

- 1 A. I don't know. Maybe it's in the response  
2 letter. Maybe we actually did that in the  
3 response letter.
- 4 Q. Sitting here today, you don't know if that's  
5 in there?
- 6 A. No. But then you also have to go and take  
7 into account that some of the evaluation  
8 panel members voted no based on misstatements  
9 of fact.
- 10 Q. What misstatements of facts?
- 11 A. It's in the response letter.
- 12 Q. Just to confirm, I can rely on the response  
13 to protest letter to determine what the  
14 misstatements are?
- 15 A. Yes. If you have people making votes on  
16 something that's not accurate and they vote  
17 no and that should have been a yes, that's  
18 not fair either.
- 19 Q. Has DPI terminated anyone for being allegedly  
20 bias in favor of Amplify in this procurement  
21 process?
- 22 A. No.
- 23 (Exhibit No. 16, Text Message, so  
24 marked)
- 25 Q. Mr. Johnson, I've handed you what's been

1           marked as Exhibit 16. Have you seen this  
2           document before?

3       A. Yes.

4       Q. What is this document?

5       A. This looks like what -- this looks like a  
6           copy of what was slid under Pam Shue's door.

7       Q. Does this Exhibit A look identical to what's  
8           attached to the exhibits of your protest  
9           response? I'm looking at Exhibit C to  
10          Exhibit 15.

11      A. No. The text message looks the same, but it  
12          does look like we -- whoever prepared this  
13          image zoomed in on the text message and then  
14          redacted any names that could be identified  
15          and probably to take out -- there is this  
16          side where you have a whole list of other  
17          people.

18      Q. So Exhibit C to the protest letter response  
19          contains less information on it than  
20          Exhibit 16 to your deposition, correct?

21      A. Yes. I would say in the effort to keep out  
22          all of these side names it looks like it was  
23          zoomed in upon.

24      Q. So which one was the screenshot slipped under  
25          Ms. Shue's door?

- 1 A. I believe this is the document that looked  
2 like in its original form.
- 3 Q. Exhibit 16?
- 4 A. Yes. The reason, because when I saw it  
5 there, is this -- I just remember not really  
6 knowing what this -- like these things around  
7 the text message are.
- 8 Q. Exhibit 16, you're saying there appears to be  
9 some sort of photograph or something behind  
10 it?
- 11 A. Yes.
- 12 Q. Maybe a computer screen desktop image?
- 13 A. It's mountains so I would think -- but there  
14 is a weird -- I'm guessing here. It also  
15 looks like by the mountains there is like a  
16 hand behind it.
- 17 Q. It is hard to say?
- 18 A. Yes.
- 19 Q. Whatever that background image is, it is not  
20 included in Exhibit C to the protest letter  
21 response?
- 22 A. Yes.
- 23 Q. And the protest letter response doesn't  
24 include that column on the left of other text  
25 conversations?

1 A. That's correct. I think, in the interest of  
2 whoever's text messages this was and, also,  
3 the identifiable initials and names, the  
4 decision was made to redact anyone's name  
5 that could be brought into this because it  
6 was going to get very public, except I did  
7 say they did not have to redact my initials.

8 Q. Who made the redactions on Exhibit C?

9 A. I don't know. DPI's legal department.

10 Q. But you talked to someone about what should  
11 be redacted?

12 A. Yes, not giving the guidelines myself staying  
13 within the legal parameters of redaction, we  
14 should not identify people with this text  
15 message considering this was going to be  
16 very, very public out of courtesy to Anne and  
17 Carla, Anne, Anne, Claudia and Karla, Bobbi,  
18 Rebecca and Susan A and Kim and Meri, Bob,  
19 Bob, Bobbi, and Meri.

20 Q. Who are those people?

21 A. I don't know.

22 Q. They are not DPI employees?

23 A. I don't know. They could be. They might not  
24 be.

25 Q. So let's look at Exhibit 16 which is the

1 unredacted copy. It appears that's a text  
2 message exchange from January 8, 2019. Do  
3 you see there are some markings, some light  
4 gray, that says "1/8/19"?

5 A. Yes.

6 Q. January 8, 2019 is also a day where you visit  
7 with the evaluation committee, correct?

8 A. If that's what it says in the notice, then  
9 yes.

10 Q. Do you recall there was a meeting in January?

11 A. Oh, yes.

12 Q. The text message says "MJ came into their  
13 voting meeting today to basically (without  
14 directly coming out and specifying) tell them  
15 how to vote! However, the vote did not go  
16 his way, so it will be interesting to see how  
17 he gets his way on this." Do you see that?

18 A. Yes.

19 Q. And you understand that was information  
20 conveyed from Abbey Whitford to Carolyn  
21 Guthrie?

22 A. I do now knowing all the evidence put  
23 together, yes. That was a -- I know now with  
24 all the discovery that has occurred that  
25 Abbey Whitford called and/or went to Carolyn

1 Guthrie's house, and this was a text message  
2 between Carolyn Guthrie and someone else  
3 describing what Abbey Whitford told Carolyn  
4 Guthrie.

5 Q. And lower down on the page of Exhibit 16, do  
6 you see there's a list of who voted which way  
7 "RB, She and RB and Dewey"?

8 A. Yes.

9 Q. Do you see that information?

10 A. I do.

11 Q. And you understand that when that text  
12 message identifies those six people as voting  
13 for children in their opinion it means they  
14 are voting for Amplify, correct?

15 A. I would assume that is what they mean because  
16 when you match -- I would assume that's what  
17 they mean.

18 I don't know if you can actually,  
19 100 percent, jump to that conclusion. I  
20 think if you match -- you can match the notes  
21 to that vote count, and if that vote count is  
22 exactly for Amplify, I think it would be a  
23 safe assumption to say that is what she was  
24 talking about.

25 Q. And then it says "Pam and Chloe and one of

1 Mark's staff voted for helping teachers."

2 And the best we can understand that, is  
3 that's votes for Istation, correct?

4 A. Yes. And they are all my staff, like  
5 everybody in that evaluation panel is my  
6 staff. So I don't know exactly who is one of  
7 Mark's staff. I guess we can go look --

8 Q. Sure, we'll get to that. It appears to  
9 reveal the identity of 6-to-3 vote or  
10 something like that; is that correct?

11 A. Something close to 6-to-3. Definitely 3  
12 voted for helping teachers is how they  
13 describe it.

14 Q. I should clarify at the bottom of this page,  
15 Exhibit 16, there is something about "Hey  
16 thanks! Daniel & I had a great time at the  
17 museum." Do you see that?

18 A. Yes.

19 Q. That doesn't seem to be included on Exhibit C  
20 to the protest response either, does it?

21 A. I'm pulling it up. If you say no -- yes, it  
22 ends in exactly -- and it is not just that is  
23 not there. Also, "Hey, hope your visit to  
24 the museum was fun and hope Bruce got good  
25 news at his doctor's visit. If you are

1 traveling back today, give me a call while  
2 you're driving."

3 In my limited experience with public  
4 records, I would think that is not  
5 responsive, but also, I know I would  
6 encourage anyone putting this out very  
7 publicly not to talk about Bruce's good news  
8 at his doctor's visit.

9 Q. It appears to be someone's personal  
10 information unrelated to DPI?

11 A. Yes.

12 Q. Who have you talked to about this screenshot?

13 A. I've talked to a lot of people now, so I  
14 couldn't give you a list.

15 Q. Have you talked to Chloe Gossage about it?

16 A. Yes.

17 Q. What have you discussed about it with her?

18 A. How ridiculous this is.

19 Q. Why is it ridiculous?

20 A. You didn't read the whole thing where  
21 someone -- "Ass. The sad thing is, he may  
22 win his next race because he will talk about  
23 how he helped teachers? Well" -- this is  
24 another person, and I'm just reading as I  
25 think they were texting because they were

1 informal. "Well, that's why he's pushing  
2 this. Children can't vote. So we appease  
3 lazy ass teachers."

4 Q. The people on this text message are not DPI  
5 employees that we know of?

6 A. Exactly.

7 Q. These are just citizens of North Carolina?

8 A. Yes. I did not know who exactly was having  
9 this interchange, but I can probably guess  
10 that the "marathon call with AW, 1 hour and  
11 45 minutes all about RFP, what a mess," I can  
12 probably guess whoever was having this text  
13 exchange probably was talking the same way on  
14 the phone with AW.

15 Q. These are members of the public who may not  
16 agree with everything that you are trying to  
17 get done or may not like you?

18 A. Yes.

19 Q. That's fine.

20 A. I only know this from later discovery. Anne  
21 is someone that worked at DPI. I don't know  
22 if this Anne is someone who worked in the K-3  
23 Literacy Group, and I don't know if at the  
24 time she was still with the K-3 Literacy  
25 Group.