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COUNSEL PRESENT:

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

THE LAW OFFICE OF THOMAS DUDA, by
MR. THOMAS DUDA
330 W Colfax Street
Palatine, Illinois 60067
(847) 577-2470
tduda@zipduda.com
on behalf of the Applicant;

THE LAW FIRM OF ROSENTHAL, MURPHEY,
COBLENTZ & DONAHUE, by
MR. JOHN B. MURPHEY
30 N. LaSalle Street, Suite 1624
Chicago, Illinois 60602
(312) 541-1072
jmurphey@rmcj.com
on behalf of the Intervenor.

ALSO PRESENT:

MR. SCOTT MORAN, Paralegal;

MRS. ROSE SARDO.

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EXHIBITS ADMITTED INTO EVIDENCE

Board Exhibits 1-9	55
Board Exhibit 10	57
Board Exhibit 11	57
Applicant's Exhibits 1-11	68

1 MR. REIMER: It's now 5:05. I recommend
2 the Board call this meeting to order. Roll call.

3 MR. WITNIK: Steve Witnik, here. Bob
4 Jensen?

5 MR. JENSEN: Here.

6 MR. WITNIK: Jim Winje?

7 MR. WINJE: Here.

8 MR. WITNIK: Rich Viken?

9 MR. VIKEN: Here.

10 MR. WITNIK: Jason Waychoff?

11 MR. WAYCHOFF: Here.

12 MR. WITNIK: All five board members are
13 present.

14 MR. REIMER: Okay. A quorum is present.
15 Before you go into the scheduled decision -- or
16 scheduled hearing of this matter, you should do
17 public comment. I see we have a number of people
18 here. You are allowed to make public comment at
19 any board meeting, if anybody here wants to make
20 public comment. Going once, going twice. Okay.

21 MEMBER OF THE PUBLIC 1: Is that right
22 now or during the ...

23 MR. REIMER: No, you can't make -- if
24 you're asking can you make comment during the

1 hearing, you cannot. If you want to make comment
2 now, you can. But keep in mind your comments,
3 while appreciated, will not be part of the
4 evidence made of the record.

5 So we give you an opportunity here
6 if you want -- if you have something you want the
7 Board to say, you can -- you're welcome to do
8 that.

9 MEMBER OF THE PUBLIC 1: Okay.

10 MEMBER OF THE PUBLIC 2: I do.

11 MR. REIMER: Okay.

12 MEMBER OF THE PUBLIC 2: My name is
13 Rosemarie Peruggio (phonetic). I am the Godmother
14 to one of Chris' children. I have known Chris for
15 many years, and I knew Chris when he was a police
16 officer. I've known him to be a wonderful husband
17 and father to his children.

18 And to see what Chris has gone
19 through is devastating to see. Everything is
20 horrible.

21 To see my only father, who served
22 as a military man and also have PTSD, and to see
23 anybody, for that matter -- and I'm sorry if I get
24 emotional. I am 31 years old. I am not a child.

1 I'm an adult. And for anybody to sit there and
2 say that this man has not deserved anything, and
3 for anybody to sit there and turn their back to
4 this man or anybody in the military line, I don't
5 care if you served Navy, Army, Marine, Reserve, is
6 ridiculous for that matter. Police officer,
7 medical, I don't care.

8 I don't care what you do for a
9 living. I used to be in the police force myself,
10 and it was a choice that I made, and I left it
11 because it just wasn't for me.

12 But I live with a man, myself, my
13 whole life who has PTSD. It is something that
14 just doesn't go away by itself. It's something
15 that you live with for the rest of your life, and
16 I hope all of you understand this.

17 I am recently married to a man who
18 has an eight-year-old daughter and looks up to my
19 dad every single day of her life, and she
20 understands that my father was a military man and
21 has PTSD; and looks up to my uncle, and this is
22 Chris, and looks up to all of his children who all
23 play hockey, and understands that there's days
24 that he does not feel well. And I hope all of you

1 take that into consideration.

2 And what bothers me the most is
3 that I can sit here and look at every single one
4 of you in the face, but I can see that not one of
5 you can look me directly in the eye. That means
6 something to me.

7 And I know this just doesn't go on
8 the record for anything, but I sat here in this
9 room and watched every single one of you walk in
10 the room -- and I'm not trying to sway your
11 decision on anything. That doesn't mean anything.
12 But you need to understand that this goes way
13 back.

14 And there's people fighting now,
15 there's people that fought years before for what
16 we have now. And as you walked into the room and
17 you saw all these people lined up on the walls of
18 all different ages and everything, you have no
19 idea what they suffered, what they fought for,
20 what military branch they are and what they lost
21 or how they suffer.

22 Did it provide your freedom? Did
23 it provide your children's freedom, your parents',
24 your grandparents', your grandchildren? Anything

1 for that matter? 9-11 just passed. Did that mean
2 anything to you?

3 I know at the end of the day, at
4 the end of this hearing, trial, whatever you want
5 to call it, I'm going to be there at the end of
6 the day for my family, because that's all that
7 matters.

8 So at the end of this, I will walk
9 out of here with my head held high. But can you
10 walk around with your head held high knowing, at
11 the end of your decision of what you did? Because
12 apparently it's what -- this group decides what
13 happens to this man and his family and his life.

14 He's sworn to take and do a vow for
15 this town, to protect them, to serve them, to make
16 sure all of you were protected and anybody that
17 came through it, and he did his job. But now all
18 of you are turning your back on him, because he
19 didn't deserve it, but he made a choice prior to
20 that to serve the country.

21 I have nothing more to say.

22 MEMBER OF THE PUBLIC 1: I changed my
23 mind. I'm Chris' mom.

24 MR. REIMER: Okay. Hold on just a

1 second. Thank you for your comments. Keep in
2 mind, both of you and everybody that's here,
3 you're allowed, under the Open Meetings Act, to
4 make public comment. The Board's rule will allow
5 that to be -- not to exceed three minutes.

6 And keep in mind -- I know you all
7 have opinions or you wouldn't be here. You have
8 an interest. We certainly respect that. The
9 Board will not consider your comments, cannot
10 consider your comments and your opinions as
11 evidence. And I'm not trying to take anything
12 away from you.

13 MEMBER OF THE PUBLIC 2: That's fine.

14 MR. REIMER: And by the way, please keep
15 in mind that no decision is made. This is a
16 process. What you're seeing here is a process
17 that's required by statute. So nobody has made up
18 their mind.

19 MEMBER OF THE PUBLIC 2: No. I
20 understand.

21 MR. REIMER: And if anybody thinks I'm
22 turning my back to any veteran or police officer,
23 I apologize. It's only because I'm sitting here.
24 So please don't take that personally. Ma'am, go

1 ahead.

2 MEMBER OF THE PUBLIC 1: I'm Chris' mom.
3 I work for the Village of Franklin Park. I went
4 to Chicago. I've researched PTSD. There are very
5 few villages or towns in the United States that
6 really help police officers. Police officers,
7 firefighters, communications officers all can get
8 this. A citizen on the street that has been
9 affected by a crime can get PTSD.

10 Chicago trains us for all kinds of
11 things, dealing with mental people, PTSD. We have
12 a lot of training on my end of it; and it can be
13 any one of us here that can see something or be
14 affected, and we'd be in the same situation.

15 As a mom, it beaks my heart. That
16 blue line of brotherhood, I hope it's somewhere in
17 this room, because it can be anybody here at any
18 incident that this could happen to. Because he's
19 got something you can't see, the things that you
20 haven't seen, and haven't lived in the house with
21 him. Only his very close friends and family have
22 only seen. And until you're there, you don't
23 know. And this is coming from a mom.

24 Police have been in my family since

1 the early 1900's. Things like this were not
2 recognized, whether it's police, military. Way
3 back, they had a different name for it. Now it's
4 PTSD. It's a real thing.

5 If he got shot, what would happen?
6 If he got killed in a car accident or severely
7 wounded, all those things matter, but this is
8 something you cannot see. You have to live it and
9 you have to hope that your son or daughter who has
10 been a police officer, firefighter or
11 communications, don't decide one day to off
12 themselves. It's a big fear for someone that you
13 love.

14 So that's all I have to say. I
15 just hope ...

16 MR. REIMER: Thank you for your comments.
17 The Board appreciates it. Anyone else?

18 MEMBER OF THE PUBLIC 3: I want to speak
19 on behalf of my brother.

20 MR. REIMER: Please do. Keep in mind,
21 I'm sorry, sir, three minutes.

22 MEMBER OF THE PUBLIC 3: Three minutes.

23 MR. REIMER: Fair enough.

24 MEMBER OF THE PUBLIC 3: I know you say

1 this is a process, but prolonging this process is
2 only going to worsen his mental health.

3 For those of you who have been
4 police officers or served in the public sector
5 like I have for 21 years, you've seen things and
6 done things that no one has seen.

7 Chris has done that. Okay? His
8 mental health -- growing up with him, he was a
9 highly-motivated, energetic person. When he came
10 to Franklin Park, he was energetic, motivated.
11 Some processes that he needed to do to get on this
12 Department, and he did that.

13 Now his mental health is not where
14 it should be, and this process that you talk about
15 has been prolonged and prolonged and is only going
16 to worsen his mental health.

17 So I take it upon the Board here to
18 do what they can, as quickly as they can, to
19 resolve it, whatever direction that may be, so he
20 can move on and we can all move on and get him the
21 help that he needs before something happens.

22 MR. REIMER: Understood. Thank you for
23 your comment. Any other comments? I don't want
24 to cut anybody off. If not, all right.

1 So now we're going to -- we'll move
2 to the hearing portion of it. Just so the record
3 is clear, the public comments, although
4 appreciated, I don't think can be evidence. In
5 other words, I don't think that's something that
6 can be considered by the Board. Although your
7 opinions are valued, I don't think legally the
8 Board can consider comments, unfortunately,
9 whether that's right or wrong.

10 I understand. I spent 10 years as
11 a police officer. I get it, believe me. I'm not
12 the decision-maker.

13 Okay. For the record, we'll start
14 the hearing. This is a hearing being conducted
15 pursuant to Article 3 of the Illinois Pension Code
16 to determine the disability claim or application
17 of Officer or Detective Christopher Sardo, the
18 Applicant in this case.

19 The Applicant was previously sent a
20 Notice of Hearing advising him of these
21 proceedings on this date; advising him of his
22 right to be represented by legal counsel; to
23 present evidence and respond to any evidence
24 before the Franklin Park Police Pension Board.

1 I see that Officer Sardo was -- or
2 Detective Sardo was here previously. We did have
3 an off-the-record conversation with the
4 Applicant's attorney, as well as the Intervenor's
5 attorney, and my understanding is that Detective
6 Sardo chose to not be present since it was not
7 likely for him to testify today. Is that right?

8 MR. DUDA: Since he's not likely to
9 testify for his mental health, I accepted his
10 feeling that he should remain out in the parking
11 lot, and I have his spouse here, and I'm fully
12 ready to represent him.

13 MR. REIMER: Understood. Okay. So,
14 obviously, on behalf of the Applicant, you
15 acknowledge receipt of the Notice of Hearing and
16 you're ready to --

17 MR. DUDA: We received and we're ready.

18 MR. REIMER: Okay. And identify
19 yourself, please, for the record.

20 MR. DUDA: My name is Thomas Duda,
21 D-U-D-A, of Palatine, Illinois, and we acknowledge
22 receipt and we are ready to go forward.

23 MR. REIMER: Understand. Thank you.
24 Counsel for the Intervenor?

1 MR. MURPHEY: John Murphey for Intervenor
2 Village of Franklin Park.

3 MR. REIMER: Thank you, Mr. Murphey. The
4 first motion I'd like the Board to do is to
5 entertain a motion to appoint me the hearing
6 officer.

7 What that means as the hearing
8 officer, I'll preside over the hearing. I'll make
9 sure everything runs in an orderly fashion. I'll
10 rule on any objections or evidentiary matters.

11 If the Board -- once the Board
12 hearing process is completed, the Board gets to go
13 into executive or closed session to deliberate. I
14 will attend deliberations; and depending on what
15 your decision is, I will prepare what's known as
16 the written decision and order that will become
17 the final decision for purposes of this disability
18 claim.

19 But as the hearing officer and
20 attorney for the Board, I am not here as a
21 prosecutor. I'm not here to vote. That's your
22 gentlemen's privilege. I'm not here to influence
23 your decision. I advise you on the law and make
24 sure that whatever decision you make, you're fully

1 informed, you have enough information, and that if
2 for some reason somebody doesn't like that
3 decision, I can defend it in court.

4 So unless there's an objection by
5 Mr. Duda and/or Mr. Murphey to my appointment as
6 the hearing officer --

7 MR. MURPHEY: None.

8 MR. DUDA: No objection.

9 MR. REIMER: Thank you.

10 MR. WITNIK: I'll make that motion.

11 MR. REIMER: There's a motion. Is there
12 a second?

13 MR. WINJE: Second.

14 MR. REIMER: There's a second. Any
15 discussion? If not, all in favor.

16 (WHEREUPON, all Board Members
17 responded aye.)

18 MR. REIMER: Any opposed? Okay. So the
19 hearing procedures to be utilized in this case are
20 as follows:

21 Number one: Under the law, the
22 Applicant has the burden of proving his
23 entitlement to a disability pension.

24 Number two: During the hearing, we

1 will allow the Applicant's attorney to make an
2 opening statement.

3 Number three: During the hearing,
4 we will allow the Intervenor's attorney to make an
5 opening statement.

6 Number four: The Applicant may
7 then present any evidence, including testimony and
8 documentation, in support of his disability claim.

9 Number five: The Intervenor may
10 then present any evidence, including testimony and
11 documentation, in opposition to the disability
12 claim.

13 Number six: The Board or its legal
14 counsel may ask questions.

15 Number seven: When the Applicant
16 and the Intervenor are finished, the Board will
17 then introduce certain medical documentation that
18 it has obtained and make that part of the record.
19 I'm going to try to do that out of order tonight
20 later, so we can expedite these proceedings.

21 Number eight: The Applicant's
22 legal counsel can make -- or the Intervenor can
23 ask questions or make legal objections to any of
24 this documentation or evidence.

1 Number nine: Rulings on all legal
2 matters or objections will be made by me, as the
3 hearing officer and attorney for the Board.
4 However, because I work for you, if for some
5 reason you don't like my ruling, you can overrule
6 me with a simple roll call vote. A 3-to -- a
7 3-member vote will overrule my objection. That's
8 democracy.

9 Number ten: During the hearing,
10 the technical and the formal rules of evidence and
11 the Rules of Civil Procedure will not apply.
12 However, rules of fundamental fairness, for
13 example the hearsay rule, will apply to the extent
14 there's an objection.

15 Number eleven: In the event that
16 this hearing cannot be completed on this date, the
17 matter will be continued from time to time to
18 dates agreeable to all parties until it's
19 completed.

20 Number twelve: At the conclusion
21 of the hearing, we're going to allow both
22 attorneys for the Applicant and the Intervenor to
23 make closing argument or closing statement.

24 Number thirteen: The Board will

1 then render a written decision that's required by
2 law that will become the final administrative
3 decision for purposes of this claim.

4 Mr. Duda, any questions or
5 objections to the hearing procedures?

6 MR. DUDA: No.

7 MR. REIMER: Pretty standard. Mr.
8 Murphey, any objections?

9 MR. MURPHEY: No objection to anything.

10 MR. REIMER: Fair enough. Board Members,
11 I hope you don't have any objections, but any
12 questions? You've done this before. This is what
13 you've done in the last several disability
14 hearings that I've represented you for.

15 All right. To try to expedite this
16 matter, we have some exhibits. If you'll recall,
17 this matter was actually set for hearing in June
18 of 2016. The Village filed a petition or a motion
19 to intervene. We had to schedule that hearing.
20 That was held on January 31st, 2017. We had a
21 hearing, and it's been -- it's taken this long to
22 actually schedule this hearing, unfortunately, due
23 to attorneys' schedules, locations, for a variety
24 of reasons. For that, we obviously apologize.

1 So I have first what I've marked as
2 Board Exhibit Numbers 1 through 9. So Board
3 Exhibit Numbers 1 through 9 have been sent to Mr.
4 Duda's office well in advance of this hearing for
5 his review. I've also sent a copy to Mr. Murphey.

6 First with Mr. Duda, do you
7 acknowledge receipt of Board Exhibit Numbers 1
8 through 9, and do you have any objection?

9 MR. DUDA: We acknowledge receipt. We
10 have no objections.

11 MR. REIMER: Mr. Murphey, any objections
12 to Board 1 through 9?

13 MR. MURPHEY: Acknowledge receipt. Let
14 me get the numbers. My only objection is to the
15 three doctors' reports, and only to the extent
16 that those reports purport to make legal
17 conclusions. Otherwise, no objection to the
18 reports. I'm scanning the documents.

19 MR. REIMER: I understand. Can I help
20 you out there --

21 MR. DUDA: So just so the record is
22 clear --

23 MR. REIMER: Let -- I'm sorry. Let him
24 finish, let me finish, and we'll -- we'll come

1 back to you.

2 So Board Exhibit Number 7, Dr.
3 Reff, R-E-F-F; Board Exhibit Number 8, Dr. Weine,
4 W-E-I-N-E; and then Board Exhibit Number 9, Dr.
5 Catherine Frank, F-R-A-N-K; correct?

6 MR. MURPHEY: Right.

7 MR. REIMER: So let me ask you this.
8 It's not a hearsay objection. To the extent that
9 the doctors are asked to opine causal connection
10 between the disability, that's your objection?

11 MR. MURPHEY: Whether it comes from an
12 act of duty as referenced in the statute. There
13 is language in each of the doctors' reports
14 opinionating on that. That, in my mind, is a
15 legal question for this Board to decide and not a
16 medical question for the doctors' opinion.

17 To the extent -- I mean, I have no
18 objection to the reports coming in, but I would
19 ask the hearing officer and the Board to disregard
20 the opinions set forth in there to the extent they
21 state a legal conclusion. Number one, they're not
22 competent to give that ultimate opinion; and
23 number two, that's the purview of this Board.

24 MR. REIMER: Mr. Duda, did you want to

1 respond to that?

2 MR. DUDA: Well, as long as hearsay is
3 waived, I think the Board has the right to
4 consider anything in the report.

5 If they use the term "act of duty,"
6 it could very well -- I mean, I don't think it's a
7 legal term of art. The term "act of duty" is one
8 that appears in many of the records that they
9 reviewed.

10 MR. REIMER: All right. Fair enough. I
11 hope this will satisfy you and --

12 MR. DUDA: So I'll say I would not want
13 that term stricken from any of the reports. I
14 think the Board can consider all of the words used
15 by the experts.

16 MR. REIMER: I think that's fair enough.
17 So Board Exhibit Numbers 1 through 9 will be
18 admitted into the administrative record without
19 any further authentication or foundation. So
20 they're in.

21 But I'm going to give the Board an
22 instruction. I'll do it right now. I think if
23 you look at Jensen, J-E-N-S-E-N, versus --

24 MR. DUDA: East Dundee Fire.

1 MR. REIMER: East Dundee Fire Protection
2 District Firefighters' Pension Board, that kind of
3 stands for the proposition that it's up to the
4 doctors to determine disability, and it's up to
5 the Pension Board, the five members, to determine
6 whether it's part of a covered act.

7 So I think -- will that satisfy --

8 MR. MURPHEY: Yeah, that's correct..

9 MR. REIMER: So when we get to that point
10 -- the Board hasn't heard any of the evidence
11 yet -- the doctors determine, yes or no, Detective
12 Sardo is disabled.

13 Then the next question will be: If
14 so, is it a line-of-duty or act-of-duty
15 disability. We're a long ways away from that, I
16 think.

17 So Board 1 through 9 are admitted.

18 I've -- by the way, I've handed to
19 each Member of the Board and distributed, well
20 prior to today's hearing, probably June of 2016.
21 The Board has seen Board Exhibit Numbers 1 through
22 9, subject to any objections that anybody had. So
23 the Board is familiar with those documents.

24 Next we move to what I marked as

1 Supplemental Board Exhibits 10 and 11, and I have
2 distributed a copy of Board Exhibit 10 and 11 to
3 Mr. Duda and Mr. Murphey.

4 MR. DUDA: I don't have 10 or 11.

5 MR. REIMER: It's right in front of you.
6 I'm sorry. It's right there. And that is nothing
7 substantive.

8 Board Exhibit 10 is a transcript of
9 the intervention hearing that was held on January
10 31st of '17, along with the attachments which were
11 the motion, your objection, and the Village's
12 reply.

13 Board Exhibit 11 is just
14 correspondence by me to you and Mr. Murphey.

15 So is there any objections to
16 admission of Board Exhibit Numbers 10 and 11?

17 MR. DUDA: No.

18 MR. MURPHEY: None by the Village.

19 MR. REIMER: Okay. So Board Exhibit 11
20 and 12 -- I'm sorry.

21 MR. DUDA: 10 and 11.

22 MR. REIMER: 10 and 11 are admitted into
23 the administrative record without any further
24 authentication or foundation. So they're in.

1 I will distribute a copy of those
2 to each of the Board trustees. Again, I don't
3 think there's anything substantive in this. This
4 is more procedural.

5 Next we have what's been marked as
6 Applicant's Exhibit Numbers 1 through 11, which my
7 office received a copy of yesterday. I want to go
8 through and identify these records. These have
9 not been distributed to the Board, because they
10 were received yesterday. Didn't know if there was
11 going to be any objections on behalf of the
12 Village.

13 So I have Applicant Exhibit Number
14 1. It appears to be a FOIA request and a response
15 dated April 27th, 2016.

16 Applicant's Exhibit Number 2 is a
17 video of the -- it's labeled train fatal.

18 MR. DUDA: Train fatality photos and
19 video. It's -- it is a transmittal onto DVD of
20 all of the video and photographs that were
21 preserved in the course of investigating the event
22 of February 6, 2014.

23 MR. REIMER: Understood. I have
24 Applicant's Exhibit Number 3, which appears to be

1 the initial incident report of what's depicted in
2 Applicant's Exhibit Number 2, the train fatality.

3 Applicant's Exhibit Number 4 --

4 MR. DUDA: Mr. Reimer, we did an index of
5 our exhibits. If you didn't get one, I can give
6 you mine.

7 MR. REIMER: We did not get an index.
8 All right. All right. So I'm going to look at --
9 do you have extra copies for the Board, Mr. Moran?

10 MR. DUDA: Of the index, yeah.

11 MR. MORAN: The Board packet has one.
12 You should have one.

13 MR. REIMER: Scott, I'm sorry. I didn't
14 get one, but that's fine. I just want to make
15 sure we've got it. So 3 then is the --

16 MR. DUDA: Three is the NFIRS report --

17 MR. REIMER: Right.

18 MR. DUDA: -- for the episode of the
19 fatality. Four is the EMS report of removing the
20 remains of the victim.

21 MR. REIMER: Five is the personnel file,
22 medical records from FOIA.

23 MR. DUDA: Those -- those relate to
24 episodes that the Applicant had witnessed, and he

1 will be testifying about some of them, of things
2 that he had done during the course of his career
3 at the Village.

4 MR. REIMER: All right. So that --
5 remind me to come back to that when you're done.
6 I have something that I found in the file that
7 appears to be a handwritten list of cumulative
8 exposures during his service in the military and,
9 apparently, some of the things that he was able to
10 label that he responded to as a police officer.

11 I'm not sure that's in the
12 exhibits, but we'll get it in there if it needs to
13 be.

14 All right. And then 6 is various
15 investigation reports; correct?

16 MR. DUDA: Correct.

17 MR. REIMER: Is that what you're
18 referring to?

19 MR. DUDA: Yes.

20 MR. REIMER: Number 7 is Dr. Walter
21 Whang, spelled W-H-A-N-G, M.D., a narrative
22 medical report.

23 Number 8 is Diana S. Goldstein,
24 G-O-L-D-S-T-E-I-N, Ph.D. That's an IME dated

1 February 5th of '15.

2 Nine would be another Dr.

3 Goldstein IME report of February 28th, '16.

4 Number 10 is a transcript in case
5 number 11 CR 3707, the testimony of Dr. Chandra,
6 C-H-A-N-D-R-A, on March 10th, 2017.

7 And, finally, Applicant Exhibit
8 Number 11 is S.A.I. initials, so Sam Adam Ida,
9 Psychiatric Services, LTD records.

10 You've tendered a copy to Mr.
11 Murphey?

12 MR. DUDA: Yes.

13 MR. REIMER: And I take it you're moving
14 for admission?

15 MR. DUDA: We are.

16 MR. REIMER: Okay. So --

17 MR. DUDA: And for the record, the two
18 Goldstein reports are the independent medical
19 evaluations of the Village in the worker's
20 compensation case.

21 MR. REIMER: Okay. That's Goldstein?

22 MR. DUDA: Goldstein.

23 MR. REIMER: And if I could ask, because
24 I have not had -- due to my schedule getting these

1 late yesterday, I was at a labor board hearing all
2 day yesterday and this morning. What's the
3 transcript of the criminal case? Was that --

4 MR. DUDA: One of the issues in this case
5 is whether he's able to return to work in his --
6 as a police officer, as a detective.

7 And doctor -- there's going to be
8 testimony that Detective Sardo was subpoenaed in a
9 criminal case that he had investigated, and he was
10 -- the testimony of Dr. Chandra, he's the treating
11 psychiatrist, is that lieutenant -- Lieutenant
12 Sardo was incapable of -- mentally incapable of
13 appearing in court and giving testimony.

14 MR. REIMER: In the criminal proceeding?

15 MR. DUDA: Right. And the judge
16 sustained -- he quashed the subpoena and ordered
17 that any questions to Lieutenant Sardo would be
18 done in writing. And his testimony is relevant to
19 the issue of disability.

20 MR. REIMER: So fair enough. You're
21 referring to him as lieutenant. Is he a
22 lieutenant?

23 MR. DUDA: He's a detective.

24 MR. REIMER: Detective, okay.

1 MR. DUDA: I just did a lieutenant case a
2 week ago and I --

3 MR. REIMER: Listen, if he's entitled to
4 that promotion, he should --

5 MR. DUDA: No, he is a detective.
6 There's no question.

7 MR. REIMER: All right. Mr. Murphey, I
8 know you got them yesterday.

9 MR. MURPHEY: I got them yesterday. I
10 haven't looked at them. I haven't reviewed them
11 with the client. And so here we are at the
12 eleventh hour, and I want to review them with the
13 client and decide what the objections are.

14 I mean, a lot of the factual things
15 are replete with hearsay, because they're first,
16 second and thirdhand reports by other people about
17 what happened on certain days. Whether I'm going
18 to object to them or not, I have to review with
19 the client..

20 MR. REIMER: All right. Well, let me ask
21 you this, and tell me if I'm wrong here. Let's
22 fight about the things that you two think really
23 need to be disputed. But is there any dispute,
24 for example, that the Applicant here responded to

1 a train fatality?

2 MR. MURPHEY: No, there's no dispute as
3 to that.

4 MR. REIMER: Well, can't we knock out
5 some of these then?

6 MR. DUDA: Well, I think we can really
7 cut to the chase. The only real exhibit that the
8 City hasn't seen -- okay, I mean, can say that it
9 was delivered to their office yesterday and that's
10 all well and good. You know, but the reality is
11 Exhibits 2 through doctor -- you have my list, so
12 I don't know what the number is, are all documents
13 that were provided by the Village to me under a
14 FOIA request.

15 So to say that they've never seen
16 them before, they are the initiator of the paper.
17 It's a response to a FOIA.

18 I have a foundation witness, and he
19 could -- he can testify as to the foundation of to
20 whom he made the FOIA request and what documents
21 were produced.

22 So to say -- the Village to say we
23 don't know what this is, when they, in fact,
24 produced the documents is somewhat disingenuous.

1 The two reports of Dr. Goldstein
2 are IME reports of a psychiatrist retained by the
3 worker's compensation carrier representing the
4 Village as an agent, reporting on their
5 examination of the Applicant and their medical
6 conclusions.

7 At this point, I move to admit
8 those two exhibits as an admission against
9 interest, because those are documents produced by
10 the Village, for the Village, and the medical
11 conclusions, in my opinion, are admissible against
12 the Village.

13 MR. REIMER: All right. So --

14 MR. MURPHEY: So, Mr. Reimer, you know,
15 when an attorney says I'm being disingenuous,
16 that's a fancy name for I'm lying or being
17 misleading. I don't like that.

18 I am the person charged with
19 representing my client in this case. The
20 intervention was granted in January. These are
21 documents that go back years. The Applicant has
22 had several months to turn these over in a
23 reasonable period of time to allow me to prepare
24 my case. They hand it over 24 hours before the

1 hearing, and that's fair? Who is being
2 disingenuous in this thing? It's not me.

3 MR. REIMER: All right. Let me --

4 MR. MURPHEY: We have a right to examine
5 these documents to make a determination if there's
6 objectionable information. Whether it's in
7 response to a FOIA or not, it's my case.

8 MR. REIMER: Let me ask you this: I
9 understand that you were retained by the Village
10 for purposes of this intervention proceeding;
11 correct?

12 MR. MURPHEY: Yes.

13 MR. REIMER: You are not representing the
14 Village in the worker's compensation case.

15 MR. MURPHEY: Or the criminal case or
16 FOIA responses. I'm handling this job.

17 MR. REIMER: Okay. Well, part of the
18 problem is we had hoped -- I know everybody --
19 obviously from the number of people here,
20 everybody wants this to move forward. And, quite
21 frankly, the Board has a right to figure out what
22 is going to be in evidence so they can review it
23 and ask any questions, if they have any.

24 So I just don't know that the Board

1 is going to have time today, obviously, to review
2 these documents, we don't know that they're in
3 yet, and be able to ask questions of Detective
4 Sardo.

5 I don't know. So how can we -- do
6 you have a representative of the --

7 MR. DUDA: Well, it's my --

8 MR. REIMER: -- Village here?

9 MR. DUDA: It's my understanding from our
10 discussion that you aren't going to have Mr. Sardo
11 testify.

12 MR. REIMER: We're not. I'm making --

13 MR. DUDA: The issue is: Is the Village
14 objecting? So if the Village needs time, my
15 suggestion is we pick a week to reconvene for the
16 Village to make whatever objections they have, and
17 then set a final hearing in a week.

18 MR. REIMER: Well, you'll also recall at
19 the January -- what was it -- 27th? I don't
20 remember.

21 MR. MURPHEY: 31.

22 MR. REIMER: January 31st intervention
23 hearing, I thought we gave the Village X amount of
24 days. I thought it was 35 days from receipt of

1 the exhibits within which to turn over any
2 additional exhibits, and I don't think you gave me
3 anything.

4 MR. MURPHEY: I didn't.

5 MR. REIMER: Tell me if I'm wrong. I
6 don't remember seeing anything. And the problem
7 is: After seeing all these -- let's say
8 Applicant's Exhibit 1 through 11 are admitted.

9 I don't know that the -- the Board
10 may want the three Pension Board doctors to review
11 this. I don't know. I think that's something you
12 can -- you can direct me in.

13 But quite frankly, I don't know
14 that will change any doctors' opinions or
15 conclusions. I don't know.

16 So I'm going to earn my big bucks,
17 and I'm going to rule -- subject to your
18 objection, I'm going to admit Applicant's Exhibit
19 Numbers 1 through 11 without any further
20 authentication or foundation. So these documents
21 will be in.

22 And the opinions and conclusions, I
23 think our ruling was at the intervention hearing
24 -- tell me if I'm wrong, Mr. Murphey. If, for

1 example, the Village wants to object to Goldstein
2 on the basis of hearsay or Dr. Whang or Dr.
3 Chandra, we have to take the evidence dep of those
4 doctors. I don't know if that's something that
5 you wanted to do.

6 MR. MURPHEY: That's what we did with the
7 three statutory doctors. That's what the
8 agreement was, and I had no objection.

9 MR. REIMER: Okay.

10 MR. MURPHEY: I think the agreement was
11 if I wanted to take it, I had to pay for it.

12 MR. REIMER: Right, right, and that's
13 pretty standard. So if -- here's what I will do:
14 We're going to admit those documents without any
15 further authentication or foundation.

16 However, if prior to the next
17 hearing, which the Board fully expects to go
18 forward with the Applicant's case in chief, prior
19 to you putting on your case in chief as the
20 Intervenor, to the extent you have a hearsay
21 objection, we'll let you -- we'll do an evidence
22 deposition at the expense of the Intervenor, the
23 Village.

24 That just means we're not going to

1 finish the hearing by the next hearing.

2 So I'll tell you what. Why don't
3 we do it this way. We're going to give you --
4 even though these documents are in, I think we can
5 un-ring the bell and cure any hearsay defect. I
6 don't think foundation is an issue, quite frankly,
7 if these are a response to a FOIA request.

8 MR. MURPHEY: There's no foundation on
9 anything that's got Franklin Park letterhead on
10 it. So don't worry about that.

11 MR. REIMER: Yeah. I think the only
12 thing you may be concerned with is Exhibit 7 --
13 Applicant Exhibit Numbers 7 through 11.

14 So to the extent that 7 through 11
15 are in, and we're going to distribute to all
16 Members of the Board so you can read Applicant's 1
17 through 11 before we come back here. I'm going to
18 direct that the Intervenor has 10 calendar days to
19 notify me of any objections based on hearsay. Not
20 foundation.

21 And if Mr. Murphey comes back and
22 says I object to the opinion of Dr. Goldstein, I
23 want to take the deposition, that will occur as
24 part of his case in chief. But we're going to go

1 ahead with the Applicant's case in chief on the
2 next date.

3 All right. Now, I wanted to know
4 -- and I asked you, Mr. Duda, off the record. I
5 didn't know what Detective Sardo's pay status was.
6 So, obviously, one of the concerns the Board
7 always has, in a case like this, is the longer
8 something goes on, as what this gentleman pointed
9 out, it can be detrimental to somebody's
10 psychological condition, is there could be no pay
11 status.

12 I believe you informed me that the
13 detective is receiving TTD, temporary total
14 disability, under worker's comp.

15 MR. DUDA: That is correct.

16 MR. REIMER: Okay. So even if -- even if
17 you awarded a disability tonight, there would be
18 an offset while he receives TTD. So I'm glad at
19 least that there's some income stream coming in.

20 I was going to ask you, if that was
21 not the case, is there a dispute, Mr. Murphey, as
22 to whether or not there's a disability?

23 And what I mean by that is: As I
24 view it, there's two issues in every disability

1 case. Number one: Is there a disability? And if
2 there is a disability, issue or question number
3 two is whether or not it's a line-of-duty
4 disability within the meaning of the statute and
5 the case law.

6 Is there -- will there be a contest
7 or dispute by the Intervenor as to whether or not
8 there's a disability? Now that you've had an
9 opportunity to at least review Board Exhibit
10 Numbers 1 through 9, is that going to be an issue
11 at all?

12 MR. MURPHEY: No.

13 MR. REIMER: Okay.

14 MR. MURPHEY: My understanding was that
15 the application is line-of-duty only.

16 MR. REIMER: It is, and I always ask the
17 Applicant and the Applicant's attorney at the
18 beginning of the hearing whether or not they want
19 to amend it in the alternative. I don't know. I
20 don't want to do that now with your client not
21 being present.

22 So I think for the next hearing
23 then, the only thing you need to really focus on
24 in your case in chief -- and I'm not telling you

1 how to try your case. You've done a gazillion of
2 these, Mr. Duda, is the causal connection. Is
3 this a line-of-duty disability; right?

4 MR. DUDA: Correct me if I'm wrong, Mr.
5 Murphey, but it's my impression that really
6 causation isn't the Village's complaint either.

7 The Village's complaint is whether
8 or not the activities of Lieutenant Sardo on
9 February 6, 2014 were an act of duty.

10 MR. REIMER: And the Board will --

11 MR. MURPHEY: I'm not going to limit
12 myself to rhetorical questions by opposing
13 counsel. We will see what the evidence is.

14 MR. REIMER: I think that's fair. The
15 case law is real clear. The Board has to consider
16 the totality. The Board hasn't heard the
17 evidence.

18 MR. DUDA: Well, in terms of my
19 presentation then, we're stipulating that
20 Lieutenant Sardo is disabled from performing the
21 duties available to him in the police department.

22 MR. REIMER: Correct.

23 MR. DUDA: Okay. So the only two issues
24 are causation and act of duty.

1 MR. REIMER: Fair enough. So, Mr.
2 Murphey, is that accurate? Do you stipulate on
3 behalf of the Village?

4 MR. MURPHEY: We'll stipulate on the
5 issue of disability.

6 MR. REIMER: The issue on disability. So
7 the only issues to be decided by the Board and,
8 therefore, the focus of the evidentiary hearings
9 can be condensed, I hope, if it's going to be the
10 issue of causation and whether or not this is a
11 line-of-duty disability.

12 MR. MURPHEY: Yes.

13 MR. REIMER: Is that fair?

14 MR. DUDA: Yes.

15 MR. REIMER: So that will save you a lot
16 of time.

17 All right. So we've got 10 days,
18 business days -- calendar days, rather, for the
19 Village to review the documents, check with the
20 representative of the Village. Intervenor to
21 notify us if there's going to be any hearsay
22 objections.

23 MR. MURPHEY: A week from Friday, what's
24 the date?

1 MR. DUDA: The 19th.

2 MR. REIMER: The 19th.

3 MR. MURPHEY: That's a week from today,
4 the 19th. You said 10 days, didn't you?

5 MR. REIMER: It would be 10 calendar
6 days.

7 MR. MURPHEY: So that's the 22nd, not the
8 19th.

9 MR. WITNIK: Yes.

10 MR. MURPHEY: Twelve plus 7 is 19 plus 3
11 is 22.

12 MR. REIMER: Like all of you, I went to
13 law school because they told me there'd be no
14 math. So I'm going to leave that up to you guys.

15 MR. WITNIK: It would be Friday the 22nd.

16 MR. REIMER: Okay. So Friday the 22nd,
17 if you could just notify me in writing, Mr.
18 Murphey, copy to Mr. Duda. Close of business.
19 You can do it electronically, whatever is easiest
20 for you. You don't have to serve the Board.

21 All right. So I think what we'll
22 do now is -- Mr. Moran, can I ask that -- you're a
23 paralegal -- distribute a copy of Applicant's
24 Exhibit Numbers 1 through --

1 MR. DUDA: 11.

2 MR. REIMER: -- 11.

3 MR. DUDA: And the index.

4 MR. REIMER: The index we're not going to
5 mark, but that's great. Thank you.

6 So you'll notice, gentlemen on the
7 Board, there's a CD or a DVD. I got through some
8 of that today. It's going to take you a while.

9 All right. Why don't we -- is
10 there any other preliminary matters we can go
11 through, or can we go off the record and try to
12 set some dates?

13 MR. DUDA: I think we can set dates. I
14 think it's pretty clear what the issues are and
15 putting on evidence.

16 MR. REIMER: So we can set dates?

17 MR. DUDA: Right.

18 MR. REIMER: Do you want to go off the
19 record?

20 MR. MURPHEY: Just one other thing on the
21 record.

22 MR. REIMER: Sure.

23 MR. MURPHEY: I don't know, Tom, how many
24 witnesses you have, but we would make a motion to

1 exclude nonparty witnesses. We've got a number of
2 people here.

3 MR. REIMER: Sure.

4 MR. MURPHEY: But before we start with
5 the proofs, make a motion to exclude nonparty
6 witnesses.

7 MR. REIMER: We should -- we should know
8 the rules before we play the game.

9 MR. DUDA: The one thing I have is I'm
10 not -- I'm only going to call the Applicant, as
11 far as I know. And the only other person who I
12 would like to be here while he testifies is his
13 wife, and she may be called in terms of his
14 behavior.

15 MR. MURPHEY: I have no objection to the
16 spouse.

17 MR. REIMER: No problem. That's fine.
18 Ladies and gentlemen, this is a public meeting.
19 Does anybody here, for whatever reason, think that
20 they may be a witness in this case?

21 In other words, either the Village
22 might call you or the Applicant's attorney may
23 call you as a background?

24 MR. DUDA: No one in the room is going to

1 be a witness.

2 MR. REIMER: Nobody is, okay. Public
3 meeting.

4 MR. DUDA: Other than the spouse.

5 MR. REIMER: Fine. She's -- she should
6 be welcome to stay, absolutely. That won't be a
7 problem. Let's go off the record.

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

10 MR. REIMER: We've had a brief
11 off-the-record discussion concerning setting
12 potential dates to commence and continue this
13 hearing.

14 It's my understanding that the
15 parties are all available on Thursday, October
16 12th. So I will need a motion to continue this
17 matter to Thursday, October 12th at 5:00 o'clock
18 p.m. We are going to verify the location. We're
19 hoping we can get the -- what's the other room
20 called?

21 MR. WITNIK: It would be the back --
22 another back meeting room, I guess, would be the
23 technical name of it.

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