

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF IOWA  
WESTERN DIVISION**

**Case No. 5:11- CV- 04004 -MWB**

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**Daniel Minten,**

**Plaintiff,**

**vs.**

**Douglas L. Weber, individually  
and in his official capacity as Sheriff  
of Osceola County, Iowa,**

**Defendant.**

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IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF IOWA  
WESTERN DIVISION

DANIEL MINTEN, File No. 5:11-CV-04004MWB

Plaintiff,

vs.

DEPOSITION OF

DOUGLAS L. WEBER, individually  
and in his official capacity as  
Sheriff of Osceola County, Iowa,

KEVIN WOLLMUTH

Defendant.

The deposition of Kevin Wollmuth was taken on behalf of  
the Plaintiff at the Osceola County Courthouse in Sibley,  
Iowa on Wednesday, September 7, 2011 commencing at 3:05 p.m.

APPEARANCES

MR. VINCENT J. FAHNLANDER  
Mohrman & Kaardal, PA  
33 South Sixth Street, Suite 4100  
Minneapolis, Minnesota 55402  
On behalf of the Plaintiff;

MR. DOUGLAS L. PHILLIPS  
Klass Law Firm  
4280 Sergeant Road, Suite 290  
Sioux City, Iowa 51106  
On behalf of the Defendant.

Also Present: Daniel Minten, Douglas Weber

Reported By: Jenna L. Mumm, CSR  
7078 320th Street, Hartley, Iowa 51346  
(712) 728-3054 (800) 551-5027

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1 INDEX

2 KEVIN WOLLMUTH

3 EXAMINATION

4 By Mr. Fahnlander

5 3-25

6 INDEX TO OBJECTIONS

7 By Mr. Phillips

8 6, 7, 12

9 Adjournment at 3:50 p.m.

10 25

11 Certificate of Reporter

12 26

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1 Q Okay. Just by way of background, I'm sure you'll do

2 just fine, but if you could answer my questions audibly

3 rather than shaking your head or nodding or saying,

4 "uh-huh," and, "huh-uh," and then that will lead to a

5 better record, and I'll follow up with any additional

6 information or any questions. If you don't understand any

7 of my questions, please ask me to restate them or rephrase

8 them. Is that all right?

9 A Yes.

10 Q And how long have you been in law enforcement?

11 A 24 years.

12 Q And did you graduate from high school?

13 A Yes.

14 Q Where?

15 A Sibley.

16 Q In what year?

17 A 1985.

18 Q And upon graduating what did you do?

19 A I went to Iowa Lakes Community College.

20 Q To study what?

21 A Criminal justice.

22 Q And did you get a degree?

23 A Yes.

24 Q What was-- what degree was that?

25 A AS degree in criminal justice.

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1 KEVIN WOLLMUTH

2 having been duly sworn, was examined and testified as

3 follows:

4 DIRECT EXAMINATION

5 BY MR. FAHNLANDER:

6 Q Could you state your name and spell your-- your full

7 name for the record, please?

8 A Kevin Wollmuth, K-e-v-i-n W-o-l-l-m-u-t-h.

9 Q And what's your middle name?

10 A Marcus, M-a-r-c-u-s.

11 Q Okay. And what's your date of birth?

12 A :

13 Q And where do you live?

14 A Sibley.

15 Q And your-- your employment is chief deputy of the

16 Osceola County Sheriff's Department?

17 A Yes, it is.

18 Q And how long have you been the chief deputy?

19 A Seven years.

20 Q Have you ever had your deposition taken before?

21 A Yes.

22 Q Okay. How many times?

23 A Four or five.

24 Q Okay. Were they in connection with criminal cases?

25 A Yes.

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1 Q And then what did you do?

2 A I was working part-time for the Lake Park Police

3 Department and Milford Police Department for approximately a

4 year.

5 Q Okay. And then what happened?

6 A I put myself through the Iowa Law Enforcement Academy

7 and got hired on with Osceola County after that.

8 Q And you've worked there ever since?

9 A Yes.

10 Q Okay. And what are the duties of a chief deputy?

11 A I-- when Doug's not around I'll make some of the

12 administration decisions, when the sheriff isn't around. I

13 make out the schedule. I take care of a lot of the civil

14 work.

15 Q When you say, "civil work," what do you mean by that?

16 A Civil process papers. I do most of the general

17 executions, special executions and writs, papers like that.

18 Q In terms of developing policy for the sheriff's

19 department, are you involved in that?

20 A No.

21 Q And in terms of hiring and firing, are you involved in

22 that?

23 A No.

24 Q Are you familiar-- you know my client, Dan Minten,

25 correct?

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1 A Yes.  
 2 Q And you worked together with him for a number of years?  
 3 A Yes.  
 4 Q And-- and you became aware that he was terminated from  
 5 the employment at the Osceola County Sheriff's Department?  
 6 A Yes.  
 7 Q And tell me what you know about his termination.  
 8 A His termination was for insubordination.  
 9 Q Okay. And what was the insubordination?  
 10 A While he was on duty he made a traffic stop and while  
 11 on that traffic stop he volunteered to join into a lawsuit  
 12 that was-- that was going to go on or presently going on  
 13 against our sheriff.  
 14 Q Okay. And how-- how is it that you're familiar that  
 15 that was the insubordination, that he volunteered to join in  
 16 a lawsuit against the sheriff?  
 17 MR. PHILLIPS: Object to the form of the  
 18 question. That's not what he said.  
 19 THE WITNESS: I-- yeah, I don't understand what--  
 20 MR. FAHNLANDER: Okay. Can you read back his  
 21 answer, please?  
 22 (The last answer was read back.)  
 23 Q (BY MR. FAHNLANDER) Okay. Tell me how you got that  
 24 understanding that you just testified to.  
 25 A Can you-- I don't understand that question. Can you--

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1 Q Okay. Where was it that you got the understanding  
 2 that-- that Deputy Minten was-- was terminated for this  
 3 insubordination as you described in your prior answer?  
 4 A From Sheriff Weber.  
 5 Q Okay. He told you that?  
 6 A And he-- I watched the videotape.  
 7 Q Okay. Did you-- well, first of all, tell me about your  
 8 conversation-- any conversations you had with Sheriff Weber  
 9 about his reasoning for terminating Dan Minten.  
 10 A His reasoning for terminating was for insubordination.  
 11 Q Right, arising out of the Emily Dorr traffic stop?  
 12 A Yes.  
 13 Q Okay. And-- and I believe you testified that  
 14 specifically it was because Dan Minten offered to join in  
 15 the lawsuit against the sheriff.  
 16 MR. PHILLIPS: Object to the form of the  
 17 question.  
 18 Q (BY MR. FAHNLANDER) Okay. Did I state that correctly  
 19 or incorrectly?  
 20 A Well, I think you stated it incorrectly.  
 21 Q Okay.  
 22 A I thought the reasoning was for he-- while he was on  
 23 duty he engaged in-- in that activity.  
 24 Q Sure. Okay. Okay. And did Sheriff Weber tell you  
 25 that that's the reason why he terminated-- or was planning

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1 to terminate Dan Minten?  
 2 A Can you state the question again for me?  
 3 Q Okay. Well, you-- you have an understanding about why  
 4 it is that Sheriff Weber terminated Dan Minten?  
 5 A Yes.  
 6 Q Okay. And did you get that understanding because  
 7 Sheriff Weber told you that?  
 8 A Yes.  
 9 Q Okay. And when did he tell you that?  
 10 A That I don't-- I don't remember.  
 11 Q Okay. Now, the Emily Dorr traffic stop took place on  
 12 or about August 31, 2009. Does that sound right?  
 13 A Yeah, that sounds about right.  
 14 Q Okay. And did you learn about this traffic stop a week  
 15 or so later?  
 16 A That I don't remember either. I can't remember when I  
 17 learned about it.  
 18 Q Okay. How did you learn about it?  
 19 A Sheriff Weber told me about it.  
 20 Q And what did he tell you?  
 21 A That while he was looking at this videotape that came  
 22 out of Dan Minten's car, he was looking for a videotape of  
 23 another incident that came from a citizen, he-- he stumbled  
 24 on-- or he accidentally-- he saw this traffic stop of Emily  
 25 Dorr.

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1 Q And how did Sheriff Weber tell you that?  
 2 A As far as...  
 3 Q Did he invite you to watch it or--  
 4 A Yes.  
 5 Q Okay. And did he-- did he summarize what it-- what  
 6 the-- what the traffic stop showed?  
 7 A He didn't have to summarize it. I watched it.  
 8 Q Okay. Do you know-- you watched it with Sheriff Weber  
 9 how long after Sheriff Weber first viewed it, do you know?  
 10 A I don't know.  
 11 Q Okay. And when you watched that with Sheriff Weber  
 12 were you of the opinion then that-- that Sheriff Weber was  
 13 going to terminate Dan Minten?  
 14 A No.  
 15 Q Okay. Did you gain that understanding sometime later?  
 16 A Yes.  
 17 Q Do you know how-- you know, how much later it was that  
 18 you got that understanding?  
 19 A No, I don't.  
 20 Q I mean, would it have been days or weeks or months? Do  
 21 you have any idea?  
 22 A Well, when-- if Dan was terminated in--  
 23 Q February 1 of 2010.  
 24 A -- February, I would have to say it was months after  
 25 that, then.

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1 Q Okay. And-- okay. And what did you think when you saw  
 2 this videotape of the traffic stop?  
 3 A Well, I-- I felt the same way that Sheriff Weber felt.  
 4 It was insubordination.  
 5 Q And what part of it do you believe was insubordination?  
 6 A While he was on duty he was working for Osceola  
 7 County-- he was working for the taxpayers of Osceola County  
 8 and then he just volunteered his services to join into a  
 9 lawsuit against Osceola County.  
 10 Q Now, when you say, "volunteered to join in a lawsuit,"  
 11 do you mean-- do you mean actually join as a party or do you  
 12 mean that he offered assistance to the party in the-- in the  
 13 lawsuit?  
 14 A He offered assistance.  
 15 Q Okay. And in this case the lawsuit that you're making  
 16 reference to was the lawsuit by Paul Dorr, correct?  
 17 A Yes.  
 18 Q Okay. And is that lawsuit-- was that something that  
 19 everyone in the county knew about?  
 20 A I would say so, yes.  
 21 Q Okay. And that's the kind of thing that people in the  
 22 county knew, who Paul Dorr was, and they knew that he  
 23 applied for a concealed carry permit and they knew that he  
 24 was denied the permit?  
 25 A Yes.

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1 Q Okay. And, you know, is that the kind of thing that  
 2 people in the county talked about, is this lawsuit between  
 3 Paul Dorr and-- and Sheriff Weber?  
 4 A When the news first came out, yeah, it was talked about  
 5 for a while.  
 6 Q Okay. And did-- were people in the county kind of  
 7 split along the lines of, you know, some people believing  
 8 that the sheriff has the discretion to deny concealed carry  
 9 permits while maybe others see it as a-- more of a  
 10 Constitutional right that citizens have to get a concealed  
 11 carry permit as long as they're not a felon or something  
 12 like that?  
 13 A Can you repeat that question, please?  
 14 Q Okay. All right. Was there a lot of division among  
 15 people around the county and around the area about which  
 16 side they came down on on the-- on the lawsuit?  
 17 A A lot of division?  
 18 Q Yeah.  
 19 A I would say no.  
 20 Q Okay. Was it your opinion that most people supported  
 21 the sheriff in this-- in that lawsuit?  
 22 A Yes.  
 23 Q And your-- your understanding of what the sheriff was  
 24 concerned about with-- with Dan Minten's comments to Emily  
 25 Dorr during that traffic stop, was it-- was it primarily the

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1 fact that he was volunteering to testify for Paul Dorr?  
 2 A No. It was the-- it was the fact that he was-- while  
 3 he was on duty he was volunteering to do this.  
 4 Q Okay. So-- so you would say that there were two parts  
 5 to it, he was on duty and he was volunteering to testify  
 6 against the sheriff?  
 7 MR. PHILLIPS: Object to the form of the  
 8 question. That's not what he said.  
 9 Q (BY MR. FAHNLANDER) What-- did I accurately summarize  
 10 your testimony?  
 11 A Can you say that again?  
 12 Q Sure. Was it your understanding that there were two  
 13 parts of Sheriff Weber's concern, one, that he was on-- that  
 14 Deputy Minten was on duty and, number two, that he was  
 15 volunteering to testify against the sheriff in Osceola  
 16 County?  
 17 A No, I wouldn't say that. I'd say it was one total  
 18 incident.  
 19 Q What do you mean by that?  
 20 A He-- Dan was volunteering-- while on duty he was  
 21 volunteering to join into a lawsuit.  
 22 Q Join into meaning testify in a lawsuit?  
 23 A Well, testify, yes.  
 24 Q Okay. And how many times did you watch the videotape  
 25 of the traffic stop?

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1 A I think I just watched it once.  
 2 Q Okay. In the sheriff's department?  
 3 A Yes.  
 4 Q And did you discuss it with anyone else?  
 5 A Yes.  
 6 Q And who did you discuss it with?  
 7 A Just the employees that were-- that are in the  
 8 sheriff's office it was discussed.  
 9 Q Like which employees?  
 10 A Oh, the ones I work with most during the day.  
 11 Q Who are those?  
 12 A You want--  
 13 Q Yeah.  
 14 A Judy Top, Brenda Hibbing.  
 15 Q Any others?  
 16 A Seth Hofman.  
 17 Q Any others?  
 18 A They're the-- they're the ones I spend the most time  
 19 with.  
 20 Q Okay. And would you have had conversations with them  
 21 shortly after your viewing the-- the videotape?  
 22 A Yes.  
 23 Q Do you know if Ms. Top or Ms. Hibbing saw the  
 24 videotape?  
 25 A I don't know.

1 STATE OF IOWA )  
 :SS CERTIFICATE  
2 COUNTY OF DICKINSON )

3 I, Jenna L. Mumm, Certified Shorthand Reporter and  
Notary Public, duly qualified for the State of Iowa, do  
4 hereby certify as follows:

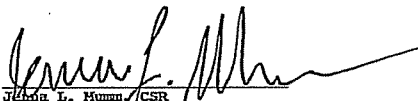
5 1. That the witness, KEVIN WOLLMUTH, was by me  
first duly sworn to tell the truth and that the foregoing  
6 transcript, consisting of Pages 1 to 25, inclusive, is a  
true and correct transcript of my shorthand notes made  
7 during the time of the taking of the deposition of this  
witness;

8 2. That I am not an attorney for, nor related to  
9 the parties to this action and that I am in no way  
interested in the outcome of this action;

10 3. That the original transcript of this  
11 deposition is to be delivered to Mr. Vincent J. Fahlander;

12 4. That a copy is to be delivered to Mr. Douglas  
L. Phillips and Mr. Vincent J. Fahlander;

13 DATED THIS 16th day of September, 2011.  
14

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16  
17 

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