

BEFORE THE  
FEDERAL LABOR RELATIONS AUTHORITY

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In the Matter of:           :
                             :
US ARMY MEDICAL DEPARTMENT :
ACTIVITIES                 :
FT. MONROE, VIRGINIA      :
                             :
                             : Case Number:
                             : WA-RP-80030
                             :
Agency,                   :
                             :
and                         :
                             :
NATIONAL ASSOCIATION OF GOVERNMENT :
EMPLOYEES, LOCAL R4-6, AFL-CIO    :
                             :
                             :
                             :
                             :
Petitioner                 :
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Wednesday,  
May 6, 1998

Fort Monroe  
427 Renwick Road  
Trailer 4  
Fort Monroe, VA  
23651

The above-entitled matter came on for hearing, pursuant to adjournment, at 9:10 a.m.

BEFORE: QUINN ANDERSON  
Hearing Officer

APPEARANCES:

On behalf of the Agency:

HARRY J. GRUCHALA, JR., ESQ.  
Office of the Post Judge Advocate  
Fort Monroe, Virginia 23651

On behalf of the Petitioner:

O. LEE DOBSON  
National Representative  
36 Wine Street  
Hampton, Virginia 23669

APPEARANCES (Continued):

On behalf of the Petitioner:

JOE FULGHUM, PRESIDENT  
Local R4-6  
Ft. Eustis, Virginia 23604



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P R O C E E D I N G S

9:15 a.m.

HEARING OFFICER ANDERSON: On the record.

This is a hearing in the matter of US Army Medical Department activities, Ft. Monroe, Virginia, Case Number WA-RP-80030, before the Federal Labor Relations Board.

The Hearing Officer hearing for the Federal Labor Relations Authority is Quinn Anderson.

Will the parties please state their appearances. For the Petitioner?

MR. DOBSON: Orville Lee Dobson, National Representative, National Association of Federal Employees.

HEARING OFFICER ANDERSON: Your address?

MR. DOBSON: 36 Wine Street, Hampton, Virginia, 23669.

HEARING OFFICER ANDERSON: The Activity?

MR. GRUCHALA: My name is Harry Gruchala, spelled G-R-U-C-H-A-L-A. I'm the Agency representative and Attorney Advisor, and I work out of the Office of the Post Judge Advocate, headquarters Ft. Monroe, Virginia 23651.

HEARING OFFICER ANDERSON: Any motions

1 to intervene?

2 No response.

3 I wish to inform all parties that the  
4 official reporter makes the only transcript of these  
5 proceedings and all citations and briefs for argument  
6 must be part of the official record.

7 After closing the hearing, one or more  
8 of the parties may wish to have corrections made in the  
9 record. All such proposed corrections, stipulations  
10 and motions shall be made in writing to the Hearing  
11 Office 5 days after the transcript is received.

12 I wish to stress the fact that all  
13 matters spoken here will be record by the reporter  
14 while the hearing is in session. If any of the parties  
15 wish to make off the record remarks, request to make  
16 such remarks on the record to the Hearing Officer

17 Statements of reasons in support of  
18 Motions and Objections should be concise. Objections  
19 and exceptions may, upon request, be permitted  
20 (inaudible).

21 Sole objection -- prospective position  
22 of the parties -- full factual record upon which to  
23 seek --

24 It may become necessary for the Hearing  
25 Office to ask questions of witnesses. If such a matter

1 is not raised or partially raised by the parties, the  
2 services of the Hearing Office may be available to all  
3 parties.

4 After the close of the record in this  
5 case, after the close of the hearing, the record in  
6 this case will be transferred to the Regional Director.

7 The formal papers have been shown to all  
8 parties prior to the hearing. I now offer them into  
9 evidence the formal papers and have them marked as 1(a)  
10 through 1(c), 1(c) being an index and description of  
11 the entire exhibit.

12 (The document referred to was  
13 marked for identification as  
14 Authority Exhibit 1.)

15 HEARING OFFICER ANDERSON: Any  
16 objections to receipt of Authority's Exhibit 1(a)  
17 through 1(c)?

18 MR. GRUCHALA: No objection.

19 MR. DOBSON: No objection.

20 HEARING OFFICER ANDERSON: It is  
21 received.

22 (The document previously  
23 marked for identification as  
24 Authority Exhibit 1 was  
25 received in evidence.)

1 HEARING OFFICER ANDERSON: What's the  
2 correct name of the Petitioner in this case?

3 It says National Association of  
4 Government Employees, comma, R4-6, SEIU, ALF-CIO.

5 MR. DOBSON: That is correct.

6 HEARING OFFICER ANDERSON: That's the  
7 correct name?

8 Is it possible to stipulate that the  
9 above named organization is a labor organization within  
10 the meaning of the statute? Do you so stipulate for  
11 the Agency?

12 MR. DOBSON: I do.

13 HEARING OFFICER ANDERSON: Petitioner?

14 MR. GRUCHALA: I do.

15 HEARING OFFICER ANDERSON: Stipulation  
16 is received.

17 The correct name of the Activity in this  
18 case. The certification says, for this unit, says it's  
19 US Army Medical Department Activities, Ft. Eustis,  
20 comma, Virginia. Is that right?

21 MR. DOBSON: Excuse me, if I may  
22 explain.

23 HEARING OFFICER ANDERSON: I'm sorry,  
24 wait a minute. I'm looking at the wrong one.

25 Off the record a second.

1 (Off the record.)

2 HEARING OFFICER ANDERSON: Back on the  
3 record.

4 Referring back to the Activity in this  
5 case, the certification lists the name of the Activity  
6 as US Army Medical Department Activities, Ft. Monroe,  
7 Virginia. Is that the correct name of the Activity in  
8 this case?

9 MR. DOBSON: That is correct.

10 HEARING OFFICER ANDERSON: And while  
11 we're on the subject of history of collective  
12 bargaining, let's get this certification.

13 I have a document here that we'll mark  
14 as Joint Exhibit 1.

15 (The document referred to was  
16 marked for identification as  
17 Joint Exhibit 1.)

18 HEARING OFFICER ANDERSON: It's the  
19 certification case under number WA-RP-70028, dated  
20 April 30, 1997.

21 Is this the unit that's involved in this  
22 case?

23 MR. GRUCHALA: It is.

24 HEARING OFFICER ANDERSON: Any objection  
25 to receiving J1 for the record?



1 MR. GRUCHALA: No objection.

2 MR. DOBSON: No objection.

3 HEARING OFFICER ANDERSON: J1 is  
4 received.

5 (The document previously  
6 marked for identification as  
7 Joint Exhibit 1 was received  
8 in evidence.)

9 HEARING OFFICER ANDERSON: I also have a  
10 contract between the US Army Medical Department of  
11 Activities and several other activities and the  
12 Petitioner, dated January 20, 1994. Is this the  
13 current contract covering the unit employees?

14 MR. DOBSON: Yes, sir.

15 HEARING OFFICER ANDERSON: I will mark  
16 that as J2.

17 (The document referred to was  
18 marked for identification as  
19 Joint Exhibit 2.)

20 HEARING OFFICER ANDERSON: Any  
21 objections to the receipt of J2 into the record?

22 MR. GRUCHALA: No objection.

23 MR. DOBSON: No objection.

24 HEARING OFFICER ANDERSON: It's  
25 received.

1 (The document previously  
2 marked for identification as  
3 Joint Exhibit 2 was received  
4 in evidence.)

5 HEARING OFFICER ANDERSON: Let's go off  
6 the record a second.

7 (Off the record.)

8 HEARING OFFICER ANDERSON: Back on the  
9 record.

10 Will the Petitioner give us a brief  
11 description of the bargaining unit in this case, for  
12 example, how many employees are in it, what types of  
13 employees?

14 MR. DOBSON: Okay. Well, (inaudible).  
15 -- nurse, optometrist and medical officers.

16 HEARING OFFICER ANDERSON: How many  
17 professional employees are in the unit?

18 MR. DOBSON: Five count.

19 HEARING OFFICER ANDERSON: That's all,  
20 five? And do they all work at the Health Clinic at  
21 Fort Monroe?

22 MR. DOBSON: Yes.

23 MR. GRUCHALA: This may be (inaudible).

24 I understand that's he no longer, recently, within the  
25 last 2 or 3 months --

1 MR. DOBSON: I wasn't aware of that.

2 HEARING OFFICER ANDERSON: Okay. And  
3 this Petition you filed was a Petition to clarify this  
4 unit. Would you briefly describe the purpose of your  
5 Petition in this case?

6 MR. DOBSON: The purpose of the case is  
7 to clarify the supervisory or supposedly supervisory  
8 position of Mr. Rubin Kravitz, who is a pharmacist  
9 GS660 Series 11. (inaudible)

10 -- does not perform the duties as a  
11 supervisor.

12 HEARING OFFICER ANDERSON: So it's the  
13 Union's position that he's not a supervisor and that he  
14 should be in the unit?

15 MR. DOBSON: Yes.

16 HEARING OFFICER ANDERSON: What's the  
17 Agency's position?

18 MR. GRUCHALA: The Agency's position is  
19 that Mr. Kravitz is indeed a supervisor and as such, he  
20 is not -- his membership in the bargaining unit would  
21 be inappropriate.

22 HEARING OFFICER ANDERSON: Now I know  
23 from discussions off the record that there's two issues  
24 in this case. One, whether or not Kravitz exercises  
25 supervisory authority. The Petitioner says that he

1 does not. And the Agency says that he does.

2 And then, I think it's understood that  
3 the person who Mr. Kravitz supervises or is alleged to  
4 supervise is a non-Union employee. And that person's  
5 name is --

6 MR. DOBSON: Sylvia Booth.

7 HEARING OFFICER ANDERSON: Sylvia Booth.

8 And her position?

9 MR. DOBSON: She's a pharmacist  
10 technician, GS 661 series.

11 HEARING OFFICER ANDERSON: And is it  
12 your position that she's a non-professional employee  
13 and not included in the unit?

14 MR. DOBSON: Correct.

15 HEARING OFFICER ANDERSON: And that's  
16 the Agency's position on Booth?

17 MR. GRUCHALA: We would stipulate that  
18 she is not a member of the bargaining unit which  
19 Kravitz is a member of.

20 HEARING OFFICER ANDERSON: And it's  
21 Booth that you contend Kravitz supervises?

22 MR. GRUCHALA: Correct.

23 HEARING OFFICER ANDERSON: And it's your  
24 position that even though this person is non-unit by  
25 virtue of his supervision of Booth, Kravitz is a

1 supervisor and should be excluded from the unit?

2 MR. GRUCHALA: That is correct.

3 HEARING OFFICER ANDERSON: Anything else  
4 any of the parties wish to comment or add to the record  
5 of that point before we call the first witness?

6 MR. DOBSON: (inaudible)

7 MR. GRUCHALA: I have nothing further at  
8 this time.

9 HEARING OFFICER ANDERSON: All right.  
10 Do you want to call your first witness, Petitioner?

11 MR. DOBSON: At this time I'd like to  
12 call Mr. Kravitz please.

13 HEARING OFFICER ANDERSON: Okay. We'll  
14 go off the record for a second.

15 (Off the record.)

16 HEARING OFFICER ANDERSON: We're back on  
17 the record.

18 The first witness was going to be Mr.  
19 Kravitz, who is, at the moment, waiting to be released  
20 from his position in the pharmacy.

21 So, instead, the Agency will call their  
22 first witness.

23 MR. GRUCHALA: We would call Major  
24 Shirley Palmatier.

25

1 HEARING OFFICER ANDERSON: Please raise  
2 your right hand.

3 Whereupon,

4 MAJOR SHIRLEY PALMATIER,  
5 was called as a witness by and on behalf of the  
6 Petitioner, and, having been duly sworn, was examined  
7 and testified as follows:

8 THE WITNESS: Yes, I do.

9 HEARING OFFICER ANDERSON: Just have a  
10 seat. Will you state your full name and position for  
11 the record, Major Palmatier?

12 THE WITNESS: I'm Shirley Fuller  
13 Palmatier. And that's spelled P-A-L-M-A-T-I-E-R. I am  
14 a Major in the United States Army. I'm a Medical Corps  
15 Officer. And I am the Acting Office in Charge. My  
16 normal duties here are Administrative Officer.

17 HEARING OFFICER ANDERSON: Okay, you can  
18 proceed.

19 DIRECT EXAMINATION

20 BY MR. GRUCHALA:

21 Q What do your duties entail, Ms.  
22 Palmatier?

23 A I'm the Chief of several different  
24 responsibilities here, such as the Chief of Personnel,  
25 the Chief of Facilities, the Chief of Budgeting and

1 Resource Management.

2 I'm also in charge of Clinical  
3 Operations; just pretty much everything associated with  
4 the Clinic. I'm not a Medical Officer Administrator.  
5 My background is Business Administration.

6 The Officer in Charge Serwatka is the  
7 Medical Officer in Charge.

8 Q And you're talking about Ft. Monroe  
9 Health Clinic.

10 A That's correct.

11 Q And that is part of the Ft. Eustis  
12 MEDDAC --

13 A Right.

14 Q -- which operates independently?

15 A Right. The Ft. Monroe Health Clinic is  
16 a satellite clinic to McDonald Army Community Hospital  
17 at Ft. Eustis, Virginia. And we are a small clinic  
18 within their larger organization and have several  
19 clinical specialists in special activities down here,  
20 similar to what they have, but the Commanding Officer  
21 is Colonel John Tillman.

22 Q And he is a Medical Officer?

23 A And he is a Medical Officer.

24 Q Do you know Mr. Rubin Kravitz?

25 A Yes. He's the Chief of Pharmacy here at

1 Ft. Monroe.

2 Q Okay. And are you familiar with his  
3 duties?

4 A I'm familiar with his duties?

5 Q And how is that?

6 A Well, I've been his supervisor for --  
7 not this year, but the 2 years previous.

8 Q And do you know Ms. Booth?

9 A Yes, she's the Pharmacy Technician that  
10 works for Mr. Kravitz in the pharmacy.

11 Q Okay. And are you familiar with her  
12 duties?

13 A Yes, I am.

14 Q Would you describe, sort of in general  
15 terms, at least, Mr. Kravitz' duties as the pharmacist?

16 A Mr. Kravitz is responsible for all  
17 actions in the pharmacy. He is a Pharmacy Officer,  
18 which means that he's trained. I'm not sure if he's  
19 Board Certified. I think he is, but I'd have to look  
20 on his record.

21 He works very independently, managing  
22 all the operations of the pharmacy to include  
23 dispensing pharmaceuticals, to include getting orders  
24 from the physicians here at the clinic. And he  
25 supervises Ms. Booth, who does a major portion of the



1 ordering of pharmacy supplies and also directs her  
2 activities.

3 He directs her activities in approving  
4 her leave, approving her -- doing her evaluation,  
5 approving her absences from the clinic. But mainly, as  
6 a pharmacist, he's responsible for dispensing drugs and  
7 pharmaceuticals and narcotics.

8 Q Let me ask if you know this. I'm sure  
9 Mr. Kravitz can tell us as well. In the absence of Mr.  
10 Kravitz, would Ms. Booth be able to -- eligible to  
11 dispense medication and things on her own?

12 A The Army allows Ms. Booth, as a civilian  
13 technician, if Mr. Kravitz approves it or the doctors  
14 approve it, actually. She can dispense not narcotics,  
15 but regular pharmacy medications to active duty  
16 soldiers only. She cannot release medications without  
17 the doctor's approval and signature on the medications.

18 Q But normally Mr. Kravitz would be the  
19 one to do that?

20 A Yes. He's -- we always try to have a  
21 pharmacist here and available, because it makes it a  
22 real hardship on the doctors to have to first see the  
23 patient and then go over and release the medications.

24 The Ft. Eustis pharmacy sometimes sends  
25 a pharmacist out to back Mr. Kravitz when he's on leave

1 or is absent. And we makes the arrangements to do  
2 that.

3 Q Ms. Palmatier, does Mr. Kravitz have the  
4 authority to select a pharmacy tech, to hire a pharmacy  
5 tech, or at least recommend in a hiring situation?

6 A Yes, he would be the one responsible for  
7 doing that. Now Sylvia's been here for a long time.  
8 But if she did leave, then he would be responsible for  
9 selection.

10 Now the OIC can make a recommendation to  
11 do a Board when you hire an employee. And I've seen  
12 that in other facilities I've been in. But he wouldn't  
13 be the sole person necessarily to do that.

14 The OIC may say, well, we're going to do  
15 a Board, we're going to review together the  
16 applications and choose together.

17 HEARING OFFICER ANDERSON: The OIC?

18 THE WITNESS: Is the Officer in Charge.

19 BY MR. GRUCHALA:

20 Q Would the Officer in Charge tend to rely  
21 heavily or not so heavily on Mr. Kravitz'  
22 recommendation?

23 A Absolutely, I would say that he'd have  
24 to rely on Mr. Kravitz, because he's the specialist in  
25 pharmacy here. For instance, I don't know that much

1 about how pharmacy should, you know, dispensing the  
2 pills. I don't know what medications.

3 The Officer in Charge has a little bit  
4 more experience because she's a medical physician and  
5 she knows more about medications than I would. But she  
6 would have to depend upon him, with his expertise, to  
7 know exactly what the technician needs to do.

8 Q How about promotions and awards and that  
9 sort of thing? What, if anything, would Mr. Kravitz  
10 have to do with that?

11 A Mr. Kravitz, in accordance with his  
12 current job description listed on -- I see the notes,  
13 you've got that out. He's responsible to supervise  
14 her. He's responsible for her evaluation. He's  
15 responsible for coaching and counseling. He's  
16 responsible for completing her evaluation.

17 In fact, last night, I asked him, you  
18 know, what the most current evaluation, if he's  
19 finished with it, because it's due at the end of the  
20 month.

21 And he said, yes. He said, I've put it  
22 together and he says, I want to recommend Sylvia for a  
23 quality step improvement. So yes, he is responsible  
24 for any awards that he recommends.

25 Now, he isn't the sole person who makes

1 the final decision, because it goes to a Board on all  
2 awards that are given to civilian employees up at  
3 McDonald.

4 MR. GRUCHALA: For the record, Major  
5 Palmatier referred to what appears to be a duty  
6 description, a piece of paper that I would like to mark  
7 as an exhibit. And I'm not sure what your preference  
8 is.

9 HEARING OFFICER ANDERSON: I'll just go  
10 ahead and do that. Is this the PD for Kravitz?

11 MR. GRUCHALA: No, this is his most  
12 recent efficiency report.

13 HEARING OFFICER ANDERSON: Okay.

14 THE WITNESS: Right.

15 HEARING OFFICER ANDERSON: Let's do  
16 that.

17 THE WITNESS: And it includes a --

18 MR. GRUCHALA: Just a second. Do you  
19 want me to go ahead and --

20 HEARING OFFICER ANDERSON: I'll mark  
21 this as Agency Exhibit 1.

22 (The document referred to was  
23 marked for identification as  
24 Agency Exhibit 1.)

25 MR. GRUCHALA: Agency Exhibit 1 is a

1 civilian evaluation report on Mr. Rubin Kravitz with an  
2 end date or a through date of October 31st, 1997.

3 HEARING OFFICER ANDERSON: Do you have  
4 copies of that?

5 MR. GRUCHALA: I can make copies.

6 HEARING OFFICER ANDERSON: Let's go off  
7 the record for a minute.

8 (Off the record.)

9 HEARING OFFICER ANDERSON: On the  
10 record.

11 The court reporter and all parties have  
12 been provided a copy of the Exhibit that's marked as  
13 Agency 1.

14 MR. GRUCHALA: Thank you.

15 BY MR. GRUCHALA:

16 Q Major Palmatier, can you identify this  
17 piece of paper, the civilian evaluation report?

18 A Yes. This is the most recent evaluation  
19 Mr. Kravitz has received, dated 23 February 98. My  
20 signature's on there. It covers the period 1 November  
21 '96 through October 31, '97.

22 Q Okay. And this would have been his most  
23 recent evaluation?

24 A That's correct.

25 Q Even though now he is currently under

1 someone else's supervision?

2 A Yes. They're -- along with the senior  
3 civilian evaluation is also a support form, a DA Form  
4 7222-1. I'm not sure if you have that here.

5 And Mr. Kravitz is due an evaluation --  
6 let's see -- from Dr. King, soon. He's the supervisor  
7 currently and was not available this morning. And that  
8 evaluation would be the 31st of October '98.

9 Q So he's on a yearly evaluation?

10 A Right.

11 MR. GRUCHALA: I move that Agency 1 be  
12 admitted into the record.

13 HEARING OFFICER ANDERSON: Any  
14 objection?

15 MR. DOBSON: No.

16 HEARING OFFICER ANDERSON: It's  
17 received.

18 (The document previously  
19 marked for identification as  
20 Agency Exhibit 1 was received  
21 in evidence.)

22 BY MR. GRUCHALA:

23 Q Getting back to the question we were  
24 discussing before, Major Palmatier, does he have the  
25 authority to discipline his pharmacy technician?

1 A Yes, he has the authority to do that.  
2 He's never needed to do that, because she's very good,  
3 but he does have the ability to do that.

4 Q How about just general counseling or  
5 grievances? Would she come to him with general  
6 complaints or if she had a complaint about anything on  
7 the job?

8 A That's where she should begin, yes.

9 Q And if she came to him, it would  
10 escalate up, would he, with his judgment and his  
11 opinion on how to resolve issue, be given great weight  
12 or little weight?

13 A I would say great weight.

14 Q What authority does he have to direct  
15 her in the day to day operations?

16 A He's responsible to tell her what  
17 activities that she's supposed to do in the pharmacy.  
18 And he directs her what prescriptions she's supposed to  
19 fill and then he checks them and then provides them to  
20 the patient.

21 She does all of the ordering of  
22 supplies. And he should be working with her in  
23 reference to that. He's totally responsible for all  
24 her activities, because, I mean, I wouldn't go over  
25 there and say, okay, Sylvia, this is what I want you to

1 do. There's nobody but him that can do that.

2 MR. GRUCHALA: That's all the questions  
3 I have for the minute.

4 HEARING OFFICER ANDERSON: Petitioner?

5 MR. DOBSON: Yes, sir, I have a couple  
6 of questions, clarification mostly.

7 CROSS EXAMINATION

8 BY MR. DOBSON:

9 Q You say that Mr. Kravitz directs all  
10 activity. He has the authority to grant leave and  
11 discipline. Is he the final -- if he grants leave,  
12 does he --

13 A He's the one that grants the leave. It  
14 could be overturned by the Officer in Charge, who could  
15 also overturn anybody's request for leave.

16 Q And the same for the awards,  
17 recommending awards?

18 A Same thing with the awards. In the  
19 Army, we have what they call a chain of command. And  
20 for instance, there's an employee that the -- if they  
21 receive a disciplinary action, then the Officer in  
22 Charge could actually say, that's not appropriate at  
23 this time. I'm going to overturn that.

24 But most of the time, when Sylvia takes  
25 leave, I'm not even aware of that until I go over there



1 and neither is the Officer in Charge. But if they  
2 would project -- like, for instance, if she wanted to  
3 be gone for 3 weeks, then he would be responsible to  
4 let us know that she was going to take leave for 3  
5 weeks.

6 And then if the Officer in Charge found  
7 that we couldn't support that to get a back fill from  
8 the hospital or there was something happening, such as  
9 a move back into the new facility that we're going to  
10 do in October, then she could overturn it and deny it.

11 But most of the time, you know, we're  
12 not involved in regular, routine requests for leave.

13 Now as far as for awards, yes, she looks  
14 at all recommendations for awards and she can recommend  
15 downgrading or she can recommend denial. And then she  
16 would forward them to the Awards Board for Civilians at  
17 McDonald Army Hospital.

18 Q Right. So Mr. Kravitz, in both cases,  
19 is really not the final authority?

20 A Actually, the OIC isn't either. The  
21 Commander, Colonel Tillman, is the final authority on  
22 all those activities.

23 Q I think you said with position  
24 descriptions, Mr. Kravitz recommends?

25 A Right.

1 Q (inaudible)

2 A All supervisors do. That's the  
3 condition for all supervisors. Like for instance, I'm  
4 leaving this summer and she'll put in an award for me.  
5 And all she can do is recommend it. She's not the  
6 final authority. Colonel Tillman is the final approval  
7 authority on all actions.

8 MR. DOBSON: I don't have anything else.  
9 Can Joe speak?

10 HEARING OFFICER ANDERSON: State your  
11 appearance for the record.

12 MR. FULGHAM: Okay. I'm Charles  
13 Fulgham, F-U-L-G-H-A-M. I represent the Association of  
14 Government Employees, Local R4-6. My mailing address  
15 is [REDACTED] Ft. Eustis, Virginia 23604.

16 BY MR. FULGHAM:

17 Q Major, (inaudible).

18 A Yes, we do.

19 Q How often do you have a staff meeting?

20 A Staff meetings for what?

21 Q Your staff meetings for your managers  
22 and supervisors?

23 A Once a week on Monday.

24 Q And does Mr. Kravitz attend those?

25 A Yes, he does.



1                   And under A-2, they list the pharmacists  
2                   and technicians, the optometrists, physical therapist  
3                   and health benefit advisor will report to the  
4                   Administration Officer.

5                   Does this mean that leave approval has  
6                   been taken from Mr. Kravitz?

7                   A                   No.

8                   Q                   Was this policy ever put into effect?

9                   A                   I'd have to look at the one that was the  
10                  final, but that - if that leads you to believe that,  
11                  that's not true, because Mr. Kravitz does all the leave  
12                  approval.

13                  This is -- oh, I know what this is.  
14                  Okay. This is the way this is done. Just a minute --  
15                  because this was written in '97. And currently,  
16                  whatever this is, all I know is that Mr. Kravitz, he  
17                  approves her leave and she signs the time card.

18                  HEARING OFFICER ANDERSON: We're going  
19                  to have him as a witness.

20                  THE WITNESS: I can show you current  
21                  time cards that he signs, and I can always show you all  
22                  the leave and requests that he puts in to Sergeant  
23                  Hauser.

24                  HEARING OFFICER ANDERSON: Do you want  
25                  to put this in the record?

1 MR. FULGHAM: Yes, sir.

2 HEARING OFFICER ANDERSON: Any

3 objections to P1?

4 MR. GRUCHALA: Well, I'm not -- it says  
5 draft.

6 HEARING OFFICER ANDERSON: Do you know  
7 why it says draft? Was this ever finalized?

8 THE WITNESS: It was finalized, and I  
9 don't recall what it finally said. I don't -- I can't  
10 remember. I mean, I'd have to look at it. I've got it  
11 somewhere.

12 HEARING OFFICER ANDERSON: Do you have  
13 the final?

14 MR. FULGHAM: No, sir, I don't.

15 THE WITNESS: But I would tell you even  
16 with the current one, which we're getting ready -- in  
17 fact, we have to update that. And I have put this  
18 draft out and I think on the front of it I had said,  
19 please review this draft and if there are any  
20 corrections or additions, please let me know before I  
21 finalize it.

22 So I would say that whatever is in here,  
23 there were several -- there probably are some changes  
24 to the draft.

25 HEARING OFFICER ANDERSON: This was

1 never issued?

2 THE WITNESS: It was issued, but not  
3 this one.

4 HEARING OFFICER ANDERSON: That's what I  
5 mean.

6 THE WITNESS: Yes, I've got it  
7 somewhere.

8 HEARING OFFICER ANDERSON: If this draft  
9 was never final -- this draft, as it appears now, was  
10 never issued. This is a working paper?

11 THE WITNESS: It was a working paper.  
12 This one was, yes.

13 HEARING OFFICER ANDERSON: Why don't we  
14 try to get the final in the record instead of putting  
15 this in. Okay?

16 MR. GRUCHALA: I agree.

17 HEARING OFFICER ANDERSON: Any other  
18 questions?

19 MR. FULGHAM: Yes, sir.

20 BY MR. FULGHAM:

21 Q On the performance evaluation of Mr.  
22 Kravitz, you say rates?

23 A That's correct.

24 Q And Ms. Booth is a GS-5?

25 A Yes.

1 Q Isn't the standards already pre-printed  
2 by the Department of the Army on that?

3 A Standards?

4 Q The only thing Mr. Kravitz has to do is  
5 mark a block as to how well she has done in certain  
6 tasks?

7 GS-9 and above, we have the basic TAPE  
8 System, the Army's Employee Evaluation System, which  
9 goes from GS-1 to GS-8. And then we've got the single  
10 system that Mr. Kravitz gets, GS-9 through --

11 But the GS-1 through GS-8 is not --

12 A That's correct.

13 Q And you have to make your goals, as they  
14 call them goals, they used to call them standards. But  
15 the standards themselves on the Basic TAPE form is pre-  
16 printed?

17 A They're already pre-printed on a form.

18 Q So the only thing Mr. Kravitz does with  
19 Ms. Booth's evaluation is just check a box. Is that  
20 correct?

21 A Yes. If you'd like, I can give you  
22 copies of what he's talking about. The Base System  
23 Civilian Evaluation Report, the current one that I have  
24 in her file, is rated June of '97.

25 Q Right.

1 A And the actual rating itself is this,  
2 what you're referring to. He's referring to these --

3 HEARING OFFICER ANDERSON: Let's go off  
4 the record for just a second.

5 (Off the record.)

6 HEARING OFFICER ANDERSON: We're back on  
7 the record.

8 Let's mark this as Agency 2.

9 (The document referred to was  
10 marked for identification as  
11 Agency Exhibit 2.)

12 HEARING OFFICER ANDERSON: Did you have  
13 any more questions?

14 MR. FULGHAM: Yes.

15 HEARING OFFICER ANDERSON: Well, let's  
16 go ahead with that, and then we'll come back to this.

17 BY MR. FULGHAM:

18 Q All right. Being as how you're in the  
19 military, and I don't know how well versed you are in  
20 the civilian side, do you know the difference between a  
21 work leader and supervisor, their duties?

22 A I don't -- we don't have any work  
23 leaders here, so I would say I guess I wouldn't.

24 Q Well, if you don't know (inaudible) --

25 A I don't know.



1                   MR. FULGHAM: I'd like to hand you this.  
2       It's a Guide on OPM, Worker Leader Evaluation Guide.  
3       As it lists the duties of a work leader. And the  
4       difference between a leader and a supervisor,  
5       supervisor is not a bargaining unit employee.

6                   MR. DOBSON: Are you testifying?

7                   HEARING OFFICER ANDERSON: Yeah, let's -  
8       - let's go ahead and put that in. If you want to use  
9       it in your brief, that's fine.

10                   That will be -- I think that's  
11       Petitioner's 1.

12   (The document referred to was  
13   marked for identification as  
14   Petitioner Exhibit 2.)

15                   HEARING OFFICER ANDERSON: Do you have  
16       copies of that?

17                   MR. FULGHAM: Yes, sir.

18                   THE WITNESS: I would say to say that  
19       Mr. Kravitz is rated and graded as a supervisor, so  
20       he's not a work leader in my estimation. I mean, he  
21       may be -- you may be familiar with something that the -  
22       - I mean, he's listed as the Chief of Pharmacy, which  
23       is on his job description, supervisor.

24   So if you are suggesting that his job  
25       description needs to be changed, that's -- I've never

1 heard this come up before. This is the first I've  
2 heard this.

3 HEARING OFFICER ANDERSON: Has everybody  
4 got a copy of the P1? Any objection?

5 MR. DOBSON: No objection.

6 HEARING OFFICER ANDERSON: Received.

7 (The document previously  
8 marked for identification as  
9 Petitioner Exhibit 2 was  
10 received in evidence.)

11 THE WITNESS: I'd like to get a copy,  
12 please.

13 HEARING OFFICER ANDERSON: Okay. Any  
14 other questions?

15 MR. FULGHAM: I think I have one more  
16 question.

17 BY MR. FULGHAM:

18 Q Does Mr. Kravitz spend at least 25  
19 percent of his time supervising Ms. Booth?

20 A I couldn't tell you. I don't know. I'm  
21 not over at his office. I mean, he's in charge of the  
22 area and she's over there with him. I would say 95  
23 percent of the time. I'm assuming he's supervising  
24 her.

25 He's supervising her -- every time she

1 fills a prescription, she hands it to him and he checks  
2 it off. So I would consider that part of supervising,  
3 yes.

4 Q Would that be a supervisory duty under  
5 the legal sense of Chapter 71, which lists the duties  
6 of a supervisor or would that be supervising an  
7 assistant in the course of him performing his duties?

8 A I would say it would be supervising what  
9 she does, because if she makes an error, he would tell  
10 her to make a correction.

11 Q So that would be him performing his  
12 professional duties?

13 A It's part of professional duties and  
14 supervising. In my estimate, it's supervising and  
15 being professional. I mean --

16 Q Last question.

17 A I mean, I couldn't go over there and  
18 fill it and have him supervising, checking what I would  
19 do, because I wouldn't know what I'm doing.

20 Q My question is, does him checking her  
21 work, technical work, because he is a professional,  
22 does that checking of the technical work qualify him as  
23 her immediate supervisor?

24 A I really don't feel qualified to answer  
25 that question and I would recommend that you request

1 somebody who's more qualified to answer that question,  
2 such as the Chief of Pharmacy at Fort Eustis.

3 Q And one more question. A doctor and  
4 registered nurse -- you've been around probably all of  
5 your career and --

6 A Not completely.

7 Q Doctors have patients and doctors issue  
8 orders to nurses about treatment?

9 A That's right.

10 Q Does this make a doctor or nurse a  
11 supervisor in the legal sense of --

12 A I couldn't address that, because I'm not  
13 familiar with the legal chapter that you're referring  
14 to.

15 Q The chapter I'm referring to is Title 5,  
16 US Code, Chapter 71. And they define a supervisor's  
17 duties.

18 A I'm not familiar with it. I wouldn't --  
19 I don't want to answer something I don't know, that I  
20 haven't read.

21 MR. FULGHAM: That's all.

22 HEARING OFFICER ANDERSON: Any other  
23 questions?

24 MR. DOBSON: I have no further  
25 questions.

1 HEARING OFFICER ANDERSON: All right,  
2 let's introduce this Performance Evaluation.

3 MR. DOBSON: I move that the Performance  
4 Evaluation, Booth's performance evaluation, I think  
5 it's marked Agency 2, be admitted into evidence.

6 THE WITNESS: Also, I included with --  
7 this is a check list.

8 HEARING OFFICER ANDERSON: This is a 4-  
9 page document. You were the reviewing official on  
10 this?

11 THE WITNESS: Yes, sir.

12 HEARING OFFICER ANDERSON: Any objective  
13 to A2 being received?

14 MR. DOBSON: No objection.

15 HEARING OFFICER ANDERSON: It's  
16 received.

17 (The document previously  
18 marked for identification as  
19 Agency Exhibit 2 was received  
20 in evidence.)

21 HEARING OFFICER ANDERSON: Any other  
22 questions? I guess not.

23 Thank you very much. You're excused.

24 (Witness excused.)

25 HEARING OFFICER ANDERSON: Off the

1 record.

2 (Off the record.)

3 HEARING OFFICER ANDERSON: On the  
4 record.

5 Do you want to call your witness now,  
6 Mr. Kravitz?

7 HEARING OFFICER ANDERSON: Will you  
8 raise your right hand?

9 Whereupon,

10 RUBIN KRAVITZ,  
11 was called as a witness by and on behalf of the Agency,  
12 and having been duly sworn, was examined and testified  
13 as follows:

14 THE WITNESS: Yes, sir.

15 HEARING OFFICER ANDERSON: Would you  
16 spell your name for the record?

17 THE WITNESS: First name is Rubin, R-U-  
18 B-I-N. Last name is Kravitz, K-R-A-V like in Victor-I-  
19 T-Z.

20 HEARING OFFICER ANDERSON: And your  
21 position?

22 THE WITNESS: Chief Pharmacist.

23 HEARING OFFICER ANDERSON: Your witness,  
24 Mr. Dobson.

25 DIRECT EXAMINATION

1 BY MR. DOBSON:

2 Q Mr. Kravitz, at the -- Chief Pharmacist  
3 is your title?

4 A Yes, sir.

5 Q Could you please tell us --

6 HEARING OFFICER ANDERSON: In fact,  
7 before we get started, we have his PD available. It's  
8 not in the record yet.

9 MR. DOBSON: I believe it is.

10 HEARING OFFICER ANDERSON: It is in the  
11 record?

12 MR. DOBSON: (inaudible)

13 HEARING OFFICER ANDERSON: Have you made  
14 copies?

15 Let's go off the record.

16 (Off the record.)

17 HEARING OFFICER ANDERSON: On the  
18 record.

19 This would be Petitioner's 2, 3? All  
20 right. This is Petitioner's 3. It's a copy of your  
21 current position description. Have you had a chance to  
22 look at it?

23 (The document referred to was  
24 marked for identification as  
25 Petitioner Exhibit 3.)

1 THE WITNESS: I looked at it before,  
2 sir.

3 HEARING OFFICER ANDERSON: You would  
4 identify this as your PD, PD meaning position  
5 description?

6 THE WITNESS: Yes. It should be  
7 updated, because there's some new things we've been  
8 doing. This is back in '94, sir.

9 HEARING OFFICER ANDERSON: But this is  
10 the --

11 THE WITNESS: Yeah. It's the current  
12 one we have.

13 HEARING OFFICER ANDERSON: Okay. Any  
14 objections to the receipt of P3?

15 MR. GRUCHALA: No objection.

16 HEARING OFFICER ANDERSON: Received.

17 (The document previously  
18 marked for identification as  
19 Petitioner Exhibit 3 was  
20 received in evidence.)

21 HEARING OFFICER ANDERSON: All right, go  
22 ahead. Sorry to interrupt.

23 BY MR. DOBSON:

24 Q Mr. Kravitz, I'll begin again. The  
25 question is as Chief of the Pharmacy Section, could you



1 please tell us in what capacity, if any, that you  
2 supervise individuals?

3 HEARING OFFICER ANDERSON: Hold on a  
4 second. I think I have --

5 Let's go off the record.

6 (Off the record.)

7 HEARING OFFICER ANDERSON: On the  
8 record. P2 is the PE for Mr. Kravitz, the pharmacist.

9 Okay, you may proceed.

10 BY MR. DOBSON:

11 Q Mr. Kravitz, once again, I'll ask you  
12 this question again, the Position Description lists you  
13 as a supervisor. Could you please, to the best of your  
14 knowledge, explain to us the supervisory capabilities,  
15 authorizations that you do have and to what extent?

16 A As far as supervisor, I'm supposed to be  
17 supervisor of the whole pharmacy. I'm responsible for  
18 -- as far as direct supervision, I'd probably spend  
19 maybe 5 percent of my time or less as direct  
20 supervision.

21 The other thing is that they have a  
22 Monday morning meeting which is supposed to have -- all  
23 the supervisors are supposed to be there. I've never  
24 been asked to be at the meeting, which is supposed to  
25 be for all supervisors.

1                   And, in fact, as far as I know, I am  
2                   told also that the IG has also suggested that I be at  
3                   the (inaudible).

4                   Also, this thing over here, it says,  
5                   title, pharmacist, and then further down, it says SG  
6                   Pharmacist.

7                   So as far as supervising goes, per se, I  
8                   spend, I would say probably, 90, 95 percent of my time  
9                   as a pharmacist, taking care of patients and so forth.

10                  If any of you have been at the pharmacy, you know I'm  
11                  always in the (inaudible). I'm very seldom am I doing  
12                  any so-called paperwork.

13                  Q                   To your knowledge, are you aware of any  
14                  other documents than the main documents where you're  
15                  listed as a pharmacist supervisor?

16                  A                   As far as I know, I'm not listed as a  
17                  supervisor at Fort Eustis. If I was, I'd be a GS-12.  
18                  Right now I'm a GS-11. They do have a supervisory  
19                  pharmacist that's a GS-12. I'm a GS-11.

20                  Q                   Supervisory pharmacists are GS-12?

21                  A                   At Eustis they are. Here, they're GS-  
22                  11.

23                                   MR. DOBSON: I have no further  
24                  questions.

25                                   HEARING OFFICER ANDERSON: The Agency?

1 MR. GRUCHALA: Yes.

2 CROSS EXAMINATION

3 BY MR. GRUCHALA:

4 Q Did you indicate some kind of an IG?  
5 What did the IG suggest?

6 A It suggested that I be at the  
7 supervisor's meeting if I'm a supervisor.

8 Q What would the IG have to do with it?

9 A Because it was a (inaudible).

10 Q For what?

11 A For what? For the morale and so forth  
12 of the whole clinic. I was told that I was supposed to  
13 be at this meeting.

14 Q Okay. Your testimony is that you've  
15 never been invited to these meetings?

16 Q That's true.

17 Q Who's responsible for the -- what  
18 happens if the tech would make a mistake?

19 A I'm responsible for the technician.

20 Q Did you supervise her through the --

21 A I supervised -- yes, everything that  
22 goes out of the pharmacy is either supervised by me,  
23 not supervised, but it's checked by me. I don't let  
24 anything go out unless it's checked by me.

25 But as far as supervision goes, I do

1 most of the filling myself.

2 Q Your licensing standards; of course, the  
3 technician does not have a license to dispense  
4 medication?

5 A Right. I think in the military she can  
6 dispense to the military people.

7 Q But you hold a pharmacist's license?

8 A Yes. I have a state license in the  
9 State of Virginia. I also have one from Massachusetts.

10 Q And who would -- do if a mistake were  
11 made or something happened, they would look to the  
12 pharmacist for responsibility?

13 A It would be my responsibility.

14 Q And you -- and so in that respect, at  
15 least, you supervise her dispensing of medications or  
16 what she has put together?

17 A I check. I check everything that goes  
18 out of the pharmacy.

19 Q Okay, but in checking it, if you  
20 discerned that something was amiss, something was  
21 wrong, you would certainly correct it?

22 A Of course. I don't want anything to go  
23 out wrong.

24 Q Now who's Ms. -- we're talking about Ms.  
25 Booth, is that correct?

1 A Yes.

2 Q Who does she come to when she wants  
3 leave? Does she ask you?

4 A She asks me, yes.

5 Q What about tasks that need to be done?  
6 Do you tell her what tasks or does she ask you about --  
7 should we do this?

8 A She is very competent and usually takes  
9 care of tasks by herself.

10 Q Okay. But if she had a question on  
11 those tasks, would she come to you?

12 A Yes.

13 Q Do you -- have you had occasion to  
14 recommend her for awards?

15 A Awards? Yes.

16 Q And what kind of awards? Monetary ones?

17 A I tried for a step increase and -- the  
18 other thing, is any time you make an award, as you  
19 probably well know, you cannot tell the technician that  
20 you have them in for an award.

21 So, what I'm saying, it might be brought  
22 up at the next meeting, because she's not supposed to  
23 know that I put her in for a much better than she got.

24 They put it in for, I think, 1 percent raise, and I  
25 put her in for a 7 percent raise.

1 Q But these are generally dollar,  
2 financial, we're talking about. Is that correct?

3 A Well, it's (inaudible).

4 HEARING OFFICER ANDERSON: When was  
5 this? Can I get some details on that?

6 THE WITNESS: This was about a year ago,  
7 sir.

8 HEARING OFFICER ANDERSON: And what  
9 happened? Did you make a written presentation?

10 THE WITNESS: Yes, and they said --  
11 well, I can go just so far with those awards. They  
12 decided that she would not get the award that I  
13 recommended.

14 HEARING OFFICER ANDERSON: Your  
15 recommendation was for a step increase?

16 THE WITNESS: Step increase, yes, sir.

17 HEARING OFFICER ANDERSON: And she  
18 didn't get it? Rather, she got something else?

19 THE WITNESS: Yes, she got a 1 percent -  
20 - I believe she got 1 percent, a very small amount.

21 HEARING OFFICER ANDERSON: So your  
22 recommendation for the one step increase award, the  
23 award was granted, but the size of the award was  
24 reduced. But would you say she got the award pursuant  
25 to your recommendation?

1 THE WITNESS: No. She didn't get what  
2 she asked for.

3 HEARING OFFICER ANDERSON: Well, she  
4 didn't get what she asked for, but she wouldn't have  
5 gotten anything if you hadn't asked for something,  
6 right?

7 THE WITNESS: That's true.

8 HEARING OFFICER ANDERSON: Is that true?

9 THE WITNESS: Yes, sir.

10 HEARING OFFICER ANDERSON: So they  
11 decided to give her an award pursuant to your  
12 recommendation, but it was less than what you had asked  
13 for?

14 THE WITNESS: Must less.

15 HEARING OFFICER ANDERSON: Okay. That  
16 was last year?

17 THE WITNESS: Yes, sir.

18 HEARING OFFICER ANDERSON: About what  
19 month?

20 THE WITNESS: Probably in May.

21 HEARING OFFICER ANDERSON: The Spring of  
22 '97?

23 THE WITNESS: Yes, sir.

24 HEARING OFFICER ANDERSON: Go ahead.

25 BY MR. GRUCHALA:

1 Q Do people frequently receive monetary  
2 awards?

3 A Certain people do and certain people  
4 don't. There seems to be some sort of favoritism as  
5 far as I'm concerned.

6 Q We're talking about generally about  
7 monetary awards?

8 A Monetary awards, yes, sir. And also,  
9 step increases.

10 Q That also is a monetary award?

11 A Yes.

12 MR. GRUCHALA: I have no further  
13 questions.

14 HEARING OFFICER ANDERSON: Anything  
15 else?

16 MR. DOBSON: May Mr. Fulgham ask some  
17 questions?

18 BY MR. FULGHAM:

19 Q Mr. Kravitz, on your Position  
20 Description or job description (inaudible), attached to  
21 that is the evaluation segment that goes along with the  
22 job description.

23 A You're talking about my description?

24 Q Pardon?

25 A You're talking about my evaluation?



1 Q Right. No, no, not the evaluation.  
2 Your job description.

3 A Okay.

4 Q There's an evaluation attached to it.

5 A It isn't in my file, so --

6 Q On paragraph 5, determination -- would  
7 you read that to me?

8 A Series determination. This position  
9 involves responsibility for a complete pharmacy service  
10 and outpatient clinic. This meets the 660 series,  
11 which includes positions which is professional, acts as  
12 Chief Pharmacist, yet does not directly supervise 3 or  
13 more 4 employees.

14 Q Is this the first time you've seen that?

15 A As far as I know. I might have -- I  
16 might have seen it years ago, but I don't remember it.

17 Q A little background, up until December  
18 of 1997, under the 5 CFR, Section 551.205, and this  
19 concerns the exemptions and exclusions that are imposed  
20 under the (inaudible).

21 MR. GRUCHALA: Objection. Are you  
22 testifying, Mr. Fulgham, or is the witness testifying?

23 MR. FULGHAM: I'm going to --

24 HEARING OFFICER ANDERSON: If you're  
25 going to refer to that, we're going to need to get it

1 into the record.

2 MR. FULGHAM: Okay, I'd like to do that.

3 HEARING OFFICER ANDERSON: Do you have  
4 copies of it ?

5 MR. FULGHAM: Yes, sir.

6 HEARING OFFICER ANDERSON: Okay. This  
7 will be P4, I believe, or 3.

8 (The document referred to was  
9 marked for identification as  
10 Petitioner Exhibit 4.)

11 HEARING OFFICER ANDERSON: Are you going  
12 to pass out the copies?

13 MR. FULGHAM: Yes.

14 HEARING OFFICER ANDERSON: Off the  
15 record.

16 (Off the record.)

17 HEARING OFFICER ANDERSON: On the  
18 record.

19 This OPM document has been marked as P4.  
20 It starts on page 539 through page 545. The parties  
21 have a copy of it.

22 Do you wish to enter this into the  
23 record?

24 MR. FULGHAM: I'd like to clarify the  
25 evaluation section. This is before that change

1 happened. Apparently they had three employees on that  
2 same CFR.

3 HEARING OFFICER ANDERSON: Well, first  
4 of all, let's get this into the record. Any objection  
5 to P3?

6 MR. GRUCHALA: No objection.

7 (The document previously  
8 marked for identification as  
9 Petitioner Exhibit 4 was  
10 received in evidence.)

11 HEARING OFFICER ANDERSON: Apparently  
12 what you're saying is that OPM used to use as it's  
13 criteria for perceiving a supervisory classification,  
14 you have to supervise 3 or more people.

15 You're saying that recently the OPM  
16 regulations have changed. That's P3. The new test is  
17 80 percent of your time. That is on page 541, (2)(d).  
18 Is that right?

19 MR. FULGHAM: 551.205 defines an  
20 executive position -- two tests, a primary and 80  
21 percent test.

22 HEARING OFFICER ANDERSON: Okay. Any  
23 other questions?

24 BY MR. FULGHAM:

25 Q I'd just like to ask Mr. Kravitz the

1 amount of time that you actually spend supervising the  
2 employee over a 1-year, 12 month?

3 A Amount of time?

4 Q Well, percentage wise?

5 A Probably 5 percent or less.

6 HEARING OFFICER ANDERSON: Any other  
7 questions?

8 MR. GRUCHALA: If I may, I may be  
9 belaboring the point.

10 Supervising, do you think you could  
11 departmentalize the supervisory functions? I mean,  
12 we're not talking about a mathematical certainly. Just  
13 like the OPM standards and we might as well make an  
14 Agency argument on that.

15 We would argue, you know, we can go  
16 ahead and admit this, but the relevance of it is  
17 questionable. Because all we're talking about on the  
18 OPM standards is grading a position for the purposes  
19 whether it's a 9 or 11 or 12. It doesn't necessarily  
20 have anything to do that the tests for what a  
21 supervisor is or is not.

22 BY MR. GRUCHALA:

23 Q But getting back to the question, I  
24 should have phrased more articulately to you, Mr.  
25 Kravitz, when you say 5 percent of your time is spent

1 supervising, what exactly do you mean by that?

2 A Well, by that, where she's doing, for  
3 example, stock work, ordering and so forth, telephone,  
4 things like that, whereas I believe that if I do  
5 checking on the front line, I am not a supervisor as  
6 far as that testimony.

7 Q Okay, I understand. That's your  
8 opinion.

9 A That's right. I am checking something.  
10 I am not supervising.

11 And the other thing is, if I may add, if  
12 I am a supervisor, then why can't I be a GS-12 like  
13 they have at Eustis? I'm a GS-11. I can't understand  
14 that.

15 MR. GRUCHALA: I have no further  
16 questions.

17 HEARING OFFICER ANDERSON: All right.  
18 Let me ask you this. Where's the pharmacy?

19 THE WITNESS: The pharmacy's in Trailer  
20 Number 1, sir.

21 HEARING OFFICER ANDERSON: Does the  
22 pharmacy serve all of Ft. Monroe?

23 THE WITNESS: Yes, sir, and outside Ft.  
24 Monroe.

25 HEARING OFFICER ANDERSON: And how many

1 people work in the pharmacy?

2 THE WITNESS: One and myself. We do  
3 have some volunteers come in.

4 HEARING OFFICER ANDERSON: What are the  
5 hours of the pharmacy?

6 THE WITNESS: The hours are from 7:30  
7 until 12, and 1 until 4:30, except for Monday, which we  
8 close at 3 o'clock.

9 HEARING OFFICER ANDERSON: And normally  
10 are you both there together each day during those  
11 hours?

12 THE WITNESS: Except when she has to go  
13 to Eustis, stuff like that, for training purposes at  
14 Eustis.

15 HEARING OFFICER ANDERSON: Do you ever  
16 come in contact with other professional members of the  
17 bargaining unit? The two doctors and the nurses?

18 THE WITNESS: Oh, yeah, I know them,  
19 sure.

20 HEARING OFFICER ANDERSON: Is that who  
21 else is in the unit, two doctors and one nurse?

22 THE WITNESS: And one nurse.

23 HEARING OFFICER ANDERSON: And where do  
24 they work?

25 THE WITNESS: They work in Trailer

1 Number -- I believe one works in Trailer Number 2, the  
2 two doctors in Trailer Number 2 and the nurse works in  
3 Trailer Number 3.

4 HEARING OFFICER ANDERSON: And the  
5 pharmacy is in --

6 THE WITNESS: Trailer Number 1.

7 HEARING OFFICER ANDERSON: Do you ever  
8 come in contact with the doctors and the nurses?

9 THE WITNESS: Oh, sure.

10 HEARING OFFICER ANDERSON: Via phone or  
11 in person?

12 THE WITNESS: I have to communicate with  
13 them if there's a problem with a prescription,  
14 something like that. Yes, we have to work together.

15 HEARING OFFICER ANDERSON: All right.  
16 There's common lines of supervision there, the doctors  
17 and the nurses and yourself?

18 THE WITNESS: I don't believe it's any -  
19 - it's a professional --

20 HEARING OFFICER ANDERSON: No, is there  
21 any common line of supervision for the doctors and  
22 nurses and yourself?

23 THE WITNESS: I don't understand.

24 HEARING OFFICER ANDERSON: Who's your  
25 supervisor?

1 THE WITNESS: Doctor Keehn right now.

2 HEARING OFFICER ANDERSON: And who is  
3 the supervisor for the doctors and nurses?

4 THE WITNESS: I think Dr. Keehn also.

5 HEARING OFFICER ANDERSON: Do you attend  
6 any meetings?

7 THE WITNESS: We attend meetings every  
8 Monday afternoon, sir.

9 HEARING OFFICER ANDERSON: The doctors  
10 and the nurses?

11 THE WITNESS: The whole place is closed  
12 and everybody comes to the meeting on Monday.

13 HEARING OFFICER ANDERSON: Does that  
14 include the pharmacy tech?

15 THE WITNESS: Yes, sir.

16 HEARING OFFICER ANDERSON: Who else  
17 would it include?

18 THE WITNESS: All the technicians, all  
19 the doctors, everybody who works at the clinic.

20 HEARING OFFICER ANDERSON: All these  
21 people work for something called the Ft. Monroe Clinic?

22 THE WITNESS: Yes, sir.

23 HEARING OFFICER ANDERSON: And the Ft.  
24 Monroe Clinic is located in the same area as the  
25 trailers on Ft. Monroe?



1 THE WITNESS: But one trailer is  
2 designated as the Dental Clinic, so I guess you'd say  
3 seven trailers.

4 HEARING OFFICER ANDERSON: And are all  
5 these trailers close together?

6 THE WITNESS: Yes, sir.

7 THE WITNESS: Within how much distance  
8 of each other?

9 THE WITNESS: Well, maybe 12 feet.

10 HEARING OFFICER ANDERSON: Now, in your  
11 pharmacy, there's the two of you. Do you do the  
12 performance evaluation for the tech?

13 THE WITNESS: Yes, sir.

14 HEARING OFFICER ANDERSON: Once a year?

15 THE WITNESS: Once a year, yes.

16 HEARING OFFICER ANDERSON: Do you do it  
17 in writing?

18 THE WITNESS: Yes.

19 HEARING OFFICER ANDERSON: Do you know  
20 what a WIG is?

21 THE WITNESS: No.

22 HEARING OFFICER ANDERSON: A step  
23 increase?

24 THE WITNESS: I put her in for a step  
25 increase.

1 HEARING OFFICER ANDERSON: Someone,  
2 normally, where I work, someone has to sign or  
3 authorize someone's eligible to receive their regular  
4 step increases.

5 THE WITNESS: Well, regular step  
6 increases, I have nothing to do with them.

7 HEARING OFFICER ANDERSON: You don't?

8 THE WITNESS: No. The only ones I have  
9 to do with are the ones that I ask for. And then it's  
10 up to quality. It's not because of her time in  
11 service, shall we say. I have no control over the time  
12 in service awards. I do have a -- to try to put in for  
13 a quality step increase.

14 HEARING OFFICER ANDERSON: Do you  
15 authorize leave?

16 THE WITNESS: Yes. What we do, sir, is  
17 either I take leave or she takes leave. Therefore, one  
18 of us is here and I'm not here, a doctor --

19 HEARING OFFICER ANDERSON: But if she  
20 wants 2 hours off tomorrow and she'd give you a leave  
21 slip?

22 THE WITNESS: Yes.

23 HEARING OFFICER ANDERSON: Does it have  
24 to go to any higher authority?

25 THE WITNESS: Not for -- well it's -- I

1 believe (inaudible).

2 HEARING OFFICER ANDERSON: Have any of  
3 these slips ever come back denied? Have you submitted  
4 them?

5 THE WITNESS: No, I don't think so,  
6 because of the fact that we do work together so that we  
7 can find out whether it's okay, whether she -- it's a -  
8 -

9 HEARING OFFICER ANDERSON: All right.  
10 Now, during the normal day, what -- how does the  
11 pharmacy tech know what to do?

12 THE WITNESS: By experience. She's been  
13 working as a tech for a long, long time and she knows  
14 what to do when she's --

15 HEARING OFFICER ANDERSON: Does her job  
16 basically consist of filling prescriptions?

17 THE WITNESS: Filling prescriptions, and  
18 also the most important thing of her job, I believe, is  
19 making sure we have the medicine and marking the  
20 medicine and taking care of stock.

21 HEARING OFFICER ANDERSON: Do you also  
22 fill prescriptions?

23 THE WITNESS: Of course.

24 HEARING OFFICER ANDERSON: Do you also  
25 do purchase orders as well?

1 THE WITNESS: No, I don't. She does.

2 HEARING OFFICER ANDERSON: How does she  
3 know what to do?

4 THE WITNESS: What it is, we've got a  
5 sheet or paper, we mark down what supplies are low. We  
6 mark it down and she takes it and puts it in the  
7 computer.

8 Also, she'll go around the room and in  
9 case we miss something, she'll say we need this and we  
10 need this.

11 HEARING OFFICER ANDERSON: Does she have  
12 the authority to authorize the purchase herself?

13 THE WITNESS: Yes, sir.

14 HEARING OFFICER ANDERSON: Do you have  
15 to confirm it?

16 THE WITNESS: No.

17 HEARING OFFICER ANDERSON: How does she  
18 know which prescriptions to fill?

19 THE WITNESS: Because it comes through  
20 the -- a label comes through from the doctors. But  
21 also, we have hand prescriptions. How she knows it is  
22 it says on it. She's been a technician several years.  
23 She trained, I believe, at the Medical College of  
24 Virginia.

25 Does HEARING OFFICER ANDERSON: Does she have

1 to have any certification or licenses or anything to  
2 fill these prescriptions?

3 THE WITNESS: No.

4 HEARING OFFICER ANDERSON: Training and  
5 experience?

6 THE WITNESS: Yes.

7 HEARING OFFICER ANDERSON: How does she  
8 know which ones to fill first? Is it first in, first  
9 out?

10 THE WITNESS: Yes, sir.

11 HEARING OFFICER ANDERSON: Does that  
12 ever change?

13 THE WITNESS: Not usually. When it  
14 does, what happens --

15 HEARING OFFICER ANDERSON: You say not  
16 usually -- describe a situation other than first in,  
17 first out?

18 THE WITNESS: Well, maybe there's an  
19 emergency or somebody is in real bad pain. We'll say,  
20 get the meds out.

21 HEARING OFFICER ANDERSON: Who makes the  
22 decision to --

23 THE WITNESS: We both do. You know, we  
24 see somebody in pain, we do it as soon as possible. We  
25 try do -- but, you know, usually we don't have -- our

1 waiting period is very, very short. It's usually about  
2 5 minutes.

3 HEARING OFFICER ANDERSON: Do you ever  
4 assign her work?

5 THE WITNESS: Not really, no. I really  
6 don't have that much to assign.

7 HEARING OFFICER ANDERSON: Basically you  
8 said, filling prescriptions, keeping track of supplies  
9 and all those. Is that pretty much it?

10 THE WITNESS: Yes, sir.

11 HEARING OFFICER ANDERSON: Does she ever  
12 have questions about filling prescriptions that she  
13 would come to you about?

14 THE WITNESS: Very, very rarely.

15 HEARING OFFICER ANDERSON: What would be  
16 an example?

17 THE WITNESS: Well, sometimes, when you  
18 have -- I have trouble, too. We may not be able to  
19 read the doctor's writing.

20 HEARING OFFICER ANDERSON: So that  
21 really does happen?

22 THE WITNESS: If we don't feel that it's  
23 correct, we call the doctor. But we usually -- she's a  
24 very good technician.

25 HEARING OFFICER ANDERSON: Do you have

1 the authority to discipline her if there were a work  
2 problem?

3 THE WITNESS: Yes.

4 HEARING OFFICER ANDERSON: Any other  
5 questions?

6 MR. DOBSON: I have none.

7 MR. GRUCHALA: I've got a couple.

8 HEARING OFFICER ANDERSON: Okay.

9 RECROSS EXAMINATION

10 BY MR. GRUCHALA:

11 Q Mr. Kravitz, we've spent a lot of time  
12 talking about the individual, Ms. Booth?

13 A Yes.

14 Q What, in your opinion -- not your  
15 opinion, what would you do if you got another  
16 technician, a brand new technician, even though she met  
17 all the qualifications and standards of the Army hiring  
18 procedure and she replaced Ms. Booth.

19 Would you anticipate that you'd spend  
20 considerably more time directing her, assigning her  
21 work, weighing out things for her, generally  
22 supervising her?

23 A Probably not. I'll tell you why. She's  
24 probably up at Eustis to get training at Eustis and  
25 then come here.

1 Q Okay. But I mean, I've heard your  
2 testimony that Ms. Booth has been there for a long time  
3 and she's an excellent technician.

4 A Right.

5 Q Would you anticipate the same thing with  
6 somebody they hired, on day one, having those kind of  
7 skills and that ability to operate?

8 A It depends on the individual, sir.

9 Q Again, what you're testifying to today  
10 is primarily Ms. Booth and not Ms. Jones or somebody  
11 else.

12 A If I did have a new technician come in,  
13 they would be trained -- in fact, she was trained up at  
14 Eustis. She was trained to take care of the supplies  
15 at Eustis, because they have a good supply system. And  
16 she was trained up at Eustis, not here.

17 Q Maybe I'm showing my age, Mr. Kravitz,  
18 but -- correct me if I'm wrong, but my understanding  
19 was that at times in times past, everything didn't come  
20 in little bottles and big bottles and big containers.  
21 And occasionally, you had to actually mix compounds,  
22 medications together.

23 Do you ever have occasion to do that any  
24 more?

25 A We don't do any compounding at all.



1 Q One other thing for clarification, you  
2 referred to Dr. Keehn in your response a couple of  
3 times.

4 A Right now he's my immediate supervisor.

5 Q Okay. It may be or may not be a  
6 significant point, Dr. Keehn is a military officer and  
7 is not in the bargaining unit. Is that right? He's a  
8 military officer?

9 A He's a military officer, yes, sir.

10 Q So the doctors that you referred to as  
11 being members of the bargaining unit, the two civilian  
12 doctors and there are at least two other military  
13 doctors including the person in charge?

14 A Yes, sir.

15 MR. GRUCHALA: That's all I have. Thank  
16 you.

17 HEARING OFFICER ANDERSON: Do you have  
18 an office?

19 THE WITNESS: Yes.

20 HEARING OFFICER ANDERSON: In the  
21 clinic?

22 THE WITNESS: Yes, sir.

23 HEARING OFFICER ANDERSON: Does Booth  
24 have an office?

25 THE WITNESS: Yes, sir.

1 HEARING OFFICER ANDERSON: Where is it  
2 in relation to yours?

3 THE WITNESS: Right next to it.

4 HEARING OFFICER ANDERSON: What about  
5 time cards?

6 THE WITNESS: Time cards?

7 HEARING OFFICER ANDERSON: You know, for  
8 payroll?

9 HEARING OFFICER ANDERSON: I sign her  
10 time card.

11 HEARING OFFICER ANDERSON: Do you have  
12 the authority to write her promotion?

13 THE WITNESS: I do, but --

14 HEARING OFFICER ANDERSON: Is she at the  
15 top of the career ladder already?

16 THE WITNESS: I have the -- as I stated  
17 before, sir, as for right now, I talk to Major Good,  
18 who's the pharmacist at Eustis, the Chief Pharmacist at  
19 Eustis. I've asked him to give her a GS-7, because now  
20 she's a GS-5. And he was supposed to work on it and  
21 give me the paperwork so I could sign it. Nothing's  
22 come back yet.

23 But I'm trying for that, I haven't been  
24 able to --

25 HEARING OFFICER ANDERSON: That would be

1 an upgrade? Right now, she's a 5 and that's the top.

2 THE WITNESS: I think she tried for a 6.

3 HEARING OFFICER ANDERSON: But you're  
4 saying she couldn't go to a higher grade than 5 without  
5 some sort of reclassification?

6 THE WITNESS: I think she went for a 6  
7 or 7. I believe you have to have some sort of a  
8 classification. And I'm trying to work on that right  
9 now with Major Good.

10 HEARING OFFICER ANDERSON: Now, if you  
11 had a new employee who was only a 3, would you have the  
12 authority to recommend promotions for her?

13 THE WITNESS: I don't think we have  
14 anybody at a 3, sir.

15 HEARING OFFICER ANDERSON: Do you have  
16 any other questions?

17 MR. DOBSON: I have none.

18 MR. GRUCHALA: No.

19 HEARING OFFICER ANDERSON: That's it.  
20 Thank you very much.

21 THE WITNESS: Okay.

22 (Witness excused.)

23 HEARING OFFICER ANDERSON: Off the  
24 record.

25 (Off the record.)

1 HEARING OFFICER ANDERSON: On the  
2 record.

3 Call your next witness?

4 MR. GRUCHALA: We call Sylvia Booth.

5 HEARING OFFICER ANDERSON: Please raise  
6 your right hand.

7 Whereupon,

8 SYLVIA BOOTH,  
9 was called as a witness by and on behalf of the  
10 Petitioner, and, having been duly sworn, was examined  
11 and testified as follows:

12 THE WITNESS: I do.

13 HEARING OFFICER ANDERSON: Have a seat.  
14 Would you please spell your name for the record.

15 THE WITNESS: Sylvia Booth, S-Y-L-V-I-A,  
16 B-O-O-T-H.