go back  
16 for the roll call or that's after --

17 A. I --

18 Q. -- you got --

19 (Multiple speakers.)

20 MR. REIMER: You got to be real careful  
21 here. You're talking over each other. So let him  
22 finish, and then you can answer. Make sure if  
23 he's trying to answer, you stop. Because she gets  
24 -- she's deadly. She'll throw something. There

1 could be another disability.

2 MR. LEDVORA: Sorry, Michelle.

3 BY MR. LEDVORA:

4 Q. So you carry the bags to the car first  
5 and then come back for roll call?

6 A. I carry the bags from the locker room,  
7 down the stairs, which is where I got hurt.  
8 Typically, we leave our bags there by that back  
9 door.

10 We go into the first floor where  
11 the radio room is, which is where I got my radio,  
12 my rifle, a tablet for the car, and then go back  
13 out to that rear door, grab my bags with those  
14 extra items, walk to the car, load up my vehicle,  
15 sign on, inspect the vehicle, and then walk in and  
16 attend roll call.

17 Q. And then you had said -- so then after  
18 roll call, you go back to the car?

19 A. That day, I believe I was in the report  
20 writing room, maybe just checking e-mails because  
21 it was the first day back from a weekend off. So  
22 just checking weekend, you know, calls.

23 So I was in the PD for a little  
24 bit, I don't know exactly how long, but then I

1 went out and just started driving around my beat.

2 Q. And so you drive around the beach --  
3 beat, sorry -- and you get that the first call?

4 A. No. I initiated the traffic stop first.

5 Q. Oh, okay. So you initiated the traffic  
6 stop, and that was for -- I think you gave a  
7 warning?

8 A. Correct.

9 Q. Up at Maple, it sounded like, by the  
10 McDonalds there?

11 A. Yeah. The vehicle was going westbound on  
12 Maple. I stopped it for speeding and the driver  
13 pulled into the McDonalds on Maple Avenue just  
14 east of 53.

15 Q. And for -- for -- and that sounds like  
16 that was about 9:05, and then that cleared up  
17 shortly thereafter, it sounds like, with a  
18 warning?

19 A. At 9:10, correct.

20 Q. And I'm not trying to be belligerent or  
21 anything, was it a matter of life or death, that  
22 call?

23 A. Well, with -- every traffic stop is an  
24 unknown and, actually, a traffic stop is probably

1 one of the most dangerous calls that we go on,  
2 because you never know who you're stopping and  
3 what's in the car or who's in the car.

4 So, frankly, I don't feel that I  
5 would have ever conducted a traffic stop if I  
6 didn't feel that I could have physically taken  
7 care of myself on that call.

8 Q. No one was in no immediate peril, I  
9 guess, any --

10 A. No.

11 Q. Anyone?

12 And you initiated the call. It  
13 wasn't someone called in and said there's a  
14 speeder on --

15 A. I initiated it.

16 Q. You initiated it. And then -- then you  
17 -- after that, there was the second call at  
18 approximately 9:15, and that was for the  
19 hypodermic needles?

20 A. Yes. That was dispatched at 9:20 a.m.

21 Q. And I'm just curious. What's -- what's  
22 the concern with the hypodermic needle? That was  
23 a call by a citizen?

24 A. Correct.

1 Q. And do you know what the concern was?

2 A. It's a needle and it could contain  
3 controlled substances, hazardous material. We get  
4 -- a lot of times, we'll get calls from -- it's a  
5 dangerous item. It could actually hurt someone.

6 Q. And that was coming from -- from a --  
7 from an individual?

8 A. Yes. The homeowner called it in.

9 Q. The homeowner?

10 A. Correct.

11 Q. That -- that -- and they called, I assume  
12 the -- I don't know however it works. They --  
13 they, being a homeowner, calls 9-1-1 or something,  
14 and then someone relays that to you?

15 A. Correct. That was the dispatcher.

16 Q. The dispatcher. And there wasn't call  
17 for any -- for lack of a better term I'll call it  
18 backup or any other assistance from anyone else?

19 A. Not on a call like that, no.

20 Q. Nothing for that.

21 And was anyone's life in peril in  
22 that?

23 A. At the time, no.

24 Q. And those sheets you had referred to, are

1 those part of your -- will be part of the records?

2 MR. REIMER: Yes, sir. We're going to  
3 make copies of it. Maybe when you're done  
4 questioning, before Mr. Marconi does a closing  
5 statement, we'll make copies of it.

6 So if you want to look at those and  
7 have an opportunity --

8 MR. LEDVORA: I think it should be part  
9 of it. I mean, it kind of goes to what's  
10 immediately following.

11 BY MR. LEDVORA:

12 Q. And then the -- and these pictures were  
13 taken recently. These weren't part of the  
14 investigation?

15 A. I took those Monday morning.

16 Q. Okay. And that investigation, I assume  
17 -- was there any results from it or --

18 A. No. It's classified as found property.

19 Q. Okay.

20 A. So when we find property, we just enter  
21 it into evidence as to be destroyed.

22 Q. Oh, okay. And when -- when you had said  
23 about for the -- you had the accident in August,  
24 and then in September you had the surgery, and

1 then in March, there was the Eagle case, and it  
2 was overseeing it, Eagle case one?

3 A. Eagle case one was overseeing it from the  
4 very beginning.

5 Q. Oh, okay. And Eagle case, that's IRMA's  
6 third-party?

7 A. I believe it's the third-party that IRMA  
8 uses.

9 Q. And then you had said, it sounds like, on  
10 July 18th, Chief Anderson -- you were contacted by  
11 Chief Anderson, who said the light-duty would be  
12 terminated?

13 A. Correct.

14 Q. And does that mean termination of your  
15 employment?

16 A. No.

17 Q. What does that mean then?

18 A. You have full-duty and then you have  
19 light-duty. Obviously, I was not able to work  
20 full-duty. Light-duty is just working desk duty  
21 throughout the department or the village, for that  
22 matter.

23 He was -- he told me that  
24 light-duty is not available to officers or



1 employees that are not expected to come back to a  
2 full recovery.

3 Q. So -- so that's what I'm trying to  
4 understand then. He -- so he said there's no  
5 longer light-duty, but so it wasn't a termination?

6 A. No.

7 Q. Because there was no other position  
8 available or --

9 A. I was placed on worker's comp at that  
10 point.

11 Q. Oh, I see. And does he put that in a  
12 record or letter, or is there any --

13 A. I'm sure that HR would have some  
14 documentation of what my last day of employment  
15 was on light-duty and what my first day of full  
16 work comp was.

17 Q. And I guess what I'm trying to also  
18 understand is: Has anyone -- who is your  
19 immediate supervisor, then?

20 A. Sergeant Tim Demsey.

21 Q. So just I understand the order, who does  
22 Sergeant Demsey report to then?

23 A. Deputy Chief at the time was Deputy Chief  
24 Rob Munson.

1 Q. And then the deputy chief reports to the  
2 police chief?

3 A. Yes.

4 Q. So and that's what I'm trying to see, is  
5 if anyone at Lisle -- I was trying to see who the  
6 immediate supervisor, deputy chief or the police  
7 chief, have something written saying that this --  
8 if you're going -- if you're unable to fulfill  
9 those duties that are in the one exhibit of the  
10 Lisle police officer.

11 A. I do recall seeing a correspondence from  
12 Chief Anderson to Dawn Lang (phonetic), who was in  
13 charge of HR at the time, talking about the  
14 light-duty status.

15 Q. Okay. If there's -- there's something to  
16 put in the record, I guess, to see if there's  
17 something --

18 MR. REIMER: Well, I mean, here's the  
19 question. The question is: Yes or no, is there a  
20 permanent light-duty position?

21 So the way it is right now, there  
22 is no permanent light-duty position. That doesn't  
23 mean he's terminated. That doesn't mean he's  
24 fired. It just means he goes back to either PED

1 benefits, or he goes back to temporary total,  
2 which is worker's comp benefits.

3 MR. LEDVORA: What is PEDA?

4 MR. REIMER: Public Employee Disability  
5 Act, and that's a statute that requires any police  
6 officer or firefighter or paramedic that's injured  
7 in the line-of-duty, it requires the municipality  
8 to pay them up to one full year anytime they can't  
9 work as a result of a duty disability. So we  
10 asked him. He got his full one year of PEDA.

11 MR. LEDVORA: Okay.

12 MR. REIMER: But the light-duty position  
13 tolls that. So it doesn't count.

14 So even though PEDA is supposed to  
15 be 365 days a year, sometimes it lasts for two  
16 years because you go on and off PEDA benefits.

17 So, really, the only thing that you  
18 need to know relevant is: Is there a permanent  
19 light-duty? So if there was evidence that if the  
20 Chief or Deputy Chief Gaw came to him and said, we  
21 offer you a permanent light-duty position, and  
22 that position was made available to him on a  
23 permanent basis, he could do it, according to the  
24 doctors, and he refused to do it, that would be --

1 give you, as a Pension Board, the opportunity to  
2 say, well, maybe you're not disabled because  
3 there's been no suspension from duty, meaning he  
4 can't work. But I don't think that's what we have  
5 here.

6 MR. LEDVORA: So that's what I was trying  
7 to understand. If the -- because the doctors, I  
8 think, they were experts in the medical profession  
9 and giving their opinion, and also bring it over.  
10 But I don't know if they're experts in the police  
11 -- the duties of a police officer or Lisle.  
12 Whereas chief and deputy chief and sergeant are  
13 those experts, and that's what I was trying to  
14 see, if they had formed an opinion.

15 MR. REIMER: Well, the case law is real  
16 clear. Disability is determined by doctors, not  
17 lay witnesses. So you rely on the doctors to say,  
18 yes or no, can this person perform full and  
19 unrestricted duties.

20 But that's a separate question from  
21 -- the doctors are all asked if a light-duty  
22 position is available to him, can he do it. And,  
23 unfortunately, in this case, the record seems to  
24 demonstrate there is no permanent light-duty

1 position. So that's really as far as you can go.

2 In other words, you, as a trustee,  
3 or all of you unrestricted you as a Pension Board,  
4 can't go back to the department and say this guy  
5 can do light-duty. Create a light-duty position  
6 for them. You just don't have the legal authority  
7 to do it.

8 MR. LEDVORA: No, no, no, no. I think I  
9 understand. I was just trying to see where the  
10 police department has, on record, made an opinion  
11 or comment, I guess, on that.

12 MR. REIMER: If you know.

13 THE WITNESS: I don't know. I mean, I  
14 would assume that there's correspondence between  
15 Chief Anderson and HR, because that was the  
16 directive that he told me, was that they discussed  
17 it and there is no permanent light-duty.

18 MR. REIMER: It's -- well, his testimony  
19 is unrebutted right now.

20 MR. LEDVORA: Yeah.

21 MR. REIMER: So you take the record as it  
22 is. If it's in there, I might have seen it on the  
23 CD, so it would be Board Exhibit Number 10.

24 I mean, he can make it real quick.

1 If you want to call a witness, I can -- I'll call  
2 Deputy Chief Gaw right now, put him under oath.

3 DEPUTY CHIEF GAW: Just so you know, I  
4 wasn't promoted until August of 2018, so I  
5 wouldn't have personal knowledge of this.

6 MR. REIMER: Do you have any objection of  
7 whether or not there's a permanent light-duty  
8 position today?

9 DEPUTY CHIEF GAW: Correct, there is not.

10 MR. REIMER: We can put him under oath  
11 or --

12 MR. LEDVORA: No, I -- I understand there  
13 is no light position available, light-duty  
14 position.

15 MR. REIMER: Okay. I'm not -- I mean,  
16 I'm happy to do that. Is there -- is that  
17 something you want to talk --

18 MR. LEDVORA: I was just trying to see if  
19 there's something in that binder or even, you  
20 know, from -- from IRMA, the workers -- I keep  
21 calling it workers' comp, because that's the  
22 terminology I'm used to, that something saying  
23 this -- this is -- is -- because of the, you know,  
24 the knee, can't perform the duties of the --

1           MR. LAUTEN: Exhibit 11 is a job  
2 description.

3           MR. LEDVORA: I understand it has a job  
4 description. And, again, there's a lot in there.  
5 That's why I didn't know if someone who's been  
6 reviewing, you know, the IRMA or the police chief  
7 or whomever, has made that -- closed that loop.

8           MR. LAUTEN: The IME received the job  
9 description as well.

10          MR. MARCONI: He's talking about the  
11 chief. I don't think the chief put it on -- he  
12 told him there's no light-duty, but I don't know  
13 if the chief -- I don't think the chief gave you a  
14 memo, correct, or anything like that?

15          THE WITNESS: No.

16          MR. LEDVORA: Or -- or said that based on  
17 the condition you have in your right knee, you  
18 can't perform the duties in Exhibit 11.

19          MR. REIMER: But that's your job. That's  
20 what you're here to decide today. That's why you  
21 asked Dr. Hutchinson, Dr. Samo and Dr. Hill.  
22 That's your job. So that's -- that's really what  
23 the product of tonight's meeting will be.

24                    You're going to make that call.

1 You don't let -- you don't let the police  
2 department make the call, if that makes sense.

3 They can say you've got a job.  
4 There's a light-duty position. Or because he's  
5 filed a disability application, I'm sure -- I'm  
6 not involved in the comp case, but the village  
7 would get access to all the treatment records.  
8 And once he was put on MMI, which is what his  
9 testimony was, maximum medical improvement, that's  
10 very typical where the municipality, the police or  
11 the fire employer will go, you're done. There's  
12 no light-duty position. You got to go apply for  
13 your disability. Which is exactly what he did.

14 So I don't know that you're going  
15 to get anything from the police chief saying  
16 because of your right knee, you're disabled.  
17 That's your job.

18 MR. LEDVORA: Um -- hmm.

19 MR. REIMER: I mean, that's just the  
20 system, how it works.

21 MR. LEDVORA: Okay. Thank you.

22 MS. WISE: I don't have any questions.

23 MR. ROGERS: I only have a couple.  
24



1 **BY MR. ROGERS:**

2 Q. After the traffic stop, everything seemed  
3 cool; right?

4 A. Correct.

5 Q. For the most part?

6 A. Correct.

7 Q. When you initially went down the stairs  
8 in the morning, obviously, we've all done it. You  
9 knew something wasn't right?

10 A. Correct.

11 Q. So this call -- I've been here. I've  
12 been on a foot chase on the night shift back here  
13 and wiped out pretty bad, the exact same spot.

14 I'm guessing that didn't help when  
15 you were walking?

16 A. I can't determine how bad my knee was on  
17 the stairs. But immediately after that call is  
18 when it started swelling up, and that's when I  
19 said that I'm done.

20 Q. Okay. And the only other question I have  
21 is: In hindsight, do you wish you carried your  
22 go-bag in your right hand? Just kidding. Strike  
23 that.

24 MS. KMIECIAK: I just have one question.

1 I don't know if you would know this.

2

3 **BY MS. KMIECIAK:**

4 Q. The two bags and all the stuff that you  
5 have, is there a policy -- and we're not quite  
6 positive what got stuck, although we think -- is  
7 there a policy that stuff has to be in the bags?

8 Is there a police policy or  
9 anything that says anything you carry has to be in  
10 a bag versus clipped on the side, if you will?

11 A. I'm not aware of any policy, but these  
12 come with clips.

13 Q. Okay.

14 A. So along the outside of the bag, you have  
15 all these hasps or areas that you're supposed to  
16 clip stuff to.

17 Q. All right. So that was my -- sort of my  
18 second question. Is it normal and usual to have  
19 stuff clipped on the outside of your bag? Do all  
20 policemen kind of have that?

21 A. I would think that it's somewhat common.

22 MS. KMIECIAK: Okay.

23 MR. ROGERS: Can I add to that? Just so  
24 you know, when you're on a call, and those wedges,

1 I know what -- I know exactly what they're used  
2 for.

3 Most of the time, it's number one  
4 going to the door, throws the wedge in. If  
5 they're in the bag, they're hard to find.

6 MS. KMIECIAK: Yep.

7 MR. ROGERS: So that's -- I'm sure 99  
8 percent of the guys and girls carry those clipped  
9 to the bags just so easy access, because you can  
10 grab them as you're heading out to the car.

11 MS. KMIECIAK: Right. I just wanted to,  
12 yeah, know if there was a form that you had to  
13 keep everything in the bag, or and if it was and  
14 there's not, it's typical to have these things,  
15 very typical. So that's what I wanted to know.

16 MR. ROGERS: Yeah, easy access.

17 **BY MR. LAUTEN:**

18 Q. Any procedural changes that you're aware  
19 of that have been mandated or talked about as a  
20 result of your injury?

21 A. When I did attend my accident review, we  
22 have what's called safety days that we earn. If  
23 we don't have any accidents at work, we get 16  
24 hours per contract.

1 I attended the accident review  
2 board and also the executive safety meeting. I  
3 was deemed by the Village that this was  
4 non-preventable, so I was not deducted any hours  
5 or benefit time. So I did not lose anything.

6 What was discussed during the  
7 executive safety meeting was buying the police  
8 department or the village buying shelving  
9 downstairs in the first level in the sally port so  
10 that people could store their bags and heavy items  
11 downstairs on the first level, rather than in  
12 their lockers on the second level.

13 MR. LAUTEN: Okay.

14 MR. REIMER: Any other questions?

15 MR. LEDVORA: I'm sorry, Rick, can I  
16 ask --

17 MR. REIMER: Go ahead.

18 MR. LEDVORA: -- a quick question?

19 MR. REIMER: Absolutely.

20 **BY MR. LEDVORA:**

21 Q. If I understood you correctly, there's  
22 three former officers on disability now. Do you  
23 know, are any of those with a similar  
24 circumstance?

1           A. I have no idea.

2           MR. LEDVORA: That was -- I was just  
3 trying to see if there was any kind of pressing  
4 injury or if anyone knows that.

5           MR. LAUTEN: I think they had said  
6 earlier there was three accidents on those stairs.  
7 There was --

8 BY MR. LEDVORA:

9           Q. No, I just didn't -- in the pension  
10 information, there's -- looks like there's  
11 currently three disability payments being made.  
12 That's why I was wondering if they were related or  
13 had a similar -- looks like Steven Ark, Jerome  
14 Gobe and Scott Mayhoffer (phonetic). I just was  
15 asking if there was a pressing injury that the  
16 village has?

17          A. Ark and Gobe started and was disabled  
18 before I started. And Scott Mayerhoffer  
19 (phonetic) I worked with, and he had a back  
20 injury --

21          Q. Okay.

22          A. -- from falling. So it wasn't related to  
23 stairs, to the best of my knowledge.

24          MR. LEDVORA: Thank you.

1 THE WITNESS: You're welcome.

2 MR. REIMER: Any other questions? I've  
3 just got one.

4 THE WITNESS: Yes.

5 **FURTHER CROSS-EXAMINATION**

6 **BY MR. REIMER:**

7 Q. When you stopped PEDDA, there was an issue  
8 about whether or not to withhold 9.91 percent,  
9 your statutory-required pension contributions, and  
10 I had some discussions with Kim Schiller about not  
11 withholding the 9.91 percent on the 66-2/3 TTD.

12 Did you have conversations with her  
13 about that?

14 A. I did.

15 Q. Okay. And so since the day that PEDDA  
16 started, which I think is on or about November  
17 12th of -- I'm sorry, not -- TTD started November  
18 12th of 2018, you haven't paid -- at my request or  
19 my suggestion, you haven't paid the 9.91 percent  
20 in; correct?

21 A. I have.

22 Q. You have?

23 A. I've been paying the full 9.9 of the  
24 current salary. My question at the time was:

1 Because it was -- the salary calculated was the  
2 2016/2017, the year before the accident, so it was  
3 a lesser salary.

4 So my question was: Is it 9.91 of  
5 that salary, or 9.9 percent of the current salary?  
6 And I have been paying through February on 9.91  
7 percent of the current salary, what everyone else  
8 pays.

9 Q. And that's correct. And you wanted to  
10 continue to do that?

11 A. I did.

12 MR. REIMER: Okay. All right. That's  
13 all I have. Any further -- does the Applicant  
14 rest?

15 MR. MARCONI: Yes.

16 MR. REIMER: All right. Why don't we,  
17 before you make a closing, in case somebody wants  
18 to recall, would you like to see the general  
19 orders real quick? Anybody? We'll make some  
20 copies.

21 Applicant's Exhibit Number 2 is  
22 three documents that's kind of the general orders  
23 that Sergeant Dempsey -- or, actually, I think you  
24 referred to. We can make -- you have not seen the

1 copies of those. Do you want to see them now?

2 MR. LEDVORA: I'm not sure what --

3 MR. MARCONI: It's basically you got to  
4 take care of your equipment. It's the procedures,  
5 right?

6 MR. PERRELL: Yes. It's the policies  
7 that state that we have to safe keep.

8 MR. REIMER: We need a total of seven  
9 copies. We'll go off the record for a second.

10 (WHEREUPON, a discussion was held  
11 off the record.)

12 MR. REIMER: I have distributed copies of  
13 Applicant Group Exhibit Number 2, three pages,  
14 which are the general records and policies. I  
15 don't know if you want to take a minute and read  
16 them and we will go back off the record. And  
17 that way, if any trustees have any questions of  
18 Officer Perrell concerning these policies, we can  
19 do that.

20 (WHEREUPON, a discussion was held  
21 off the record.)

22 MR. REIMER: The Applicant has rested?

23 MR. MARCONI: Yes.

24 MR. REIMER: Do you wish to make -- well,



1 before I ask that, the Applicant has rested. Keep  
2 in mind the Applicant has the burden of proof.

3 This is usually the point where,  
4 when the Applicant rests, I ask you: Do you need  
5 any other information?

6 In other words, is there any  
7 witnesses you want to hear from? Is there  
8 documentation you want me to get a hold of? I  
9 probably wouldn't be able to do it tonight, and  
10 there doesn't have to be.

11 But this is your opportunity, as a  
12 Board, to decide whether or not, based on what  
13 you've heard and what you've read, you've got  
14 enough. We're going to let Mr. Marconi make a  
15 closing argument and then we can see if we can  
16 deliberate, or does anybody feel that they need  
17 further information to deliberate and vote on this  
18 case?

19 There doesn't have to be, but this  
20 is your opportunity. Everybody, a show of hands?  
21 Seems like everybody has got enough.

22 Okay. Do you want to make a  
23 closing argument?

24 MR. MARCONI: Sure. I'm going to keep it

1 really short, because I don't see -- I don't think  
2 there's an issue with disability. I mean, you  
3 have the three -- your three doctors all conclude  
4 that he's disabled.

5 I know I went through all the  
6 medical just for purposes of the record. I think  
7 clearly it showed Officer Perrell tried to get  
8 back to work, and it was one of those things that  
9 they just couldn't fix his knee. It's as simple  
10 as that.

11 The fact that he had a prior injury  
12 doesn't matter. Aggravation of a preexisting  
13 condition is still compensable.

14 He was -- and I did see something  
15 in the record, too, where there is -- I think  
16 there was an arbitration decision. It's in 10-B,  
17 page 41, where an arbitrator went over and went  
18 through his whole -- all the stats on his being  
19 able to physically complete all these agility  
20 tests. So I don't think that that is an issue in  
21 this case.

22 It's a legal issue as to whether or  
23 not it's line-of-duty or versus  
24 not-in-the-line-of-duty.

1           And I think, generally, people  
2 think, well, in order to be a line-of-duty, you  
3 got to be doing this, you know, heroic act, you  
4 got to be saving life. I think you said something  
5 to the effect of somebody has to be in peril, and  
6 that's not really the law.

7           But the law is also not just merely  
8 being on-duty doesn't entitle you to a  
9 line-of-duty either. And Mr. Reimer is going to  
10 explain the law to you.

11           There's a leading case, which is  
12 Johnson, which is a Chicago Police case that went  
13 up to the Supreme Court, and for the court  
14 reporter it's 114 Ill 2nd, I think, 522.

15           And in that case, what it was was  
16 there was an officer who got out of his car, was  
17 walking across the street because a citizen had  
18 waved him down, and he slipped on the pavement and  
19 he went down, injured himself, and I can't  
20 remember if it was a knee or a back or whatever.  
21 And it was denied because everybody walks, and  
22 walking is not unique to police work.

23           But the Supreme Court reversed it  
24 and said you got to look at what capacity the

1 officer was working in. And because of the fact  
2 that he was required to go to this citizen's aid,  
3 this motorist, that it was a line-of-duty.

4 And I want to say that definition  
5 is: In order for it to be line-of-duty, it has to  
6 be a special risk not ordinarily assumed by  
7 citizens in the ordinary walks of life.

8 There's a case Morgan where an  
9 officer was sitting in a chair doing a report and  
10 he fell out of his chair and hurt himself.

11 The court said, no, you know,  
12 there's nothing special about sitting in a  
13 chairing just doing a report, falling out of the  
14 chair and injuring yourself. So that was not in  
15 the line-of-duty.

16 I think in this case what makes  
17 this unique, if he was just walking down the  
18 stairs and that was it, just he was clumsy, if he  
19 was walking in the hallway and fell, I don't think  
20 it would be line-of-duty.

21 But the thing I think that makes it  
22 unique in this case and it puts it more in the  
23 line of cases that deal with people that are doing  
24 kind of everyday activities like riding a bike or

1 picking up something is these mandatory bags that  
2 he's carrying.

3 I think one of the policies  
4 indicated that the personal protective equipment  
5 should be placed in their assigned vehicle.

6 So I think it's clear and it's  
7 uncontradicted that before Officer Perrell goes to  
8 roll call, he's got to get everything together in  
9 these bags and carry these bags down.

10 And one of the trustees said the  
11 difficulty with this is you got both of your  
12 hands, you're carrying these bags, you're going  
13 down stairs, you know, and it's not the safest  
14 thing to do.

15 We had the line of questioning  
16 about the doorstop, which might have been what got  
17 into the -- into the railing. And I think it came  
18 out from somebody that 99 percent of the time  
19 officers are carrying the doorstop on the outside  
20 of the bag, because the asp and you got the clips  
21 and you clip it on.

22 It's a freak accident. But a  
23 citizen, if they're walking, if they're going down  
24 the stairs somewhere, they're not carrying two

1 bags. And it's not like he's here bringing gifts  
2 to the people in the station. I mean, these --  
3 this is an everyday thing. This is part of his  
4 job to carry these bags.

5 The Johnson case basically says  
6 that the crux of the inquiry is not how the person  
7 was injured, but what capacity they were acting  
8 in.

9 The other case, and I'm going to  
10 let Mr. Reimer explain it better because it's his  
11 case, Rose versus Board of Trustees, 2011 Ill 1st  
12 102157. This was a car accident case where I  
13 think an officer was involved in a couple of car  
14 accidents.

15 And driving a car is pretty much  
16 what you would expect any citizen to do. However,  
17 in this particular instance, you know, if you're  
18 on patrol, you've got your focus in other places,  
19 it brings a normal driving a car into the  
20 performance of act of duty.

21 There's a couple cases that Mr.  
22 Reimer can explain to you, an Alm case, and  
23 another case which is Gilliam, and that involves  
24 bicycles, two bicycle officers, and they -- they

1 get in an accident on their bike.

2 Now, normally, everybody rides a  
3 bike. In these cases, the courts held that riding  
4 the bike while carrying extra equipment and having  
5 to keep your eyes open for bad guys or whatever  
6 creates this performance of an act of duty.

7 And what's interesting, and I  
8 didn't catch this until today in one of the cases,  
9 and this is from this Rose case. It says:

10 (AS READ)

11 "Furthermore, in Johnson, our  
12 Supreme Court reiterated that officers discharging  
13 their duties to protect citizens perform many  
14 tasks, such as driving automobiles, climbing  
15 stairs, and even crossing streets, and those are  
16 similar -- that are similar to those involved in  
17 civilian occupations."

18 So here, even though there's not a  
19 climbing staircase, that I am aware of, I don't  
20 know if Rick's aware of it, it's still one of the  
21 things where you think common sense-wise, well,  
22 everybody climbs stairs. But in this case, in  
23 what he was doing and carrying out his act of duty  
24 puts it within of the line-of-duty, according to

1 the law.

2 So I think that's the focus. And,  
3 again, you've got your own counsel. There's --  
4 there's other cases cited within this. There's an  
5 officer who was pushing up a railroad gate that  
6 hurt his shoulder. I think that was the Sarkis  
7 case. Somebody picking up concrete and moving it  
8 out of a -- out of a parking lot, that was a  
9 line-of-duty, even those seem to be routine tasks.

10 But I think in this case, you know,  
11 he's got -- he's got his mandatory equipment, he's  
12 got to get it to his car, he's got to put it in  
13 his car trying to get back to roll call.

14 So I think in this case, we've  
15 shown that it is a line-of-duty and would ask you  
16 to award the line-of-duty, as opposed to the  
17 not-in-the-line-of-duty.

18 MR. REIMER: Thank you. Could I ask you  
19 a question about your theory of the case? Are you  
20 suggesting or ruling out the -- after the  
21 staircase incident, the call that Officer Perrell  
22 went on, walking up and down the terrain, is it  
23 your theory that there's an aggravation?

24 MR. MARCONI: Here's -- here's -- we



1 discussed this, and maybe, had we brainstormed at  
2 the beginning of the case before we put in the  
3 application, we could have fleshed this all out.

4 The thing is, if you -- if you look  
5 at the IME reports closely, he talks to the IMEs  
6 about these other calls. This isn't something  
7 he's bringing up this week or whatever.

8 Other than Dr. Samo, whose report  
9 is usually much more succinct, he's telling these  
10 other IMEs that he went on these additional calls.  
11 So he's talking to them about them.

12 Now, other than God, I don't know  
13 who is going to sit there and say, well, how much  
14 -- what percentage of his knee was injured going  
15 down the stairs, and what percentage of his knee  
16 was going -- was when he was traversing this  
17 wooded area.

18 I think what you know today is he  
19 wouldn't have done a traffic stop if it was  
20 bothering him that bad. He just wouldn't have  
21 done it, because he's said it's one of the most  
22 dangerous things.

23 He went on roll call, or he went to  
24 roll call, he went out. So he was doing his job.

1 He wasn't pulling up short. But that's why we  
2 made those pictures. Now you got to walk up and  
3 down, traverse that area. It's uneven ground.  
4 There's trees, there's rocks, and I think he  
5 spends about 20 to 25 minutes doing it.

6 So did it aggravate it? Something  
7 happened, because that's when -- that's when it  
8 was over. I mean, that -- that call where he went  
9 on was the straw that broke the camel's back.

10 Maybe he would have lasted another  
11 day, I don't know, if he was just doing walking on  
12 pavement.

13 But, clearly, right from that call,  
14 he goes into the sergeant's office, pulls up his  
15 pants legs, and there you could see the right knee  
16 was swollen. I don't think it was swollen until  
17 he went on that call.

18 So did that call -- you know, did  
19 it tear it further? Probably. Or it did  
20 something, aggravated it.

21 And I think that's why we brought  
22 that evidence in, and I think had he been thinking  
23 about it early on, maybe make it more clear up  
24 front, and let the doctors really delve into it.

1 But even the doctors, how are you going to know?

2 I mean, clearly, something happened  
3 on the stairs, and I think that's all you really  
4 need. And I think that probably exacerbated  
5 whatever was going on with the knee from the  
6 twist.

7 MR. REIMER: So your theory is that call  
8 and the activities he performed could be a  
9 contributing factor?

10 MR. MARCONI: Yes, absolutely.

11 MR. REIMER: I'm just trying to  
12 understand what your theory is. Okay, thank you.

13 We've heard arguments. You've  
14 heard all the evidence. It's now decision time.  
15 So you can make a decision one of three ways.

16 First of all, you can discuss it  
17 here publicly. If do you that, you can have me  
18 here, you can ask me questions. But keep in mind  
19 that as your attorney, if you ask my legal opinion  
20 and I give you my legal opinion publicly in the  
21 presence of non-clients, waives that  
22 attorney/client privilege. But I'm the okay with  
23 that, because it's your privilege. It's not my  
24 privilege. So you can waive that.

1           Second option you have is you can  
2 adjourn into executive or closed session under  
3 Section 2(c)4 of the Open Meetings Act which  
4 allows you to go into executive or closed  
5 executive session for purposes of deliberations  
6 after an evidentiary hearing, which you've just  
7 had.

8           If you do go into executive  
9 session, two really important things to know. One  
10 is: It has to be audio or video verbatim  
11 recorded. Michelle can record it for us as well  
12 as, as a backup, transcribe it for us, if you  
13 like.

14           And the second thing about  
15 executive session is you can't vote or take any  
16 final action. You can come to a consensus, then  
17 you would come out and you would vote publicly.

18           The third option you have, if for  
19 some reason you wanted to, we could order the  
20 transcript, you could review the transcript and  
21 then come back at later date. You'd have to post  
22 notice, 48 hours required notice, post the agenda  
23 and then start from scratch.

24           So there is no right or wrong

1 answer. It's whatever you want not do.

2 MS. KMIECIAK: Do you have a  
3 recommendation?

4 MR. REIMER: If you have questions, then  
5 probably 2(c)4 executive or closed session, if you  
6 have questions.

7 MR. LAUTEN: I would make a motion to  
8 adjourn into executive session for the purpose of  
9 deliberating pursuant to an evidentiary hearing  
10 which we just had.

11 MR. REIMER: And that's made at 8:20. Is  
12 there a second?

13 MR. ROGERS: Second.

14 MR. REIMER: Second. Is there any  
15 discussion? If not, you need to do a roll call.

16 MR. LAUTEN: Roll call vote, please.  
17 Trustee Ledvora?

18 MR. LEDVORA: Yes or aye.

19 MR. LAUTEN: Trustee Wise?

20 MS. WISE: Here.

21 MR. LAUTEN: Trustee Rogers?

22 MR. ROGERS: Yes.

23 MR. LAUTEN: Trustee Kmiecik?

24 MS. KMIECIAK: Yes.

1 MR. LAUTEN: Trustee Lauten votes aye.

2 It's unanimous, five ayes, zero  
3 nays, to move into executive session for the  
4 purpose of deliberations.

5 (WHEREUPON, the Board adjourned  
6 into executive session.)

7 MR. LAUTEN: Okay. At 9:15, I make a  
8 motion to reconvene into open session. Do I have  
9 a second?

10 MR. ROGERS: Second.

11 MR. LAUTEN: I have a motion and a  
12 second. All in favor?

13 (WHEREUPON, all Board Members  
14 responded aye.)

15 MR. REIMER: I'm sorry, you got to do a  
16 roll call.

17 MR. LAUTEN: Roll call vote. If we could  
18 do a roll call vote.

19 MR. REIMER: Sorry.

20 MR. LAUTEN: Trustee Ledvora?

21 MR. LEDVORA: Aye.

22 MR. LAUTEN: Trustee Wise?

23 MS. WISE: Aye.

24 MR. LAUTEN: Trustee Rogers?

1 MR. ROGERS: Aye.

2 MR. LAUTEN: Trustee Kmieciak?

3 MS. KMIECIAK: Aye.

4 MR. LAUTEN: And Trustee Lauten, aye. We  
5 are now back in open session.

6 MR. REIMER: Thank you. The Board is now  
7 back in public or open session. The Board has met  
8 in executive or closed session under 2(c)4 of the  
9 Open Meetings Act for purposes of deliberation.

10 The Board considered the evidence,  
11 considered the arguments made by the parties and,  
12 of course, the testimony of the witnesses.

13 And it's my understanding, based on  
14 the executive or closed session deliberation, the  
15 Board is now ready to entertain the following  
16 motion:

17 It would be a motion to award  
18 Officer Perrell a line-of-duty disability pension  
19 effective March 14th, 2019, subject to any  
20 applicable worker's compensation offsets. Is  
21 there a motion?

22 MR. ROGERS: Motion.

23 MR. REIMER: There's a motion. Is there  
24 a second?

1 MS. WISE: Second.

2 MR. REIMER: There's a motion and a  
3 second. Do a roll call.

4 MR. LAUTEN: We can do a roll call vote,  
5 please. Trustee Ledvora?

6 MR. LEDVORA: This is for doing the --

7 MR. REIMER: Line-of-duty.

8 MR. LEDVORA: -- line-of-duty disability.  
9 And I don't want to go into a dissertation.

10 MR. LAUTEN: Just a vote.

11 (Multiple speakers.)

12 MR. REIMER: Just yes or no, and then  
13 I'll -- however you decide, I can incorporate it  
14 into the decision and order.

15 MR. LEDVORA: No.

16 MR. LAUTEN: Trustee Wise?

17 MS. WISE: Yes.

18 MR. LAUTEN: Trustee Rogers?

19 MR. ROGERS: Yes.

20 MR. LAUTEN: Trustee Kmieciak?

21 MS. KMIECIAK: Yes.

22 MR. LAUTEN: Trustee Lauten, yes.

23 MR. REIMER: So that's passed by a vote  
24 of 4-to-1. So you are awarded a line-of-duty



1       disability.

2                   I will need to do a couple of  
3 things. We need to put finality to this matter,  
4 so I need to write a written decision and order.  
5 I'm going to ask the Board to entertain a motion  
6 to authorize the court reporter to prepare the  
7 executive or closed session and public transcript  
8 of these proceedings. So I need a motion, second,  
9 and a roll call because you're going to be  
10 spending money.

11               MR. LAUTEN: I will make the motion to  
12 authorize the production of the transcript of the  
13 open and executive session minutes of tonight's  
14 hearing.

15               MR. ROGERS: Second.

16               MR. LAUTEN: We have a motion and a  
17 second. Trustee Ledvora?

18               MR. LEDVORA: A, yes.

19               MR. LAUTEN: Trustee Wise?

20               MS. WISE: Yes.

21               MR. LAUTEN: Trustee Rogers?

22               MR. ROGERS: Yes.

23               MR. LAUTEN: Trustee Kmieciak?

24               MS. KMIECIAK: Yes.

1 MR. LAUTEN: Trustee Lauten, yes. And  
2 the motion passes unanimously.

3 MR. REIMER: Very good. I will now, upon  
4 receipt of the transcript, I will prepare what's  
5 known as a draft written decision and order that  
6 will set forth the findings of fact and the  
7 rationale behind why the Board voted the way they  
8 did.

9 It's the Board's decision. I will  
10 get that to them as quickly as I can. I think  
11 there's going to be a change on the Board, so the  
12 next meeting is April 24th --

13 MR. LAUTEN: Correct.

14 MR. REIMER: -- of 2019. I'm going to  
15 get that done quickly. But the Board doesn't have  
16 to wait to process your paperwork. So somebody is  
17 going to give -- or you already gave --

18 MR. LAUTEN: I gave it to Mr. Marconi.

19 MR. MARCONI: You want him to fill that  
20 out now?

21 MR. REIMER: He should fill out the  
22 line-of-duty benefit request.

23 MR. PERRELL: Effective tomorrow?

24 MR. REIMER: Effective tomorrow. If you

1 know the salary, they'll verify it. But keep in  
2 mind that even though you get the line-of-duty, it  
3 will be based upon 65 percent of the salary  
4 attached to rank tomorrow, you're going to be  
5 getting less because of the offset for the TTD  
6 benefits you get, until those benefits terminate.

7 So the Board doesn't needed to wait  
8 until the written decision and order. Hopefully,  
9 just maybe an e-mail to Kim Schiller telling what  
10 you did and the effective date. You can get it  
11 going so that there's no gap time.

12 MR. LAUTEN: Yeah, we don't want a gap.  
13 We want --

14 (Multiple speakers.)

15 MR. REIMER: All right. So unless there's  
16 any other business before the Board, do you want  
17 to do a motion to adjourn at -- we'll make it  
18 9:17. Motion?

19 MR. LAUTEN: I'll make a motion to  
20 adjourn.

21 MR. LEDVORA: Second it.

22 MR. REIMER: All in favor?

23 (WHEREUPON, all Board Members  
24 responded aye.)

1 MR. LAUTEN: Anyone opposed? Okay.

2 Tonight's meeting is adjourned.

3 MR. REIMER: Thank you.

4 MR. PERRELL: Thank you, everyone.

5 END OF PROCEEDINGS

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1 STATE OF ILLINOIS )  
2 ) SS:  
3 COUNTY OF C O O K )

4 I, Michelle N. Marvin, a Certified  
5 Shorthand Reporter and Notary Public within and  
6 for the State of Illinois, do hereby certify:

7 That the foregoing hearing was  
8 reported stenographically by me, was thereafter  
9 reduced to a printed transcript by me and  
10 constitutes a true record of the testimony given  
11 and the proceedings had to the best of my ability;

12 That said hearing was taken before  
13 me at the time and place specified;

14 That I am not a relative or  
15 employee or attorney or counsel for any of the  
16 parties hereto, nor interested directly or  
17 indirectly in the outcome of this action.

18 IN WITNESS WHEREOF, I do hereunto  
19 set my hand and affix my seal of office in Cook  
20 County, Illinois, this 27th day of March, 2019.

21  
22  
23  
24 C.S.R.  
Notary Public, Cook County, Illinois  
25 C.S.R. No. 84-003211

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