IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

DIANE J. SCHROER, Plaintiff, v. JAMES H. BILLINGTON, Librarian of Congress, Defendant.	No. 05-cv-1090 (JR)

DECLARATION OF SHARON M. McGOWAN

Pursuant to 28 U.S.C. § 1746, I, Sharon M. McGowan, declare as follows:

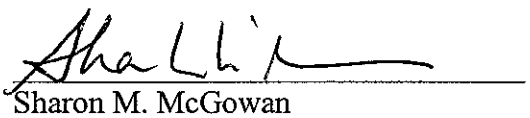
1. I am a Staff Attorney at the ACLU's Lesbian Gay Bisexual Transgender Rights Project, and I am counsel for Plaintiff in this case.

2. Attached as Exhibit A to this declaration is a true and correct copy of excerpts from the deposition of Charlotte Preece, taken in this action on January 11, 2007.

3. Attached as Exhibit B to this declaration is Plaintiff's proposed Amended Complaint.

I declare under penalty of perjury that the foregoing is true and correct.

Dated: June 7, 2007



Sharon M. McGowan

Exhibit A

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

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DIANE J. SCHROER, :
: :
Plaintiff, :
: :
v. : CA No. 06-763
: :
JAMES H. BILLINGTON, :
: :
Defendant. :
- - - - - - - - - - - - - - - - - - x

Washington, D.C.
Thursday, January 11, 2007

Deposition of CHARLOTTE P. PREECE, called for examination by counsel for Plaintiff, pursuant to notice, at the Law Offices of 1875 Pennsylvania Avenue, N.W., Washington, D.C., and commencing at 9:10 a.m., before Barbara a. Huber, Notary Public in and for the District of Columbia, when were present on behalf of the respective parties:

APPEARANCES:
On behalf of Plaintiff:
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Also Present:

Jessie James, Jr.
Julia Douds

* * * * *

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PROCEEDINGS

Whereupon,
CHARLOTTE P. PREECE,
was called as a witness by counsel for Plaintiff, and having been duly sworn, by the Notary Public, was examined and testified as follows:

EXAMINATION BY COUNSEL FOR PLAINTIFF
BY MS. McGOWAN:

Q Good morning, Ms. Preece. My name is Sharon McGowan. And I'm here with my colleague, James Esseks. And we represent the Plaintiff in Schroer versus Billington. And we're here this morning to take your deposition.

Have you ever been deposed before?

A No.

Q Okay. So I'm just going to go through a series sort of instructions and tips so that you understand how things are going to proceed today, and that the court reporter can take everything down. I will ask you a series of questions that you will answer under oath, as you've just been sworn. And the court reporter will take it all

down. Okay?

A Okay.

Q And it's important that you answer out loud, because the court reporter cannot record a nod of the head or a gesture. Okay?

A I understand.

Q The court reporter also cannot -- or it's difficult for her to record when two people are talking at the same time. And so I will certainly try not to interrupt you. And at the same time, it's important for me to get the question out so that the court reporter can have a clear transcript. Okay?

A Okay.

Q Okay. And if you don't understand a question, will you ask me to repeat it and to clarify?

A Yes.

Q Okay. And if you do answer a question, I will assume that you understood it. Okay?

A Yes.

Q I will take breaks throughout the day.

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Q How did you feel when Ms. Schroer was explaining to you what it meant to be transgender, or what she meant by it when she told you that she was transgender?
A I was listening. I was trying to understand. I've never known anyone who has undergone the process, so I was listening.
Q Were you phased at all by this information?
MS. RUSSELL: Objection to the form of the question. It's vague.
But you can answer if you understand it.
THE WITNESS: If phased means shocked or surprised, yes.
BY MS. McGOWAN:
Q So this didn't strike you as just run-of-the-mill lunch conversation?
A No.
Q Had you ever had a discussion like this with anyone before?
A No.
Q So how did you respond?

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A I think I asked him to tell me how he came to that decision. He pulled out a portfolio and showed me some photographs on how he would present as a woman. I looked at those.
Q And what did you think?
A What did I think?
Q Looking at the photos.
A I thought he looked like a man dressed in women's clothes.
Q Anything else? What else went through your mind?
A That was -- I mean, confusion, I guess. At one point I think I asked him, David, how can I hire you as a man and you start work as a woman. We went on from there to talk about the security clearance. And he said that he knew he would be required to get a psychiatric fitness for duty determination.
Q And did he say how he knew that?
A He said that he knew other people who had gone through this process who had gotten security clearances.

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Q And did he describe at all what he understood their experience to be?
A No.
Q Did he tell you whether or not those individuals had kept their clearance?
A No.
Q Did you talk at all about sort of what all was involved in transitioning from male to female?
A We didn't get into bitty gritty details; but, yes, I mean, we -- there would be surgeries required, and physical changes.
Q And did you talk at all about what kinds of surgeries were going to be involved?
A No. I mean, not in detail.
Q Do you remember talking at all about Ms. Schroer's plans to have facial surgery?
A He told me he wanted to complete the process. And by that I took it to mean that he would need the electrolysis and implants and other surgery.
Q And did you talk at all about any plans

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for sort of full sex reassignment surgery?
A Not plans, no. I mean, nothing that I'm going to do this in February, I'm going to do this in December, no.
Q Was there any conversation about how this would impact on his ability to -- or her ability to start at work?
A No. I would say we talked for maybe 15 or 20 minutes after this revelation. And I think because I was confused and taken aback, I said that I would have to talk to people within my organization, and I would get back to him within 24 hours.
Q Did you ask Ms. Schroer who else knew that she was transitioning?
A I don't recall that.
Q Did you ask her if any of her job references knew that she was transitioning?
A I don't believe I did.
Q And did you have a conversation with Ms. Schroer about what name to use on the paperwork?

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Q Anything else?
A That's -- that was pretty much the end of the conversation.
Q Okay. And before we end this part of the conversation, I just want to go back and make sure that I am clear about everything that you discussed.
When you raised this issue with Ms. Schroer of how can I hire you as David when you want to show up as Diane, other than the name on the form and other than the security clearance concern that you identified, did you mean anything else by that question?
MS. RUSSELL: I'm going to object to the extent it mischaracterizes her testimony.
But you can go ahead and answer if you understand the question.
THE WITNESS: Please repeat it.
BY MS. McGOWAN:
Q Sure. We've talked about the concern about the name that goes on the paperwork, whether it should be David or whether it should be Diane.

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And also talked about your concern about the security clearance issue.
I'm sort of wondering if there's anything else that you were trying to convey when you asked Ms. Schroer: How can I hire you as David when you want to come to work as Diane?
MS. RUSSELL: It's the same objection.
But answer it if you understand it.
THE WITNESS: It was a practical question. David Schroer applied. David Schroer interviewed. I did reference checks on David Schroer. He wants to start work as Diane. I didn't hire Diane. I didn't recommend Diane. I didn't interview Diane.
BY MS. McGOWAN:
Q And in what ways were you concerned that Diane would be different from David?
MS. RUSSELL: Objection to the form.
BY MS. McGOWAN:
Q Or were there any ways in which you were concerned that Diane would be different from David in a way that would impact your decision about

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whether you wanted Diane when you had wanted David?
A Just the security clearance.
Q Okay.
A The contacts.
Q Uh-huh. Anything else?
A Those were the primary.
Q Recognizing that these two were the primary reasons, were there any other reasons, even recognizing that they may have been less important?
A Credibility with members of Congress went through my mind.
Q And by credibility, what do you mean?
A This position is a senior position. It would likely be that -- or it was certainly expected to be that this person would have close contacts with committees, potentially be called to testify. Generally when you testify they read a bio about yourself. He would be testifying before people who knew -- would know that only a man could have those experiences.

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Q And were you concerned that people would react negatively?
A Yes.
Q And why is that?
A That they might not be as tolerant, the same reason as the contacts.
Q And so with respect to the credibility with members of Congress, is it fair to say that you were concerned about bias against plaintiff by individuals who disapproved of transgender people?
A I thought it was possible.
Q And did you -- were you concerned that people might be less interested in what she had to say because she was transgender?
A Yes.
MR. ESSEKS: Why don't we take five minutes.
MS. McGOWAN: We'll take a five-minute break here, and be back at 2:00.
(Recess)
BY MS. McGOWAN:
Q So we're back from our break. And we

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was a woman?
A Not about the individual, no. I knew it was going to create all kinds of complexities. But as far as the way I felt toward David, no.
Q And so from your perspective, nothing about your interaction was any different after you learned that Ms. Schroer was a transsexual woman?
MS. RUSSELL: Objection to the form.
You can answer if you understand.
THE WITNESS: I won't say nothing was different. My feelings about David's competencies, his knowledge, his experience was -- was not different. Yes, I was surprised, as I stated. And, yes, it did raise concerns about whether he was going to be able to -- whether she was going to be able to fill the institutional needs that the organization had.
BY MS. McGOWAN:
Q And so other than that, other than your thinking through the impact of this information on the job, you had no other personal reaction to the news?

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A No. I mean -- no. I didn't bear him ill will as a result of it, no.
Q And not even ill will. Was there any way in which you felt differently interacting with Ms. Schroer after you learned this news?
MS. RUSSELL: Same objection. Form.
THE WITNESS: Please repeat.
BY MS. McGOWAN:
Q Sure. You mentioned that you didn't have any ill will.
And I was asking, putting aside sort of any, you know, feelings of ill will towards Ms. Schroer, was there anything about your interaction with Ms. Schroer that felt different after she tells you: I'm a woman?
A Just what -- what I was going to need to do, but not about him as an individual.
Q Did you have any concern that Ms. Schroer wouldn't pass for a woman if she came to the Library of Congress dressed as a woman?
MS. RUSSELL: Objection to the form.
THE WITNESS: That wasn't a

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consideration that crossed my mind.
BY MS. McGOWAN:
Q Did you think individuals who had not met David Schroer would see Diane Schroer and suspect that this was a transsexual person?
A Again, that was a fleeting thought in my mind, if that. These other real factors were. The security clearance, by far the dominant, was what I was focusing on. When I came back and I talked to the director, the first person I talked to was Cynthia Wilkins. That was my overriding concern.
Q And we'll definitely talk about what happened when you got back to the office.
My question is, in light of what you saw in the pictures that Ms. Schroer shared with you and the concerns that you expressed about how she looked, were you concerned that other people would react to Ms. Schroer as a man in a dress?
A I don't know if "concerned" is the right word. Yes, they probably would have.
Q As far as the individuals who are in the

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specific unit where the terrorism specialist would have worked -- and I believe that's Mr. Miko's unit -- how many people are in that unit, if that's the right term to describe the section?
A Roughly 12, 13.
Q And how many of those people are -- in that unit are military veterans?
A Only the person who was hired for the position.
MR. ESSEKS: Mr. Rollins?
THE WITNESS: Yes.
BY MS. McGOWAN:
Q And how many men and woman are in that unit?
A That may take me a minute.
Q Okay.
(Whereupon at which time the witness wrote on a piece of paper.)
THE WITNESS: And now that I am composing this list, I now see that there is another man who is -- had military experience, as

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well, in that section.
Right now, I'm coming up with six women and four men.
BY MS. McGOWAN:
Q Okay. And can you go through -- and I don't necessarily need the names -- but tell me which positions are held by the men, and then which -- the titles of the positions that are held by the women?
Or approximations, a description of the --
A Of what they do?
Q Of what they do, by subject area or however it takes.
A Okay. I'll start with the men. The first one does foreign aid, would be Mr. Rollins, who obviously does terrorism. The third person does international narcotics and crime. And the fourth is a new-hire who does the foreign policy apparatus.
Q Okay.
A Do you want me to do the same thing for

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the women?
Q Yes. As to the women?
A The first person does sanctions and foreign policy legislation.
Q I'm sorry. Is that two or --
A That's --
Q -- that's one?
A -- sanctions and foreign policy legislation. The next one does foreign policy management, State Department. The third person does humanitarian relief and reconstruction. The fourth person does human rights and international health. The fifth person does foreign operations appropriations. The sixth person does the United Nations and related agencies.
Q Okay.
A I could be omitting somebody. That's just the best of my recollection.
Q Sure. Can you explain to me a little bit what foreign policy apparatus -- that was one of the positions that you listed -- what does that do?

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A The institutions in the State Department, International Broadcasting, what used to be the U.S. Information Agency.
Q And so this person provides research support for those agencies?
A Right, and programs conducted by those agencies. USAID.
Q And how many of these positions interact regularly with members of the military?
A Certainly the terrorism position, the narcotics position, the reconstruction and humanitarian relief. That's about half of them.
Q And am I correct Mr. Miko is the supervisor of all these people?
A Yes.
Q Okay. So we are now at the point where you're back at your office. Tell me what's the first thing you do.
A Go down to the director.
Q Did you encounter anyone --
A Before that? No.
Q Okay. So you go down to the director.

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And that's Mr. Mulhollan?
A That's correct.
Q Okay. Tell me what happens.
A I tell him about the lunch, and what Mr. Schroer has revealed.
Q And how do you describe this to him, what happened?
A I said, Dan, I just had a very unique situation, experience in my life. The candidate that I was considering recommending for the position of terrorism has informed me that he would like to start work as a woman. He said, you're kidding. I said, no. I said, I need to talk to some people. I said, I would like to go down and talk to Cynthia Wilkins, because I was pretty sure this was going to have implications for security clearance.
And he said, okay, I will let Kent know. And that would be Kent Ronhovde, who is the counselor to the director.
Q Other than "you're kidding," did Mr. Mulhollan say anything else to express, you

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going to tell me something which was going to change my recommendation, and that that could result in legal action against the Library.
Q Do you think that Ms. Schroer knew that this would change your recommendation, this information would change your recommendation?
A I have no way of knowing that.
Q At that point, when you're outside having probably a much-needed cigarette, were you starting to formulate in your own mind a plan about what you were going to do, how you were going to deal with this situation?
A I knew that we -- I needed to talk to people, to more people, that this meeting with Cynthia was going to become very important the following day.
Q At that point, did you still feel like you wanted to hire Ms. Schroer?
A I was leaning against it. I really didn't make up my mind until conversations with people the subsequent day, the next day.
Q And tell me why.

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Why were you leaning against it?
A Well, I did sense that there would be strong problems with the security clearance, then the same issues that we discussed about before: trust, and confidence, and credibility, and contacts. All these things were running through my mind.
Q And by credibility and contacts, that's what we were talking about with respect to sort of having, you know, negative interactions with the military or members of Congress; is that right?
A Right.
Q And was that a concern that standing alone was enough reason for you to decide you didn't want to go forward with Ms. Schroer?
A Absolutely not. That was a minor reason.
Q And your concerns about her trustworthiness, was that something that sort of by itself was a reason why you were thinking that you weren't going to go forward with her as --
A It wasn't a reason alone, but it was --

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it was a reason.
Q And if Cynthia Wilkins had come back to you and said, no problem, this person's got a clearance already, not a big deal, would you still have gone forward with your recommendation for Ms. Schroer?
MS. RUSSELL: Calls for speculation.
But you can answer if you understand.
THE WITNESS: I don't know the answer to that question.
BY MS. McGOWAN:
Q And what would have been the factors you would have been weighing if the security clearance timing issue had fallen away?
MS. RUSSELL: Same objection.
But you can answer if you understand.
THE WITNESS: Uh-huh. I probably would have gone back and done some serious reflection. Because the second candidate also had extremely good skills, and did very well in the interview, and had glowing recommendations, as well. I would have weighed my decision.

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BY MS. McGOWAN:
Q And in your mind, did this other candidate just present fewer concerns with respect to this credibility and contact point?
A Yes.
Q In part, because he was not transsexual; is that right?
A Yes.
Q After -- well, let's -- we'll finish that cigarette.
What else are you thinking?
I don't know how many you had, so -- I doubt one would have been sufficient, so, you know, what else were you thinking at that point?
A I think that we've pretty much covered it.
Q Okay. Walk me through sort of, you know -- roughly what -- what time is it now at this point?
A Late afternoon.
Q Okay. Walk me through sort of what happens between, you know, when you get back to

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A She seemed enthusiastic before he told me of his intention to complete the transgender migration. He certainly seemed enthusiastic in our conversations at the restaurant and at the interview. So that's the only thing I can say. He seemed to want the job.
Q And did your impression about how much Ms. Schroer seemed to want to job change after you had had this conversation about her gender transition?
A Not necessarily. I believe that part of what he would like to achieve if he wins this suit is to be reinstated, or to be hired in the first place.
Q Turning to the other people that you spoke to that day.
Gary Pagliano, who is he?
A Gary is another one of my defense section heads.
Q And tell me about your conversation with him.
A This, very similar, just described what

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happened.
Q Now, to the extent that Mr. Pagliano had not previously, you know, met Ms. Schroer or been involved in the process, did you have to explain to him in some greater detail sort of the background of the situation?
A No, I didn't, because he did know David Schroer.
Q He did?
A Yes. He and David were classmates at the National War College. And I had talked to Gary, if he knew Mr. Schroer while he was at the War College. This was while I was doing references.
Q And how did he react to the news that Ms. Schroer was transitioning from David to Diane?
A He was shocked.
Q How did you know that he was shocked? Did he say something? Was it in his body language? How did you know?
A I would say both. You're kidding? Yeah.

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Q And what else did he say?
A I can't believe it. I would have never expected it.
Q Did he say why, anything about why he would never have expected it?
A Well, he knew that he was in special forces, knew of some of the operations that David had led, I think had visited David and his wife at their home.
Q Did he say anything along the lines of Dave being a macho or a masculine guy?
A No. He talked more about what an intellectual he was. He was a distinguished graduate of the War College, David.
Q Did Mr. Pagliano express any sadness or disappointment at this news?
A No. I think more disbelief.
Q Did Mr. Pagliano ask you what you were going to do next?
A I think he did ask me if I had a good second candidate.
Q And what did you say?

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A Yes, I did.
Q Did Mr. Pagliano say anything along the lines of, or ask you whether or not you were thinking about go ahead and hiring Ms. Schroer anyway?
A He might have asked me what I was going to do. If he did ask me that, I probably would have said at this point I don't know.
Q You mentioned everyone sort of expressing some level of surprise at the news.
With respect to your feeling surprised or shocked at this news, is one of the reasons you were shocked because of sort of the most hyper, masculine, macho background of this person?
A That's certainly, I'm sure, lend itself to it.
Q In light of Ms. Schroer's background as a special forces officer engaged in obviously very macho stuff, macho tasks, did that make it harder for you to visualize this person all of a sudden becoming a woman and wearing a dress?
A I think it did, yes.

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Q And were you concerned that if you brought Ms. Schroer on, that there would be problems resulting from the fact that Mr. Pagliano had known Ms. Schroer as David?
A No.
Q And by problems, I mean sort of, you know, awkwardness or any sort of difficulty in stressors in the workplace?
A That wasn't what was going through my mind at the time.
Q Is there anything else you recall from that conversation with Mr. Pagliano?
A No.
Q And how long, roughly, did that conversation last?
A Five, ten minutes maybe.
Q And was this a passing in the hallway conversation, or a phone call?
A I think I went into his office.
Q Okay. And then with respect to Ed Bruner, your deputy, Mr. Bruner, tell me about your conversation with him.

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A I have no recollection if I even had a conversation with him that day.
Q Okay.
A He certainly would have been a person I would have been likely to tell at some point, but I don't remember when.
Q At any point during that afternoon did you think about getting back on the phone with one of Ms. Schroer's references to find out if they had any clue that this was going on?
A No.
Q Were you curious about whether they knew?
A Yes.
Q So why did you decide not to follow up with any of them?
MS. RUSSELL: Objection. Calls for speculation.
BY MS. McGOWAN:
Q You can answer.
A I wanted to hear first what the finding was going to be from the office of personnel security. It was kind of pointless to do anything before I got advice from that office.

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Q And to the extent it would have been pointless, why do you think it would have been pointless?
A Because given what Cindy told me the subsequent day, I didn't need know any more information.
Q But at that moment in the afternoon, before you had the meeting with Ms. Wilkins, did it occur to you that you might be able to learn something from these references that would be relevant to your conversation the next day?
A Not if -- the security clearance was, you know, the big ball out there. It was the foremost consideration in my mind. Until I had an answer to that question, I was not going to pursue anything else.
Q Did you talk to any other Library employees that afternoon about Ms. Schroer, or the situation generally?
A Not that I recall.

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Q Did you call any family members or friends to discuss what happened, either sort of in general terms or perhaps more specifically?
A Not from work.
Q Did you talk to family members later outside of work?
A Uh-huh.
Q Okay. Who did you talk to?
A My sons.
Q Okay. Tell me about those conversations.
MS. RUSSELL: I'm going to object on relevance grounds.
But you can answer.
THE WITNESS: On relevance grounds?
MS. RUSSELL: You can answer.
THE WITNESS: I think I said you're not going to believe what happened to me today. You know the gentleman's whose resume I showed you some time ago that you were quite impressed with? He told me today that he wanted to start work as a woman.

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get information from the health services office?
A The health service office would be responsible for setting up and arranging the fitness for duty.
Q But with respect to the conversation you were having there that morning at that meeting, did anyone suggest a need to bring in someone from the health services office?
A No.
Q Were there -- what else did Ms. Wilkins say about the security clearance process that we haven't yet discussed?
A I've told you what I remember.
Q Okay. Were there -- well, what did Ms. Alkisswani say during this meeting?
Did she react at all to this information?
A I really don't recall. People were asking questions. And I don't recall specifically what they were. The message from Cindy is what I took away from that meeting.
Q Were there any discussions in the

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context of this meeting, about Ms. Schroer's trustworthiness?
A There could have been. We discussed other issues beyond security.
Q What issues did you discuss?
Tell me about those conversations.
A I think they're again limited to the ones we talked about before: Trust, contacts.
Q And did you raise the trust and contacts point, or did you someone else?
A I can't remember. I think we were all thinking the same thing.
Q And what did you say in that meeting regarding this issue of trustworthiness?
A Well, I did say that I felt set up, and I didn't know if I could trust someone who tried to deceive me.
Q And what kind of reaction did you get to that comment?
A I understand.
Q And do you recall in particular any people specifically expressing that sentiment?

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A No.
Q And sort of how did you articulate this concern about contacts in that meeting?
A That I was concerned that by changing sex and identity, that the contacts that he had, particularly in the military, would not know who he was to them; and they might -- they might not be as helpful.
Q And did you talk at all in that meeting about the negative reaction of military people to Diane, who is now this transgender person?
A No, other than to say that some people might be understanding and others might not.
Q Was there any discussion about the reaction or what the reaction might be of other Library employees to the fact that Ms. Schroer was transitioning from male to female?
A No. We talked about the bathroom question a little bit.
Q Okay. And what did you say there?
A That we would have to make special accommodations for at least a period of time.

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Q Do you remember who raised that point?
A No.
Q Was there any discussion at that point about the example of the Department of the Army that Ms. Deese had previously discussed?
A I don't remember where the linkage was, and if that's where it came up, or whether it came up separately from what Kathy was talking about, that she said there was special accommodation made.
Q And was there any discussion about how easy or difficult it might be to accommodate this bathroom concern?
A No. I mean, it was so minor. We realized there was much bigger issues. We didn't dwell on this one.
Q Were there any discussions about how the members of Congress might react if they figured out they were interacting --
A Right.
Q -- with a transsexual --
A Right.

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Q -- woman?
A Yes. That came up.
Q Tell me about that.
A Just raised, as I mentioned about -- a couple of hours ago -- the issue of credibility. Again, like the military, that some people may be very tolerant of the knowledge and the information, and other people may think that damages the individual's credibility.
Q Do you remember who else in the conversation engaged in the discussion of this point?
A Well, Cindy pretty much stuck to security, personnel security issues. And Bessie, Kent, and I were having more of a free ranging discussion. But I don't remember who raised what.
Q Was there any discussion at this meeting about things that one might be able to do to speed up the security clearance process for Ms. Schroer if you decided to go forward with her?
A No.
Q So, for example, did you propose that

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Ms. Wilkins have a meeting with Ms. Schroer?
A No.
Q Did you suggest that Ms. Schroer look at David Schroer's security file?
A Pardon?
Q Did you suggest or did anyone suggest that Ms. Wilkins pull and review the security file for David Schroer?
A No.
Q Did you or anyone suggest that Ms. Schroer meet with the health services office?
A No.
Q Did you or anyone else suggest Ms. Schroer meet with any other member of the Library staff?
A No.
Q Did you or anyone else ask whether or not there was anyone at the Library who had dealt with a similar situation regarding a transitioning applicant?
A No.
Q Did anyone make any other suggestions

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along those lines of things that one might want to do before moving on to the next step?
A No.
Q Okay. Did you or anyone suggest calling Ms. Schroer to get some more information to factor into your decision-making process?
A No.
Q Did Ms. Wilkins or anyone else suggest that they were interested in finding out whether or not Ms. Schroer had reported any of this information about her transition to the entity currently holding her clearance?
A No.
Q So how were things left at the end of the meeting?
A Things were left that we should talk to the general counsel's office.
Q And who made that suggestion?
A I don't know for sure, but probably Kent.
Q And was there any discussion at the end of that meeting about the decision that was going

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to be made regarding Ms. Schroer?
A No. I think we wanted to -- I mean, my decision was pretty close to -- my decision was pretty final then. I was ready to move on.
Q And what were your reasons for deciding that you wanted to move on?
A The time, the uncertainty as to whether the clearance would ultimately be granted. That was the 90 percent factor.
Q The issue of credibility and contacts, was that a reason?
A They probably go about five each, yeah.
Q Okay. And I absolve you from the fact that we have reached 100.
Are there any other reason, with whatever percentage that you want to attach to them, that factored into your --
A Well, we discussed credibility before.
Q Okay. And by credibility, just to be clear, we're talking about both being able to interact with members of the military who might be hostile to her as a transgender person, and

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credibility with members of Congress?
A Primarily the latter.
Q Primarily the latter? Okay.
A Right. Contacts with the military, credibility with the members.
Q Okay.
A But the operational needs of the division were such that I needed to have someone on board months before we are now, or where we were at the present time, in December.
Q And did you have in your mind, in that meeting with Cynthia Wilkins, an amount of time beyond which you were unwilling to go with respect to how long the clearance would have taken?
For example, if Cynthia Wilkins said it'd probably take about six months, sort of was there an amount of time in your mind where beyond which it was just not going to be worth your while anymore?
A I really wanted someone to start in January.
Q And how important was it for you that

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the person could start in January with full clearance?
A I wanted the person to be able to start the new session of Congress, which beings at the end of January.
Q And so if Cindy had come back, or in this meeting and said, you know, I actually think it's not going to be a problem, but I need two weeks to figure it out?
MS. RUSSELL: Objection. Calls for speculation.
But you can answer it if you understand.
THE WITNESS: I wouldn't have believed it, but -- if she said that and it were two weeks, we probably would have gone through the process.
BY MS. McGOWAN:
Q Notwithstanding the residual concerns about credibility and contacts?
A I'm not saying I would have selected her for the job, but -- I mean, at that point, knowing what I did, it's foolish to speculate about two weeks because. That's totally unrealistic. I

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probably would have gone with the other candidate, who did not have any of those issues.
Q And just to be clear, even if Cynthia Wilkins had come back and said two weeks, you probably would have gone with the other candidate? Am I understanding you correctly?
A Yes. Yes.
MS. RUSSELL: Same objection. Calls for speculation.
THE WITNESS: I mean, I would have had to do -- prepare the recommendation. The PAR would have had to be generated. And then it would have gone to Cindy's shop. And then it would have gone to the fitness for duty. And then it would have gone for the investigation. So, no, at this point I was -- at this point, I pretty much made up my mind.
BY MS. McGOWAN:
Q So recognizing that Cynthia Wilkins is, you know, the person who was giving you her assessment of how long it would take, I just want to be sort of clear I understand, you know, where

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you were at that point.
If Cynthia Wilkins had come to the meeting and said to you this is information that I want to take a look at; but in light of the fact this person's, you know, got a prior work-up, I think that it'll take me about two weeks to figure out whether or not, you know, this is a problem, am I correct that you're saying that even if she had said two weeks to you, you would not have gone forward with Ms. Schroer?
MS. RUSSELL: It's the same objection.
THE WITNESS: I really feel you're asking me to speculate on something that is completely unrealistic.
BY MS. McGOWAN:
Q Unrealistic or not, if that had been what Ms. Wilkins, as the personnel security officer, came back and said I can give you an answer in two weeks --
A I don't know what I would have done.
MS. RUSSELL: Asked and answered.
But you can answer.

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BY MS. McGOWAN:
Q Well, actually, I haven't yet gotten an answer out yet, so --
A I don't know what I would have done.
Q And as far as if Ms. Wilkins had come back with the I can give you an answer about the security clearance issue in two weeks, is part of your uncertainty about whether or not you would have gone forward with Ms. Schroer or not because of these credibility and contact concerns that were in your mind, as well?
A It was the time and the operational requirements. She had given me an answer about what would be required. And based on that, I made a decision to go to the other candidate.
Q Right. And I'm asking if she had said that it would have taken only two weeks of time to give you an answer on whether or not this person could continue to maintain their top secret security clearance, would the other concerns that you had had about credibility and contacts led you to still make the same decision to not go forward

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with Ms. Schroer?
MS. RUSSELL: I'll object. Asked and answered.
But you can answer the question again if you understand it.
THE WITNESS: These other factors are contributing factors. The main reason was the operational factor. I don't know what I would have done if she said that preposterous thing.
BY MS. McGOWAN:
Q And so I recognize that we're talking sort of in the hypothetical, but I'm trying to sort of isolate this factor of the amount of time that it would have taken, and take that out of the equation.
In a world where Cynthia Wilkins told you that it would not take a long amount of time to resolve the security clearance issues, would you have gone forward with Ms. Schroer as the applicant for the terrorism specialist?
MS. RUSSELL: Again, it calls for speculation. And it's been asked. And it's been

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answered.
MR. ESSEKS: No, I'm sorry. It hasn't been answered.
MS. RUSSELL: It has been answered.
THE WITNESS: It has been answered with I don't know what I would have done.
MS. RUSSELL: And that is an answer. You may not get the answer that you want, but that is the answer. That is her answer.
MR. ESSEKS: Why don't we just try this again, and then see if we can get an answer on this.
MS. RUSSELL: Asked and answered.
MR. ESSEKS: You can make the objection. That's fine. But once you make the objection, I'd appreciate you be quiet so that the witness can answer.
MS. RUSSELL: She has answered the question.
MR. ESSEKS: I think this exchange is done. Thank you.
MS. RUSSELL: I would prefer that you

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move on, because she has answered the question.
BY MS. McGOWAN:
Q I actually think that the question is still open. And so this will be my attempts to move on after this point. You've identified four factors. And I'm asking if -- or three or four factors, depending.
Once the factor of the amount of time was taken out of the equation, would you have decided to go forward with Ms. Schroer or not, depending on these other two concerns that you've identified?
MS. RUSSELL: Calls for speculation, asked and answered.
You can answer it a fourth or fifth time.
THE WITNESS: My answer is I don't know what I would have done.
BY MS. McGOWAN:
Q And is the reason you don't know because you were not certain whether or not your anxiety about the credibility and contact issue would have

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rendered Ms. Schroer less effective than Mr. Rollins?
MS. RUSSELL: Objection. Calls for speculation. And it's confusing.
BY MS. McGOWAN:
Q Do you understand my question? Because I can ask it again.
A Go ahead.
Q Okay. In a world where the timing issue has been taken out of the equation because Ms. Wilkins says to you in two weeks I can give you an answer up or down about whether or not this candidate can satisfy the top secret security clearance, you thus far have said, in different ways, although not consistently, that you're not sure what you would have done in that situation.
And my question is, is what you are not sure about the question of whether or not your concern about Ms. Schroer's credibility with members of Congress and her ability to maintain contacts with the military due to their lack of understanding about transgender issues made her a

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weaker candidate than Mr. Rollins?
MS. RUSSELL: It's the same objection. Also, I'm objecting to the extent that it mischaracterizes your testimony, and it's confusing.
BY MS. McGOWAN:
Q Do you understand --
A It certainly makes her a weaker candidate, because it's -- there's so many contributing factors.
Q Okay.
A So even if you take one and hold it in isolation, these other factors were certainly strong, would have influenced and factored into my decision whether or not to proceed, or to offer it to the other candidate.
Q And where there would be absolutely no difference in time between how long it would take to run Ms. Schroer through the security clearance process and Mr. Rollins, is it your testimony that Mr. Rollins was a stronger candidate because he did not present the same concerns about

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credibility with members of Congress, and contacts in the military?
MS. RUSSELL: It still calls for speculation.
But you can answer if you understand.
THE WITNESS: I don't understand. I'd like to stay with my previous answer, that even holding time and security clearance out of the question, I'm --
BY MS. McGOWAN:
Q The other question is --
A The question isn't just the time of the clearance. The question is ultimately could he get the clearance. We don't know that there's an answer to that. So it's not the whether it's two weeks or two days or two years. We have the additional factor of, one, how long it's going to take; and, two, the degree of certainty that he might not be able to get that clearance. So that's a big unknown.
Q Okay. So that's how we had our four factors. There was the time factor and the

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uncertainty factor.
I'm saying holding those factors constant --
A I understand.
Q -- as between Ms. Schroer and Mr. Rollins, is it your testimony that Mr. Rollins is -- was a stronger candidate because he would not have presented credibility concerns or concerns about his ability to maintain military contacts?
A He's looking a lot better, yeah.
Q Do you recall what time you wrapped up your meeting with Mr. Ronhovde and the others?
A 10:00 to 10:15.
Q What did you do then?
A Went out and smoked a cigarette.
Q And what were you thinking at that point?
A What I was thinking was that given what I had learned, I would like to offer the position to Mr. Rollins.
Q And why was that?

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A Because of the length of time to take to get a security check, because of the uncertainty of the security check, because of the credibility issue, because of the mistrust issue, all the factors that we have listed time and time and time again.
Q And we've thus far broken out the credibility issue being credibility with Congress was --
A The contacts. And the contacts is the other thing.
MS. McGOWAN: I'm going to show you a document that we can mark Exhibit 28. Oh, I'm sorry. It was a document that was already previously marked as Exhibit 14.
THE WITNESS: (Witness examined document).
BY MS. McGOWAN:
Q Do you recognize -- well, actually, let me identify the document. It's a document that was previously marked as Exhibit 14, Bates-stamp number 206. At the top says, Charlote Preece

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draft re terrorism position.
Do you recognize this document?
A Yes.
Q Okay. What is it?
A At the end of the meeting with Bessie, Kathy, Kent, and Cindy, Kent asked me to draft something for the general counsel to look at of what I would tell Mr. Schroer when I told him I would not go forward with his recommendation.
Q And did he explain to you why he wanted you to draft up an e-mail?
A To show to the general counsel's office.
Q And when did you begin drafting this e-mail?
A Probably -- this has a 10:54 on it. After the meeting.
Q Do you have any idea of roughly how long it took for you to type this e-mail?
A Fifteen minutes.
Q Did you talk with anyone as you drafted the e-mail?
A We had talked about it a little bit at

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the meeting.
Q And had anyone offered you any suggestions for how to phrase your comments to Ms. Schroer?
A No. This was a very preliminary draft, first cut.
Q And how did you select the people that you sent the e-mail to?
A They were the people at the meeting.
Q Did you send this to anyone else in a separate message?
A I don't think so. I can't remember if we took a paper copy, or if this was sent to the general counsel's office.
Q And did you get any e-mail responses from anyone when you sent this e-mail?
A No.
Q Did you get any kind of feedback regarding this e-mail?
A Yes, when we went to the general counsel's office.
Q Do you recognize the handwritten

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comments on this paper?
A Yes.
Q Whose handwriting is that?
A Mine.
Q When did you write these comments?
A Probably in the meeting with the general counsels.
Q And then I'm going to show you a document that was previously marked 15. In a moment. I'm sorry.
In this document, Exhibit 14, the last line of that first paragraph you say here that, I have concerns a that the transition you are in the process of might divert your full attention away from the mission of CRS.
Is this an issue that you discussed at that meeting with Mr. Ronhovde and the others?
A Yes, I believe it did come up.
Q And what was that discussion?
A That both the surgeries, the time off, as well as undergoing such a complex and painful process could divert his attention, full-time

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ready to object then. But you asked what she said, you asked what Kent said, and you asked what Ms. Preece said. You never asked what --

MR. ESSEKS: We didn't ask about what the lawyers said?

MR. JAMES: No.

MS. McGOWAN: Okay.

BY MS. McGOWAN:

Q And so what did everyone, other than Mr. James and Ms. Dowd, say in the context of this meeting, as part of recounting the conversation?

Sorry. That's a little --

Going into this meeting -- let me start there -- going into this meeting, was there any discussion about the fact that you had more or else less made up your mind what you thought you were going to do?

A I had pretty much made up my mind about what I wanted to do.

Q And so what was the point of this meeting with the office of general counsel staff?

A To find out if this situation could

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potentially get the Library into legal trouble.

Q And was there any discussion about what you should or should not say in the course of your conversation with Ms. Schroer?

A Again, to answer that question, I would have to be saying what legal counsel told me.

Q Well, putting aside what legal counsel told you, were there any other conversations -- you know, did you ask, for example, you know, should I say things in a certain way, and what feedback would --

A How should I phrase this?

Q Uh-huh.

A Yes.

Q And did you get feedback from the nonlawyers in the room, Ms. Alkisswani and Mr. Ronhovde?

A I had already gotten their input.

Q Okay. And so at some point in the meeting did you announce that you knew what your decision was going to be?

A Yes.

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Q And tell me how you communicated that information.

A Given the combination of all the factors that we outlined, I do not feel comfortable going ahead with recommendation with Mr. Schroer. I have another strong candidate. And I would like to move ahead with the recommendation on him as quickly as possible.

Q And did you, in this meeting, you know, outline what each of those four factors were?

A Yes. We talked about all the factors.

Q And was there any additional discussion about each of the four factors that you identified?

A I think I was asked to elaborate what did I mean by mistrust, what did I mean by contacts. So I would elaborate on those.

Q And if you can tell me how you explained what you meant.

A I don't know that it's different than what I've already told you. The credibility had to do with the members. Contacts had to do with

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his ability to capitalize on the contacts he made as a man in the armed services. Trust was my perception of would I be able to trust him after this late in the day revelation on Monday. Security clearance was based on Cynthia's advice.

Q And how did you leave things at that meeting?

A That I would call Mr. Schroer later that day and give him the news.

Q Did anyone else agree to do anything at the end of that meeting?

A Do anything? No.

Q Do anything with respect to the Schroer matter: Write a memo? Call anyone?

MR. JAMES: And your question is anyone other than the lawyers?

MS. McGOWAN: Right.

THE WITNESS: No.

BY MS. McGOWAN:

Q And so what did you do between the end of that meeting and when you ultimately spoke to Ms. Schroer next?

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to this document?
A No. I was told to cease work on it. And I did no more work on it.
Q So this is the end of the document --
A That's correct.
Q -- as created by you?
And the instructions you received about ceasing work on this, who did those instructions come from?
MS. RUSSELL: Objection.
MS. McGOWAN: Okay. That answers my question. I was trying to figure out who it was, trying to figure out whether there was any more to know.
MR. JAMES: Just let you know --
MS. McGOWAN: I could tell, as Jessie and Julia started to perk up, I was getting an answer to my question.
BY MS. McGOWAN:
Q Did you prepare any other chronologies or memoranda like this?
A No.

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Q Did you ever discuss this document with anyone?
A No. I prepared this based on my recollection. Did I -- did I -- please repeat your question.
Q Sure. I was asking if you discussed this memo with anyone. And I break it down into two pieces.
One, did you discuss it with anyone in the course of preparing it and actually putting the information into the memo?
And then the other piece would be did you say discuss the memo in general, your preparation of it?
And if there are discussions that -- only discussions you had with legal counsel, then I don't need to know that. I'm only looking for discussions that you may have had not with legal counsel.
A Just with legal counsel.
Q Okay. Thank you.
What is your view about whether

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Ms. Schroer is a man or a woman?
MS. RUSSELL: Objection. Lacks foundation.
But you can answer.
BY MS. McGOWAN:
Q Do you have a view about whether Ms. Schroer is a man or a woman?
A If I ran into Ms. Schroer today, I would call her Ms. Schroer. I would call her Diane.
Q And would you consider Ms. Schroer a woman?
A I would consider her a person in transition.
Q On the day that you had lunch with Ms. Schroer, on December 20th, on that day, what did you consider Ms. Schroer to be, a man or a woman?
A A man.
Q Okay. And after your conversation at lunch, did your view change about whether Ms. Schroer was a man or a woman?
A Well, he told me he was transitioning,

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so I probably still considered him as a man at that point, because he hadn't changed his name yet.
Q And at what point would you feel that Ms. Schroer was now a woman?
A When the process is completed.
Q And in your mind, based on the information that you have, when is that point?
A When his surgeries are completed.
Q On December 20th, when -- at your meeting with Ms. Schroer, who you viewed to be man, did it seem strange to you that man would want to dress in women's clothing?
A Yes, it seems strange to me. But a lot of things seem strange to me.
Q And at any point during -- between the time when you learned about Ms. Schroer's transition until the point at which you made your decision to not go with -- not to recommend her and to call her, you know, at any point did you visualize, you know, Ms. Schroer, looking as she did in the pictures she showed you, standing in

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front of Congress and looking like a fool?
A Looking like a fool? Why would you say that?
MS. RUSSELL: I'm going to object to the form of the question.
But you can answer if you understand.
THE WITNESS: I don't understand the intent behind the question.
BY MS. McGOWAN:
Q Sure. And my question is, you know, at -- my recollection of your testimony was that when you saw the pictures of Diane in that portfolio, Ms. Schroer at that time looked like a man in women's clothing.
And I'm wondering, you know, at any point were you concerned about sort of what the reaction would be of someone who looked like a man in women's clothing standing in front of Congress and trying to be taken seriously?
A That did cross my mind.
Q Did it strike you as strange that someone like Ms. Schroer, with her military

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background, would want to wear makeup?
MS. RUSSELL: Objection. Relevance.
But you can answer if you understand.
THE WITNESS: It didn't surprise me that someone who is in the process of transitioning would want to wear makeup. That makes sense to me.
BY MS. McGOWAN:
Q But with respect to Ms. Schroer, who was a man in your mind, did it feel strange to you to think of Ms. Schroer as a man putting on makeup?
A Not if he was trying to look like a woman.
Q Did it feel strange for you to imagine Ms. Schroer wanting to wear pumps or high heel shoes?
A Again, not if he was transitioning to a woman. I find it strange that anyone wants to wear pumps.
Q That, I can agree with, for sure.
Would you say that wearing makeup is a masculine thing to do?

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MS. RUSSELL: Objection. Relevance.
But you can answer.
THE WITNESS: If you're an actor, if you have got skin complex problems.
BY MS. McGOWAN:
Q Outside of people wearing makeup for professional or skin acne or other related dermatological-related reasons, would you consider wearing makeup to be a masculine or a feminine thing?
A A feminine thing.
Q And wearing high heel shoes, would you consider that to be a masculine or a feminine thing?
MS. RUSSELL: It's the same objection.
But you can answer.
THE WITNESS: I've seen men in platform shoes. High heels, if we're talking about spikes, I associate that with a feminine thing.
BY MS. McGOWAN:
Q And with respect to wearing long hair or wigs, do you associate that as being or masculine

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or feminine?
A Long hair I don't associate -- I associate with both sexes. Wigs, men wear toupees.
Q And the hair style that Ms. Schroer was wearing in the photos that you saw, am I correct that that was a long hair style?
A That was a wig, yes.
Q And would you describe that as a feminine style of hair?
A Yes, it was. The style was feminine, yes.
Q And in that photo, am I right you saw Ms. Schroer, who you knew to be and thought to be a man, wearing what you considered to be a feminine hairstyle?
A Yes.
Q And women's shoes; is that right?
A I believe he had boots on, if I'm not mistaken.
Q Okay. And a feminine style of clothing; is that right?

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A Yes.
Q And makeup that would be described as feminine makeup?
A Yes.
Q And how did you think others in CRS would react to seeing those pictures?
MS. RUSSELL: Objection. Lacks foundation.
BY MS. McGOWAN:
Q For example, you know, what, in your estimation, do you think Steven Bowman's reaction would have been to that picture, those pictures?
A I think people would have surmised that it is a male dressed in women's clothing and wearing makeup.
Q Okay. With whom, if anyone, did you speak in preparation for this deposition?
A Primarily --
MS. RUSSELL: I'm sorry, Sharon, I missed the question.
MS. McGOWAN: Oh, sure. That's okay.
BY MS. McGOWAN:

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Q I was asking, did you speak with anyone in preparation for your deposition?
A Yes.
Q And with whom?
A These three people here.
Q Okay. Anyone else?
A For awhile, Evelio Rubiella.
Q Okay. Anyone else?
A Kent Ronhovde.
Q And what did you and Kent talk about?
A Mostly status reports, that would be when -- general counsel's office would give us status reports of where we are. And there were others present for that, as well, those status reports.
Q And did you speak with Ms. Alkisswani?
MS. RUSSELL: Objection. Vague. Do you mean --
BY MS. McGOWAN:
Q I'm sorry. Did you speak with Ms. Alkisswani in preparation for this deposition?
A No. I mean, apart from some of these

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group status meetings, we didn't have one-on-one conversations about this case.
Q And did you review any documents in preparation for this deposition?
A Say that again, please.
Q Sorry. Did you review any documents in preparation for this deposition?
A I skimmed over most of the documents that I had in my possession.
Q Okay. And what were those documents?
A There was a chronology that was prepared, a lot of the information that you presented today, the interrogatories I looked at.
Q And with respect to documents that weren't discussed as exhibits today, can you tell me what you looked at?
A The structured interview guide.
Q Okay. Anything else?
A I did say the chronology of what happened when.
Q And by the chronology, are you referring to this document in front of you, or a different

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document?
And by that, I mean Exhibit --
A Exhibit 29.
Q -- Exhibit 29.
Are you referring to that document, or a different document?
A That document, and there's a one-page chronology that I believe was prepared by somebody in workforce that had dates when the announcement went up, when it went down.
Q Okay. Any other documents that you reviewed that we haven't discussed today?
A Those sets of interrogatories, those first EEO complaints.
Q And did you review any deposition transcripts in this case?
A I don't have any.
Q Okay. Anything else?
A That's all I recall.
Q Okay. Do you remember receiving a letter from me asking you to preserve all documents related to the Schroer matter?