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 a true and correct copy of excerpts from the deposition of Francis Miko, taken in this action on March 14, 2008.

4. Attached as Exhibit C to this declaration is a true and correct copy of excerpts from the deposition of Steven Bowman, taken in this action on March 14, 2008.

5. Attached as Exhibit D to this declaration is a true and correct copy of excerpts from the deposition of Gary Pagliano, taken in this action on March 13, 2008.

6. Attached as Exhibit E to this declaration is a true and correct copy of excerpts from the deposition of Daniel Mulhollan, taken in this action on March 13, 2008.

7. Attached as Exhibit F to this declaration is a true and correct copy of excerpts from the deposition of Bessie Alkisswani, taken in this action on January 8, 2007.

8. Attached as Exhibit G to this declaration is a true and correct copy of excerpts from the deposition of Kathryn Deese, taken in this action on March 7, 2008.

9. On this date, a copy of these deposition excerpts, with the designated passages highlighted, was sent to the Court and to opposing counsel.

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

Dated: August 28, 2008

Sharon M. McGowan

Exhibit A –

Charlotte Preece Deposition Designations

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

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

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:
SHARON M. McGOWAN, ESQUIRE
JAMES D ESSEKS, ESQUIRE
American Civil Liberities Union Foundation
125 Broad Street
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New York, New York 10004-2400
(212) 549-2593
smcgowan@aclu.org

On behalf of Defendant:

BEVERLY M. RUSSELL, ESQUIRE
U.S. Department of Justice
Judiciary Center Building
555 4th Street, N.W.
Washington, D.C. 20001
(202) 307-0492
beverly.russell@usdoj.gov

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.

actually had a medical term?

A I did not.

Q Did you think of it more as a lifestyle concern at that point?

A Probably, yes, to the extent I thought about it.

Q Okay. So that evening after leaving work, other than your sons, did you speak with anyone else about this situation with Ms. Schroer?

A I can't remember.

Q Okay. I'm going to turn now to the next day.

A Okay.

Q Describe what happened the next day with -- which is we're talking now about December 21st, 2004 -- with respect to any conversations or meetings that you had about Ms. Schroer.

A Okay. The previous day, I believe late in the day before I went home, I got an e-mail from Kent Ronhovde asking if I was available to meet at 9:00 o'clock the following day with Cynthia and Bessie Alkisswani.

Q Okay. Anything else?

A At the meeting was also Bessie's deputy, Kathy Deese, and Kent.

Q Up until this point, had you had any interaction with Ms. Alkisswani?

A Professionally?

Q About the Schroer situation?

A No.

Q And did it strike you as unusual that she had been asked to attend the meeting?

A No. She's the head of our workforce development. She's ultimately responsible for postings.

Q Did you have any conversation with Mr. Ronhovde before the meeting about what Ms. Alkisswani knew or might need to know in advance of the meeting?

A No.

Q And so did the meeting take place at 9:00 a.m.?

A Yes, it did.

Q So I have the lineup of the meeting as

joined the meeting, did anyone make reference to the transgender employee that Ms. Deese had discussed?

A Not that I recall.

Q And did anyone else mention sort of any knowledge that they had about transsexuality or transgender people?

A No.

Q Did you mention at the meeting describing the situation that Ms. Schroer had shown you pictures of her dressed as a woman?

A Yes.

Q And did anyone ask what those pictures looked like?

A They may have.

Q Do you remember how people asked?

A No, I don't.

Q Did anyone ask whether or not she actually looked like a woman, in your opinion, in those pictures?

A Again, they may have but, I have no --

Q Did anyone express any concern about

Exhibit B –

Francis Miko Deposition Designations

UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF COLUMBIA

----------X

DIANE J. SCHROER, :

Plaintiff, :

v. : No. 05-CV-01090 (JR)

JAMES H. BILLINGTON, :

Defendant. :

----------X

Washington, D.C.

Friday, March 14, 2008

Deposition of FRANCIS T. MIKO, a witness herein, called for examination by counsel for Plaintiff in the above-entitled matter, pursuant to notice, the witness being duly sworn by DENNIS A. DINKEL, a Notary Public in and for the District of Columbia, taken at the offices of WilmerHale, LLP, 1825 Pennsylvania Avenue, N.W., Washington, D.C. at 9:28 a.m., Friday, March 14, 2008, and the proceedings being taken down by Stenotype by DENNIS A. DINKEL, FAPR, CRR, and transcribed under his direction.

APPEARANCES:

On behalf of the Plaintiff:
SHARON M. McGOWAN, ESQ.
KEN CHOE, ESQ.
American Civil Liberties Union
125 Broad Street
New York, NY 10004
Phone: 212-549-2593

On behalf of the Defendant:
BEVERLY M. RUSSELL, ESQ.
United States Attorney's Office for the
District of Columbia
555 4th Street, N.W.
Washington, DC 20530
Phone: 202-307-0492
and

APPEARANCES (Continued):

On behalf of the Defendant (continued):
JULIA K. DOUDS, ESQ.
EVELIO RUBIELLA, ESQ.
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PROCEEDINGS

Whereupon,
FRANCIS T. MIKO,
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, Mr. Miko.

A. Good morning.

Q. I am Sharon McGowan. I am here with my colleague Ken Choe, and we represent the plaintiff in Schroer versus Billington. I am here this morning to take your deposition.

I am going to ask you a series of questions that you will answer under oath as you have just been sworn and the court reporter will take it all down. Okay?

It is important for you to answer out loud as the court reporter cannot record gestures or other inaudibles; okay?

A. Yes.

not the best choice.
BY MS. McGOWAN:
Q. In your conversations with Ms. Preece, did she ever say that -- you know -- she had wanted to go forward with Ms. Schroer? Notwithstanding this revelation?
A. No.
Q. Did she express any sentiment along those lines of wanting to figure out how to make it work, so to speak, with Ms. Schroer?
MS. RUSSELL: Objection to the form.
THE WITNESS: My sense was she had sympathy and that she -- you know -- was not pleased to change her mind; but I don't remember anything more than that.
BY MS. McGOWAN:
Q. But was it your sense from Ms. Preece that once she heard this information from Ms. Schroer, she knew that she probably had to make a different choice?
A. Yes. It was my sense, based on her -- again -- consultations with the other people.

Q. Was there any conversation that you had with Ms. Preece about concerns over how Members of Congress or their staffers would interact with the plaintiff as Diane Schroer?

A. I don't remember that specifically. She may have mentioned that.

Q. Was there any discussion about how others at CRS might interact with the plaintiff if she came to work as Diane Schroer?

A. She may have expressed concern about the timing and so forth. But I can't remember specifically if she did or how she did. But certainly I would have wondered how the people in our division would have approached the transition.

It would be the transition if the transition had already occurred as opposed to sort of being in process.

But that was not -- that was not a major point of discussion.

Q. And when you said the timing, is that --

A. I meant timing by the fact that she was undergoing the transition rather than having

completed the transition.

Q. Did Ms. Preece say anything to you about Ms. Schroer had put the Library in an awkward position?

A. I don't remember specifically stating it in those terms.

Q. Was there any discussion at all, whether in those terms or different language, conveying that Ms. Preece felt as though she had been set up?

A. I think she wondered about that.

Q. Did she articulate anything about that in her discussions with you?

A. I'm trying to remember if there was anything specific.

No. I just -- I can't remember think of any.

Q. In your conversation with Ms. Preece, you mentioned that she said that she spoke to individuals from the personnel security office?

A. Yes.

Q. Did she mention Cynthia Wilkins specifically?

Exhibit C –

Steven Bowman Deposition Designations

UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF COLUMBIA

----------X

DIANE J. SCHROER, :

Plaintiff, :

v. : No. 05-CV-01090 (JR)

JAMES H. BILLINGTON, :

Defendant. :

----------X

Washington, D.C.

Friday, March 14, 2008

Deposition of STEVEN R. BOWMAN, a witness herein, called for examination by counsel for Plaintiff in the above-entitled matter, pursuant to notice, the witness being duly sworn by DENNIS A. DINKEL, a Notary Public in and for the District of Columbia, taken at the offices of WilmerHale, LLP, 1825 Pennsylvania Avenue, N.W., Washington, D.C. at 2:00 p.m., Friday, March 14, 2008, and the proceedings being taken down by Stenotype by DENNIS A. DINKEL, FAPR, CRR, and transcribed under his direction.

APPEARANCES:

On behalf of the Plaintiff:
SHARON M. McGOWAN, ESQ.
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Phone: 212-549-2593

On behalf of the Defendant:
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United States Attorney's Office for the
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On behalf of the Defendant (cont.):
JULIA K. DOUDS, ESQ.
EVELIO RUBIELLA, ESQ.
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PROCEEDINGS

Whereupon,
STEVEN R. BOWMAN,
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 afternoon, Mr. Bowman.

My name is Sharon McGowan. I'm here with my colleague, Ken Choe. We represent the plaintiff in Schroer versus Billington.

I'm here this afternoon to take your deposition. I'm going to 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. All right.

Q. For purposes of the deposition, it is important that you answer out loud. It is difficult, if not impossible, for the court reporter to record gestures and head movements. Okay?

Q. What were the photographs of?
A. Of Schroer presenting as a woman. You know, that's just what she said. Schroer as a woman.
Q. Did she describe what Ms. Schroer was wearing?
A. No. Huh-uh. I don't even know if -- she didn't even say whether they were just facial shots or full shots. Just that there were photographs.
Q. Did you ask at all for more information about what was in the photographs?
A. No.
Q. Why not?
MS. RUSSELL: Objection. Calls for speculation.
THE WITNESS: Didn't occur to me.
BY MS. McGOWAN:
Q. Did you and Ms. Preece discuss at all how Ms. Schroer looked dressed in women's clothing?
A. I didn't. I don't know if Charlotte said something or not. I really don't remember.
Q. Do you recall any discussion about concerns over whether or not Ms. Schroer actually

looked like a woman when dressed in women's clothing?

A. Charlotte may have said something like that, now that you are bringing it up. There is a vague recollection that she made some comment, but I couldn't be specific on what she said, except it was not particularly positive. That's -- I come up with a sense of that. But I really don't remember beyond that.

Q. Did Ms. Preece talk to you at all about what concerns she had as a result of learning this information from Ms. Schroer?

A. Just what's it going to do to the process. She didn't know what effect this would have. That's why I said, you've got to go to the second floor.

Q. Did she say anything else about her concerns about an impact on the process as a result of this information?

A. No. I don't think so. I don't remember any -- no. I don't remember.

Q. In the course of the discussion, was -- did anything Ms. Preece -- was there anything that Ms. Preece said that conveyed that it was almost a

A. No.
Q. Did either of you, in the course of this conversation, express any opinion about whether or not this information about Ms. Schroer should impact her chance of getting the job?
A. No.
Q. Was there any discussion about whether or not it would impact her chance of getting the job?
A. That it could.
Q. Was there any discussion about either you or she feeling disappointed that information had come up about Ms. Schroer that might impact negatively her ability to get the job?
A. No. I don't remember anything like that.
Q. In the conversation, did either of you express concerns about Ms. Schroer's honesty?
A. No, aside from what I said earlier that, you know, why didn't this come up in the interview, when there was an opportunity to do so, to bring it up. But that's the only comment.
Q. Was there any discussion, other than what we've talked about, any other concerns that were

triggered by Ms. Schroer's revelation of her intention to transition from male to female?

A. No. Not that I'm aware.

Q. Was there any discussion about additional information that would be needed in order to assess what the impact of Ms. Schroer's gender transition would be?

A. Not with me.

Q. Was there any discussion you had with Ms. Preece about getting information from the health services office?

A. No.

Q. Other than what we've discussed, was there any discussion about Ms. Schroer's psychological health or well-being?

A. No. Not other than what we've discussed, no. No.

Q. Was there any discussion about Ms. Schroer being distracted as a result of her gender transition?

A. Distracted? No.

Q. Was there any mention of contacting either

Ms. Schroer or health care providers to find out more information about her gender transition?

A. Not with me. No discussion with me about that.

Q. Was there any discussion about finding out whether or not Ms. Schroer had reported this information to the security clearance agency that held her clearance at that time?

A. No. I don't -- I don't believe so. I kind of wondered about that privately to myself. But that -- but you know, we didn't talk about that, because that's kind of out of our realm.

Q. Was there any discussion with Ms. Preece about whether or not Ms. Schroer's references knew this information about Ms. Schroer at that time?

A. No. No discussion that I remember. No.

Q. Was there any discussion about whether Ms. Schroer would pose a security risk as a result of her gender transition?

A. No.

Q. And recognizing that we've spent more time talking about the conversation than it may have

Exhibit D –

Gary Pagliano Deposition Designations

UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF COLUMBIA

----------X

DIANE J. SCHROER, :

Plaintiff, :

v. : No. 05-CV-01090 (JR)

JAMES H. BILLINGTON, :

Defendant. :

----------X

Washington, D.C.

Thursday, March 13, 2008

Deposition of GARY J. PAGLIANO, a witness herein, called for examination by counsel for Plaintiff in the above-entitled matter, pursuant to notice, the witness being duly sworn by DENNIS A. DINKEL, a Notary Public in and for the District of Columbia, taken at the offices of WilmerHale, LLP, 1825 Pennsylvania Avenue, N.W., Washington, D.C. at 1:52 p.m., Thursday, March 13, 2008, and the proceedings being taken down by Stenotype by DENNIS A. DINKEL, FAPR, CRR, and transcribed under his direction.

APPEARANCES:

On behalf of the Plaintiff:
SHARON M. McGOWAN, ESQ.
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Phone: 212-549-2593

On behalf of the Defendant:
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District of Columbia
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Phone: 202-307-0492
and

APPEARANCES (Continued):

On behalf of the defendant (continued):
JULIA K. DOUDS, ESQ.
EVELIO RUBIELLA, ESQ.
Assistant General Counsel
Library of Congress
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GARY J. PAGLIANO

EXAMINATION BY COUNSEL FOR PLAINTIFF 5

EXHIBITS

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(No exhibits marked)

PROCEEDINGS

Whereupon,
GARY J. PAGLIANO,
business address at 101 Independence Avenue, S.E., Washington, D.C., 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 afternoon.

A. Hi.

Q. My name is Sharon McGowan. I'm here with my colleague Ken Cho. We represent the plaintiff, Ms. Diane Schroer in Schroer versus Billington. I'm here this afternoon to take your deposition.

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. Uh-huh.

Q. One of the things that's helpful in the course of the deposition is to make sure that you

simple mind, it was going -- it was a gender transformation, going from being Dave to being Diane. That's -- I don't remember whether she mentioned any specific terminology.

Q. Did Ms. Preece say anything about Ms. Schroer showing her pictures during lunch?

A. No. That I would have remembered. I don't remember that at all.

Q. Did Ms. Preece say anything at all about Ms. Schroer's intention to dress in women's attire?

A. I think when she told me that Dave wanted to be Diane and he wanted -- she wanted to report to work in women's attire, yes; I think that was mentioned. Yes.

Q. And in mentioning that, what did Ms. Preece say?

A. It was just part of the story of her -- of Dave deciding he wanted to be Diane. And report to work in women's clothing.

Q. Did Ms. Preece or you discuss any concern about how Ms. Schroer would look in women's clothing?

A. No. I personally had a concern as to --

well, there was a concern about how -- I mean, we were wondering about how the staff would -- you know, the Hill staff would react, knowing that we hired Dave but we had Diane. How that would work and how many staffers would say how did you do that.

So no. But other than that, I had --

Q. The concern about the reaction of Hill staffers, was that something you mentioned to Ms. Preece?

A. No. But I thought about it.

Q. Did you discuss that concern with anyone else?

A. No.

MS. RUSSELL: Objection to the form.

BY MS. McGOWAN:

Q. Did Ms. Preece ever express to you any concern about the reaction of Members of Congress or their staff if she hired a transgender analyst?

A. No. No. No.

Q. Did you and she discuss any concern about how other members of CRS would react to the knowledge that a transgendered woman had been hired?

Exhibit E –

Daniel Mulhollan Deposition Designations

UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF COLUMBIA

----------X

DIANE J. SCHROER, :

Plaintiff, :

v. : No. 05-CV-01090 (JR)

JAMES H. BILLINGTON, :

Defendant. :

----------X

Washington, D.C.

Thursday, March 13, 2008

Deposition of DANIEL P. MULHOLLAN, a witness herein, called for examination by counsel for Plaintiff in the above-entitled matter, pursuant to notice, the witness being duly sworn by DENNIS A. DINKEL, a Notary Public in and for the District of Columbia, taken at the offices of WilmerHale, LLP, 1825 Pennsylvania Avenue, N.W., Washington, D.C. at 9:32 a.m., Thursday, March 13, 2008, and the proceedings being taken down by Stenotype by DENNIS A. DINKEL, FAPR, CRR, and transcribed under his direction.

APPEARANCES:

On behalf of the Plaintiff:
SHARON M. McGOWAN, ESQ.
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American Civil Liberties Union
125 Broad Street
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Phone: 212-549-2593

On behalf of the Defendant:
BEVERLY M. RUSSELL, ESQ.
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APPEARANCES:

On behalf of the Defendant (cont.):
JULIA K. DOUDS, ESQ.
EVELIO RUBIELLA, ESQ.
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Phone: 202-707-7198

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WITNESS PAGE
DANIEL P. MULHOLLAN

EXAMINATION BY COUNSEL FOR PLAINTIFF 5

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PROCEEDINGS

Whereupon,
DANIEL P. MULHOLLAN,
business address at Library of Congress, 101 Independence Avenue, S.E., Washington, D.C., 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. Mr. Mulhollan, good morning. I am Sharon McGowan. I am here with my colleague, Ken Choe. We represent the plaintiff in Schroer versus Billington.

I am here this morning to take your deposition. I'll ask you a series of questions. You will answer under oath, as you've just been sworn, and the court reporter will take it all down; is that okay?

A. Of course.

Q. It is important for you to answer out loud as the court reporter cannot record a nod of the head or other gestures, okay?

was Diane Duffy and Douglas Warshof.

Q. Did you speak with anyone else?

A. Not to my recollection.

Q. In particular, anyone who is not part of your legal team?

A. No.

Q. Mr. Mulhollan, are you employed?

A. On occasion, yes.

Q. Who is your employer?

A. The United States Congress.

Q. And what is your title?

A. Director of the Congressional Research Service.

Q. And what are your job responsibilities?

A. To ensure the fact that Congress has objective, nonpartisan analysis on the legislation and deliberations before Congress.

Q. Anything else?

A. To ensure that, in fact, that the Congressional Research Service as an institution is there available to Congress, 24/7, in order to help Congress in its -- in the difficult decisions it has

believe there is in the regulations -- and this is speculation on my part -- that there's any characterization of the kind of competency or specialization on the part of the physician.

BY MS. McGOWAN:

Q. Is there anything else regarding restrictions or qualifications on an individual's ability to take sick leave for management of a condition?

A. With regard to a person's sick leave, with regard to taking sick leave?

Q. Taking sick leave.

A. There may well be, but I don't know.

Q. With respect to the annual leave policy, by which I mean non-sick leave, personal leave, however it is denominated, are there any restrictions on what an employee may use his or her annual leave for?

A. To my recollection, no. But I -- I'd have to check to see that that is a verifiable fact.

Q. If an employee wanted to take care of any health care concern by using his or her annual leave

as opposed to sick leave, are there any restrictions on their ability to do so?

A. I don't believe so.

Q. Have you had any communication with Members of Congress about this matter?

A. Yes. Not Members of Congress individually. But -- oh, yes. As a matter of fact, I have.

Q. And I can broaden that to Members of Congress or their staff. And so tell me about what interaction you have had?

A. I wouldn't be telling you.

MS. RUSSELL: Objection.

THE WITNESS: You have to understand, we're under the speech and debate clause. From my perspective, the Congressional Research Service communication with Congress is confidential. I'm not able to further elaborate on those conversations.

BY MS. McGOWAN:

Q. Did you receive --

MS. RUSSELL: Actually -- okay. Go ahead.

BY MS. McGOWAN:

Exhibit F –

Bessie Alkisswani Deposition Designations

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

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

Washington, D.C.

Monday, January 8, 2007

Deposition of BESSIE ALKISSWANI, 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 9:35 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:
SHARON M. McGOWAN, ESQUIRE
JAMES D. ESSEKS, ESQUIRE
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On behalf of Defendant:

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Also Present:

Jessie James, Jr.
Julia Douds

* * * * *

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PROCEEDINGS

Whereupon,

BESSIE ALKISSWANI,

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 Morning.

A Morning.

Q Ms. Alkisswani, my name is Sharon McGowan. And I'm here with my colleague, James Esseks. And we represent the plaintiff in Schroer versus Billington.

MS. McGOWAN: Off the record for a moment.

(Discussion off the record)

BY MS. McGOWAN:

Q We represent the plaintiff in Schroer versus Billington. And we are here this morning to take your deposition.

Have you ever been deposed before?

A No.

Q Okay. So I'm going to just run through a series of preliminary things so that you understand how things will proceed today. I'm going to ask you a series of questions that you will answer under oath, as you've just been sworn in. And the court reporter will take it all down. Okay?

A Uh-huh.

Q And it's important that you answer out loud, because the court reporter cannot record nods or other gestures. Okay?

A Okay.

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

A Yes.

Q Okay. And if you do answer a question, I'm going to assume that you understood the question. Okay?

A Okay.

Q And I will take breaks throughout the day. But if you need to take a break, you should

in the case, Ms. Schroer went by the name David Schroer. So during this deposition, when I talk about Diane Schroer or Ms. Schroer, I'm also referring to the person formerly known as David Schroer. Okay?

A Okay.

Q Ms. Alkisswani, what is your title?

A I am the associate director for the office of workforce development in the Congressional Research Service.

Q And so are your responsibilities exclusively within the Congressional Research Service, or do you have responsibilities with the larger Library, as well?

A Exclusively within the Congressional Research Service.

(Whereupon Ms. Russell entered the deposition.)

MS. McGOWAN: Good morning, Beverly.

MS. RUSSELL: Good morning.

BY MS. McGOWAN:

Q What are the responsibilities of

A I did not.
Q All right. And did you speak with Cynthia Wilkins?
A I did not.
Q Okay. And so -- and did you speak with anyone else at the Library about this matter that Mr. Ronhovde had --
A I did not.
Q -- brought to you?
Did you speak with anyone outside of the Library about the fact that Mr. Ronhovde had come to you with this issue?
A No. I did not.
Q So describe to me the next time that you discussed this issue.
A It was in a meeting with Mr. Ronhovde, Cynthia Wilkins, Charlote Preece, and Kathy Deese from my staff.
Q And who is Kathy Deese?
A She is my deputy.
Q So where did you have this meeting?
A In Kent Ronhovde's office.

suitability and all of that. And I don't know all of the particulars, but that was -- that was our focus.

Q And when Charlotte describes sort of what Ms. Schroer had said to her about, you know, what was involved, how did she explain sort of what information had been conveyed to her about what was involved?

A She was -- all -- all I remember is she was -- she said that he had mentioned to her that he was going to report to work as -- as a female. And she -- he was going to take the name of Diane, and had shown her this portfolio, and that she was really surprised. She -- it was just a real surprise to her that this had happened and that this had occurred.

Q How did she describe what was in the portfolio?

A Just -- just what I just said, pictures of what he would look like as female. That's all she said.

Q Did she express any comment about

security clearance process, which of these codes you use?

A I'd rather --

MS. RUSSELL: Objection. Calls for speculation.

But you can answer if you know.

THE WITNESS: I -- would you repeat the question?

BY MS. McGOWAN:

Q Sure. If you were the hiring official and you were asked to fill out this form and there was a candidate that you were not selecting for the reason that they would take too long to go through the security clearance process, which code would you used to reflect that reason for not choosing the candidate?

A Well --

MS. RUSSELL: I'm also going to object on relevance grounds.

And I hope that you can remember the question.

THE WITNESS: Okay. Let me answer it

this way. If that was the only reason -- and, again, this is -- this is hypothetical. And it's applying to me, and I'm in this situation.

If I only had two candidates and their qualifications were equal, totally equal, okay, and even to the point where one candidate even -- even though one candidate's experience may have been more -- if they both -- both candidate's experience were absolutely equal, okay, they offered the exact same background, the exact same everything, totally equal, and the only reason I'm taking one over the other was because of the time it takes for the security clearance, I would have done NSO.

BY MS. McGOWAN:

Q Okay.

A And I would have documented that. But I need to explain something else. Because I had been in this situation myself. These are the codes that we are provided by the Library. And even if -- even if one candidate -- their experience is relevant. If one candidate's

experience is more relevant than the other, you can always use that, since these are the only ones that -- that are there, in terms of what we are looking at.

Q Okay. Turning back -- we're actually done with that document. So if you want to hand it back to our court reporter.

A (Handing document).

Q Turning back to the meeting that we were describing before lunch, the meeting with Mr. Ronhovde and the meeting with the Office of General Counsel.

Are meetings like those a common part of the hiring process?

A If there is an unusual situation, then we would meet and we would consult.

Q How often have you had meetings like those as part of the hiring process?

A They don't happen very often, but occasionally.

Q I'm going to next ask you to look at the document that we will mark Number 13.

Exhibit G –

Kathryn Deese Deposition Designations

UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF COLUMBIA

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DIANE J. SCHROER, :

Plaintiff, :

v. : No. 05-CV-01090 (JR)

JAMES H. BILLINGTON, :

Defendant. :

----------X

Washington, D.C.

Friday, March 7, 2008

Deposition of KATHRYN N. DEESE, a witness herein, called for examination by counsel for Plaintiff in the above-entitled matter, pursuant to notice, the witness being duly sworn by DENNIS A. DINKEL, a Notary Public in and for the District of Columbia, taken at the offices of WilmerHale, LLP, 1825 Pennsylvania Avenue, N.W., Washington, D.C. at 9:44 a.m., Friday, March 7, 2008, and the proceedings being taken down by Stenotype by DENNIS A. DINKEL, FAPR, CRR, and transcribed under his direction.

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PROCEEDINGS

Whereupon,
KATHRYN N. DEESE,
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. Deese. I am Sharon McGowan, and I'm here with my colleague Ken Choe, and we represent the plaintiff in the matter of Schroer v. Billington. I'm here this morning to take your deposition.

Have you been deposed before?

A. Yes.

Q. So you may be familiar with the general proceedings, but I will just go over how we'll do things today.

If you have any questions, certainly ask me. I'm going to ask you a series of questions that you will answer under oath as you have just been sworn. And the court reporter will take it all down.

Okay?

A. Uh-huh. Yes.

Q. That was my next point. Very important. To answer out loud and to try to minimize -- as will I -- use of gestures or things that might actually not translate very well on to paper; okay?

A. All right.

Q. And if you don't understand a question, would you ask me to repeat it or rephrase it?

A. All right.

Q. And if you answer a question, I'm going to then assume that you actually understood the question. Okay?

A. Yes.

Q. I will take breaks throughout the day. But if you need a break, let me know and I'll try to find a place where we can take a break as soon as possible. All right?

A. All right.

Q. Are you taking any medication today that would prevent you from being able to give complete and accurate testimony?

deputy director of CRS might ask me to do.

Q. And who is the deputy director of CRS to whom you report?

A. Angela Evans.

Q. And what is the nature, generally speaking, of the projects that you work on?

A. Developing performance assessment standards for CRS staff. That's one of the major projects.

Assisting in the development of the orientation for the new section heads.

Q. Anything else?

A. Preparing job descriptions if requested.

Q. Anything else?

A. I think that's it.

Q. And prior to August 2007, were you employed at the Congressional Research Service?

A. Yes.

Q. And what position did you hold prior to August 2007?

A. I was deputy associate director for workforce development.

Q. What is the approximate date you began in that position?

A. I think January 11 or 12 of 2004.

Q. And so to be clear, this is the position you held at the time of the events in this case, the deputy associate director for workforce development position?

A. Yes.

Q. What were your job responsibilities in that -- in the deputy associate position?

A. To supervise the workforce development staff, to manage projects, and to oversee the operations of the workforce development office; and specifically, assisting in standing up the KSG, the Knowledge Services Group, which had been organized.

That was a major project that lasted for quite some time. In addition to that, I was hiring CRS staff and developing a training program.

MS. McGOWAN: I wanted to make sure I had everything down on my list.

BY MS. McGOWAN:

Q. With respect to the first job

were you involved in other hires in CRS?

A. Hiring in the Office of Workforce Development.

Q. With respect to your responsibilities that I believe you described as overseeing the workforce development office, what did that entail?

A. In terms of my supervisory responsibilities?

Approving leave; that type of thing. At the beginning, I was much more involved, though, with the KSG than supervising the day-to-day supervision in terms of performance appraisals. I didn't start doing that until later.

Q. Do you recall approximately when you became more involved in performance appraisals?

A. Probably toward the end of my first year.

Q. So the end of 2004; is that --

A. Yes.

Q. With respect to your responsibilities regarding approving leave, whose requests for leave were you approving?

A. The section heads.

or lose leave, you ask them to project it out so everybody doesn't leave the first of December and come back in the middle of January.

Q. That might lead to problems?

A. That can be an issue.

Q. When an individual submits a request to take leave, do they have to specify what they're intending to do while on leave?

A. No. For annual leave, you don't have to give a reason.

Q. As a matter of practice, do people reveal what they're intending to do when they're on leave?

A. It varies. It varies with the person. Some people are very private and say I want to take annual leave next Friday. That's fine. Some people will tell you I want to take annual leave next Friday and they tell you what they're going to do from 7:00 in the morning until midnight, things you'd rather not know.

But generally speaking, if it's a vacation, people will usually tell you that, if they're going to be gone for several days.

due to a work crunch that would be negatively impacted by somebody taking leave, are there any other reasons why if somebody wanted to take their annual leave would impact whether or not the leave requests were approved?

A. I can't think of a reason. Not off -- just offhand, I can't think of a reason.

MS. McGOWAN: Can we go off the record?

(Recess.)

BY MS. McGOWAN:

Q. During the meeting where you were present with Ms. Alkisswani and Ms. Preece and Mr. Ronhovde, you mentioned that there was a concern about whether or not, in light of the information about Ms. Schroer's gender transition, that the security clearance process could be completed in a timely manner; is that --

A. Yes.

Q. Was there any discussion about how much time would be timely?

A. You mean -- ask me that again.

Q. Sure. There was concern about having this

process being completed in a timely manner?

A. Yes.

Q. I'm interested in whether or not there was any discussion about how much time that meant? How quickly would it need to have been completed in order to have been timely?

A. I don't remember. I don't remember.

Q. Was there any discussion at all about how quickly it would need to have happened?

A. I don't remember a time put on "timely." I don't remember that.

Q. Was there any discussion by anyone at the meeting that the process needed to be completed by X date?

A. Only that we needed the job filled as quickly as possible, which meant as quickly as possible.

Q. Was there any discussion about whether the need to fill the position quickly was more important than picking the top candidate for job?

MS. RUSSELL: Objection to the form.

THE WITNESS: My understanding is that