

1                                   Wednesday, January 11, 2012

2                                   - - -

3                                   THE COURT: Please be seated. Good  
4 morning, everyone.

5                                   Well, at least it's cool in here this  
6 morning. I don't know how long that will  
7 last, but we'll take it while we have it.

8                                   So we're back on the record in the  
9 matter of BNY Mellon versus Occupy  
10 Pittsburgh. This is the second day of the  
11 hearing on Plaintiffs' request for  
12 preliminary injunction. The plaintiffs have  
13 rested. We're in the Occupy case, and,  
14 Mr. Healey, are you ready to call your next  
15 witness?

16                                   MR. HEALEY: Yes, we are, Your Honor.  
17 We would call Michael Lawson.

18                                   (Oath administered.)

19                                   - - -

20                                   MICHAEL LAWSON

21                                   a witness herein, having been first duly sworn, was  
22 examined and testified as follows:

23                                   DIRECT EXAMINATION

24                                   BY MR. HEALEY:

25                                   Q.     Can you state your name and address for the record,

- 1 please?
- 2 A. Michael Lawson, 4565 Broadway Boulevard,  
3 Monroeville, PA, 15146.
- 4 Q. And are you a member of Occupy Pittsburgh?
- 5 A. I am.
- 6 Q. And are you the person who signed the verification  
7 attached to Occupy Pittsburgh's answer in this case?
- 8 A. I am.
- 9 Q. Okay. Are you a camper at the site?
- 10 A. Yes, I am.
- 11 Q. And how often do you camp at the site?
- 12 A. It depends on the week, anywhere from four to six  
13 days a week.
- 14 Q. Okay. And other than working with Occupy  
15 Pittsburgh, how are you employed?
- 16 A. I work for Working America, the community affiliate  
17 of the AFL-CIO.
- 18 Q. I'd like to turn your attention to October 15. Was  
19 there a demonstration October 15?
- 20 A. There was, yes.
- 21 Q. And what was that demonstration about?
- 22 A. The demonstration was in solidarity with Occupy Wall  
23 Street. It was a march and rally, Market Square, a  
24 rally there in Market Square.
- 25 Q. And approximately how many people were at that

- 1 demonstration?
- 2 A. Thousands, at least, one or two thousand or so.
- 3 Q. Now, following the rally at Market Square, what  
4 happened?
- 5 A. Following the rally at Market Square we had a  
6 march to BNY Mellon Green at which case we began the  
7 Occupation.
- 8 Q. Okay. Why did you go to that site?
- 9 A. Well, we went to BNY Mellon Green for a variety of  
10 reasons. One, it's a central location Downtown,  
11 which would be great for outreach. Secondly, the  
12 camp itself juxtaposed between two buildings which  
13 are marked with corporations which have exhibited  
14 elements of corporate greed such as UPMC and Bank of  
15 New York Mellon, just the camp itself served as a  
16 message for that. In addition, it was a park  
17 Downtown.
- 18 Q. When you arrived at the site, I assume from the  
19 record it shows tents were put up; is that correct?
- 20 A. That is correct.
- 21 Q. Did anyone from Mellon Bank come out and say "You  
22 cannot do this"?
- 23 A. No.
- 24 Q. Did anyone from the City of Pittsburgh come out and  
25 say "You cannot do this"?

- 1 A. No.
- 2 Q. Was there a particular statement by an officer from  
3 the City of Pittsburgh on that day?
- 4 A. Yes. Lieutenant Trapp, he actually with a bullhorn  
5 said that according to him in his words from BNY  
6 Mellon we could stay there.
- 7 Q. Now, describe the weather that day.
- 8 A. The weather was bright, sunny. I'm not even sure if  
9 there was a cloud in the sky. It was quite warm.
- 10 Q. And when you set up, there were police in the City  
11 of Pittsburgh in the vicinity; is that correct?
- 12 A. Oh, yes. Actually, there was many, many squad cars  
13 that were actually outside the Ross Street entrance  
14 to the camp.
- 15 Q. And was there also security from the bank there, if  
16 you know?
- 17 A. I don't know. I don't know.
- 18 Q. Can you describe the condition of the grass when you  
19 arrived there that day.
- 20 A. The Green was extremely wet and very muddy. In  
21 fact, I ruined a pair of shoes that day.
- 22 Q. Shortly after the encampment started did Mellon Bank  
23 deliver hay to the site?
- 24 A. They did. They did. In fact, they helped us spread  
25 out the hay as well.

- 1 Q. What was the purpose of spreading the hay?
- 2 A. The hay was to kind of soak up the mud as well as to
- 3 protect the grass.
- 4 Q. Now, I'm going to get to some specific questions in
- 5 a moment, but I have a general question. Between
- 6 October 15 and December 8, did anyone from the bank
- 7 indicate you had to leave?
- 8 A. No.
- 9 Q. Between October 15 and November 8 (sic), did anyone
- 10 from the City of Pittsburgh, the police, officials
- 11 indicate you had to leave?
- 12 A. No.
- 13 Q. Between October 15 and December 8.
- 14 A. No.
- 15 Q. What is the relation of Occupy Pittsburgh to Occupy
- 16 Wall Street?
- 17 A. Well, Occupy Wall Street began with several
- 18 movements against corporate greed about the
- 19 99 percent versus the 1 percent, and Occupy
- 20 Pittsburgh's in complete solidarity with that
- 21 message and that movement.
- 22 Q. Now, what I want to do, I want to take you through
- 23 the setup of the camp. Can you describe the general
- 24 setup of the camp.
- 25 A. Absolutely. From the very beginning of the camp

1           setup there's been a food tent with a medic tent,  
2           which is now called the first aid tent, set up soon  
3           thereafter. There's a social media tent. There's  
4           an information tent, and now there's a people's  
5           library where people donate books, as well as a  
6           comfort tent where people donate warm clothing and  
7           so forth.

8           Q.    So, for example, the comfort tent, clothing,  
9           sleeping bags are donated?

10          A.    Yeah, blankets, you name it, gloves, hats as well.

11          Q.    What goes in the food tent?

12          A.    In the food tent, it's now called the mess tent.  
13                It's where a lot of people congregate. We have some  
14                of our meetings there. That's where food that's  
15                donated is served.

16          Q.    Now, upon setting up the camp -- Actually, strike  
17                that. How are decisions made at the camp?

18          A.    Well, decisions are made through our General  
19                Assembly process. We believe in the process called  
20                consensus. The consensus process is really  
21                important to the movement because we're a leaderless  
22                movement. We don't have any officials. We don't  
23                have any officers or anything that would actually be  
24                able to make a decision on behalf of everybody else.  
25                We make these decisions in consensus with everybody

- 1 where everybody has a voice and any one person can  
2 block a proposal from going forward.
- 3 Q. Who can attend the General Assembly?
- 4 A. Everybody.
- 5 Q. For example, if I'm not camping down there, I'm  
6 walking through and I see a General Assembly  
7 meeting, could I attend the meeting?
- 8 A. We would welcome you with open arms.
- 9 Q. Even lawyers?
- 10 A. Yes.
- 11 Q. Did the General Assembly sort of establish camp  
12 rules?
- 13 A. Yes. That's correct.
- 14 Q. And could you describe those rules.
- 15 A. We have zero tolerance drug and alcohol, no drugs or  
16 alcohol allowed, no guns, no weapons allowed on  
17 camp, and minors aren't allowed to be at camp past  
18 9 p.m. without their parent or guardian.
- 19 Q. And in general -- and we'll get to some specific  
20 examples in a little bit. In general how are those  
21 rules enforced?
- 22 A. Those are enforced by the people at the camp. If  
23 somebody's caught with drugs or alcohol, they're  
24 evicted from the property.
- 25 Q. Who's the camp open to?

- 1 A. Everybody.
- 2 Q. Do you exclude anybody?
- 3 A. Not a single person.
- 4 Q. The sidewalks through the camp, there's been a lot  
5 of talk about the sidewalks, and you're familiar  
6 with the sidewalks?
- 7 A. Oh, yes.
- 8 Q. Who uses the sidewalks?
- 9 A. Everybody. In fact, you know, during the daytime,  
10 during rush hour, even at nighttime, we see  
11 pedestrian traffic through there all the time.
- 12 Q. There was some testimony yesterday about sidewalks  
13 being blocked. What happens if people are walking  
14 through and the sidewalks, there's too many people  
15 congregating there for any reason? How do you deal  
16 with that?
- 17 A. Generally there will be somebody who says "Make a  
18 hole," and people comply with that, you know. A lot  
19 of times there might be a congregation on the  
20 sidewalk where we'll be engaging in conversation, so  
21 we just call attention that somebody's walking up  
22 the path and we make a hole for them to walk  
23 through.
- 24 Q. Now, any given night, how many people are camping or  
25 sleeping overnight?

- 1 A. Currently there's anywhere between about 20 to 30  
2 people.
- 3 Q. Even in this weather?
- 4 A. Even in this weather.
- 5 Q. Who can camp there? Who can sleep overnight?
- 6 A. Anybody, except for minors without their guardian.
- 7 Q. For example, there's a number of homeless people  
8 Downtown. Have they come to the camp?
- 9 A. They have.
- 10 Q. And have they slept over at the camp?
- 11 A. They have.
- 12 Q. Do you serve food at the camp at times?
- 13 A. We do.
- 14 Q. Where does the food come from?
- 15 A. The food comes from donations, from supporters who  
16 are unable to camp through either their work  
17 schedule, family situation, whatnot. They still  
18 feel very strongly about the movement, and so they  
19 contribute in any way that they can.
- 20 Q. And if a homeless person comes by and they want to  
21 get some food, they get fed?
- 22 A. Absolutely, yes.
- 23 Q. Currently how is the food -- Is any food cooked on  
24 the site?
- 25 A. No.

- 1 Q. When was the last time any food was cooked on the  
2 site, to the best of your knowledge, approximately?
- 3 A. It's been quite a while. I mean, I think that  
4 was -- It was sometime in November, I believe.
- 5 Q. Now, have you had interaction with representatives  
6 of Mellon security?
- 7 A. I have.
- 8 Q. And do you know if they work for a company, first  
9 name begins with Allied?
- 10 A. Yes, Allied Barton.
- 11 Q. Can you describe your first conversations with them.
- 12 A. You know, my first conversations, I can't -- I can  
13 recall one conversation where I went up to the  
14 members of the security staff. I was actually part  
15 of the night watch crew that was there to make sure  
16 that the camp was secure at nighttime, and I went up  
17 to one of the security officers and asked if they  
18 had any problems, to which he said no. I also gave  
19 him my name, my phone number, told them if they had  
20 any questions or concerns about that to give me a  
21 call.
- 22 Q. And since the time the camp initially began, have  
23 there been continued interactions with security?
- 24 A. You know, as far as continued interaction, not so  
25 much. I mean, occasionally I would go up to them,

1 ask them the same question, but they've never  
2 actually approached me ever.

3 Q. Now, I'd like you to turn your attention to Occupy  
4 Pittsburgh's notebook and go to Exhibit A, if you  
5 could.

6 Sir, are you familiar with this particular  
7 document that's titled Guidelines?

8 A. I am, yes.

9 Q. I want to turn your attention back to November 1.  
10 Can you describe the delivery of those guidelines to  
11 yourself and to Occupy Pittsburgh.

12 A. Yes. Actually, I remember coming onto the site on  
13 November 1, and some of the campers said that there  
14 were members of BNY Mellon who were looking for me,  
15 as a matter of fact. I actually -- I met with  
16 Gillian Rose-John and Richard Vieth, who then  
17 delivered the guidelines to me.

18 Q. And when they delivered the guidelines to you, what,  
19 if anything, did they say to you?

20 A. They said that these were just suggestions for how  
21 to conduct the Occupation. They gave me a card,  
22 said that if we had any questions we could contact  
23 them.

24 Q. Okay. Now, between November 1 and December 8, did  
25 anyone from the bank or security company notify you

- 1 or Occupy Pittsburgh of any violations to the  
2 guidelines?
- 3 A. No.
- 4 Q. Did anyone from the City of Pittsburgh notify you of  
5 any violation of the guidelines?
- 6 A. No.
- 7 Q. And during this time, to the best of your knowledge,  
8 did Mellon security or security personnel patrol on  
9 a daily basis?
- 10 A. Yes, they did.
- 11 Q. And when you saw them patrolling, what did you see  
12 them doing?
- 13 A. They would generally do a perimeter walk. Sometimes  
14 they'd be standing outside the camp looking inward,  
15 generally things like that.
- 16 Q. Okay. And have they ever attended General Assembly  
17 meetings?
- 18 A. Not to my knowledge, no.
- 19 Q. I want to turn your attention to some of the  
20 activities in the camp. Now, you indicated General  
21 Assemblies are open to all; is that correct?
- 22 A. That's correct, yes.
- 23 Q. What type of issues are discussed at the General  
24 Assembly meetings?
- 25 A. Well, a lot of times we talk about different actions

1 that are coming up. We'll decide on what kind of  
2 actions to take. We talk about the state of the  
3 camp and our needs and whatnot. There will be an  
4 announcement section where people can say, you know,  
5 Hey, we need food, or We need this, We need that.

6 It's a way of actually getting word out to  
7 people because these General Assemblies, they're  
8 generally live-streamed as well which is broadcast  
9 over the internet as well.

10 Q. You mentioned the term "actions." What do you mean  
11 by "actions"?

12 A. Actions can be, you know, our teach-ins. They can  
13 be demonstrations and things of that nature.

14 Q. Okay. And, for example, in regard to teach-ins,  
15 have you had teach-ins on the site?

16 A. Yes, we have.

17 Q. What are some of the topics you've discussed at  
18 teach-ins?

19 A. Teach-ins would include issues like privilege,  
20 sexism, racism, what does it mean to occupy, things  
21 of that nature.

22 Q. Have there been discussions of political and  
23 economic issues?

24 A. Absolutely. Absolutely.

25 Q. You mentioned actions. What type of public events

- 1 have occurred there, demonstrations, marches, things  
2 of that nature?
- 3 A. There's been quite a few to count. We've had a  
4 solidarity march for Occupy Oakland. We've had a  
5 march. We've had several marches from the site to  
6 the different businesses in the area. We protested  
7 BNY Mellon. We've protested the US Steel Building,  
8 et cetera, et cetera.
- 9 Q. And would it be a fair statement that there are  
10 actions or demonstrations several times a week?
- 11 A. I would say that's pretty fair, yes.
- 12 Q. And how often are General Assemblies held?
- 13 A. Currently they're being held most recently -- In the  
14 very beginning of the Occupation they were held  
15 every single day. It was then downgraded to three  
16 times a week, and now it's going to be twice a week.
- 17 Q. Now, have other organizations in town and in the  
18 area been involved in supporting Occupy Pittsburgh?
- 19 A. Absolutely, yes.
- 20 Q. And could you give examples of some of those.
- 21 A. Absolutely. Simpatico, for example, has provided us  
22 with coffee. We've had a lot of assistance from the  
23 United Steelworkers, from other unions, SEIU, for  
24 example, and so forth.
- 25 Q. Now I'd like to turn your attention to some issues

1 that were raised yesterday by Mellon security, and  
2 we'll kind of go through those one by one.

3 A. Okay.

4 Q. On this site, have there been any arrests on this  
5 site?

6 A. No.

7 Q. Have there been any interactions with police on this  
8 site?

9 A. Yes, there have.

10 Q. Could you describe some of those that you're  
11 familiar with?

12 A. Yes. There was -- I'm a little bit vague on the  
13 details, but there was one instance where there was  
14 somebody who was evicted from camp. There was  
15 allegations that he stole some equipment from  
16 somebody or something like that. He was evicted  
17 from camp. And I also believe he was, like,  
18 showing, like, a fake badge.

19 Somebody -- I'm not sure exactly who --  
20 called the police, but he had ended up leaving the  
21 property and at that point in time was then -- The  
22 police interacted with him and escorted him off the  
23 site.

24 Q. Okay. I'm going to talk about your rules a little  
25 bit. There's a rule against drinking on site?

- 1 A. Correct.
- 2 Q. Using alcohol on site; is that correct?
- 3 A. That's correct.
- 4 Q. Now, have there been examples of people that
- 5 violated that rule?
- 6 A. Yes.
- 7 Q. And how does Occupy Pittsburgh or how has Occupy
- 8 Pittsburgh dealt with that?
- 9 A. Generally when that happens, a large group of people
- 10 get together to decide the best course of action in
- 11 that situation to minimize the risk of any parties
- 12 involved and make sure the camp remains safe. So
- 13 the person's escorted off the property and told to
- 14 leave.
- 15 Q. Have there been examples of someone that violated
- 16 the policy against drugs?
- 17 A. Yes.
- 18 Q. And how has that situation been dealt with?
- 19 A. The situation -- exactly the same. The person is
- 20 escorted off the property and told not to come back.
- 21 Q. Okay. Now, yesterday in the opening statement and
- 22 some of the security testimony there was a reference
- 23 to propane heaters and generators. Do you recall
- 24 that?
- 25 A. Yes.

1 Q. In terms of propane heaters and open flames, when  
2 were such things present on the site?

3 A. They were present very soon after the first pitching  
4 of tents on the encampment.

5 Q. And when was the last time -- putting aside the  
6 generator for which there's a City permit, when was  
7 the last time there were any open flames or propane  
8 heaters on site?

9 A. It's been quite a while. We first got the  
10 guidelines on November 1, and at that point in time  
11 we were accustomed to preparing food on site, as a  
12 matter of fact. And so there were times where we  
13 actually had to make arrangements to, you know,  
14 provide other types of food.

15 So for a while we were cooking food on  
16 site. We were boiling water for dishwater, whatnot.  
17 And eventually we weaned ourselves off that to the  
18 point we don't have any propane heaters or open  
19 flames on the site.

20 Q. And there's no heaters, propane heaters, open flames  
21 on the site; is that correct?

22 A. That's correct.

23 Q. Now I'd like to go to the issue of generators.  
24 Putting aside the generator on the sidewalk, are  
25 there any other generators on the site, on the Green

- 1 at the time?
- 2 A. No.
- 3 Q. I'd like you to turn to the exhibit book, Occupy  
4 Pittsburgh exhibit book, and go to Exhibit D.  
5 Have you seen that document before?
- 6 A. I have.
- 7 Q. And what is that document?
- 8 A. This is actually a permit that was given to us by  
9 the Department of Public Works for the City of  
10 Pittsburgh for us to have a generator on the  
11 sidewalk at the park.
- 12 Q. And for the last couple weeks has there been a  
13 generator on the sidewalk?
- 14 A. Yes.
- 15 Q. What has that generator been used for?
- 16 A. The generator's been used for providing lighting for  
17 our mess tent and for charging personal equipment.
- 18 Q. Has it been used to power heaters or anything like  
19 that?
- 20 A. No.
- 21 Q. By the way, in regard to that whole issue, when you  
22 did have the propane heaters on site early on, were  
23 there fire extinguishers?
- 24 A. Yes, there were. In fact, we still have our fire  
25 extinguisher in our mess tent, as a matter of fact.

- 1 Q. Now we're getting into cold and bad weather.
- 2 A. We are.
- 3 Q. And under the guidelines you had you were told no  
4 heaters; is that correct?
- 5 A. That's correct.
- 6 Q. How do you deal with the situation with the weather  
7 getting cold?
- 8 A. Well, we've actually had a lot of assistance from  
9 supporters, particularly from an organization  
10 Firedoglake, which is an online blog. They actually  
11 provided us with -- they're called Occupy Pittsburgh  
12 Supply, which is a coordination of efforts to  
13 provide Occupy Pittsburgh sites around the United  
14 States with union-made, really warm weather goods  
15 such as sleeping bags, hats, gloves and so forth.
- 16 Q. I'd like you to turn to Exhibit E in the small  
17 notebook. Could you tell us what Exhibit E is.
- 18 A. Exhibit E is a list of the clothing and items that  
19 were provided to us by Occupy Pittsburgh Supply.
- 20 Q. And these are clothing and items that were used on  
21 the site?
- 22 A. That's correct, yes.
- 23 Q. You have sleeping bags on the site, do you not?
- 24 A. Yes, we do.
- 25 Q. And what temperature are those sleeping bags good

- 1 for?
- 2 A. They're rated down to 0 degrees. I actually have  
3 one myself. It works great.
- 4 Q. Okay. And just for the record, without going  
5 through each and every one of these items  
6 individually, are these items -- gloves, scarves,  
7 sleeping bags, blankets -- principally meant to deal  
8 with the cold weather?
- 9 A. Absolutely. When we couldn't have heaters onsite,  
10 we had to make arrangements to make sure people were  
11 warm, and this was one of the ways we've done that.
- 12 Q. To the best of your knowledge, have there been any  
13 serious medical issues on the site?
- 14 A. There was -- I heard of one report where a gentleman  
15 got pretty cold. From my understanding he was  
16 coming there for the first time after work. He  
17 works outside at Heinz Field, and it was raining all  
18 that day so he came in wet and cold already, from my  
19 understanding. However, it was taken care of, and  
20 we haven't had an issue since.
- 21 Q. There's been no issues of hypothermia since that  
22 time?
- 23 A. Correct.
- 24 Q. Now, there was testimony yesterday from the  
25 representative of the bank that they did trash

1 pickup up to December 9, but when the notice was  
2 given they stopped doing trash pickup. Is that  
3 accurate?

4 A. I don't believe so. I think that the trash pickup  
5 actually ended about a week prior to that.

6 Q. Since the bank stopped doing trash pickup, how has  
7 the issue of trash and trash pickup been dealt with?

8 A. Right now, three times a week supporters of Occupy  
9 Pittsburgh actually come by and actually pick up the  
10 trash. We just arrange with our supporters to have  
11 the trash picked up and moved offsite.

12 Q. And that's done several times a week by supporters?

13 A. Exactly.

14 Q. Yesterday there was testimony concerning an incident  
15 of loud music on one day in October.

16 A. Correct.

17 Q. Did you hear that testimony?

18 A. Yes, I did.

19 Q. And were you present for that incident?

20 A. Yes, I was.

21 Q. And can you describe what happened that day.

22 A. Yes. Actually, myself -- I'm a musician, and  
23 several other campers are musicians as well, so we  
24 were playing music outside on the Ross Street  
25 entrance to the camp. It was later on that day we

- 1 actually got a complaint from BNY Mellon. I  
2 actually spoke with the gentleman who was actually  
3 playing at that specific time. About, I would say,  
4 five or ten minutes after the complaints were given  
5 we actually stopped playing for a little while.  
6 Then the gentleman played one more song and then it  
7 was -- the amplifier was actually then taken outside  
8 that area.
- 9 Q. And since that time, other than what you've heard in  
10 court yesterday, have you received any other  
11 complaints of loud music or loud noise from the  
12 bank?
- 13 A. No.
- 14 Q. There was reference yesterday about a heat tent. Do  
15 you recall that?
- 16 A. Yes, I do.
- 17 Q. Was there a heat tent present on the site?
- 18 A. There was, yes.
- 19 Q. And what is a heat tent, or what was the heat tent?
- 20 A. The heat tent was built by one -- by actually a few  
21 of our campers. It was basically, I believe, a  
22 canopy that had tarps around the outside of it and  
23 then a heater on the inside.
- 24 Q. Is the heat tent still present on the site?
- 25 A. No. It didn't actually exist for very long, as a

- 1 matter of fact.
- 2 Q. Approximately how long was it on the site?
- 3 A. I'd say maybe two, maybe three weeks tops.
- 4 Q. Yesterday in the opening statement there were  
5 pictures of yurts shown. Did you see those?
- 6 A. I did, yes.
- 7 Q. Is there a yurt on the site?
- 8 A. There is a yurt on the site but not really in  
9 accordance with the diagrams that were given in  
10 earlier testimony.
- 11 Q. And for the record, what is a yurt?
- 12 A. A yurt -- it's hard to explain.
- 13 Q. If you know.
- 14 A. A yurt basically is just a structure. The one we  
15 have on site right now is just insulation board  
16 taped together in the shape of like a really small  
17 house, I guess you could say. It's not very heavy.
- 18 Q. It's not heavy wood?
- 19 A. No.
- 20 Q. Not heavy metal?
- 21 A. No.
- 22 Q. No glass?
- 23 A. No.
- 24 Q. There was a reference to a, quote, unquote, "fire  
25 barrel" on December 23.

1 A. Yes.

2 Q. December 3. December 3.

3 A. Yes.

4 Q. Were you present on December 3?

5 A. Yes, I was.

6 Q. Do you recall seeing a fire barrel?

7 A. I think I would know about that. But, no, I didn't  
8 see anything like that.

9 Q. Did anyone report to you that there was a fire  
10 barrel on site?

11 A. No.

12 MR. HEALEY: And, Your Honor, for the  
13 record, we have requested a copy of the video  
14 that was referenced yesterday. I believe  
15 Plaintiffs' counsel's looking for it. We  
16 just request the record be kept open until we  
17 get the video.

18 THE COURT: Any objection to that?

19 MR. BOOKER: No objection.

20 Q. Yesterday there was reference to a turkey fryer. Do  
21 you recall that?

22 A. I do.

23 Q. What is a turkey fryer?

24 A. A turkey fryer is basically, you know, a burner  
25 that's on -- a big pot that's on like a burner, more

- 1 or less.
- 2 Q. And was there a turkey fryer present on the site for  
3 a period of time?
- 4 A. Yes, there was.
- 5 Q. And approximately when was it there?
- 6 A. It was there in around the October to  
7 November period of time.
- 8 Q. Okay. What was the turkey fryer that was on the  
9 site used for?
- 10 A. It was used for boiling water to make either coffee  
11 or to use water for dishwater and so forth.
- 12 Q. Is that turkey fryer present on the site now?
- 13 A. No, it's not.
- 14 Q. Now, on December 9, was there a notice posted on the  
15 site?
- 16 A. There was, yes.
- 17 Q. And that notice in summary form said, You have to  
18 leave by December 11?
- 19 A. Yes. Exactly.
- 20 Q. Now, prior to that notice being posted, had you been  
21 advised of any violation of the guidelines that you  
22 were given on November 1?
- 23 A. No.
- 24 Q. And nothing was different on December 9 than on  
25 November 1 in terms of the camp guidelines or

- 1 anything like that; is that correct?
- 2 A. Could you repeat the question.
- 3 Q. Yeah. Actually, we'll strike that.
- 4 I want to go to December 11. Do you
- 5 recall that day?
- 6 A. I do.
- 7 Q. Okay. What happened on the camp on that day?
- 8 A. At this point in time, it was then that we got
- 9 served notice, I believe.
- 10 Q. On December 11, was that the day of a cleanup?
- 11 A. Oh, yes. I'm sorry about that. That's correct.
- 12 Q. Could you describe what the cleanup consisted of.
- 13 A. The cleanup consisted of actually removing tents,
- 14 you know, cleaning up the grounds area. We put up a
- 15 big mess tent. We winterized tents. We made sure
- 16 the comfort tent was organized. It was an event
- 17 that was attended by at least 100 or so people,
- 18 maybe even more, to help improve the camp.
- 19 Q. When had you started making plans for the cleanup?
- 20 The cleanup's December 11. When did you start
- 21 making plans?
- 22 A. That idea was around, like, I would say, around the
- 23 middle of -- yeah, the middle of November, I would
- 24 say.
- 25 Q. Weeks prior to the notice; is that correct?

- 1 A. Easily, yeah.
- 2 Q. Now, in terms of winter issues, one of the other  
3 winter issues was snow and ice removal, and you've  
4 heard testimony concerning that, haven't you?
- 5 A. I have.
- 6 Q. A week or so ago there was snow and ice on the site;  
7 is that correct?
- 8 A. That is correct.
- 9 Q. And what's your understanding of how it was removed?  
10 Was it Occupy, the bank, or a combination?
- 11 A. Actually, I wasn't there at the site.
- 12 Q. So did you seek to have a meeting concerning snow  
13 and ice removal?
- 14 A. I did, yes.
- 15 Q. Approximately when did you try to have that meeting?
- 16 A. It was on or about December 7.
- 17 Q. December --
- 18 A. December 7.
- 19 Q. Okay. And did anyone go to this meeting with you?
- 20 A. Yes.
- 21 Q. Who went with you?
- 22 A. It was Don Carpenter and Bram Reichbaum, B-r-a-m  
23 R-e-i-c-h-b-a-u-m, I believe.
- 24 Q. And where did you go to have this meeting?
- 25 A. We went to the BNY Mellon building.

- 1 Q. And that's the office tower?
- 2 A. Correct, yes.
- 3 Q. And where did you go in the building?
- 4 A. We actually went up the escalators into their  
5 corporate security office, I believe.
- 6 Q. And if I go into the lobby of the building up the  
7 escalator, corporate security's on that first level?
- 8 A. Exactly, yes.
- 9 Q. And did you meet with anybody?
- 10 A. I did.
- 11 Q. Who did you meet with?
- 12 A. I met with Richard Vieth and other parties of their  
13 security, corporate security.
- 14 Q. Could you describe the conversation.
- 15 A. Yes. Actually, Bram was asking about snow removal,  
16 about what ways we could make sure their access to  
17 snow removal was unimpeded, anything we have to do  
18 and so forth.
- 19 Q. And was there a response from the security officers  
20 that were there?
- 21 A. The only response we got was to put it in writing,  
22 in fact.
- 23 Q. And this was a couple days before you received the  
24 notice?
- 25 A. Exactly, yeah. Yes, it was.

- 1 Q. Now, there was cleanup on December 11. You  
2 indicated you removed some tents?
- 3 A. That's correct.
- 4 Q. Are there any tents left on the Grant Street side of  
5 the Green?
- 6 A. No.
- 7 Q. Now, what's your understanding of what Mellon wants  
8 to do with the park?
- 9 A. They want to close it.
- 10 Q. To Occupy Pittsburgh and the public?
- 11 A. Yeah. To everybody.
- 12 Q. What does Occupy Pittsburgh want to do with the  
13 park?
- 14 A. We want to keep it open to everybody.
- 15 Q. Not just Occupy Pittsburgh?
- 16 A. No, no.
- 17 Q. Just some more --
- 18 A. Sure.
- 19 (Pause)
- 20 Q. I just have a couple more questions.  
21 What is the message, the general message  
22 of Occupy Pittsburgh?
- 23 A. It's hard to say what the exact message is. You  
24 know, thematically I would say that it, you know,  
25 boils down to a few things. One about corporate

1                   accountability is a big issue. There's a lot of  
2                   corporations who have a tendency to put profits over  
3                   people, and I think that what we're trying to do is  
4                   reverse that, put a little more equality back into  
5                   corporate dealings.

6           Q.     Now, are there signs on the site concerning  
7                   messages?

8           A.     Absolutely.

9           Q.     And do the signs change from time to time?

10          A.     Absolutely, yes.

11          Q.     And, in general, where are the signs located?

12          A.     They're located throughout the park on the fencing  
13                   around the fountain in the center of the park,  
14                   around the outside of the park as well, the  
15                   entrances and so forth.

16          Q.     For example, as you walk down, if we were to walk  
17                   from the Courthouse down Grant Street and along the  
18                   sidewalk on Grant Street, are there signs there?

19          A.     I believe so, yes.

20                   MR. HEALEY: That's all we have on  
21                   direct, Your Honor.

22                   THE COURT: Thank you.

23                   MR. BOOKER: If I could have just a  
24                   moment, Your Honor.

25                   THE COURT: You may.

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(Pause)

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CROSS-EXAMINATION

BY MR. BOOKER:

Q. Good morning, Mr. Lawson.

A. Good morning.

Q. I'm Dan Booker. I'm lead trial counsel for BNY Mellon.

I think I first want to ask you a few additional questions about the organization of Occupy Pittsburgh.

A. Certainly.

Q. You say they're a leaderless group?

A. Correct. It's a leaderless movement.

Q. Leaderless movement?

A. Movement.

Q. So if BNY Mellon wants to deal with somebody at Occupy Pittsburgh, who do they go to?

A. Anybody.

Q. Everybody has the same authority as everybody else?

A. Correct. We call ourselves a leaderless movement, but we're filled with leaders because any one person can organize an action. Any one person can submit a proposal.

Q. And can any one person bring propane tanks onto the

- 1 property?
- 2 A. Could you repeat the question.
- 3 Q. Can any one person bring propane tanks onto the
- 4 property?
- 5 A. Yes.
- 6 Q. Can any one person start a fire on the property?
- 7 A. Yes.
- 8 Q. Can any one person occupy any tent on the property?
- 9 A. Yes.
- 10 Q. Is there any activity that requires action by the
- 11 General Assembly?
- 12 A. Could you repeat the question. I'm sorry.
- 13 Q. You said that the General Assembly did adopt a
- 14 number of rules?
- 15 A. Correct.
- 16 Q. And one of the rules is a rule against -- zero
- 17 tolerance for drugs?
- 18 A. Uh-huh.
- 19 Q. Also does that cover alcohol?
- 20 A. Yes, it does.
- 21 Q. And can any one person bring drugs onto the
- 22 property?
- 23 A. By actually staying on the camp you agree to abide
- 24 by the rules of our General Assembly.
- 25 Q. And what if somebody does bring drugs on the

- 1 property?
- 2 A. They're evicted.
- 3 Q. And what if somebody -- by who?
- 4 A. By the remaining people at the camp.
- 5 Q. And are you saying that there have been no instances
- 6 where people abused drugs and not been evicted?
- 7 A. To my knowledge, no.
- 8 Q. Are you aware that there -- So you're not aware of
- 9 an instance where that's happened?
- 10 A. Could you repeat the question one more time.
- 11 Q. I'll rephrase it. Has any instance been reported to
- 12 you when somebody was using drugs on the property?
- 13 A. On the property, yes.
- 14 Q. And in every one of those instances, what did you
- 15 do?
- 16 A. We evicted them.
- 17 Q. Now, what about times when you weren't there? Have
- 18 there been times when somebody reported drugs were
- 19 being used on the property?
- 20 A. I can't really attest to that.
- 21 Q. How much of the time in a given day are you there?
- 22 A. I'm there quite a bit, less frequently lately with
- 23 my job and everything like that. The first few
- 24 months of the encampment I was there pretty much
- 25 every single day.

- 1 Q. When you're not there, who's in charge?
- 2 A. That assumes that I'm in charge when I'm there,  
3 which I'm not.
- 4 Q. Nobody's in charge?
- 5 A. Correct.
- 6 Q. How do you handle money?
- 7 A. How we handle money?
- 8 Q. Yeah.
- 9 A. It's not something I really involve myself with too  
10 much.
- 11 Q. Is there a treasurer?
- 12 A. No.
- 13 Q. Is there somebody who has a bank account?
- 14 A. I believe so, yes.
- 15 Q. Who was access to the bank account?
- 16 A. I believe that would be Bram.
- 17 Q. Who?
- 18 A. Bram.
- 19 Q. Bram?
- 20 A. Bram Reichbaum.
- 21 Q. Is that R-e-i-c-h-b-a-u-m?
- 22 A. I believe so, yes.
- 23 Q. Is he the only one that has access to the money?
- 24 A. I believe there are other people that could as well,  
25 but I can't really attest to that for sure.

- 1 Q. How much money is there?
- 2 A. I don't know.
- 3 Q. Would Mr. Reichbaum know how much money there is?
- 4 A. Possible.
- 5 Q. Is there \$10,000?
- 6 A. I don't know.
- 7 Q. Is there \$100,000?
- 8 A. I don't know. I don't think so. I'm pretty sure
- 9 there's not too much money.
- 10 Q. Who has the authority to put money in and take money
- 11 out and spend it?
- 12 A. To put money in, again, that's not something that
- 13 I'm really familiar with.
- 14 Q. Who has authority to spend money?
- 15 A. The General Assembly.
- 16 Q. Every time money is spent, the General Assembly
- 17 takes an action?
- 18 A. I believe so. But, again, I'm not really familiar
- 19 with too much of the money handling. I kind of
- 20 distanced myself from that.
- 21 Q. Do you go to the General Assembly meetings?
- 22 A. I do.
- 23 Q. Are you aware if the minutes of the General Assembly
- 24 meetings are posted online on the Occupy Pittsburgh
- 25 website?

1 A. Yes, in the vast majority of cases.

2 Q. Is there any mention in any of those cases to where  
3 money will be spent?

4 A. No. I mean, as far as I know. But, then again, I  
5 don't always read the minutes.

6 Q. Does the General Assembly vote on every expenditure  
7 of money?

8 A. I'm not sure.

9 Q. If we wanted to know how much money Occupy  
10 Pittsburgh has, who would we ask?

11 A. Bram.

12 MR. BOOKER: If it please the Court,  
13 similar to the request about the fire barrel,  
14 I'd be interested to know how much money,  
15 post hearing information --

16 MR. HEALEY: The question would be  
17 what's the relevance at this point? We're in  
18 an injunction hearing. Beyond the scope of  
19 direct. I'm not sure --

20 MR. BOOKER: One of the issues of  
21 irreparable harm is whether there's remedy of  
22 law, whether damages will suffice, as a  
23 remedy of law in place of injunctive relief.  
24 That's how it's relevant.

25 MR. HEALEY: I still think it's beyond

1 the scope of cross because -- perhaps that's  
2 an issue for later on. And we're getting to  
3 a permanent injunction issue, I think, Your  
4 Honor.

5 THE COURT: I'm going to overrule  
6 because that is in a preliminary injunction,  
7 whether there's an adequate remedy of law;  
8 right?

9 Q. In every situation in which somebody has been  
10 removed from the Green by the Occupiers because of  
11 violating a rule, did they leave peacefully?

12 A. In all the issues that I've been involved with, yes.  
13 I can't attest to others because I wasn't present  
14 for that.

15 Q. Has the General Assembly adopted a rule as to what  
16 it would do if somebody refused to leave peacefully?

17 A. No. We actually trust the people who are there  
18 because we never ran into an issue where people  
19 weren't being peaceful, as far as I know.

20 Q. So you're waiting until somebody's not peaceful  
21 before you adopt a rule?

22 A. No, sir. I think that we trust out -- There are  
23 many people on site who are capable of deescalating  
24 situations to the best of their ability. We have a  
25 lot of veterans on site who have a lot of training.

- 1           There's a lot of people who have experience in  
2           deescalation, so we have trust that the people on  
3           camp can handle situations without needing to put a  
4           rule into place at all.
- 5           Q.    You have people on site who are familiar with --
- 6           A.    Deescalation.
- 7           Q.    And what is deescalation?
- 8           A.    Basically where you just -- somebody who is upset,  
9           make them not upset.
- 10          Q.    You talk sense to them?
- 11          A.    Yeah. There's tactics involved.
- 12          Q.    Have you ever had experience where you can't talk  
13          sense to people?
- 14          A.    Like in general?
- 15          Q.    Yeah.
- 16          A.    Yeah.
- 17          Q.    And do you have any expectation that might happen on  
18          the site?
- 19          A.    It's possible, but --
- 20          Q.    Have you had any reports, times you weren't there,  
21          that that has happened?
- 22          A.    Well, I think that the question that you're asking  
23          is basically whether or not we're capable of  
24          handling it without a rule, and I believe that we  
25          can.

- 1 Q. And also at the General Assembly meetings, various  
2 reports of information items, I think you said one  
3 of the things that happens is points of information?  
4 A. Could you repeat that. I'm sorry.  
5 Q. That that one of the items that occurs at a General  
6 Assembly meeting is that points of information are  
7 reported?  
8 A. Yes. That's correct.  
9 Q. For example, was it reported that the mold problem  
10 in the medical tent was cleaned up?  
11 A. Uh-huh.  
12 Q. That's in the minutes at one of the General Assembly  
13 meetings?  
14 A. Correct.  
15 Q. Have you addressed in the General Assembly what you  
16 will do if police or sheriffs deputies show up to  
17 remove Occupy Pittsburgh from the Green?  
18 A. Yes.  
19 Q. Have you adopted a policy on that?  
20 A. Yes, we have.  
21 Q. What's your policy on what you will do if this Court  
22 orders that Occupy Pittsburgh should vacate?  
23 A. We're going to play Rick Astley's "Never Gonna Give  
24 You Up."  
25 Q. Is that called rickrolling?

- 1 A. Yes, it is.
- 2 Q. Describe what rickrolling is.
- 3 A. Rickrolling is basically where somebody
- 4 inadvertently listens to that song when they're
- 5 expecting something else.
- 6 Q. Somebody inadvertently listens? So who it is who's
- 7 inadvertently listening?
- 8 A. I guess in that situation it would be the police.
- 9 Q. Now that you've adopted a policy, it won't be
- 10 inadvertent?
- 11 A. Well, true. That's correct.
- 12 Q. And after your rickrolling, what will you do?
- 13 A. We haven't discussed that.
- 14 Q. Is that up to each person?
- 15 A. It's something that people make a decision for
- 16 themselves.
- 17 Q. So do I understand correctly that Occupy Pittsburgh
- 18 does not regard the tents that are on the site as
- 19 private property?
- 20 A. The tents as private property? I don't
- 21 think -- That sounds like a legal designation. I'm
- 22 not sure if we deal with such things.
- 23 Q. I'll go back. You testified that anybody can use
- 24 the tents?
- 25 A. Anybody can use the tents, being like --

- 1 Q. Anybody who comes on site can use any tent?
- 2 A. I'm not sure -- I mean, I think that people use  
3 common sense. If somebody's using a tent, you, of  
4 course, wouldn't go into it.
- 5 Q. Does common sense assume that certain tents and  
6 certain property is private property?
- 7 A. Again, that sounds like a legal designation which  
8 I'm not entitled to make.
- 9 Q. Didn't you testify some people were escorted off the  
10 site for stealing?
- 11 A. For stealing? Yes. Actually, he wasn't escorted  
12 off the site, no. He actually left voluntarily.
- 13 Q. Were the police called because of a report of  
14 stealing someone's property?
- 15 A. No. I'm not sure exactly why the police were  
16 called, so I can't say actually why the police were  
17 called.
- 18 Q. Can you steal something if it's everybody's  
19 property?
- 20 A. If it's everybody's property, I mean, is that a  
21 hypothetical question or are we talking --
- 22 Q. What do you mean by "stealing"?
- 23 A. Stealing is when you steal somebody else's property,  
24 correct.
- 25 Q. Everybody knows that?

- 1 A. Yeah.
- 2 Q. Does stealing mean that you take it to use for  
3 yourself?
- 4 A. Yes.
- 5 Q. Do you recognize that one form of property is land?
- 6 A. Yes.
- 7 Q. Under the Occupy Pittsburgh philosophy, would it be  
8 acceptable to Occupy Pittsburgh for BNY Mellon  
9 personnel to come on the site and remove unoccupied  
10 tents?
- 11 A. I think that there would be -- any time an action  
12 like that would take place, it would have to go  
13 through our General Assembly.
- 14 Q. So if that happened, nobody would react on the site?  
15 It would take a vote of the General Assembly?
- 16 A. I think that people would act in accordance to  
17 however they felt.
- 18 Q. And, again, they would decide upon that themselves?
- 19 A. Yes.
- 20 Q. Each one?
- 21 A. Yes.
- 22 Q. When you had your day of cleanup, it was on -- was  
23 it December 11?
- 24 A. I believe so, yes.
- 25 Q. What did you call that? The rebirth?

1 A. We called it Occupy Pittsburgh 2.0.

2 Q. The rebirth?

3 A. I'm not sure if we ever called it the rebirth.

4 Q. But just to refresh your recollection, without  
5 necessarily marking this as an exhibit, I'll show  
6 you a document. Is this a --

7 MR. HEALEY: For the record, what  
8 exhibit number?

9 MR. BOOKER: I haven't marked it.

10 Q. Does looking at that document remind you whether it  
11 was called the rebirth?

12 A. I'm not sure the origination of this.

13 MR. BOOKER: Withdraw the question.

14 Q. Was Occupy Pittsburgh 2.0 a call for physical and  
15 virtual deconstruction and reconstruction of Occupy  
16 Pittsburgh?

17 A. That's what one person has called it, yes.

18 Q. I'm sorry?

19 A. That's what one person has called it, yes.

20 Q. Well, one person, that's the philosophy of Occupy  
21 Pittsburgh -- one person does what they want to do;  
22 is that right?

23 A. No. The Occupy 2.0 thing was like a rough draft,  
24 basically, of what ended up being the winterization  
25 plan that we ended up doing on December 11. As far

- 1 as -- I don't believe the General Assembly actually  
2 agreed to, you know, actually perform that in that  
3 function as it's described in that document.
- 4 Q. Did one person related to Occupy Pittsburgh describe  
5 the Green as an unhealthy space?
- 6 A. I believe so.
- 7 Q. Were there other people participating in Occupy  
8 Pittsburgh who agreed it's an unhealthy space?
- 9 A. I can't say for sure.
- 10 Q. One of the things you testified happened on that  
11 cleanup day -- that was the day, by the way, the day  
12 before the complaint was filed in this case; is that  
13 right?
- 14 A. I'm not sure of the exact date the complaint was  
15 filed.
- 16 Q. It was a couple days after the notice was posted to  
17 vacate by BNY Mellon; is that correct?
- 18 A. That's correct.
- 19 Q. And the date of the -- I think you testified, am I  
20 right, that the Occupy Pittsburgh 2.0 occurred on  
21 December 11?
- 22 A. Yeah. The winterization happened.
- 23 Q. The record will show the complaint was filed on  
24 December 12.
- 25 A. Okay.

- 1 Q. One of the things that you did that day when you  
2 cleared out the quadrant along Grant Street where  
3 you said there were no tents was remove abandoned  
4 tents; is that correct?
- 5 A. Yes, that's correct.
- 6 Q. Who determined whether the tents were abandoned?
- 7 A. Myself and a few others actually went around the  
8 whole camp, and we asked people, neighbors and so  
9 forth, "Has this tent been used in recent weeks?"  
10 And we actually marked and designated as such.
- 11 Q. And then you took it upon yourself to remove them?
- 12 A. Uh-huh. Yes.
- 13 Q. Did anybody suggest maybe that was stealing?
- 14 A. No.
- 15 Q. What did you do with the tents?
- 16 A. The tents are actually being stored.
- 17 Q. Where are you storing them?
- 18 A. I'm not sure exactly where they're being stored.  
19 There are other people at camp who know.
- 20 Q. Were they taken away from the site?
- 21 A. Yes.
- 22 Q. Who took them away?
- 23 A. I can't say for sure.
- 24 Q. Do you know who the person was who described Occupy  
25 Pittsburgh 2.0 as a rebirth?

- 1 A. Yes.
- 2 Q. Who was it?
- 3 A. David Meieran.
- 4 Q. Would you spell his name for the record, please.
- 5 A. M-e-i-e-r-a-n.
- 6 Q. Is he an Occupy Pittsburgh supporter?
- 7 A. He is.
- 8 Q. Camper?
- 9 A. No longer.
- 10 Q. He was a camper?
- 11 A. Yes.
- 12 Q. He's abandoned the campsite?
- 13 A. I'm not sure if "abandoned" is the right word to
- 14 use.
- 15 Q. Did he leave it?
- 16 A. Yes.
- 17 Q. He's not there anymore?
- 18 A. Correct.
- 19 Q. Was he a person who was on occasion a media
- 20 spokesman for Occupy Pittsburgh?
- 21 A. I don't believe we have spokesmen. That implies,
- 22 you know, like a title. But he has talked to the
- 23 press in the past, yes.
- 24 Q. With respect to the people who were escorted from
- 25 the site for breach of rules, are you aware of

- 1                   whether or not any of those persons returned to the  
2                   campsite?
- 3           A.    There was one or two occasions where that's  
4                   happened.
- 5           Q.    Would you describe for me why -- First of all, can  
6                   you identify who those people were?
- 7           A.    No.
- 8           Q.    Why were they removed from the site?
- 9           A.    Either violations of drugs or alcohol or behavior.
- 10          Q.    Has anybody been removed for possessing a weapon on  
11                   site?
- 12          A.    Not to my knowledge.
- 13          Q.    You don't know what happened when you weren't there?
- 14          A.    Yes.
- 15          Q.    But you're aware there are situations where someone  
16                   left for drug reasons?
- 17          A.    Uh-huh.
- 18          Q.    And then was allowed to return?
- 19          A.    Oh, not allowed to return, no. The person came  
20                   back, but then we actually escorted them back off  
21                   the property.
- 22          Q.    Who escorted them off the property?
- 23          A.    The campers.
- 24          Q.    Which campers?
- 25          A.    Myself and a few others.

- 1 Q. Was Mr. Carpenter one of them?
- 2 A. I can't say for sure.
- 3 Q. Can you identify any of the other campers by name?
- 4 A. Let me think. No.
- 5 Q. Is it the position of Occupy Pittsburgh that you  
6 could set up a camp on any private property without  
7 the consent of the owner?
- 8 A. That's a very good question. Would you repeat that  
9 one more time.
- 10 Q. Is it the position of Occupy Pittsburgh you can set  
11 up a camp on any private property without the  
12 consent of the owner?
- 13 A. I think it's more complicated than that. I think  
14 there has to be a good reason to set up a camp. As  
15 far as private property is concerned, if there was a  
16 good reason and the General Assembly decided it was  
17 in the best interests of that -- because the General  
18 Assembly's a variety of people, so when we make  
19 these decisions, the people itself decided that. So  
20 making a position statement implies we have a code,  
21 which we don't. So I'm not sure if I can answer  
22 that question fairly.
- 23 Q. Is it the position of Occupy Pittsburgh that it can  
24 set up a camp on any public land it wants to without  
25 a permit?

- 1           A.    Again, as far as -- That implies there's a position  
2                   statement of Occupy Pittsburgh I could draw from. I  
3                   can tell you about my own experiences and how I  
4                   would vote in those situations, but I can't speak to  
5                   anybody else's decision.
- 6           Q.    Did Occupy Pittsburgh apply for a permit to camp on  
7                   any public space in Pittsburgh?
- 8           A.    Not to my knowledge.
- 9           Q.    Did Occupy Pittsburgh members talk about whether to  
10                  occupy any public space in Pittsburgh other than the  
11                  space you're now occupying?
- 12          A.    I believe so, yes.
- 13          Q.    What spaces did you talk about possibly occupying?
- 14          A.    I believe the only one that comes to mind is  
15                  Schenley Park.
- 16          Q.    I'm sorry?
- 17          A.    The only park that comes to mind is Schenley Park.
- 18          Q.    Schenley Park?
- 19          A.    Uh-huh.
- 20          Q.    Why did you decide to occupy BNY Mellon Green  
21                  instead of Schenley Park?
- 22          A.    Well, for one, the location. Mellon Green was  
23                  better -- as I said before, the message itself  
24                  serves better when you're actually having a campsite  
25                  surrounded by two large buildings which are endemic

1 of corporate excess. So the message itself is  
2 paramount, makes more sense for that message to be  
3 in the heart of Downtown next to these two large  
4 buildings as opposed to on Schenley Park.

5 Q. Did you have discussion among Occupy Pittsburghers  
6 about whether occupying a public park would require  
7 a permit?

8 A. I haven't, no.

9 Q. Are you aware whether there was any discussion among  
10 Occupiers prior to the current Occupation about the  
11 necessity of getting a permit?

12 A. Not really, no. It's possible those conversations  
13 might have been had, but I can't --

14 Q. Are you aware of any discussion among Occupy members  
15 that it would be better to go onto private property  
16 because the law is clear that on public property you  
17 can proceed without a permit?

18 A. Again, I can't really say.

19 Q. Mr. Lawson, you say that minors have to leave, if  
20 they're not accompanied by an adult, by 9:00?

21 A. Correct.

22 Q. A minor is how old?

23 A. I believe we defined it 16 or younger.

24 Q. So an infant, a mother can choose to have an infant  
25 with her overnight?

- 1 A. Yes.
- 2 Q. Has that happened?
- 3 A. I can't say for sure.
- 4 Q. And a family could choose to bring kids and stay  
5 every night as long as the parents were there?
- 6 A. Yes.
- 7 Q. Is there somebody in the Occupy organization whose  
8 job it is or responsibility it is to ensure safety  
9 on the Green?
- 10 A. That's everybody's job.
- 11 Q. Aren't there working groups --
- 12 A. Yes.
- 13 Q. -- in Occupy Pittsburgh?
- 14 A. Yes.
- 15 Q. Is there an administrative working group?
- 16 A. No.
- 17 Q. Is there a security working group?
- 18 A. No, not by that title.
- 19 Q. I'm sorry?
- 20 A. Not by that title. Security implies control, power,  
21 some of the things that we're against.
- 22 Q. I'm sorry. You're against control?
- 23 A. We're against undue influence of power and power  
24 that's exerted over people.
- 25 Q. Now, these tents are the type of tent that you can

- 1 close; right?
- 2 A. Yes.
- 3 Q. They're not open wall and just a roof?
- 4 A. Yes.
- 5 Q. Do you have any idea what goes on inside the tents?
- 6 A. Only my own.
- 7 Q. I'm sorry?
- 8 A. Only my own.
- 9 Q. And is there anybody whose responsibility it is in
- 10 Occupy to make sure that within the tents there's no
- 11 drug use?
- 12 A. That's everybody's responsibility.
- 13 Q. Each person's responsibility?
- 14 A. Yes.
- 15 Q. What do you do to hold people accountable for
- 16 reporting violations of the rules?
- 17 A. I'm not sure what -- Could you rephrase that
- 18 question.
- 19 Q. Well, if Occupy Pittsburgh's -- Is it a rule at
- 20 Occupy Pittsburgh that if you observe a violation of
- 21 the rules you should report it?
- 22 A. I think that people do.
- 23 Q. I'm sorry?
- 24 A. I think that people do. But as far as a rule, we
- 25 haven't seen a need for it.

- 1 Q. Is there something called a Night Watch group --
- 2 A. There is.
- 3 Q. -- on the Green?
- 4 A. Uh-huh.
- 5 Q. And what's that?
- 6 A. The Night Watch? It's now called People's Watch.
- 7 Q. People's Watch?
- 8 A. Yes.
- 9 Q. Because you renamed it People's Park?
- 10 A. It's because Night Watch isn't just to go do stuff
- 11 for the night.
- 12 Q. I can't hear you. I'm sorry.
- 13 A. Night Watch doesn't just perform job functions
- 14 during the night. They also do it during the day,
- 15 so --
- 16 Q. Oh, okay. So People's Watch is a 24-hour thing?
- 17 A. More or less, yes.
- 18 Q. Who are some of the members of that group?
- 19 A. Myself, Don Carpenter, various other people.
- 20 Q. You don't know their names?
- 21 A. Some of them I don't know their full names. There's
- 22 a gentleman named Mel. There's a gentleman named
- 23 T-bone, a few other folks as well.
- 24 Q. Are you aware of any assaults that have occurred at
- 25 the camp?

1 A. Let me think. Not really, no.

2 Q. Are you aware of instances where the City of  
3 Pittsburgh Police have responded to a call to the  
4 Green --

5 A. I'm not.

6 Q. -- since the Occupation?

7 A. Other than the one that I stated regarding the  
8 gentleman who was flashing, like, a fake badge,  
9 other than that one, no.

10 Q. Do you remember when that event occurred?

11 A. I can't, no.

12 Q. Was it before or after the -- Can you remember how  
13 long after the Occupation started it occurred?

14 A. As far as dates, I'm not very good with dates,  
15 unfortunately. So I can't say for sure.

16 MR. BOOKER: If I could just have a  
17 moment, Your Honor.

18 THE COURT: Take your time.

19 (Pause)

20 Q. Is the People's Park used to organize events that  
21 happen on other places?

22 A. Yes.

23 Q. Are there occasions when an event originates, starts  
24 at People's Park and then goes someplace else?

25 A. Yes.

- 1 Q. You mentioned, I think, a rally that went to the US  
2 Steel Building?
- 3 A. Uh-huh. Yeah.
- 4 Q. And where else have you gone?
- 5 A. There was a march in Oakland that was like a  
6 solidarity with Oakland, California.
- 7 Q. Did that begin at BNY Mellon Green or did that begin  
8 somewhere else?
- 9 A. No. It actually -- It was actually started in  
10 Schenley Park, I believe.
- 11 Q. Can you recall any other events that began at the  
12 Green?
- 13 A. Yes, I can.
- 14 Q. What were they?
- 15 A. There was an action that -- Let me think. There was  
16 an action that disputed the DUG East Conference.  
17 There was actions that -- Let me think. You know,  
18 as far as other actions, I'm drawing a little bit of  
19 a blank -- I'm sorry -- about that. There has been  
20 action outside BNY Mellon as well.
- 21 Q. Is that all you can remember?
- 22 A. At this point. There was also another Oakland  
23 march that started in the park as well where we  
24 marched through the Cultural District and so forth.  
25 There's also a little thing for the Billionaire's

1 Ball as well for, like, Light Up Night I think it  
2 was. We had, like, an action outside the camp where  
3 people dressed up as, like, millionaires, as  
4 millionaires and whatnot, handed out fake money and  
5 stuff like that.

6 Q. Am I dressed like a millionaire?

7 A. I don't know.

8 Q. Oh, okay. I'd like to know. Was an event on New  
9 Year's Eve commenced involving Occupy Pittsburgh  
10 commenced at BNY Mellon Green?

11 A. No.

12 Q. There was a media report about that. Are you aware  
13 there was a media report about an Occupy Pittsburgh  
14 march to the jails?

15 A. Yes.

16 Q. On New Year's Eve?

17 A. Yes, I'm aware of the article.

18 Q. And that there were Occupy Pittsburgh members in  
19 that march?

20 A. Yes, I'm aware.

21 Q. But that one didn't start at the BNY Mellon Green?

22 A. No.

23 Q. If an emergency situation arises on the Green, how  
24 will you deal with it? Is there a rule for that?

25 A. If an emergency happens, we call 911.

- 1 Q. Is that a rule or is that good common sense?
- 2 A. That's what people do. That's what I would do.
- 3 Q. When you talked to BNY Mellon security about snow  
4 removal, did you ask them to give you a call to  
5 follow up on that?
- 6 A. No, we didn't.
- 7 Q. I'm sorry?
- 8 A. No, we didn't.
- 9 Q. You testified that you had a conversation with BNY  
10 Mellon security representatives and said to them,  
11 "Look. If any problems happen, please give me a  
12 call"? Am I remembering that correctly?
- 13 A. That's correct. That was actually an Allied Barton  
14 security guard, however.
- 15 Q. That was the contractor security?
- 16 A. Correct.
- 17 Q. People who have the actual security guards, physical  
18 security guards?
- 19 A. Yeah.
- 20 Q. Why did you tell them to give you a call instead of  
21 somebody else?
- 22 A. Just take personal ownership because I think that's,  
23 you know -- It's good to have a contact.
- 24 (Pause)
- 25 MR. BOOKER: I have no further

1 questions, Your Honor. Thank you.

2 MR. HEALEY: Just a couple questions on  
3 redirect.

4 THE COURT: Mr. Healey?

5 - - -

6 REDIRECT EXAMINATION

7 BY MR. HEALEY:

8 Q. In part of the cross-examination there were  
9 questions about being leaderless and no one's in  
10 charge. Do you recall those questions?

11 A. I do.

12 Q. What does the General Assembly do?

13 A. Well, the General Assembly basically takes the ideas  
14 of the many people who actually attend the General  
15 Assembly and consensus upon that.

16 Q. Does a decision of the General Assembly become a  
17 decision of the --

18 A. It does because effectually by actually having folks  
19 go through General Assembly, we reach consensus,  
20 which means by the time everything is said and done,  
21 there are no major concerns. Everybody agrees with  
22 it. So it's better, in some cases, than a voting  
23 process because generally by that point in time  
24 nobody's blocked it to prevent it from passing.

25 Q. There are questions about calling 911 if there's an

1 emergency. Have you ever had to call 911?

2 A. I haven't, no.

3 Q. Do you know if anyone's had to call 911 for an  
4 emergency that the campers could not handle?

5 A. No.

6 Q. Now, there was a reference early on in the  
7 examination to one person early on saying the camp  
8 was unhealthy. Do you recall that?

9 A. I do.

10 Q. Do you know who said that?

11 A. It was David Meieran.

12 Q. And I'm going to sort of posit to you two different  
13 types of "unhealthy." Was he talking in the  
14 physical sense or sort of in the spiritual or social  
15 sense?

16 A. It was more of a spiritual --

17 MR. BOOKER: Objection, Your Honor.

18 He's asking what another person was talking  
19 about who's his own agent, according to his  
20 own testimony.

21 MR. HEALEY: I'll rephrase it.

22 Q. How did you interpret that?

23 A. Well, after speaking with David, it was much more of  
24 a spiritual sense, you know, getting people back to  
25 participation and so forth.

1 MR. HEALEY: That's all I have, Your  
2 Honor.

3 MR. BOOKER: No questions, Your Honor.

4 THE COURT: Mr. Lawson, you can step  
5 down.

6 MR. LOBEL: Defense wants to call Don  
7 Carpenter.

8 THE COURT: Mr. Carpenter.

9 (Oath administered.)

10 - - -

11 **DONALD CARPENTER**

12 a witness herein, having been first duly sworn, was  
13 examined and testified as follows:

14 **DIRECT EXAMINATION**

15 **BY MR. LOBEL:**

16 Q. Mr. Carpenter, could you state your name and where  
17 you live.

18 A. Sure. Donald John Carpenter. I currently reside at  
19 People's Park, 500 Mellon Green. My residential  
20 address is 126 Jamestown Court located in Scott  
21 Township, Pennsylvania.

22 Q. Now, Mr. Carpenter, have you served in the United  
23 States military?

24 A. Indeed I have.

25 Q. Can you give us the dates of your service.

1 A. Sure. I graduated high school in 1998. I joined up  
2 in August of 1998. I did my basic training at Fort  
3 Campbell, Kentucky. Shortly after that I was  
4 transferred to the 101st Airborne Division located  
5 at Fort Knox, Kentucky. I then served three tours  
6 in Iraq beginning in 2001.

7 I was discharged in 2004, and my fiancée  
8 at the time, who was serving with the United States  
9 Marine Corps in Afghanistan, was unfortunately  
10 killed in battle, and I really haven't been the same  
11 since.

12 Q. And since you left the military, what's been your  
13 employment?

14 A. I've pretty much been roaming around. I've done  
15 various restaurant jobs. Some of my friends are  
16 independent actors or writers. I've worked on  
17 projects with them, and I work for the People's Park  
18 as a member of the People's Watch group.

19 Q. And you are a member of Occupy Pittsburgh?

20 A. That is correct.

21 Q. How did you first get involved in that?

22 A. I wasn't involved for the first three General  
23 Assemblies. I heard it was coming. At the time I  
24 was employed as a manager for a Long John Silver's  
25 chain owned by MSA Partners. I got off work, met up

- 1 with Occupy Pittsburgh at the Market Square  
2 permitted rally and joined Occupy Pittsburgh as they  
3 marched to Mellon Green, and I haven't left since.
- 4 Q. And have you been camping at Mellon Park?
- 5 A. Yes, I was. I did not have a tent per se the first  
6 week, but once I got a tent available, I purchased  
7 one. I became a camper then.
- 8 Q. So you have your own tent?
- 9 A. That is correct.
- 10 Q. By the way, are many of the tents donated tents?
- 11 A. Yes, they are. There are people with their own  
12 personal tents that they either brought down since  
13 the beginning of the Occupation or otherwise  
14 purchased. We've also had -- I can't give a  
15 specific number, but we also have had a number of  
16 tents donated by the general public.
- 17 Q. How many nights since the Occupation started have  
18 you camped, would you say?
- 19 A. 95 percent of my time has been there. For a while  
20 my tent was being loaned out to another member of  
21 Occupy Pittsburgh. Her name was Helen. At that  
22 point I would sleep in my car. But I have  
23 maintained a virtual presence on Mellon Green for  
24 about 95 percent of the Occupation.
- 25 Q. And when you first got onto the Green, was there

1 anything blocking your path on the sidewalk?

2 A. No, sir.

3 Q. So it looked to you like a regular sidewalk?

4 A. Correct.

5 Q. Were there any signs saying "No Trespassing"?

6 A. No, sir.

7 Q. Was there anything that said "Don't go on the  
8 grass"?

9 A. No, sir.

10 Q. Now, do you have any specific role in the Occupy  
11 Pittsburgh group?

12 A. Yes. On the second day, second evening of the  
13 Occupation, myself, my friend Brennan Klommenic and  
14 a mutual friend of ours, Ryan Kelley and a Dave  
15 "Buddy" Ferguson kind of noticed there really wasn't  
16 a watch at night, meaning that if we all go to bed,  
17 what could happen if the cops came in and everyone  
18 was sleeping?

19 We saw things in other Occupy movements  
20 where the cops would -- I'm sorry -- police would  
21 come in at two in the morning very violently, very  
22 aggressively, or what if members of the general  
23 public would come in to either create havoc,  
24 confrontation.

25 So we came up with the concept of what was

1 then referred to as a Night Watch, which is now  
2 referred to as People's Watch, and that's basically  
3 patrolling the interior and exterior perimeters,  
4 providing a safe environment for campers to sleep at  
5 night.

6 Q. And you've been there for the whole time the  
7 Occupation's going on; correct?

8 A. I did take a break December 24 through the 27th.  
9 Occupy Support put myself and another member of  
10 People's Watch and Mr. Jonathan Gray up in his home  
11 for those three days.

12 Q. And do you also do this during the day somewhat?

13 A. Sometimes, yes. Unfortunately, you have to keep an  
14 eye out for the people at all times now.

15 Q. What were the conditions at Mellon Green when you  
16 first set up camp?

17 A. The grass was very muddy. It was like a swamp land  
18 as it were. You basically put your feet in the  
19 grass and you would sink. It was just -- It was a  
20 mess.

21 Q. Now, apart from your Night Watch or People's Watch  
22 as you now call it, does BNY Mellon security patrol  
23 the area?

24 A. Yes, they do.

25 Q. Can you tell the Court what kind of patrols they

- 1           have --
- 2           A.    Sure.
- 3           Q.    -- and how often.
- 4           A.    About once an hour Allied Barton personnel patrol  
5           the exterior perimeter. During the course of the  
6           Occupation I would see Mr. Jake Reiser of BNY Mellon  
7           corporate security walking through. A gentleman I  
8           know as Will, who's also part of the corporate  
9           security on the Mellon side, would either take  
10          cigarette breaks at the top of our camp or walk  
11          through the exterior as well as Allied Barton and  
12          Mr. Reiser going through either taking pictures or  
13          doing head and tent counts.
- 14          Q.    Now, has BNY Mellon security patrolled in any way  
15          after December 9, after they gave you the eviction  
16          notice?
- 17          A.    Yes. I still see the exterior perimeter patrols by  
18          the Allied Barton staff. Mr. Reiser comes through  
19          about twice a day. Occasionally I see the gentleman  
20          I know as Will from corporate security, and up until  
21          about maybe a week, week and a half ago, I did see a  
22          member of Allied Barton come through to do a head  
23          count.
- 24          Q.    And what exactly is a head count?
- 25          A.    Basically they would -- I can't speak for what their

1 procedures are, but my interpretation is, one, see  
2 how many campers are there, see how many tents are  
3 there, if any more tents or new people popped up.

4 Q. And do they generally observe the area?

5 A. Yes.

6 Q. They don't go into specific tents?

7 A. That is correct.

8 Q. Now, there was some testimony earlier about rules  
9 for the Occupation. Do you folks have a set of  
10 rules?

11 A. Yes, we do. They're pretty basic. One is a zero  
12 tolerance for drugs or alcohol. No minors on the  
13 site after 9 p.m. unless accompanied by a parent or  
14 guardian. We have what's called a Good Neighbor  
15 Policy, which doesn't necessarily apply just to  
16 Occupy Pittsburgh but to BNY Mellon, the community,  
17 anybody coming and going, which is basically treat  
18 each other with respect, treat each other how you  
19 want to be treated. And we also have a zero  
20 tolerance for violence.

21 Q. So there's no violence allowed on the site?

22 A. Correct.

23 Q. That's a rule?

24 A. It's more of a no violence policy which is attached  
25 with the Good Neighbor Policy.

1 Q. Okay. Now, as you're a member of the People's  
2 Watch/Night Watch, have you also had occasion where  
3 you've had to enforce these policies?

4 A. Yes, sir.

5 Q. First of all, how do you generally enforce the  
6 policies?

7 A. Usually I would not confront it myself or with a  
8 second person. We would try to gather as many  
9 members of People's Watch at one time. During the  
10 beginning of the Occupation we were doing four  
11 person teams. So we would, one, try to identify if  
12 indeed there is a legitimate problem, i.e., someone  
13 indulging in drug or alcohol abuse or use on the  
14 site.

15 If indeed there was, we would approach the  
16 person, let them know what has been observed or what  
17 has been brought to our attention, and the majority  
18 of the time, as you approach the person's tent or  
19 the person in general, you could either smell the  
20 alcohol or smell, you know, marijuana or something  
21 like that on them.

22 At that point we would discuss it amongst  
23 ourselves, inform the person that they indeed have  
24 broken our zero tolerance policy, ask them to leave.

25 If they did not have a place to go -- In

1 the beginning it was homeless folks, so we did have  
2 a list of shelters available and/or rehabs. We  
3 would offer to either call and get them placed in  
4 there. If they could not or did not want that help,  
5 we would immediately just ask them to leave the  
6 site.

7 Q. This was a problem early on?

8 A. Correct. There haven't really been any major  
9 incidents aside from a domestic dispute on  
10 December 27 that I'm aware of.

11 Q. Since the early period?

12 A. Correct.

13 Q. Now, have you personally had any conversations with  
14 BNY Mellon security?

15 A. I did. November 4 I spoke with a member of the  
16 corporate security from the Tower, the Mellon Center  
17 located on Grant Street. I believe his name was  
18 Will. And once I introduced myself, he introduced  
19 himself to me.

20 We discussed two incidents that were  
21 pretty much well-known through the camp. That was  
22 involving a synthetic substance used among kitchen  
23 spices. That's my understanding of it. You can  
24 make that a mind altering effect for about 45  
25 minutes, and the presence of an eviction which we

1           dealt with crack cocaine.

2                         At that point he had informed me that,  
3           one, they're not looking to interfere. It's our  
4           land. As far as they're concerned, we needed to  
5           just keep doing what we're doing to take care of the  
6           land and if we ever needed police or to call 911,  
7           there would be glass doors available to us to enter  
8           to get help if we needed further help.

9           Q.    And did you as part of that conversation let Will  
10           know that if there were any other problems or  
11           difficulties or complaints, he could call you?

12           A.   Indeed. He asked for my phone number. I gave it to  
13           him and said, you know, "I'm just one of many that  
14           are among Occupy Pittsburgh. I do not speak for  
15           them," but if at any time there was a question or a  
16           concern to feel free to call me. If I could not  
17           address it myself, I would bring it to the attention  
18           of everybody.

19           Q.    Now, you have an exhibit book.

20           A.    Yes.

21           Q.    A big one that's BNY Mellon.

22           A.    Yes.

23           Q.    If you could take a look at Exhibit 26, which is  
24           entitled the affidavit of Jake Reiser --

25           A.    Yes.

- 1 Q. And within that there's also an Exhibit 7 at the  
2 very end of it. It's attached to other numerical  
3 exhibits. Exhibit 7, just to identify it, when you  
4 get it, is an incident report.
- 5 A. I'm sorry. There's quite a few here.
- 6 Q. Take your time. No rush.
- 7 A. Okay.
- 8 Q. And you'll notice at the bottom of that report  
9 there's an incident narrative.
- 10 A. Yes.
- 11 Q. It starts by saying, "On November 4, 2011, at  
12 approximately 12:09 hours," you, "Occupant Dan  
13 Carpenter reported to AAM Carpenter."
- 14 Do you think that's the person you  
15 reported to?
- 16 A. The guy I spoke to identified himself as Will. I  
17 don't know who AAM Carpenter is.
- 18 Q. Are there any other inaccuracies that you see in  
19 that report?
- 20 A. Yes. It refers to Occupy Pittsburgh security  
21 agents. I never identified myself or the People's  
22 Watch, which was then referred to as Night Watch, as  
23 either security or security agents. He did ask me  
24 if I was one of the security guys, in which I  
25 informed him that I'm a member of the Night Watch.

1                   There is a statement here that says Occupy  
2 Pittsburgh security agents confiscated several items  
3 of contraband from different tents in Mellon Green.  
4 At no point in time did any members -- past,  
5 present, or current -- of the People's Watch  
6 confiscate anything.

7                   If you were found with anything or if we  
8 could smell an odor or presence of alcohol about you  
9 or anywhere on your person, you were asked to leave  
10 immediately.

11           Q.     But you don't confiscate?

12           A.     That is correct.

13           Q.     As you read through, are there any other  
14 inaccuracies?

15           A.     Yeah. There's a substance in here referred to as  
16 J22. I did not make reference to that. I basically  
17 described the spice substance which someone -- and,  
18 by the way, the spice substance is legal. However,  
19 we have asked that people don't do that. And that  
20 was my understanding, some kind of legal version of  
21 J22. I might be mistaken on that. I'm not in the  
22 pharmaceutical business.

23           Q.     Just like alcohol is legal and you ask people not to  
24 use that?

25           A.     Correct.

1 Q. And then it states later that "he acknowledged other  
2 drugs being used in the camp such as marijuana,  
3 crack cocaine, and LSD"?

4 A. I never made any reference to LSD, nor have I heard  
5 any reference of LSD, unless in bad Vietnam movies.

6 Q. Now, apart from your conversation on November 4 with  
7 Will, has any other Mellon security official or any  
8 other Mellon official approached you with any  
9 complaint?

10 A. No.

11 Q. Do you have contact or have you had any contact with  
12 the Pittsburgh Police?

13 A. Indeed I have. The incident Mr. Lawson referred to  
14 with the stolen camera in which someone had called  
15 911, I was present when the police responded to  
16 that. I gave my description of the events as I was  
17 aware of them, in which I stepped out of the  
18 conversation after I gave my version of what  
19 happened to the police.

20 We have had incidents of officers that  
21 drive by, hit their siren real quick, give us a fist  
22 pump.

23 The day of the Macy's Day Parade we had an  
24 officer on his way to the parade detail, was kind of  
25 talking to myself and a gentleman named Jonathan

1 Gray in which Mr. Gray gave the officer a tour of  
2 the camp. And that was not official. The officer  
3 was just curious about what was going on.

4 There have been incidents -- not incidents  
5 but times that actions have interacted with the  
6 police and just polite conversation.

7 Q. Now, did the police ever come to you seeking help  
8 with somebody they wanted to arrest?

9 A. That is correct. And it wasn't just myself. It was  
10 various members of the camp. I can't recall the  
11 date or time, but two plainclothes undercover City  
12 of Pittsburgh officers came on the site with a  
13 picture of a wanted man.

14 His name was John something or other, and  
15 basically they believed he was either staying with  
16 us or on his way to us and if we could help them  
17 find him, that would be appreciated because he was  
18 wanted for not only assaulting a young lady, but he  
19 was also allegedly responsible for assaulting a  
20 police officer.

21 The gentleman in question actually did  
22 stay at our camp the night before, and a gentleman  
23 named Fabian Xavier, who was also a member of the  
24 People's Watch, further worked with the officers to  
25 track that gentleman to another homeless shelter.

1 If my understanding's correct, they caught up with  
2 the gentleman at Shadyside Hospital and he was taken  
3 back into custody.

4 Q. So you helped the police arrest him?

5 A. Correct.

6 Q. And that person presumably has never been back to  
7 camp?

8 A. That is correct.

9 Q. Turn again to the affidavit of Jake Reiser,  
10 Plaintiffs' Exhibit 26. Take a look at Paragraph 46  
11 on Page 12 of that affidavit --

12 A. Okay.

13 Q. -- involving police officers seeking an arrest  
14 warrant for a Mr. Ramone Walker for simple assault.  
15 Do you know anything about this incident?

16 A. Yes, I do. I was doing People's Watch with Jonathan  
17 Gray, a young lady named Sammy Lee and her sister  
18 Abby. We were approached by another member of  
19 People's Watch who was not on that night. His  
20 name's Ryan Kelley.

21 He came up to us, asked us if we heard the  
22 call for help. We did not. And then it turned out  
23 there was a domestic dispute going on inside a  
24 gentleman named Dragon's tent in which case  
25 Mr. Walker and his girlfriend were both homeless.

1 They came to visit this Dragon gentleman.

2 Dragon, to my understanding, is also  
3 homeless but was using one of our tents, and some  
4 kind of domestic dispute got physical inside the  
5 tent. Mr. Walker had originally fled the site. The  
6 young lady in question did indeed call 911.

7 While we were waiting for the police, I  
8 not only got a physical description of Mr. Walker,  
9 his full name, cell phone number, what he was  
10 wearing for when the officers responded, but  
11 Mr. Walker did indeed come back on site and was met  
12 by several members of the camp. He did then again  
13 left after being told, you know, he's not welcome to  
14 be on site.

15 The Zone 2 officers did respond. I passed  
16 that information off to them. The young lady  
17 discussed what was going on with the officers who  
18 did not get out of their vehicle. They stayed in  
19 their vehicle the entire time while taking the  
20 report, and it was my understanding after that that  
21 the young lady went home and there was indeed an  
22 arrest warrant being filed for Mr. Walker.

23 Q. And Mr. Walker was not an Occupy Pittsburgher or not  
24 a part of the Occupy movement?

25 A. No, sir. We do get a lot of homeless that do come

- 1 through, and we're more than happy to provide  
2 shelter, food, clothing if need be. Not each and  
3 every one of them understand or even know what we're  
4 doing down there, but they do come through.
- 5 Q. But they have to obey your policies?
- 6 A. That is correct.
- 7 Q. And if they don't, they're asked to leave?
- 8 A. Correct.
- 9 Q. Now, was there ever a propane heater or heaters on  
10 the site?
- 11 A. Yes, there were.
- 12 Q. And then after the guidelines came out, did you  
13 remove those?
- 14 A. Yes. We were in the process of doing so.  
15 Mr. Reiser's testimony says I believe it was on the  
16 10th that there were still some propane there. That  
17 is indeed accurate. We were in the process of  
18 removing that, but due to limited availability of  
19 vehicles, we obviously did not get it all removed  
20 immediately, immediately after those guidelines.
- 21 Q. But in the period of time immediately before the  
22 eviction notice, were there any propane heaters  
23 there?
- 24 A. No, sir. There was nothing on site.
- 25 Q. And have there been any propane heaters there since

- 1 the eviction notice?
- 2 A. No, sir.
- 3 Q. Now, you heard Mr. Booker ask a question, could  
4 somebody bring a propane heater?
- 5 A. Yes.
- 6 Q. What is your understanding of what would happen,  
7 what you would do if somebody brought a propane  
8 heater?
- 9 A. They're welcome to bring it, but they're going to be  
10 immediately asked to remove it from the site. And  
11 then if they have issue with that, they would be  
12 asked to leave because respecting the guidelines of  
13 BNY Mellon, be it even though we're fighting against  
14 them, those guidelines do hold value with us, and  
15 that would be not only putting us at risk but  
16 putting themselves at risk.
- 17 Q. What if somebody brought some other dangerous  
18 material to the site? What would you do?
- 19 A. I personally would ask them to leave and give  
20 advisement that whatever they're bringing is not  
21 only a danger to himself, myself, but the rest of  
22 the camp and this movement in general.
- 23 Q. And would you see that as against your general  
24 policies that the General Assembly have adopted?
- 25 A. It would be.

- 1 Q. Now, were there also other kind of cooking equipment  
2 like turkey fryers or other cooking equipment at  
3 that site?
- 4 A. Yes, we did have burners for cooking and the turkey  
5 fryer, but my understanding -- and I'm not  
6 affiliated with the food working group, so I neither  
7 prepared food nor operated such devices. My  
8 understanding was the turkey fryer in question was  
9 used to boil hot water so people could not get sick  
10 off of eating off their dirty dishes.
- 11 Q. And, now, turning back to Mr. Reiser's affidavit, in  
12 Paragraph 29, Page 8 --
- 13 A. Okay.
- 14 Q. -- he talks about this heat tent and that the  
15 Occupiers had inside a kerosene heater. Is that  
16 correct?
- 17 A. That is inaccurate. The heater in the heating tent  
18 was a propane heater.
- 19 Q. Again, on Mr. Reiser's affidavit, in Paragraph 31 he  
20 says that there was one fire set in a barrel which  
21 occurred on or about December 3, 2011.
- 22 Were you there at the Occupy site in 2011?
- 23 A. Indeed I was.
- 24 Q. Were you there for either the whole day or almost  
25 the whole day?

1 A. I might have stepped off to either eat or if there  
2 was an action that day, I might have stepped off.

3 Q. Did you see any fire in the barrel?

4 A. I did not.

5 Q. Would you have noticed a fire in the barrel?

6 A. I definitely would, and I would have heard about  
7 such a thing.

8 MR. LOBEL: Your Honor, I just want to  
9 follow up what Mr. Healey said, which is that  
10 yesterday I did ask for the film of such a  
11 fire, but they haven't located it yet. And  
12 if they do, we'd like --

13 THE COURT: I think that's been agreed  
14 to by Mr. Booker on behalf of BNY Mellon.

15 Q. Are there any fire barrels there now?

16 A. There are not.

17 Q. Now, do you have a plan for snow removal in case it  
18 snows?

19 A. I had taken part in that conversation with BNY  
20 Mellon with Mr. Lawson and Mr. Reichbaum, but the  
21 third week -- the third week I brought a snow shovel  
22 down. I do believe we have some rock salt, I don't  
23 know how much, in our mess tenant.

24 Q. So there are shovels and rock salt?

25 A. Correct, based on the conversation with BNY Mellon

- 1 the day Mr. Lawson, Bram, and I went in. I thought  
2 we would have to do it ourselves.
- 3 Q. Now, I was out of town last week someplace warm, but  
4 I understand that it snowed --
- 5 A. Yes.
- 6 Q. -- one day last week. Were you in at the encampment  
7 when it snowed?
- 8 A. I was. I had woken up and went over Bruegger's to  
9 work on a few things.
- 10 Q. Were the pedestrian walkways kept free of snow?
- 11 A. The exterior perimeter was at the time I had woken  
12 up to leave. The interior of Mellon Green sidewalks  
13 were not cleared off yet.
- 14 Q. And were they later cleared off?
- 15 A. They were.
- 16 Q. Okay. And it's your understanding that the  
17 Occupiers did that?
- 18 A. Yes.
- 19 Q. You didn't do it yourself?
- 20 A. I didn't do it myself, no. I wasn't present when it  
21 was removed, though.
- 22 Q. You were with Mr. Lawson when you went to talk to  
23 BNY Mellon about snow removal?
- 24 A. Yes.
- 25 Q. Okay. Let me discuss the incidents with Ken Miller,

1 which, again, is discussed in Mr. Reiser's  
2 affidavit, Paragraph 34, 35, and 36.

3 A. Okay.

4 Q. Can you explain what happened with Mr. Miller. Was  
5 there one incident, two incidents, and how it was  
6 dealt with?

7 A. Previous to November 28, Ken Miller is a member of  
8 the IWW and had approached us with a tent. He  
9 wanted a union headquarters, as it were, on our  
10 site, which was something I wasn't okay with, but,  
11 you know, it's open to anybody that wants to come  
12 camp, join us, whatever.

13 So he had decided and asked me what I  
14 thought about placing his tent on the BNY Mellon  
15 flower bed located at the Grant side entrance  
16 closest to the BNY Mellon Service Center, or not  
17 service center but the BNY Mellon Tower Building.  
18 I'll call it that.

19 I did advise him that that was not the  
20 best choice or smart. My understanding is a couple  
21 campers after the fact discussed that with him as  
22 well, but he put it up anyway. And then on  
23 November 28 we noticed landscapers coming in getting  
24 ready planting bulbs for the next season of flowers  
25 for the BNY Mellon Park.

1 And Mr. Miller was not on site that day.  
2 We tried calling him, tried getting ahold of him  
3 through the IWW, frantic calls by other people to  
4 him, no answers. So myself, Jonathan Gray, a  
5 gentleman named Steve Cooper, and I believe one  
6 other person took it upon ourselves to remove  
7 Mr. Miller's tent.

8 As we were starting to remove Mr. Miller's  
9 tents, the gardener actually was working around us  
10 in which we apologized for the inconvenience, let  
11 him know we were removing the tent and that we  
12 should be out of the way shortly.

13 Part of that tent was a giant canopy of  
14 some sort over top on poles which were drilled into  
15 a couple concrete blocks. We were at the time  
16 unable to disassemble the canopy, so we had moved it  
17 which was covering -- not covering or in the way of  
18 the sidewalk but basically on that sidewalk where  
19 the garden was, you would have to walk under the  
20 canopy.

21 And, again, we tried contacting Mr. Miller  
22 to come down and remove it. We tried to let him  
23 know we moved his tent, whatnot.

24 It's my understanding later in the day a  
25 very angry Ken Miller came down upset that not only

1 his tent was moved, but I do believe he got  
2 confrontational not only with Occupiers but there  
3 was a discussion between Mr. Miller as well as BNY  
4 Mellon corporate security.

5 Q. And that was dealt with without any violence?

6 A. Correct. I believe an Occupier actually stepped in  
7 with Mr. Miller and deescalated the situation,  
8 convinced him it was for the best of everybody to  
9 just go.

10 Q. So it was dealt with under this deescalation policy?

11 A. Correct.

12 Q. You didn't have to go to General Assembly to do  
13 that?

14 A. No.

15 Q. You were able to do that as a group?

16 A. Correct. At that point that was impeding more  
17 members of the 99 percent from doing their job, and  
18 it was also inconveniencing BNY. We try to  
19 accommodate BNY as much as possible when it pertains  
20 to their requests and their employees trying to  
21 work.

22 Q. Do you now have safety equipment at the site?

23 A. Yes, we do. We have what's called a first aid tent  
24 which has your standard Band-aids, cold medicine,  
25 gauze, ice packs, things of that nature. We also

1 have fire extinguishers available. We have a doctor  
2 from Operation Safety Net that comes by, and we also  
3 have his number if we need to call him as well as a  
4 certified nurse that comes down.

5 Q. And, by the way, from your testimony already I  
6 understand that anyone can always call 911?

7 A. That is correct.

8 Q. And they have?

9 A. Correct.

10 Q. Do you currently have a generator at the site?

11 A. As of a couple of days ago, no, we do not. We did  
12 get a permit from the City of Pittsburgh. We did  
13 bring back a small generator that was placed on the  
14 sidewalk on the Ross Street side. But over the  
15 weekend someone either tripped over it or damaged it  
16 somehow some way, and the generator no longer  
17 functions properly so we removed it from the site.

18 Q. When the generator was working, did you have wires  
19 going through the site as was testified to  
20 yesterday?

21 A. Yes, we did. From the generator going into what's  
22 called our mess tent is an orange extension cord.  
23 So basically it would come out the generator in the  
24 flower bed a little bit onto the concrete into the  
25 bushes into our mess tent, in which case the wires

1 that were exposed on the concrete were anchored down  
2 by duct tape, and then a large black I guess I'll  
3 call it a slip mat was placed over top of that.

4 Q. And you took these measures to prevent any unsafe  
5 condition from developing?

6 A. That is correct.

7 Q. Now, there was discussion in Mr. Lawson's testimony  
8 about cleanup December 11.

9 A. Yes.

10 Q. This wasn't a spontaneous cleanup?

11 A. No, it was not.

12 Q. It was, as I understand it, decided at a General  
13 Assembly meeting several weeks before?

14 A. That is correct.

15 Q. And has the camp -- Did this cleanup work  
16 successfully in making the camp a better physical  
17 place to be?

18 A. Indeed. It also allowed us to organize a few  
19 things. In the beginning on October 15, the first  
20 week, a lot of us just kind of got there and threw a  
21 tent down wherever we had space for it. In this  
22 case the Grant Street lawn is now clear. Some of  
23 the grass is starting to grow again.

24 A lot of friendships that were made after  
25 the Occupation started, they were able to move

- 1 closer to each other and, as the anarchists in our  
2 camp would said, anarchy-ville was rebuilt to a  
3 satisfactory level.
- 4 Q. Now, have you seen many people go by on the walkway  
5 into camp?
- 6 A. It varies per time of day, but, yes, I have.
- 7 Q. And have you ever seen a person in a wheelchair go  
8 by there?
- 9 A. Yes, I have.
- 10 Q. And have you seen parents with strollers?
- 11 A. Yes.
- 12 Q. Is there any cooking now?
- 13 A. Cooking now on site? No.
- 14 Q. So you get your food totally by donation now?
- 15 A. Correct. Or if you're really hungry, you take a can  
16 opener to one of the cans of beans in the cabinets  
17 in the mess tent.
- 18 Q. To your knowledge, has there ever been a weapon  
19 brought on site?
- 20 A. To my knowledge, no, they have not.
- 21 Q. And if somebody brought a weapon on site?
- 22 A. They would be asked to remove it immediately. And  
23 if they didn't, they would be asked to leave.
- 24 Q. There was some discussion about this honor system  
25 that you have where everybody's responsible for

1 their own behavior, in addition to the People's  
2 Watch?

3 A. Yes.

4 Q. Would you characterize that as similar to what in  
5 the military is used in West Point Navy, the naval  
6 academy, as an honor system where people have to  
7 report their own, take care of themselves, report  
8 their own violations?

9 A. Yes. It's not the exact system, but it's very  
10 similar.

11 Q. Okay. Just a few more questions.

12 As you testified, you're a veteran?

13 A. That is correct.

14 Q. Are there a number of other veterans that the camp?

15 A. Yes, there are. Myself and a gentleman John Paylor  
16 are probably the only two that physically stay on  
17 site. We have a couple Vietnam vets that come  
18 around, as well as there are some other Iraqi  
19 veterans onsite. We have support of the Iraqi  
20 Veterans Against the War, the Veterans for Peace  
21 representative on site.

22 Q. As a veteran, you have familiarity with dangerous  
23 conditions, I assume?

24 A. Unfortunately, yes.

25 Q. Are there any dangerous conditions that you can

1 observe on the site right now?

2 A. No, I cannot.

3 Q. If Mellon Bank came to you and pointed out some  
4 dangerous condition, what would you do?

5 A. I would address the situation as quickly as I could.  
6 If I could not remedy the situation myself, I would  
7 bring it to the camp as a collective, as This is  
8 something that was identified as dangerous. What  
9 can we do to make it right?

10 Q. Now, you gave Will your phone number, your personal  
11 cell phone number?

12 A. That is correct.

13 Q. Has he ever or anybody from Mellon ever called you  
14 with any complaint or --

15 A. No, they have not.

16 MR. LOBEL: I have no other questions.

17 THE COURT: Okay. As it is 20 after  
18 11, I think this is probably a good time to  
19 take our mid-morning humanitarian break. So  
20 why don't we reassemble at 20 of 12.

21 MR. BOOKER: Thank you, Your Honor.

22 (Short recess taken.)

23 MR. BOOKER: May I proceed, Your Honor?

24 THE COURT: You may.

25 - - -

CROSS-EXAMINATION

BY MR. BOOKER:

Q. Before I mark it as an exhibit -- I'm sorry. You were in the courtroom when I introduced myself. I'm Dan Booker.

A. Yes. Good morning.

Q. Good morning.

Before I mark it as an exhibit, I want to show you a photograph and ask if you recognize the person in that photograph.

A. I do not recognize the gentleman in the photograph.

Q. Do you recognize the site where the photograph was taken?

A. Yes. That is our -- what looks like at the time was our mess tent.

MR. BOOKER: I'd like to mark this, Your Honor, as Plaintiffs' Exhibit 33. I'll have to put a sticker on it.

Q. So this is -- I'm sorry. Which site in the Occupation did you say this is?

A. That would look like what was the original form of the mess tent at the time.

Q. So this was early on?

A. Correct.

Q. And that thing in the lower right-hand corner there,

- 1           that's a propane tank?
- 2           A.    Indeed that looks like what would be a 20-pound
- 3           propane tank.
- 4           Q.    Can you make out the device that's underneath the
- 5           frets of the guitar?
- 6           A.    May I see the picture again? I'm sorry.
- 7           Q.    I'm sorry. I apologize. Can you make -- I'll ask
- 8           a leading question since it's cross-examination.
- 9                        Is that the turkey fryer that's underneath
- 10          the frets of the guitar?
- 11          A.    I see the propane tank, but I do not see a turkey
- 12          fryer. Are you referring to what's behind it but,
- 13          like, directly underneath the gentleman's bridge at
- 14          the top of the guitar? Yes, that would be the
- 15          burners which we used for the kitchen.
- 16          Q.    That's immediately to the left of the propane tank;
- 17          correct?
- 18          A.    That is correct.
- 19          Q.    And you testified that it took a little while after
- 20          the guidelines of November 1 were issued to clear
- 21          the propane tanks out of the site; is that correct?
- 22          A.    That is.
- 23          Q.    Isn't it true that on November 10 you issued a call
- 24          for more propane tanks to be brought to the site?
- 25          A.    Myself directly or more people?

- 1 Q. You.
- 2 A. I would have to go back and look.
- 3 Q. Do you tweet?
- 4 A. Yes, I do.
- 5 Q. On November 10 did you tweet?
- 6 A. I rarely keep track of what dates I tweet, but I
- 7 would have to look at it, yes.
- 8 Q. Excuse me. My memory is failing me.
- 9 A. No problem.
- 10 Q. On November 11 at 9:14 p.m., did you tweet "Occupy
- 11 Pittsburgh is in need of propane tanks of all sizes,
- 12 blankets, and thermal undergarments"?
- 13 A. Again, I would have to go back and look because I
- 14 don't keep track of what I post after I tweet it.
- 15 Could be possible. I'm not 100 percent sure.
- 16 Q. When I was a younger man we had CB radios. We had
- 17 handles. If you had a CB radio you had a handle.
- 18 Do you have a name on your Twitter account?
- 19 A. Yes, I do.
- 20 Q. And is that name Nunyaman?
- 21 A. That is correct.
- 22 Q. So if you go to the publicly available Twitter site
- 23 and look for Don Carpenter at Nunyaman, you can see
- 24 the things that you tweet; is that correct?
- 25 A. That is correct, how it works.

1 MR. BOOKER: Your Honor, I'd like to  
2 offer Plaintiffs' Exhibit 33 into evidence.

3 THE COURT: Any objection to 33?

4 MR. LOBEL: Nope.

5 THE COURT: 33 will be admitted.

6 Q. Let me show you also before I mark it a photograph  
7 and ask if you recognize it as a photograph of the  
8 Occupy site.

9 A. That is. This is a photograph of what we refer to  
10 as the Canadian Club.

11 Q. The Canadian Club? What is that?

12 A. Are you referring to the device to the right of the  
13 umbrella base?

14 Q. No. You said that this was a place you identified  
15 as the Canadian Club.

16 A. Oh, the Canadian Club in general, it's a local  
17 hangout for the musicians of the group I guess you  
18 could say. They go there, go up there, play music,  
19 BS.

20 Q. Okay. And that's on the Occupy site on the Green?

21 A. Indeed it is.

22 Q. Okay. What is that device that's to the right of  
23 the umbrella stand?

24 A. That is a hookah.

25 Q. What's a hookah used for?

- 1 A. Primarily for tobacco. You can get exotic tobaccos  
2 through any of the various hookah locations in South  
3 Side or the City of Pittsburgh.
- 4 Q. And does Occupy Pittsburgh permit the use of the  
5 hookah with tobacco?
- 6 A. Indeed we do.
- 7 Q. Does it permit the use of the hookah with marijuana?
- 8 A. No.
- 9 Q. Or with any other substance?
- 10 A. That is correct. No.
- 11 MR. BOOKER: Your Honor, I'd offer  
12 into -- One more question.
- 13 Q. And are you aware or have you observed on the site  
14 coming up out of the ground about a foot and a half  
15 or 18 inches "No Smoking" signs?
- 16 A. The only nonsmoking sign I've noticed on the  
17 People's Park, a/k/a Mellon Green, is near the David  
18 Melcher memorial plaque, which is a plaque that says  
19 "Smoke Free Zone."
- 20 Q. What's the David Melcher memorial plaque?
- 21 A. That is a gentleman that worked for Mellon Bank that  
22 also served his country I believe in Iraq and  
23 unfortunately was a casualty of war.
- 24 Q. That was something that was on the site when you  
25 began to occupy it; is that correct?

- 1           A.    That is correct.
- 2                           MR. BOOKER:  Your Honor, I'd like to
- 3                           offer Plaintiffs' Exhibit 34 into evidence.
- 4                           THE COURT:  Any objection to 34?
- 5                           MR. LOBEL:  Nope.
- 6                           THE COURT:  34 will be admitted.
- 7           Q.    I take it the Will that you referenced is a security
- 8                           guard at BNY Mellon?
- 9           A.    Yes, sir.
- 10          Q.    He's not a relative of yours?
- 11          A.    I'm sorry?
- 12          Q.    He's not a relative of yours?
- 13          A.    No, sir, he is not.
- 14          Q.    You'd be surprised to know his last name is
- 15                           Carpenter?
- 16          A.    Indicated from the report from the affidavit,
- 17                           probably.
- 18          Q.    You think it's the same guy?
- 19          A.    It could be.  The reference of the AAM Carpenter in
- 20                           the report makes me question that, though.
- 21          Q.    You testified regarding a domestic dispute on
- 22                           December 27, a couple days after Christmas.  What
- 23                           was that about?
- 24          A.    That was -- As we said, we had a homeless person
- 25                           named Dragon staying in what's called our guest

1 tent. There were two other homeless people that --

2 Q. I'm sorry. What was his name?

3 A. Dragon. That's the only name we know of him.

4 Q. Like if there's a dragon in your neighborhood, you  
5 better --

6 A. Something like that. His catch phrase is "Don't  
7 tempt the Dragon." I don't know what that means,  
8 though.

9 Q. What?

10 A. His catch phrase is "Don't tempt the Dragon." I  
11 don't know what that means. But this young lady and  
12 Mr. Walker were in his tent that night. Apparently  
13 there was some kind of dispute inside the tent. I  
14 was not a witness to that, but the young lady  
15 involved did come out with marks and a swollen arm  
16 right around the wrist area.

17 And at that point she had let us know that  
18 she had called 911, and we proceeded to, one, make  
19 sure Mr. Walker, if he was still on site, he was off  
20 site and/or when he did come back we tried talking  
21 to him down at the bottom of the camp waiting for  
22 Zone 2 to arrive. Unfortunately, they did not  
23 arrive in a timely fashion, so Mr. Walker had took  
24 off before the police got there.

25 Q. So the record is clear, Dragon and Mr. Walker are

- 1 the same person?
- 2 A. No. They are two separate people. I'm sorry.
- 3 Dragon was staying in the tent. Mr. Walker and what
- 4 is his girlfriend -- I don't know her name -- were
- 5 visiting Mr. Dragon.
- 6 Q. Have there been any occasions when you've had to get
- 7 physical with people on the Green?
- 8 A. Myself personally, no, I've not.
- 9 Q. Are you aware of other situations where people in
- 10 People's Watch have had to get physical?
- 11 A. We have surrounded certain people when they refused
- 12 to leave, at which case it's a maneuver taken from
- 13 Occupy Wall Street where you would basically
- 14 surround the person, limit their field of movement
- 15 and kind of -- the only option for them at this
- 16 point is to walk towards the nearest exit.
- 17 Q. Have you participated in any of those situations?
- 18 A. Yes, I have.
- 19 Q. You've testified to a number of interactions with
- 20 BNY Mellon or BNY Mellon contractor representatives;
- 21 is that correct?
- 22 A. Yeah, the landscapers.
- 23 Q. Well, landscapers, and you've interacted with the
- 24 security guards?
- 25 A. The Allied Barton, aside from saying "Hello. How

- 1                   you doing," that's beyond --
- 2           Q.    Have you interacted with any other BNY Mellon
- 3                   employees?
- 4           A.    I have done a mike check on Mr. Reiser in action at
- 5                   one point.
- 6           Q.    Have you found them at any point in time to be
- 7                   anything other than approachable, amiable,
- 8                   respectful?
- 9           A.    That is correct.
- 10          Q.    Would you describe the way they acted towards you as
- 11                   arrogant?
- 12          A.    Based on my interaction with Will and the Allied
- 13                   Barton guards, no, I'd not.
- 14          Q.    The generator that was on the sidewalk -- First of
- 15                   all, it's been several times mentioned, but there
- 16                   was a permit issued by the City for that generator?
- 17          A.    Correct.
- 18          Q.    Who got that permit?
- 19          A.    Bram Reichbaum.
- 20          Q.    Do you know what it takes to get a permit?
- 21          A.    I myself do not.
- 22          Q.    Are you aware whether if you go in with \$75 and a
- 23                   filled out application you get the permit?
- 24          A.    I understand we did pay \$75 for a permit.
- 25          Q.    What fuelled the generator?

- 1 A. The generator uses gasoline.
- 2 Q. So every once in a while you had to fill it up with  
3 gasoline?
- 4 A. That is correct.
- 5 Q. Where was the gasoline kept?
- 6 A. The gasoline was kept offsite. I do believe -- I'm  
7 not 100 percent sure -- the condition of the permit  
8 was no gas cans were to be stored on site or  
9 anywhere near the generator.
- 10 Q. Before going to secure the permit, did anyone ask  
11 BNY Mellon if it consented to having it?
- 12 A. I'm sorry. Could you repeat that.
- 13 Q. Before the permit was secured, did anybody go to BNY  
14 Mellon and ask for its consent to have a generator  
15 permitted on the sidewalk?
- 16 A. I personally am unaware of any conversation.
- 17 Q. That permit was for two weeks?
- 18 A. I believe for 15 days, if I understand correctly,  
19 how it was explained to me.
- 20 Q. I think you may be right. But it's not there  
21 currently?
- 22 A. The generator? No, it's not. It was damaged over  
23 the past weekend.
- 24 Q. And do you have any knowledge about how that  
25 happened?

- 1           A.    I do not.  A theory is someone either waited for us  
2                    to go to sleep and slammed it on its side or just  
3                    kicked it or tipped it over.
- 4           Q.    Mr. Lobel asked you if the Occupy Pittsburgh mode of  
5                    operation is like the honor code at Annapolis or  
6                    West Point.  Do you recall that question?
- 7           A.    Yes.
- 8           Q.    Can anybody join, go to Annapolis or West Point the  
9                    way anybody can join Occupy Pittsburgh?
- 10          A.    They cannot.  That's why I said it's similar based  
11                    on the honor code system.
- 12          Q.    Has the General Assembly adopted any kind of  
13                    sanction or penalty for failing to observe the honor  
14                    code?
- 15          A.    No.  But our honor code would be referred to as our  
16                    nonviolence policy, good neighbor policy, things of  
17                    that nature.
- 18          Q.    Where were you on New Year's Eve?
- 19          A.    New Year's Eve?  I was on the Occupy Pittsburgh  
20                    site, and then I took part in an independent  
21                    organized event called the Global Noise demo.
- 22          Q.    I'm sorry.  The what?
- 23          A.    The Global Noise demo.
- 24          Q.    When you say "independent," you mean it was not an  
25                    Occupy Pittsburgh event?

- 1 A. That is correct. Someone else had organized it, and  
2 myself and a few other people from Occupy Pittsburgh  
3 did go, but that was not an organized or sanctioned  
4 Occupy Pittsburgh event.
- 5 Q. I apologize. Global Noise --
- 6 A. Global Noise demo, correct.
- 7 Q. How many people were at that demo?
- 8 A. There was approximately 27, 28 people.
- 9 Q. How many of them were people you know to be  
10 associated with Occupy Pittsburgh?
- 11 A. Maybe six to ten? I can't really 100 percent  
12 speculate.
- 13 Q. Was one of those people a gentleman by the name of  
14 Matthew Wheeler?
- 15 A. Yes.
- 16 Q. He was an Occupy Pittsburgh supporter?
- 17 A. Yes, he is.
- 18 Q. And is he a camper?
- 19 A. Occasionally he'll stay with us. He doesn't have  
20 his own tent. But for the most part he'll live  
21 offsite or -- I believe he works at Buffalo Wild  
22 Wings. I'm not 100 percent sure on that.
- 23 Q. Where was the Global Noise demo held?
- 24 A. That was held at the Allegheny County Jail, or  
25 outside of it, rather.

- 1 Q. I'm sorry?
- 2 A. Outside of the Allegheny County Jail.
- 3 Q. Was that right near also a building called the
- 4 Municipality Courts Building?
- 5 A. That is correct.
- 6 Q. Are you aware of damage, six windows that were
- 7 broken at the Municipal Courts Building that
- 8 evening?
- 9 A. After we were informed by sheriff's deputies and
- 10 City of Pittsburgh Police, yes, we were.
- 11 Q. Did you see the damage yourself?
- 12 A. We did not. Or -- excuse me -- I did not.
- 13 Q. Other members of Occupy Pittsburgh might have?
- 14 A. I can't speculate to what other people think or see.
- 15 Q. You don't know one way or the other?
- 16 A. Correct. I do know they had security cameras there,
- 17 so that probably caught the parties responsible.
- 18 Q. At a point in that Global Noise demo, were you
- 19 stopped by the police or sheriff's deputies?
- 20 A. We were stopped at gunpoint by two Allegheny County
- 21 sheriffs jumping out of a paddy wagon.
- 22 Q. And what happened?
- 23 A. My understanding, when we were told to get up
- 24 against the wall at gunpoint, the sheriff then
- 25 radioed that shots were fired, at which point every

- 1 available unit in the City of Pittsburgh responded.
- 2 Q. Was anybody arrested?
- 3 A. Matthew Wheeler was on an unrelated bench warrant, I  
4 believe.
- 5 Q. Warrant for what?
- 6 A. I can't speculate to what his charges are.
- 7 Q. You know Mr. Wheeler?
- 8 A. I know him from the site. I don't know him  
9 personally.
- 10 Q. Did he tell you what the bench warrant was for?
- 11 A. He did not.
- 12 Q. Did you take part in his release from jail?
- 13 A. I did not donate any money, but I was one of the  
14 people that were there when he was released.
- 15 Q. When he was released, did you bring him back to the  
16 Occupy site?
- 17 A. Yes, we did.
- 18 Q. And did you tweet about this event while it was  
19 happening?
- 20 A. The Global Noise demo or Mr. Wheeler's release?
- 21 Q. The Global Noise --
- 22 A. Yes, I did do that tweet. I do remember it. It was  
23 "Being held at gunpoint with 20 of my friends, Best  
24 New Year's ever," something to that effect.
- 25 Q. If I told you that my record of your tweet says that

- 1           you said -- Good memory.
- 2           A.    Thank you.  That one, you can't forget that one.
- 3           Q.    "Being held at gunpoint by the cops for New Year's
- 4           with 20 other protesters is the best thing ever"?
- 5           A.    Yes.
- 6           Q.    Did you also tweet just a little bit earlier, "Being
- 7           held at gunpoint by police at a protest.  Ha, ha,
- 8           ha, ha, ha"?
- 9           A.    Yes, I did.  I can explain that if you'd like.
- 10          Q.    I'm sure your lawyers will want you to explain it.
- 11          A.    Okay.
- 12          Q.    Then two days later on January 2, is that when you
- 13          went to the jail to get Mr. Wheeler?
- 14          A.    When Mr. Wheeler was released, yes.
- 15          Q.    Did you tweet about that?
- 16          A.    I believe I tweeted something to the fact that he
- 17          was being released and I was going to get our boy
- 18          back or our boy was released, something to that
- 19          effect.
- 20          Q.    Do you accept my representation that you tweeted at
- 21          9:14 on the night of January 2, "Heading to the
- 22          ACJ" -- Is that the Allegheny County Jail?
- 23          A.    That is correct.
- 24          Q.    "Heading to the ACJ to await the release of an
- 25          Occupier"?

1 A. Yes.

2 Q. And then 18 minutes later at 9:37, did you tweet,  
3 "Our boy is out of jail, heading back to Occupy"?

4 A. That is correct.

5 MR. BOOKER: I have no further  
6 questions, Your Honor.

7 THE COURT: Okay.

8 MR. BOOKER: I have one further  
9 question because I can't resist.

10 Q. I just feel like such a fuddy-duddy. I don't know  
11 this stuff.

12 Did you tweet on January 5, at 4:24 a.m.,  
13 "Giant Occu cuddle puddle going down right now"?

14 A. Indeed I did.

15 Q. Is that a good thing or a bad thing?

16 A. That's a good thing, and I can explain that for you  
17 or you can let our lawyer ask me that.

18 Q. I looked it up in Wikipedia. What's an Occu cuddle  
19 puddle?

20 A. A cuddle puddle is basically -- I arrived. I was  
21 offsite. I got back at camp. There were a good six  
22 or seven people in our meeting tent, which is a  
23 subzero tent, and we all basically stayed in there  
24 all night BSing, cracking jokes. And then, in  
25 essence, we all fell asleep in the tent together.

1 Some of us got up earlier than others. Some of them  
2 had to be shoved awake by an angry morning meeting  
3 that was taking place the next day.

4 Q. When I had a daughter of a certain age we would have  
5 called that a pajama party.

6 A. Yeah, you could say that.

7 MR. BOOKER: Now I have no further  
8 questions.

9 THE COURT: For now. Mr. Lobel.

10 - - -

11 **REDIRECT EXAMINATION**

12 **BY MR. LOBEL:**

13 Q. I have three matters I want to clear up. One is on  
14 the propane heaters.

15 You say that -- You testified that there  
16 was cooking going on at this site at least up until  
17 the guidelines and somewhat beyond the guidelines?

18 A. That's correct.

19 Q. Was it possible for you to stop the cooking as soon  
20 as the guidelines were issued?

21 A. It was. It was a matter of getting everything out  
22 of there.

23 Q. All right. But did you have -- did you also have to  
24 get donated food to a place where you could cook it?

25 A. Yes.

- 1 Q. And did that take you some time?
- 2 A. To my knowledge, it did.
- 3 Q. So the cooking continued for a little bit?
- 4 A. Correct.
- 5 Q. So for a little while you were using propane heaters
- 6 or you were using some kind of heaters?
- 7 A. The burner system used in the kitchen was using
- 8 propane.
- 9 Q. Okay. Now, you were here yesterday?
- 10 A. Yes.
- 11 Q. And yesterday in Mr. Booker's opening he referred to
- 12 Exhibit 9, which is in that big book of yours, and
- 13 it is a page from the Occupy Pittsburgh website. It
- 14 looks like at least when --
- 15 A. Is that BNY Mellon's exhibit or ours?
- 16 Q. Plaintiffs' Exhibit 9, not our Exhibit 9. It's not
- 17 in Reiser's.
- 18 A. Okay.
- 19 Q. That also asks for short, 15-pound propane
- 20 cylinders. Do you see that?
- 21 A. Yes, that is correct, on this document.
- 22 Q. And at the bottom that's dated 11/30/2011?
- 23 A. That is correct.
- 24 Q. At that point in time, were you accepting any
- 25 propane heaters?

- 1 A. To my knowledge, we were not.
- 2 Q. And were you requesting any propane heaters?
- 3 A. No, we were not.
- 4 Q. So how do you account for that?
- 5 A. The website?
- 6 Q. Yes.
- 7 A. This document? It could be printed out at any time.
- 8 I'm not a part of the web team, but my understanding
- 9 is there's an online archive of everything we post
- 10 out there. So if I post or -- I'm sorry -- if they
- 11 post something on there today, you could go two
- 12 months from now and pull it up or click a link or
- 13 something like that.
- 14 Q. And also is it possible that this was put out
- 15 earlier and just wasn't updated perfectly?
- 16 A. I can't speak for our web development team, but it's
- 17 possible.
- 18 Q. Do they update the website every day?
- 19 A. I can't speculate on that.
- 20 Q. Okay. So at least for a little while, beginning
- 21 part of November, you still were using propane
- 22 heaters?
- 23 A. That is correct.
- 24 Q. Okay. Second, I asked you if there was ever a
- 25 flame, if you noticed any flame in a barrel on

1 December 3.

2 A. Correct.

3 Q. And you answered no?

4 A. Correct.

5 Q. Is that correct? I want to show you what I'd like  
6 marked as Defendant's Exhibit K. I, unfortunately,  
7 don't have a copy of this because Mr. Booker gave it  
8 to me about a half hour ago.

9 But maybe you can read, just so everybody  
10 knows it --

11 MR. LOBEL: I assume you don't have  
12 another copy; right?

13 MR. BOOKER: I'm sorry. I don't.

14 For the Court's information, we  
15 provided a copy of the security camera  
16 showing smoke from a barrel, and this is an  
17 incident report that reports the officer's  
18 seeing a barrel.

19 MR. LOBEL: I haven't been able to look  
20 at the video, but I do have the incident  
21 report, and I think it will clear up one  
22 piece of testimony.

23 Q. So this is an incident report dated when?

24 A. Dated December 3, 2011 at 5 a.m.

25 Q. And it appears to be from Mellon security?

1 A. That is correct.

2 Q. Okay. Would you read just for the Court what the  
3 narrative of the incident report says.

4 A. Sure. The incident description is referred to as  
5 barrel fire in Occupy camp. The incident narrative  
6 by Mr. Brian Biesenkamp -- I'm sorry if I don't do  
7 his name justice -- states that on Saturday,  
8 12/3/11, at 05:00 hours, Dennis Henshon was walking  
9 past the Occupy Pittsburgh camp and observed smoke  
10 coming from within.

11 "Closer observation discovered the smoke  
12 coming from a 55 gallon barrel. No actual flames  
13 could be seen. Henshon and Saul Wells proceeded to  
14 go to the roof of the BNY Mellon Client Service  
15 Center for a better vantage point. Upon arrival on  
16 the roof at approximately 5:06 a.m., no additional  
17 smoke could be seen.

18 "Two photos were taken, and notifications  
19 were made. No additional information is available  
20 at this time."

21 MR. LOBEL: I'll introduce this as --

22 MR. BOOKER: No objection.

23 THE COURT: No objection?

24 MR. HEALEY: K.

25 THE COURT: K?

1 MR. LOBEL: You'll provide us a copy?

2 MR. HEALEY: We'll make copies.

3 THE COURT: Along with water, we do  
4 have a few other amenities, so we'll get some  
5 copies.

6 Q. One last -- No, no. I have two last questions. One  
7 is the arrest that Mr. Booker asked you about at the  
8 demo.

9 A. Yes.

10 Q. I think you testified that was unrelated?

11 A. That is correct. My understanding of the situation  
12 was there was a bench warrant out.

13 Q. And so it wasn't related to anything he was doing at  
14 Occupy?

15 A. That's correct.

16 Q. Or at the independent Noise Global or at the  
17 demonstration either?

18 A. Correct.

19 Q. Okay. One last question. From this Twitter and  
20 from what I can gather about you, both you and  
21 Mr. Booker share a sort of humorous side?

22 A. Yes.

23 Q. Have you, by the way, when you had any interaction  
24 with Mr. Reiser, tried to share that humorous side?

25 A. Have I?

1 Q. Yes.

2 A. Oh, yeah. And, again, I want to preface this by  
3 saying I have nothing but respect for Mr. Reiser,  
4 but he seems very stressed out in regards to Occupy  
5 Pittsburgh being around. He seems very stressed out  
6 with his job. So I have made it somewhat a comical  
7 side project to get him to laugh at least once by  
8 the time all of this is over.

9 I've done things such as I mike checked  
10 him the day we got the eviction, and then we did the  
11 actions in which we marched on BNY to say we weren't  
12 going anywhere. I did a mike check regarding the  
13 color of his tie because I was incorrect with it.

14 And I built -- myself and a couple other  
15 campers built a Wall of Jake on the Ross Street side  
16 of camp in which we made little signs like "Wakey,  
17 Wakey, Eggs and Jakey. Will you be my MySpace  
18 friend? Does this eviction mean you want your Wham  
19 CDs back?"

20 Q. Now, you sent -- We're going to explain that "ha,  
21 ha" comment on this Twitter. Maybe you can end by  
22 explaining that.

23 A. Yes. Being detained by the sheriffs and then as  
24 many units of the City of Pittsburgh responding to a  
25 shots fired call was one of the most absurd things I

1 have ever been part of in my life as well as one of  
2 the most fun things I've been a part of in my life.

3 The sheriffs were doing their jobs. City  
4 of Pittsburgh police were doing their jobs. There  
5 was no gun. There were no shots fired. We were  
6 making a lot -- excuse me -- sorry. We were making  
7 a lot of noise outside the prison or the jail. And  
8 in the process of being held at gunpoint and sitting  
9 down, myself and a couple people to my right started  
10 singing.

11 Not only did we rickroll the sheriffs, but  
12 we also sung Bohemian Rhapsody and just carrying on  
13 having a good time in a very serious situation. It  
14 was one of the most funny and ridiculous situations  
15 I've ever been a part of.

16 MR. LOBEL: Thank you for explaining.

17 THE WITNESS: You're welcome.

18 MR. BOOKER: Redirect, Your Honor?

19 Mr. Reiser, did you laugh at the Occu  
20 cuddle puddle?

21 MR. REISER: No, sir.

22 THE WITNESS: The Occu puddle wasn't  
23 referring to Jake.

24 THE COURT: I'll take judicial notice  
25 of Mr. Reiser's sense of humor, or not.

1 MR. FEIN: We object, Your Honor. I've  
2 been observing. He hasn't cracked a smile  
3 the whole day.

4 - - -

5 **RECCROSS-EXAMINATION**

6 **BY MR. BOOKER:**

7 Q. I was not laughing or being humorous when I asked  
8 you about Matthew Wheeler?

9 A. That's correct.

10 Q. Was it a drug charge that he was wanted on?

11 A. I am not familiar with the case. Our legal team  
12 would probably be more familiar with it than I am.

13 Q. There's somebody in Occupy Pittsburgh who could tell  
14 us what he was wanted on?

15 A. Mr. Wheeler himself or members of our legal team.

16 Q. And when people are violating the drug policy in US  
17 court, there's nothing funny about that, is there?

18 A. No, it's not.

19 Q. If somebody brought a gun on there, there would be  
20 nothing funny about that?

21 A. No, sir.

22 Q. If somebody was injured and needed medical attention  
23 on the site, there would be nothing funny about  
24 that, would there?

25 A. No, sir.

1 MR. BOOKER: No further questions, Your  
2 Honor.

3 THE COURT: You can step down. It is  
4 12:15. Is this a good breaking point for  
5 lunch?

6 MR. LOBEL: We have only one other  
7 witness, so we can either break for lunch or  
8 we could do the witness now.

9 MR. BOOKER: Entirely at Your  
10 Honor's -- I do not anticipate at the moment  
11 any rebuttal evidence, so it's a question of  
12 how long the witness will be.

13 THE COURT: How long do you think your  
14 direct will be?

15 MR. FUEGI: I wouldn't say more than 20  
16 minutes.

17 THE COURT: Call him.

18 MR. FUEGI: Defense would like to call  
19 Paul O'Hanlon to the stand.

20 THE COURT: Counsel, you haven't  
21 formally entered your appearance in this  
22 case?

23 MR. HEALEY: Yes, Your Honor. It's  
24 entered.

25 THE COURT: I meant for purposes of the

1 record in the hearing.

2 MR. HEALEY: Yes.

3 (Oath administered.)

4 - - -

5 PAUL O'HANLON

6 a witness herein, having been first duly sworn, was  
7 examined and testified as follows:

8 DIRECT EXAMINATION

9 BY MR. FUEGI:

10 Q. Mr. O'Hanlon, if you'd identify yourself for the  
11 Court.

12 A. Yes. My name is Paul O'Hanlon.

13 Q. And what is your address?

14 A. I live at 5942 Phillips Avenue, Pittsburgh.

15 Q. And you are here to represent a particular group; is  
16 that correct?

17 A. Well, I'm a --

18 Q. Among your roles.

19 A. I consider myself a member of Occupy Pittsburgh, and  
20 I'm also here -- I'm interested in this case because  
21 I'm a member of the City-County Task Force on  
22 Disabilities, and we would like leave of court and  
23 permission of the parties to file an amicus brief in  
24 this case as well.

25 Q. And do you have a position within the City-County

1 Task Force?

2 A. I'm co-chair of the Task Force. The Task Force is  
3 an official advisory body. Half of our members are  
4 appointed by the mayor. Half of our members are  
5 appointed by the County Executive, and we have a  
6 13th member who is selected at large, and I'm a  
7 co-chair of the Task Force.

8 Q. And is your group supportive of Occupy Pittsburgh?

9 A. The City-County Task Force on Disabilities hasn't  
10 taken a position with respect to Occupy Pittsburgh,  
11 but what we have is we have ongoing interest on the  
12 issue of urban open space in the Downtown area.

13 We had a meeting this past May, obviously  
14 before Occupation even started, on the issue of  
15 urban open space. We had Susan Tymoczko, who  
16 appeared as a witness yesterday, as a guest at our  
17 meeting, and we were meeting to discuss concerns we  
18 had about the state of urban open space in Downtown  
19 and particularly what we raised concerns about were  
20 issues of kind of private encroachment upon public  
21 space areas that have been fenced off.

22 There's a restaurant called Elements down  
23 by Gateway Center that has fenced off an area.  
24 There are other parts of urban open space where  
25 there are signs that say "Private Property," "No

1           Loitering." And we were concerned about issues of  
2           stigma being played out in who gets asked to not  
3           loiter. So the meeting was about those kind of  
4           issues.

5           Q.    Okay. And these areas that you designated as urban  
6           open space, how do you -- what makes you think that  
7           they are urban open space?

8           A.    Well, we became aware of this issue actually from an  
9           article in the Post-Gazette that I think was about a  
10          year ago, and it talked about this process that has  
11          been occurring Downtown of -- I think the article  
12          was something like "Are Private Businesses Violating  
13          City Zoning Laws?"

14                   And it talked about the fencing off and  
15                   fencing in and this process of sort of taking away  
16                   public space, and that's how I became aware of it.  
17                   And as I started checking out public spaces downtown  
18                   to see, it became something that I brought to the  
19                   Task Force, and we decided to have a meeting about  
20                   it.

21                   I became aware that it was in the Zoning  
22                   Code, and I looked around for who was the champion  
23                   that got this into our Zoning Code, and it appears  
24                   whoever fought that fight may not even be alive  
25                   anymore. It seems to date back to the kind of First

1 Renaissance era.

2 Q. But your knowledge of the urban open space issue is  
3 based upon this article, upon what you've read in  
4 the Zoning Code? Have you done any research prior  
5 to October 15 of this past year or prior to the  
6 May hearing that your Disability Task Force held as  
7 to what particular properties were or were not urban  
8 open space?

9 A. Well, at the time that I was looking around for  
10 champions, I was calling various City Council  
11 people, if they knew -- and Councilman Peduto's  
12 staffer gave me the reference because I wasn't even  
13 sure where this was or how I would find it in the  
14 Zoning Code that there was this provision for urban  
15 open space. And that's really where I kind of found  
16 out about it.

17 And then I started looking around for what  
18 appeared to be, you know -- I was aware that there  
19 had been a 20 percent requirement for space and that  
20 it had been apparently reduced to 10 percent, you  
21 know. So I was sort of just trying to familiarize  
22 myself with the urban open spaces Downtown.

23 Q. And you've also said that you consider yourself part  
24 of Occupy Pittsburgh movement?

25 A. Yes.

1 Q. Can you describe your role within Occupy Pittsburgh.

2 A. Well, I didn't know about the first General Assembly  
3 until it had happened, and then the second General  
4 Assembly was in Oakland at Schenley Plaza, and I  
5 went there. And at that time there were different  
6 tables set up for different work groups, one of  
7 which was the location work group, and they were  
8 discussing, you know, the possibility of having an  
9 occupation site.

10 And I told them that this urban open space  
11 issue was a really interesting one and that nobody  
12 seemed to be protecting the public's interest in  
13 these public spaces and that if we could select an  
14 urban open space as being our occupation site, it  
15 would make my life exciting.

16 Q. And do you have any knowledge about the selection of  
17 Mellon Green as the site and the reason behind that?

18 A. Well, as we approached the October 15 date -- and  
19 during this time, it was, you know, a lot of  
20 excitement, a lot of energy. There were any number  
21 of Facebook pages that were created, one of which  
22 was an Occupation or a location Facebook page. And  
23 I started being a regular poster pushing urban open  
24 spaces as being a better place than, say, you know,  
25 Point State Park or, you know, Market Square

1 because, you know, I thought that somebody needed to  
2 bring this issue of urban open space to be a higher  
3 profile issue.

4 And so as the process was going on, you  
5 know, I just kind of kept putting it out there. And  
6 fortunately it happened, you know. Part of the  
7 process, I think what people can get a sense of is  
8 that with an organization like Occupy Pittsburgh,  
9 nobody's controlling it. So you sort of put stuff  
10 out, and, you know, it's like pasta. Whatever  
11 sticks, you know, works.

12 Q. Before your involvement with Occupy Pittsburgh and  
13 since then, have you had the opportunity to go  
14 through Mellon Green?

15 A. Well, my office is in the Law and Finance Building,  
16 and I get off the bus at Sixth and Fifth, which is  
17 underneath the overhang of the Mellon Processing  
18 Center. So it's kind of often the case that I cut  
19 through Mellon Green, certainly since the  
20 Occupation, you know.

21 I usually -- I'll just sort of, like, take  
22 that, you know, just to sort of go through. But  
23 before the Occupation started I would often get my  
24 lunch and take it to Mellon Green and sit out there  
25 and hang out.

1                   The other thing is that if you're coming  
2                   from, say, like the Federal Courthouse or, you know,  
3                   up Grant Street, the bus I take is at Ross and  
4                   Fifth, so cutting through Mellon Green is a  
5                   shortcut. And the other thing is that if you're  
6                   using the T station there at the Steel Plaza T  
7                   station, the accessible walkway through Mellon Green  
8                   is the quickest way to get to the other side of Ross  
9                   Street. So I use the Mellon Green all the time.

10            Q.    And you're dependent specifically on the wheelchair  
11            accessible walkways through Mellon Green to be able  
12            to use that space; is that correct?

13            A.    Correct, because -- Exactly.

14            Q.    Could you just take a look at these photographs  
15            here.

16            A.    Sure.

17            Q.    Can you identify the area that's being photographed  
18            in those exhibits?

19            A.    Sure. Well, this is the thing, what's referred to  
20            in the plaintiffs' brief as the sidewalk and looks  
21            more to me like a stairway. But it's that  
22            passageway from Grant Street to Ross Street  
23            alongside of the Mellon Tower up from the T station,  
24            and I've obviously never gone on it because there's  
25            steps.

1 Q. How many?

2 A. There are 24 steps. There's three flights and eight  
3 steps in each.

4 Q. Do you know that exclusively from those photographs  
5 or did you have the opportunity to confirm it  
6 yourself?

7 A. Once I saw Plaintiffs were claiming that that was  
8 the urban open space, I was struck by the fact that  
9 it was inaccessible, and I went to figure out how  
10 many steps there were and counted them, saw  
11 pictures, made sure that I was accurate as to the  
12 number of steps. In fact, I called Dan Carpenter at  
13 one point to ask him to walk the flights because,  
14 you know, I can't get to that middle flight at all.

15 MR. FUEGI: With no objection, I'd like  
16 to admit those photographs into evidence as  
17 Defendant's Exhibits L 1, 2, and 3.

18 MR. BOOKER: No objection, Your Honor.

19 THE COURT: L 1, 2, and 3 are admitted.

20 A. I should just correct myself. I didn't call him. I  
21 actually sent him a message on Facebook asking him  
22 to do that.

23 MR. FUEGI: I have no more questions.

24 - - -

25

CROSS-EXAMINATION

BY MR. BOOKER:

1 Q. Mr. O'Hanlon, good afternoon.

2 A. Good afternoon.

3 Q. Do I understand correctly you're a lawyer?

4 A. I am, yes.

5 Q. As a member of Occupy Pittsburgh, when you were, in  
6 advance of the Occupation, on Facebook and so on,  
7 did you opine that in your view it was better to go  
8 to a private property because the rules about an  
9 occupation on public property would make it -- would  
10 prohibit the occupation?

11 A. Well, no. What I said was that the urban open space  
12 rule said that it's to be freely available to the  
13 general public without restriction and that that  
14 seemed to be a much more inviting place to set up an  
15 occupation because there was no restriction.

16 Q. Did you express any view about what restrictions  
17 there would be on public spaces?

18 A. Yeah. I think I said something to the effect that  
19 Point State Park had regulations up the wazoo, I  
20 think, if you have my message on Facebook.

21 Q. I've heard that one.

22 A. But that wasn't the only reason we didn't select,  
23 you know -- and I was also saying, What's our beef  
24  
25

1 with the City or the State, you know? Why is it  
2 that we would occupy those? It seemed to me that  
3 that wasn't really the purpose of Occupy movement.

4 Q. Wasn't one of the purposes to petition the  
5 government for the redress of grievances?

6 A. Well, but our beef -- Speaking for myself, my sense  
7 is that we have a problem with the government being  
8 the puppet of the corporations but why would we not  
9 focus on the puppet master?

10 Q. What was the group that you -- Was it the  
11 City-County --

12 A. Yes.

13 Q. -- Task Force on Disabilities?

14 A. Correct.

15 Q. Could you tell us a little bit about that group.

16 A. Allegheny County-City of Pittsburgh Task Force on  
17 Disabilities was set up in I think 1994. It was  
18 then the County Commissioner's system, Foerster  
19 and -- I can't remember the other commissioner. I  
20 remember that -- I think Tom Murphy was the mayor,  
21 and there was a Bob Milkin was largely responsible  
22 as Tom Foerster's aide at the time in kind of sort  
23 of creating the agreement between the City and the  
24 County to create this formal advisory body.

25 Q. Have you approached BNY Mellon about the concerns or

1 complaints or issues that you have concerning the  
2 handicapped accessible of their facility?

3 A. No. To be quite honest, I never dreamed that BNY  
4 Mellon was claiming that the stairway was urban open  
5 space. I just assumed it was Mellon Green.

6 Q. Would you accept an invitation from Mr. Sands to  
7 meet with him to address, and representatives of  
8 your group, to address your concerns?

9 A. Well, if the stairway is held to be the urban open  
10 space, then count on it.

11 Q. You would accept that?

12 A. I would love to, yeah. Yeah. Would Mr. Sands be  
13 willing to come to a Task Force meeting?

14 MR. SANDS: Sure.

15 THE WITNESS: Okay.

16 MR. BOOKER: No further questions, Your  
17 Honor.

18 MR. FUEGI: No redirect.

19 MR. HEALEY: Your Honor, Defendant  
20 Occupy Pittsburgh rests.

21 THE COURT: Okay. Well, thank you very  
22 much. Have you guys decided when you're  
23 going to file your post hearing submissions?

24 MR. BOOKER: Well, let me address that,  
25 Your Honor. First, in view of the emphasis

1 given to the irreparable harm issue in the  
2 opening statement of Mr. Lobel and then his  
3 motion when the Plaintiff rested, we've  
4 prepared a brief specifically on the issue of  
5 irreparable harm, and I'd like to hand that  
6 up to the Court and provide it to the  
7 parties.

8 And on the issue of proposed findings  
9 of fact and conclusions of law, I've inquired  
10 of Ms. Perko when a transcript might be  
11 available, and she tells me that she thinks  
12 it will be available by the end of this week.

13 In any event, whenever it's available,  
14 we'd suggest two to three business days from  
15 the time it's available we would be prepared  
16 to file findings of fact and conclusions of  
17 law.

18 MR. HEALEY: I would say, given how  
19 quickly the transcript might be available,  
20 that would be close to impossible for us.

21 THE COURT: So, in other words, you  
22 guys haven't talked about this?

23 MR. BOOKER: We haven't agreed on it.

24 MR. HEALEY: We just haven't agreed.

25 THE COURT: So your proposal is --

1 MR. HEALEY: We would say two weeks  
2 from when the transcript is finished would be  
3 our proposal.

4 THE COURT: I'll make a decision on  
5 that, and we'll let you guys know.

6 MR. HEALEY: There's one other matter,  
7 and I will get this to Mr. Booker. There was  
8 an inquiry about finances. We need to make  
9 copies, and I'll get that to Mr. Booker.

10 THE COURT: I missed that.

11 MR. HEALEY: There was an issue about  
12 bank accounts. We're prepared to respond to  
13 Mr. Booker, and we just need to make copies  
14 of the one-page document.

15 MR. BOOKER: And we would treat that as  
16 a part of the record.

17 MR. HEALEY: That would be fine.

18 MR. BOOKER: It will be marked as  
19 Plaintiffs' Exhibit -- What is it? 35?  
20 Plaintiffs' Exhibit 35.

21 MR. HEALEY: (Nods head.)

22 THE COURT: So Plaintiffs' Exhibit 35  
23 will be admitted.

24 MR. LOBEL: One quick question.

25 How do you want us -- You handed up the

1 brief you filed a reply brief, now this  
2 brief. We could either file a short  
3 responding brief at some point or we could  
4 just incorporate it in our conclusions of  
5 law.

6 THE COURT: However you would like to  
7 handle that is fine. It's fine with me. Is  
8 there anything else?

9 MR. FEIN: I would just like to  
10 congratulate Mr. Booker on being one of my  
11 contemporaries who is so adept at social  
12 media.

13 MR. BOOKER: I'm getting there.

14 THE COURT: He may have had some help.  
15 I'm not sure, Mr. Fein --

16 MR. BOOKER: May I just confirm there  
17 isn't anything else?

18 MR. HEALEY: There is one more issue  
19 the parties have agreed on, Your Honor.  
20 Plaintiffs' Exhibits 21 B and C, part of the  
21 exhibit a blue line was drawn around, and  
22 apparently it's too big for the court record.

23 We've agreed -- and correct me if I'm  
24 wrong -- that we'll take the original size,  
25 the smaller exhibit, and put the blue lines

1 in the same spot.

2 MR. WILHELM: Your Honor, I would like  
3 to correct -- This is actually Exhibit 28.  
4 It's actually Exhibits 1 and 2 from  
5 Exhibit 28 in the Radock affidavit exhibit.  
6 So they were 28.1 and 28.2, and what I would  
7 recommend is we just put that in as 28.1,  
8 28.2.

9 MR. LOWENSTEIN: I'm going to try to  
10 clarify. I think that those exhibits --

11 THE COURT: Good luck.

12 MR. LOWENSTEIN: -- were also 21 B and  
13 C, and the testimony when we were looking at  
14 the blowups, the testimony referred to  
15 Exhibits 21 B and C, and so --

16 MR. HEALEY: I have an idea. Let's  
17 just say the parties will work it out.

18 THE COURT: I was just going to suggest  
19 that. Whatever you work out, however it is,  
20 just file a stipulation as to those  
21 particular exhibits.

22 MR. LOWENSTEIN: I just didn't want to  
23 go through the whole hearing and not say  
24 anything.

25 THE COURT: Exactly. You are not a

1 potted plant.

2 MR. BOOKER: Your Honor, he said a lot  
3 to me.

4 THE COURT: Before we conclude, I just  
5 want to say that, you know, hearing a case  
6 like this is a privilege for any judge. It's  
7 a matter of important public concern.

8 I was really impressed by the quality  
9 of all of the individuals that testified. I  
10 was impressed by the quality of the  
11 lawyering, although I'm very familiar with  
12 it. I know how good these guys are. But to  
13 see them demonstrate it on an important case  
14 of public importance like this truly is a  
15 privilege for me, and I just want to say  
16 thank you.

17 - - -

18 (Whereupon, the proceedings were concluded.)

19 - - -

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24  
25

1 COMMONWEALTH OF PENNSYLVANIA )  
2 )  
3 COUNTY OF ALLEGHENY )

4  
5 CERTIFICATE OF REPORTER

6  
7 I, Mary Beth Perko, RMR, do hereby certify that the  
8 evidence and proceedings are contained fully and accurately in  
9 the machine shorthand notes taken by me at the hearing of the  
10 within cause, and that the same were transcribed under my  
11 supervision and direction, and that this is a correct  
12 transcript of the same.

13  
14  
15 \_\_\_\_\_  
16 Official Court Reporter  
17 Court of Common Pleas

18  
19 The foregoing record of the proceedings upon the  
20 hearing of the above cause is hereby approved and directed to  
21 be filed.

22  
23 \_\_\_\_\_  
24  
25