

1 IN THE WEST VIRGINIA LEGISLATURE
 HOUSE OF DELEGATES
 2 JUDICIARY COMMITTEE
 3
 4 * * * * *
 5 IN RE:
 6 House Judiciary Committee Proceeding
 7 Regarding the Impeachment of West Virginia
 8 Supreme Court Justices Pursuant to
 9 House Resolution 201 Passed During the
 10 Second Extended Session of 2018.
 11 * * * * *
 12
 13 VOLUME V
 14
 15 Hearing held on July 26, 2018, before the House
 16 Judiciary Committee of the West Virginia Legislature.
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 21 REALTIME REPORTERS, LLC
 TERESA S. EVANS, RMR, CRR
 22 713 Lee Street
 Charleston, WV 25301
 23 (304) 344-8463
 realtimereporters.net
 24

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1 APPEARANCES:
 2
 3 APPEARING FOR THE HOUSE JUDICIARY COMMITTEE:
 4 Marsha Kauffman, Esquire
 John Hardison, Esquire
 Brian Casto, Esquire
 5 Robert E. Akers, Esquire
 Charles Roskovenski, Esquire
 6
 7 HOUSE JUDICIARY COMMITTEE MEMBERS:
 8 John Shott, Chair
 Roger Hanshaw, Vice Chair
 9 Barbara Evans Fleischauer, Minority Chair
 Shawn Fluharty, Minority Vice Chair
 10 Mark White, Clerk
 Andrew Byrd
 11 Joe Canestraro
 Moore Capito
 12 Frank Deem
 Tom Fast
 13 Geoff Foster
 Jason Harshbarger
 14 Ray Hollen
 Phil Isner
 15 Kayla Kessinger
 Charlotte Lane
 16 Chad Lovejoy
 Rodney Miller
 17 Riley Moore
 John Overington
 18 Mike Pushkin
 Ben Queen
 19 Andrew Robinson
 Kelli Sobonya
 20 Amy Summers
 Mark Zatezalo
 21
 22 ALSO PRESENT:
 23 John A. Carr, Esquire (Counsel for Justice Loughry)
 Tim Carrico, Esquire (Counsel for Steven Canterbury)
 24 Robert Allen, Esquire (Counsel for Justice Davis)

1 PROCEEDINGS
 2 CHAIRMAN SHOTT: Good morning. We'll
 3 call this meeting on the judiciary to order. I'll ask
 4 the clerk to take the roll to ascertain the presence of
 5 a quorum.
 6 (The clerk took the roll and
 7 ascertained all present.)
 8 CHAIRMAN SHOTT: By the skin of our
 9 teeth, we have a quorum. Good morning. A couple of
 10 quick announcements. As you have learned from the memo
 11 that staff counsel sent out, we had subpoenaed a
 12 witness, Mrs. Loughry, to appear tomorrow. She's asked
 13 for some time to obtain an attorney and we've given her
 14 that time.
 15 We also have a rescheduling need on the
 16 tour we had requested this week. So as a result of
 17 those two things and some other developments, we will
 18 not be meeting on Saturday.
 19 We should have a full day today. In
 20 fact, we'll probably go into the evening hours, and
 21 we've arranged to have dinner brought in sometime
 22 between 5:00 and 5:30. Hopefully we can get most of
 23 our work done today. And we should have a relatively
 24 full day tomorrow, but we will not - will not - meet on

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1 Saturday.
 2 Counsel, are you ready to proceed?
 3 MS. KAUFFMAN: Yes.
 4 CHAIRMAN SHOTT: If you would, please,
 5 call your first witness.
 6 MS. KAUFFMAN: Thank you, Mr. Chairman.
 7 The House Committee on the Judiciary calls Steve
 8 Canterbury.
 9 CHAIRMAN SHOTT: Mr. Canterbury, if you
 10 would, please rise and raise your right hand.
 11 (The witness was sworn.)
 12 CHAIRMAN SHOTT: Thank you, please be
 13 seated.
 14 One caution, Mr. Canterbury, before you
 15 begin. I had the opportunity to review the transcript
 16 of your testimony before the Judicial Investigation
 17 Commission.
 18 It's clear to me that the -- the
 19 breadth and depth of your knowledge far exceeds mine
 20 and that in some instances, you got kind of carried
 21 away. So I'd ask you in the interest of your time and
 22 our time, if you would please just focus on the
 23 question that's asked, provide your best answer, and if
 24 counsel or those who ask the question wish to get

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1 further information, I'm sure they'll follow up.
 2 Counsel?
 3 MS. KAUFFMAN: Thank you, Mr. Chairman.
 4 STEVEN CANTURBY
 5 was called as a witness by the Committee on the
 6 Judiciary, and having been first duly sworn, testified
 7 as follows:
 8 EXAMINATION
 9 BY MS. KAUFFMAN:
 10 **Q. Mr. Canterbury, for the record, could you**
 11 **please state your full name?**
 12 A. Steven Dane Canterbury.
 13 **Q. Mr. Canterbury, it is my understanding, if**
 14 **I -- I believe that you began working for the Supreme**
 15 **Court of Appeals of West Virginia in 2005. Is that**
 16 **correct?**
 17 A. Yes.
 18 **Q. And did your employment end with the Supreme**
 19 **Court - I may now just call it "the Court" - on January**
 20 **4 of 2017?**
 21 A. Yes.
 22 **Q. During that time period between 2005 and**
 23 **2017, what position or positions did you hold at the**
 24 **Court?**

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1 A. Administrative Director of the Courts of West
 2 Virginia.
 3 **Q. That was the only position you held, and you**
 4 **held it the entire time?**
 5 A. Yes.
 6 **Q. Could you please - to the best of your**
 7 **ability - just describe to the Committee what your**
 8 **duties were as the Administrative Director?**
 9 A. To follow the directives of the Court, to
 10 administer the various necessities for the judges
 11 throughout the state at every level, to institute
 12 programs as directed by the Court, to answer to the
 13 Court, as well as to the individual five justices.
 14 **Q. How many employees answered to you, if you**
 15 **recall?**
 16 A. Well, at the -- at the Administrative Office,
 17 there were roughly 90 to 100. The administration of
 18 the various judges, they answered directly to the
 19 magistrates or the family court judges or the judge --
 20 the circuit judges, although I had some influence over
 21 their futures.
 22 **Q. Okay. I believe I just stated this, but I**
 23 **wanted to make that -- make clear. As part of your**
 24 **job, did you work directly with the justices of the**

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1 **Supreme Court of Appeals?**
 2 A. Yes.
 3 **Q. Mr. Canterbury, I would like, if we could, to**
 4 **go ahead and turn to an issue regarding State vehicles,**
 5 **and I want to ask you first just a few general**
 6 **questions. It is my understanding that at some point**
 7 **during the -- your time with the Court, that there were**
 8 **questions that were raised regarding justices' use of**
 9 **State vehicles. Is that accurate?**
 10 A. Yes.
 11 **Q. Do you recall when - and it could be by year,**
 12 **if you know, or if you could give me an approximation -**
 13 **when that issue first came up?**
 14 A. Late winter or spring of 2016.
 15 **Q. And at that time - again just to the best of**
 16 **your recollection - what -- what precipitated the --**
 17 **the issues regarding the State vehicles?**
 18 A. There was a lot of publicity regarding the
 19 State's cars generally, and Justice Davis asked about
 20 our cars, about how many we had, how they were used,
 21 how that worked.
 22 **Q. And was that something that you were in**
 23 **charge of or had some responsibility of?**
 24 A. I was in charge of the person who was in

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1 charge of it. That was Arthur Angus, who was Director
2 of Security. He also was in charge of the cars.

3 **Q. Let me -- and I understand you said that the**
4 **issues began being raised in 2016. At that time, did**
5 **the Court have a policy - and I'll begin with a written**
6 **policy - on justices' use of State-owned vehicles?**

7 A. No written policy. The policy was simply to
8 follow the forms that had to be filled out through
9 Mr. Angus.

10 **Q. I believe that the Committee has had an**
11 **opportunity to see that. And it's called an intranet**
12 **form. Does that sound correct?**

13 A. Yes.

14 **Q. Prior to 2016 - and I understand you said**
15 **that's when questions began to be raised - if you could**
16 **just give the Committee some idea as to how checking**
17 **out of vehicles by justices worked between the 2005**
18 **when you began with the Court and 2016 time period.**

19 A. If a justice needed a car, he or she would go
20 to the office of Mr. Angus and would ask for a car and
21 ask for the key. And at that time, he would usually --
22 I don't know if he always did that. He would ask where
23 they were going and what the business purpose was.
24 He would reserve the car or he'd hand

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1 them the keys.

2 **Q. With respect to the -- that process, were you**
3 **made aware - between the 2005 and up until the time the**
4 **issues were raised in 2016 - of any issues that**
5 **Mr. Angus had with respect to the justices, any**
6 **justices, checking out a State-owned vehicle?**

7 A. I don't think I heard anything specifically
8 from Mr. Angus before 2016.

9 **Q. So in 2016, I understand that you have**
10 **indicated that Justice Davis began to ask some**
11 **questions, and I'll get to that in just a minute.**

12 But if I could please first ask you to
13 refer to the first Legislative Audit Report.

14 And I did not mention this earlier. On
15 -- on the desk in front of you, you should have a light
16 notebook with exhibits, and then also you should have
17 three Legislative Auditor Reports, and they are
18 numbered in the top right-hand corner 1, 2 and 3.

19 So if you could please refer to the
20 first -- the No. 1 audit report on page 3 that mentions
21 formal approval that was given regarding a car for
22 Justice Ketchum. Do you recall that occurring?

23 A. When you say "that occurring," that he was
24 able to take the car for commuting purposes?

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1 **Q. Yes, sir.**

2 A. Yes, I -- I know what happened with that
3 and --

4 **Q. Do -- if you can, and if we -- if you could**
5 **just go back to the 2012 time period when that**
6 **occurred. What happened at that time with respect to**
7 **that vehicle?**

8 A. Justice Ketchum, at the end of an
9 administrative conference, asked if he could use the
10 2007 Buick - the silver Buick, as we always called it -
11 to commute, and the Court said he could.

12 **Q. Before that time, to your knowledge, had any**
13 **other justices used a State vehicle generally for**
14 **commuting purposes?**

15 A. No.

16 **Q. Since that time in 2012 when Justice Ketchum**
17 **began using that vehicle, were you aware of any other**
18 **justices, our current justices now, that ever used a**
19 **vehicle, generally speaking, for commuting purposes?**

20 A. No.

21 **Q. With respect to the keys, I believe you might**
22 **have mentioned this, but Mr. Angus had keys to the**
23 **cars. Is that correct?**

24 A. He did.

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1 **Q. Did you have any keys to any of the cars as**
2 **well?**

3 A. Yes. I had keys to two of the Buicks.

4 **Q. Okay. And were you aware ever -- have you**
5 **ever been made aware that any of the justices, current**
6 **justices, ever had keys to any of the cars, their own**
7 **set of keys?**

8 A. I only know through testimony here. I didn't
9 know before I heard during this -- in the last six
10 months or so. I didn't know when I worked there.

11 **Q. Okay, thank you. If you could, please, still**
12 **refer to Report No. 1, now at page 41.**

13 A. Okay.

14 **Q. It is my understanding that beginning on page**
15 **41 -- this is a memo from Mr. Brandfass to you, I**
16 **believe. Is that correct?**

17 A. Correct.

18 **Q. If you could, please just tell the Committee**
19 **how the -- the reason that this memo was prepared.**

20 A. Well, there was a bit of consternation back
21 and forth between Justice Davis and Justice Loughry.
22 The other justices also were concerned. I thought we
23 needed a legal opinion so that we would be able to
24 understand what the issues were about use of the car,

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1 what the Code said, and -- and any tax consequences.

2 **Q. And is that the reason you asked**

3 **Mr. Brandfass to prepare this memo?**

4 A. Yes.

5 **Q. And if you could, please refer now to page**

6 **47. I believe that is the last page of the memo. And**

7 **if you could, please, under "Possible Consequences of**

8 **Improper Use of State Vehicles," if you could please**

9 **just read to the Committee what Mr. Brandfass indicated**

10 **as possible consequences.**

11 A. "Use of a State vehicle in a manner that

12 contravenes the provisions of an applicable West

13 Virginia legislative rule, or an Internal Revenue

14 Service (IRS) regulation, could result in a

15 determination that untaxed wages were accrued that must

16 be reported to the IRS.

17 Contravention of the relevant

18 provisions of the Code of Judicial Conduct could result

19 in the filing of an ethical violation complaint with

20 the Judicial Investigation Commission."

21 **Q. Thank you. Did you - or if you know, did**

22 **anyone else - ever provide a copy of this memo to the**

23 **justices in 2016?**

24 A. Yes, I believe it was provided at the first

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1 administrative conference in the fall of two thousand

2 -- early September 2016.

3 **Q. Do you recall any conversations during any**

4 **administrative conferences about this particular memo?**

5 A. I really don't recall anything specifically

6 about the memo.

7 **Q. Okay. Other than the justices, if you**

8 **recall, was anyone else at the Court provided with a**

9 **copy of this -- of Mr. Brandfass' memo dated July 21,**

10 **2016?**

11 A. I don't recall if anyone else was provided

12 with it. It would have perhaps been provided to a few

13 people, but I can't say with certainty.

14 **Q. Okay, thank you. Mr. Canterbury, I'm now**

15 **going to ask you to look in the white notebook, the**

16 **exhibit notebook. If you could please look at Exhibit**

17 **No. 2, which is hopefully at Tab No. 2.**

18 A. Yes.

19 **Q. Could you please take a moment to review that**

20 **document and familiarize yourself with it?**

21 A. Okay.

22 **Q. Mr. Canterbury, this appears to be a memo**

23 **from Justice Davis to you dated August 2, 2016. Do you**

24 **recall receiving this memo from Justice Davis?**

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1 A. Yes.

2 **Q. If you could, please just provide the**

3 **Committee with your recollection as to what Justice**

4 **Davis was requesting of you on August 2nd, 2016.**

5 A. She wanted more specific information about

6 how the Court cars were being assigned, how they were

7 being used, if there were any kind of IRS issues. She

8 was concerned that perhaps there was some use of the

9 vehicles that wasn't appropriate, and -- and she wanted

10 it on the administrative conference agenda.

11 And it's a follow-up of her earlier

12 questioning from several months earlier.

13 **Q. And her request was that these -- this items**

14 **-- or these items be placed on the -- on the agenda for**

15 **the upcoming administrative conference; is that**

16 **correct?**

17 A. Correct.

18 **Q. Now I am going to ask you if you could,**

19 **please, turn to the back of that notebook to Exhibit**

20 **No. -- what should be marked as Exhibit 37. And if you**

21 **could, just please take a moment to --**

22 A. Okay.

23 **Q. -- to look over that and familiarize or**

24 **refamiliarize yourself with that.**

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1 A. Yes, I remember this.

2 **Q. If -- it appears that - with respect to**

3 **Exhibit No. 37 - this is an e-mail communication from**

4 **Justice Loughry to you dated August 10, 2016. Is that**

5 **correct?**

6 A. Yes.

7 **Q. So that would have been approximately eight**

8 **days after Justice Davis sent her August 2nd e-mail.**

9 **Is that accurate?**

10 A. Yes.

11 **Q. If you could, to the best of your ability,**

12 **please just summarize and provide to the Committee what**

13 **your understanding of what Justice Loughry was asking**

14 **of you in this e-mail communication on August 10, 2016.**

15 A. He asked about dinners that were held at

16 Justice Davis' home when the judicial conference

17 judges, circuit judges, were in Charleston at their

18 conference, as well as about a cocktail party that she

19 had and dinner that she had in Wyoming when the chief

20 justices of the nation had gathered in Jackson for

21 their annual meeting.

22 **Q. Did Justice Loughry ask that this be -- these**

23 **items be placed on the agenda or discussed at the**

24 **upcoming administrative conference?**

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1 A. I don't recall if he asked that specifically,
2 but they certainly were discussed at the -- in the
3 conference.
4 **Q. And I'll get to that in just a moment. Now,**
5 **if I could -- and I'm just trying to go in time. If I**
6 **could now please refer you back -- or I'm sorry, refer**
7 **you to Exhibit No. 38 --**
8 A. I -- there's 38.
9 **Q. And if you could, please take a moment to**
10 **review that document as well and refamiliarize yourself**
11 **with it.**
12 A. Okay.
13 **Q. Thank you. Let me ask you first: Do you**
14 **recall drafting this memo to the justices?**
15 A. I do now, yes.
16 **Q. And if you could -- again, I understand**
17 **you've just had a moment to look at it. If you could**
18 **just tell the Committee the reason for this memo and**
19 **what you were trying to relay to the justices in this**
20 **August 19, 2016 memo.**
21 A. Justice Loughry had asked that I look into
22 the gatherings at Justice Davis' home and any other
23 Court employee's home where employees of the Court had
24 gathered.

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1 I had asked employees to my house on
2 several occasions after about 2:30 for late lunch, and
3 to talk about, generally, some Court Administrative
4 Office business and then to enjoy themselves with the
5 paths at my house and basically hang out.
6 So that's in the memo. The other thing
7 in the memo is a breakdown of all of the gatherings at
8 Justice Davis' house. There were several, as noted in
9 the exhibit, at her house. Only one had any of the
10 food paid for by the Court.
11 He was very -- Justice Loughry was very
12 interested in his, I think, mistaken belief that all of
13 these had been funded by the Court. They had not.
14 One had been partially funded, and I
15 detail the funding in the memo. As well as one other,
16 there was transportation provided at the Court expense,
17 buses run from the hotel to her residence.
18 There was one other gathering that was
19 an appreciation dinner for employees. It was not the
20 usual. Which was just circuit judges and some -- a
21 couple of people from the Court staff.
22 **Q. And also on the last page - I believe it's**
23 **page 3 - if you could, please, tell the -- the**
24 **Committee what -- what you did with respect to the**

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1 **inquiry regarding a dinner in Jackson, Wyoming.**
2 A. Oh, that's right. Somehow that page got
3 stuck. The -- he demanded that I get in touch and get
4 a letter from the president of the National Center for
5 State Courts, Mary McQueen, saying explicitly whether
6 or not any of the National Center money had paid for
7 any part of the dinner at her house in Jackson.
8 Not a penny was paid for by anybody but
9 Justice Davis, and that was clarified in the letter
10 from Mary McQueen.
11 The other thing was that -- I had
12 forgotten, that that year -- usually the first --
13 I think the only time my entire time there we had the
14 administrative conference at the end of August instead
15 of the beginning of September.
16 **Q. Mr. Canterbury, I'm now going to ask you to**
17 **refer back, please, to Exhibit No. 3 in the notebook.**
18 A. Yes, I remember this memorandum.
19 **Q. And that was going to be my first question.**
20 **It appears to be a memorandum from Justice Davis to**
21 **Mr. Angus and Mr. Gundy and copies to other justices.**
22 **Do you recall seeing -- being made aware of it or**
23 **seeing it during that time period in August of 2016?**
24 A. Yes.

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1 **Q. Okay. Did you speak with either Mr. Angus or**
2 **Mr. Gundy with respect to this memo?**
3 A. I don't think I did.
4 **Q. Now I'll ask you to please refer to Exhibit**
5 **No. 4. And if you could, please, just take a moment to**
6 **refamiliarize yourself with this memorandum.**
7 A. Yes.
8 **Q. Thank you. The Exhibit No. 4 appears to be a**
9 **memorandum from Justice Davis to you dated August 25,**
10 **2016. Do you recall receiving this memo?**
11 A. Yes.
12 **Q. If you could, please just tell the Committee**
13 **what you recall about the request that was made or**
14 **requests that were made in this memo.**
15 A. She wanted to know specifically where some of
16 the car -- cars went with Justice Loughry, what the
17 purpose was, what's the destination. There were a lot
18 of blanks when she had reviewed what she had gotten
19 previously. And she was asking that this specific
20 information be provided.
21 She also wanted to know why there had
22 been no destinations listed. She wanted to know if
23 there were Court events on those days. She wanted to
24 know if there were any other kinds of meetings, any

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1 other kind of Court business.
 2 And she wanted to know if, in some of
 3 those dates, was the Court not in recess.
 4 **Q. And now I'm going to ask you to please refer**
 5 **to Exhibit No. 5. It appears to also be a memorandum**
 6 **from Justice Davis to you about five days later, on**
 7 **August 30, 2016. And if you could, once you've had an**
 8 **opportunity to review that, just summarize for the**
 9 **Committee what Justice Davis was requesting in that**
 10 **memo.**
 11 A. She said that she had gotten some
 12 information, but there was still a great deal of -- of
 13 information that was not provided, trips from -- by
 14 Justice Loughry in the State car.
 15 **Q. And finally, I think at least for now, if you**
 16 **could please now just refer to Exhibit No. 6.**
 17 A. Okay.
 18 **Q. And take a moment to review that memorandum.**
 19 A. Okay.
 20 **Q. Thank you. Do you recall receiving a copy of**
 21 **this memo in the August 2016 time frame?**
 22 A. Yes.
 23 **Q. And if you could, please, just summarize to**
 24 **the Committee what Justice Loughry's position was at**

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1 **that time.**
 2 A. There are a lot of issues he raises in this
 3 memorandum. He says that the issue was raised by
 4 Justice Davis as a distraction from her use of State
 5 money for a party at -- as he calls it, at her house.
 6 That it was a fishing expedition.
 7 And that it was also to distract from
 8 payments to a contractor named Mark Starcher and for
 9 the depletion, as he characterizes it, of the -- he
 10 says 26 million. And he said that there had been a
 11 number of requests for explanation.
 12 And frankly, erroneously, he says that
 13 they had never been responded to.
 14 He goes on to -- to say that Justice
 15 Davis had used the car on numerous times, including, he
 16 says, to go to a -- political events.
 17 He points out that there were a number
 18 of occasions where there was no destination for my use
 19 of the car.
 20 And a few indicate -- blanks for
 21 Justice Benjamin's use of the car, as well as Justice
 22 Workman's.
 23 It's -- he discusses that there's no
 24 written policy. That if there's gonna be a written

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1 policy, that it should be comprehensive.
 2 He points out that he -- you know,
 3 using the car did not just have to be for Court
 4 business; it could be to go speak to high school civics
 5 classes, legal education programs, graduation
 6 ceremonies, etc.
 7 And he also points out that I would not
 8 know his schedule, and nor would others, outside of his
 9 office.
 10 **Q. And Mr. Canterbury, now that we've gone**
 11 **through those various memos, it is my understanding**
 12 **from the dates of those memos that those memos were all**
 13 **going back and forth between the justices and yourself**
 14 **and perhaps Mr. Angus and Mr. Gundy, at least some of**
 15 **them, during the August 2016 time frame. Is that**
 16 **correct?**
 17 A. Yes, uh-huh.
 18 **Q. If you -- and I think you mentioned this**
 19 **earlier. At some point, was there an administrative**
 20 **conference either at the end of August of 2016 or the**
 21 **following month in September of 2016 where some of**
 22 **these issues that were mentioned in these memos that we**
 23 **have just recently discussed were actually discussed at**
 24 **the conference?**

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1 A. Yes.
 2 **Q. Do you specifically recall whether or not**
 3 **that conference occurred in August or September?**
 4 A. I don't. But I read here that it said August
 5 29th. And it did kind of tickle a memory that we were
 6 off to the races a little early that year.
 7 **Q. Okay. If you could, please let's just begin**
 8 **with the conference. And again, I understand you don't**
 9 **recall the specific date. Could you please tell the**
 10 **Committee whether or not the use of State cars -- and**
 11 **we'll just take them issue by issue.**
 12 **-- if the use of State cars, using State**
 13 **cars, was discussed amongst the justices at that**
 14 **conference.**
 15 A. Yes.
 16 **Q. What do you recall about those discussions?**
 17 A. It was a pretty -- well, it was a -- an
 18 emotional discussion. The final conclusion was that --
 19 as I recall, it was a 3 to 2 vote, that justices were
 20 not to be asked why they were taking cars. The
 21 presumption was if they decided that they needed a car,
 22 it must be for appropriate purposes.
 23 **Q. You have just mentioned you recall that being**
 24 **a 3 to 2 vote. Do you recall which justices voted for**

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1 not requiring a destination?
 2 A. Justices Workman, Ketchum and Loughry.
3 Q. And with respect to the two justices that
4 voted that a destination should be listed, which
5 justices were those?
 6 A. Justices Davis and Benjamin.
7 Q. At some point, the Committee, I believe, has
8 received testimony that you may have instructed either
9 Mr. Angus or Mr. Gundy - I don't recall, so I don't
10 want to say for certain - that a destination was not
11 required or that a justice did not have to give a
12 destination when they made a reservation for a State-
13 owned vehicle.
14 Is that correct?
 15 A. That is correct.
16 Q. Does that come as a result of the conference
17 you just described for the Committee?
 18 A. Yes, it was right afterwards. I literally
 19 walked out the door. Right outside the hall of the
 20 justices' chambers is Art Angus' office. I went in -
 21 they both happened to be there - and I told them that.
22 Q. Okay. With respect to some of the questions
23 about the vehicle use that may have not required
24 destinations -- or did not include destinations before

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1 that meeting occurred, the -- the questions Justice
2 Davis had asked before, were those addressed during
3 that administrative conference?
 4 A. Yes. There was a lot of discussion about
 5 where he -- he was taking the cars, and he said that it
 6 was all Court business or something to that effect. He
 7 said that nothing was inappropriate.
8 Q. Now let me ask you with respect to the -- the
9 dinners -- and I think they've been characterized as
10 different things, but the dinners and the request for
11 information about who paid for different dinners.
 12 A. Yeah.
13 Q. Was that discussed at the administrative
14 conference?
 15 A. Yes, it was.
16 Q. If you could, please summarize and tell the
17 Committee your recollection of those conversations --
18 of that conversation, rather.
 19 A. The main point that I remember was that
 20 Justice Loughry really thought that the main point of
 21 impropriety was that there were invitations that were
 22 given to the just -- judges, that said that they were
 23 invited to a dinner at Justice Davis' home, and he said
 24 that because the Court paid for it, it should have said

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1 that the Court was providing a dinner at Justice Davis'
 2 home.
 3 He also felt that -- that it was
 4 inappropriate, I guess, that the Court had paid any
 5 money for that dinner.
 6 The response was that it had also been
 7 in the agenda of the -- of the conference. It was
 8 listed on that, I think, Monday, the first day -- or
 9 Tuesday, the first day of the conference, and it was
 10 clear that it was part of the official business of the
 11 -- of the Court.
 12 And it was also pointed out that had
 13 they not been going to dinner there that they would
 14 have been paid a per diem for that dinner, which, of
 15 course, they didn't receive because they got a dinner
 16 without having to pay for it out of their pockets at
 17 Justice Davis' house.
18 Q. There were some other questions raised in the
19 various memos we've already discussed here this
20 morning, including payments to a contractor. I believe
21 you have indicated his name was Mark Starcher.
22 Do you recall any conversations about
23 that during the administrative conference?
 24 A. Yes, I do.

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1 Q. If you could please summarize those -- that
2 conversation for the Committee.
 3 A. Justices Workman and Loughry just thought
 4 that there was something inappropriate about the
 5 payments over an 11-year period to a contractor, a
 6 technology contractor.
 7 And since Mark Starcher's name has been
 8 muddied so often in these various discussions, I will
 9 point out that Mark Starcher is an extraordinary person
 10 who does extraordinary work, and the Court was not the
 11 only State contractor of Mr. Starcher through the
 12 years.
 13 The State Police, West Liberty. I had
 14 gotten to know him when I was at the Regional Jail
 15 Authority. He did wonderful work.
 16 So naturally, I defended his work, said
 17 he was a scanning expert. In fact, he has a company
 18 named Scanmark, and that was what our preoccupation had
 19 been, with the creation of the computer system that
 20 took all of that written material and turned it into a
 21 electronic platform.
 22 That he had earned his money and that
 23 it was not inappropriate.
24 Q. Was there any -- was Mr. Starcher still

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1 performing work for the -- the Court at the time that
2 conference was going on, or had he already completed
3 his contract?

4 A. Well, he had stopped working in around June
5 of 2016 because the original issue was brought up,
6 frankly, in November of 2015. There was a lot of
7 discussion about it then. And so I let him know that,
8 for whatever reason, that the Court had -- had become
9 extremely agitated -- a few members of the Court had
10 become agitated about his work.

11 And however, he was still contracted to
12 do work with a couple -- at least one federal grant,
13 perhaps two, and he was finishing that up.

14 He also was involved with doing
15 e-filing, scanning in a few circuits, and I thought it
16 was wise to let him finish that up. It was all done,
17 as I recall, by around June of 2016. Perhaps July;
18 perhaps May. But around then.

19 Q. Thank you. There was also mention, I
20 believe, in Exhibit No. 6, which was the memorandum
21 from Justice Loughry to the four justices, Ketchum,
22 Workman, Benjamin and Lough -- and Benjamin --
23 Just to the three, rather.
24 -- about the -- as he states, the

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1 depletion of the Court's so-called rainy day fund in
2 the amount of \$26,000,000.
3 Do you recall any conversations about
4 that allegation during this administrative conference
5 that we've just been talking about?

6 A. Yes. I, once again, attempted to explain
7 that it was a mischaracterization to call it a
8 depletion, and I once again pointed out that every
9 single penny was accounted for, that every penny had
10 gone through proper channels, and that --

11 I reminded them, yet again, that this
12 had been a point of some contention with a couple of
13 the legislat -- leaders in the Senate, primarily,
14 several years earlier.

15 I don't know that I ever got through to
16 a couple of them. I don't think I communicated very
17 well about that, to be perfectly honest. But I did
18 try.

19 Ultimately, it resulted in a memorandum
20 - that you've probably seen - a couple of months later,
21 as we went back and forth with conversation, with
22 Justice Workman especially.

23 Q. Thank you, and we do have that and we'll get
24 to that in just a little bit. I do appreciate that.

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1 A. I'm sorry if I got the cart ahead of the
2 horse.

3 Q. No, that's fine, we will make it there. Do
4 you recall -- I know we've been over a couple of
5 issues. Do you recall any other issues that were
6 discussed during that administrative conference that
7 may have occurred near the -- the end of August 2016 or
8 perhaps in September 2016?

9 A. There was a -- some routine business. I
10 don't really recall -- I mean, I could have my memory
11 tickled if you're thinking of something in specifically
12 -- in specifics, but I can't remember right now.

13 Q. Thank you. Mr. Canterbury, I'm now going to
14 turn to a new topic, and that is the topic of home
15 office policies or lack thereof. So if -- so that
16 we're prepared, that's the new topic I'm going to move
17 to.

18 Let me ask you first: During your time
19 with the Court from 2005 through 2017, do you remember
20 any written policy that the Court had regarding
21 allowing the Supreme Court justices to have a home
22 office?

23 A. No.

24 Q. Did the justices -- during the time period

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1 that you were with the Court, did they have some type
2 of computer equipment that they would take home, as you
3 recall?

4 A. Yes.

5 Q. What type of equipment do you recall
6 generally being provided to the justices to -- for
7 their homes?

8 A. Each justice had a computer. When I first
9 got there, they tended to be desktops. But as laptops
10 got to be better, I guess, they tended to switch to
11 laptops. So a few had laptops; a few had desktops.
12 Only one had a printer, as I recall, before Justice
13 Loughry, and that was Justice Ketchum.

14 There was no policy about that. I
15 think that it's -- this has been a topic of some
16 scholarship. But as so often happens, technology
17 outpaced policy, and it had just -- I think that -- I'd
18 heard that in the 1990s, they had fax machines, and fax
19 machines then developed into people having computers to
20 stay in touch.

21 There's been some question and
22 consternation about why the Court would provide
23 computers. I don't know that people are quite
24 understanding of the security that's necessary, and to

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1 have a secure system.
 2 And that's why the security people, the
 3 -- the IT Division, wanted them to have these dedicated
 4 computers.
 5 **Q. Other than the computers and printers,**
 6 **before, let's say, 2013, were you aware of any other**
 7 **type of equipment that any justice took to his or her**
 8 **home for a home office?**
 9 A. No.
 10 **Q. Okay. At some point after Justice Loughry**
 11 **was elected, did you have a conversation with him about**
 12 **a home office?**
 13 A. No.
 14 **Q. Do you recall him -- let me back up now and**
 15 **ask just about any furniture that might have been moved**
 16 **from the -- the Capitol to Justice Loughry's home. Do**
 17 **you recall having any type of conversation with Justice**
 18 **Loughry about moving any furniture, be it a couch or a**
 19 **desk --**
 20 A. Yes.
 21 **Q. -- to his home? And which piece of furniture**
 22 **do you recall having a conversation about?**
 23 A. The couch.
 24 **Q. If you could, please tell the Committee what**

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1 **you recall about that conversation.**
 2 A. Justice Loughry told me that he thought that
 3 he would take that couch home for his home office, and
 4 my reaction was -- frankly, was, "What?" But I said,
 5 "Okay."
 6 And I always wanted to try to serve
 7 these guys, so I said, "You want me to help you arrange
 8 for its moving?" And he said he would take care of it.
 9 **Q. The couch that you are referring to -- there**
 10 **has been mention of two different couches. One has**
 11 **been referred to as Justice Albright's couch. Is that**
 12 **the couch you are referring to?**
 13 A. That's the couch.
 14 **Q. Did you, in the end, have any involvement in**
 15 **moving that couch from the Capitol to Justice Loughry's**
 16 **home?**
 17 A. No.
 18 **Q. In fact, have you ever been personally**
 19 **yourself to Justice Loughry's home?**
 20 A. No.
 21 **Q. Okay. Did Justice Loughry ever mention to**
 22 **you any plans or any talk about moving a desk to his**
 23 **home?**
 24 A. No.

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1 **Q. During your time with the Court, did you at**
 2 **some point become aware that Justice Loughry had a desk**
 3 **that had been moved from the Capitol to his home?**
 4 A. No.
 5 **Q. Did you find out at a later time after your**
 6 **employment with the Court ended?**
 7 A. Yes.
 8 **Q. Also at some point after your employment**
 9 **ended, did you become aware or were -- did you read a**
 10 **statement that had been issued by a Ms. Jennifer Bundy**
 11 **from the Supreme Court about the Supreme Court's -- and**
 12 **I will paraphrase here, but the Supreme Court's**
 13 **longstanding policy - or practice, rather - of**
 14 **providing the justices an opportunity to establish a**
 15 **home office?**
 16 A. Yes, I read that. It puzzled me.
 17 **Q. Did -- were you aware of any such policy or**
 18 **long-standing policy during your years with the Court?**
 19 A. No.
 20 **Q. There has been mention made at some point -**
 21 **and I can't say where just right now - but that Justice**
 22 **Workman may also have a chair at her home. Do you have**
 23 **any knowledge of that?**
 24 A. No.

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1 **Q. So other than the -- the computer equipment,**
 2 **including printers perhaps for two of the justices and**
 3 **the couch, is that the only information you had about**
 4 **Supreme Court equipment going to the homes of the**
 5 **justices?**
 6 A. Yes, that's it.
 7 **Q. Mr. Canterbury, I'd like to now move to a new**
 8 **topic, and the new topic is going to deal with office**
 9 **renovations.**
 10 A. Okay.
 11 **Q. Let me ask first: Generally speaking, if you**
 12 **know, did justices, during your time with the Court,**
 13 **have an understanding or direct knowledge, rather --**
 14 **let's say direct knowledge, of the amount, the cost to**
 15 **the renovations to their respective offices?**
 16 A. To their own offices, yes.
 17 **Q. They did.**
 18 A. Yes.
 19 **Q. We have received some information that**
 20 **renovations began occurring, I believe, perhaps even**
 21 **before the year 2010. Does that seem correct to you?**
 22 A. I --
 23 **Q. And it would not have been to the justices'**
 24 **office themselves. I --**

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1 A. Correct. It began in 2008 with the counsel's
2 office.

3 **Q. If you could, just please try to give the**
4 **Committee an overview of the -- the renovation project.**
5 **And I understand you just indicated it began in 2008.**
6 **If you could provide to the Committee just an overview**
7 **of the areas where the renovations occurred, beginning**
8 **in 2008.**

9 A. Yes. In 2008, the decision was made to gut
10 the counsel's office, the chief counsel's offices.
11 That's where the writ clerks and a few of the personal
12 law clerks, and at that time, something called a per
13 curiam clerk had offices.

14 We actually had to move them to another
15 location for several months. That project was bid out
16 and Neighborgall Construction won the bid. And I don't
17 remember exactly, but it was approximately a half a
18 million or so dollars.

19 The Court was very pleased not only
20 with the work of Neighborgall; they were very pleased
21 with the fact that the project manager and the people
22 they had on the job were very considerate of the -- the
23 people directly beneath them, i.e., the justices.
24 That's the same end of the building.

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1 And so when we decided that we would do
2 further work and completely gut out and reroute and
3 rebuild the clerk's offices, we did so by change order.

4 It's important to note that the Court
5 did not follow the purchasing procedure. In fact, we
6 didn't even have to bid out the original contract. But
7 it seemed unwise to me not to bid out the first
8 construction.

9 That project then went on for a while,
10 and at that time, we started to do one justice's office
11 at a time, beginning with Justice Benjamin's office,
12 which was in great need of repair, having had virtually
13 nothing done to it since the building was built.

14 Slowly over the years, there was his
15 office, then Justice Workman's, Justice Ketchum's.
16 Justice McHugh wanted absolutely nothing done to his.
17 As he said, "I'm a short-termer, I don't need this
18 done." So we held off.

19 And then Justice Loughry just really
20 was insistent that his be next, and so Justice Davis
21 said, "That's fine, let him go next."
22 And then it -- it ended in '14 with
23 Justice Davis' office. During that time, there was
24 also some work done in the hallway of the first floor

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1 on the East Wing, just essentially cleaning the marble
2 and putting in different LED lights.

3 Since we had to take the fixtures down
4 anyway, we thought we'd put in LEDs.

5 **Q. With respect to the bid process, I understand**
6 **that the -- from what your -- you just stated, that the**
7 **Supreme Court did not have to bid out that original**
8 **renovation work --**

9 A. Uh-huh.

10 **Q. -- but the Court chose to do so. Do you**
11 **recall if Neighborgall was the lowest bidder?**

12 A. Yes.

13 **Q. Okay. Do you recall how many bids were**
14 **received at that time?**

15 A. No.

16 **Q. Okay.**

17 A. But there was -- there were a couple. Work
18 was pretty slow in 2008, and I think there was a lot of
19 interest.

20 **Q. Did -- and this is a general question. I**
21 **know you just went through several years of renovations**
22 **in different areas. Did Neighborgall do the --**
23 **primarily most of those renovations, or were there**
24 **other contractors?**

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1 A. Again, Neighborgall, to the Court, was pretty
2 much the project manager, and the people they had on
3 the job. The project manager moved to another
4 construction company, so Justice Davis' office was not
5 done by Neighborgall; it was done by -- I can't
6 remember their name now.

7 I've got a total mental -- an absolute
8 blank. It begins with a G. I can't remember it. You
9 probably have the information there.

10 **Q. I may. That's fine. But was that --**

11 A. Yes.

12 **Q. -- where the project manager had moved to --**

13 A. Had moved to, yes.

14 **Q. -- from Neighborgall.**

15 A. Right. We did continue with the same
16 architects, Silling Associates.

17 **Q. You have just mentioned Silling & Associates,**
18 **and I'm going to go off topic just a little bit, but I**
19 **just wanted to confirm. The Committee has received a**
20 **-- an Affidavit from an employee of the Court, Kim**
21 **Ellis. Do you know Ms. Ellis?**

22 A. Yes.

23 **Q. It is my understanding that Ms. Ellis was**
24 **actually employed by Silling Associates before she came**

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1 to the Court. Is that correct?
2 A. Yes.
3 Q. Okay.
4 A. Justice Workman and I and a few others were
5 so impressed with her work that we wanted her hired,
6 and Justice Workman was especially interested in making
7 that happen, and she was one of the -- one of the
8 stars, frankly, of the Administrative Office.
9 Q. Okay. Mr. Canterbury, I'd now like to focus
10 on -- on the renovations to Justice Loughry's office.
11 A. Yes.
12 Q. Justice Loughry has previously indicated - I
13 believe perhaps in an interview or in print - that he
14 had very little input in the renovations in his office.
15 Let me ask you first: Do you agree with that
16 statement?
17 A. No.
18 Q. How involved, in your opinion -- well, let me
19 back up. Were you involved in Justice Loughry -- the
20 renovations to Justice Loughry's office?
21 A. Well, somewhat. I mean, Kim Ellis was the
22 project manager. I delegated a lot in my job; it was a
23 pretty big job. But I was probably a little more
24 involved, at Justice Loughry's insistence, on a few

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1 specific items.
2 Q. How, if you -- if you feel that you can, can
3 you please tell the Committee, in your opinion, how
4 actually involved Justice Loughry was in the
5 renovations to his office?
6 A. Daily. A couple of times daily, he would
7 check in and ask questions and be very specific about
8 his displeasure about some things. Sometimes
9 remarkable minutia. He wrote I don't know how many
10 e-mails - scores, perhaps hundreds of e-mails - and
11 they were all around the clock.
12 If you look at the e-mails, I think
13 you'll find a few of them are midnight or 1:00 in the
14 morning.
15 He was very involved, and he was more
16 involved than any other justice, by a long shot.
17 Q. Any other justice that you've ever worked
18 with during your tender -- tenure with the Court?
19 A. That's right.
20 Q. If you know, was Justice Loughry aware of the
21 renovation cost - and I'm gonna confine this to the
22 renovation costs - to his office?
23 A. Yes. He received a direct e-mail that was
24 copied to me from the -- either Neighborgall or

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1 Silling. I'm not sure who provided the e-mail. But it
2 cited exactly what the estimate was, what the costs
3 would be.
4 Q. There has been discussions and talk about a
5 wood medallion that is in the floor of Justice
6 Loughry's office. Are you aware of that wood
7 medallion?
8 A. Oh, yes.
9 Q. Could you please tell the Committee how that
10 idea came about?
11 A. Justice Loughry wanted it. He put it in a
12 rendering that he sketched. Pretty good artist,
13 actually. He sketched out exactly how he wanted his
14 office to look, and he had the medallion there on the
15 floor. He'd seen something like that somewhere, and he
16 thought it was cool, and he wanted it on his floor.
17 Q. And with respect to the counties that are in
18 that medallion in the -- the state map, are all of the
19 counties distinct?
20 A. Yes, they are. I --
21 Q. Whose idea was that?
22 A. It was his idea, but he wanted me to
23 actualize it. I spent a long time looking through
24 those woods. We have counties that border six other

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1 counties, and if you changed the wood in one, you'd
2 have to change the other.
3 I spent a long time -- that's why
4 I said more than the other offices, I got involved.
5 And that's what I was thinking of.
6 I'm the one who had to figure out where
7 the woods went. He was -- it was one of the few times
8 he actually said something nice to me in an e-mail. He
9 said I'd done a pretty good job, but that he disagreed
10 with a couple of the wood choices.
11 And I don't know if it was in the
12 e-mail or if it was in a conversation, but he decided
13 he wanted Tucker County to be in the same blue pearl
14 granite - I'll never forget that term - that he had on
15 his little bathroom floor that he had redone.
16 So the blue pearl granite was provided
17 cut and put into the slot for the Tucker County.
18 Q. What type -- if you recall, what types of
19 wood were used in that medallion?
20 A. I don't re -- I mean, you know, there were --
21 there were various versions of oak, walnut. There were
22 a couple of woods that were kind of different. Some
23 sort of some -- maybe African black wood or something.
24 There were -- just different shades of wood.

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1 Because this company was out of
2 Wisconsin, as I recall, and they specialized in these
3 kinds of projects, so they had the woods that they knew
4 they could cut precisely, but also would be in high
5 contrast to the other woods to be able to make the
6 seal, the symbol, the map, whatever.

**7 Q. Now I want to ask you about a couch that was
8 located in Justice Loughry's office.**

9 A. Yes.

**10 Q. It has been referred to in -- in many
11 instances as a \$32,000 couch. Are you familiar with
12 that couch?**

13 A. Yes, I am.

**14 Q. Did you ever personally discuss the cost of
15 that couch with Justice Loughry?**

16 A. Yes, I did.

**17 Q. Can you please tell the Committee about that
18 conversation? Or conversations, if there were more
19 than one.**

20 A. It was a brief conversation. It was the only
21 thing I had to do with the couch, really. The project
22 manager dealt with that. But I noticed as the document
23 came across my desk that it was \$32,000. Well, that
24 seemed extreme to me, so I went up to find him.

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1 He was in the -- I just happened to
2 catch him in the hall, and I said, "This -- this couch
3 is \$32,000. Do you want me to go through with this?"

4 And I remember pretty specifically -
5 and now in hindsight, it seems to be prophetic - but he
6 said, "Yes." And essentially said, "And if it ever
7 becomes public, I'll just blame it on you. You're the
8 administrator."

**9 Q. And do you recall any other part of that
10 conversation, or was that the end of the conversation?**

11 A. I don't recall anything else. That kind of
12 was it. He chuckled.

13 His humor is interesting. It's kind of
14 a insults humor, for lack of better words. He tends to
15 go that route and has this interesting self-satisfied
16 chuckle when he's finished. So that's -- that kind of
17 is your -- pretty much told me, "Make it so."

18 So I sent it on through.

**19 Q. And I'm now going to -- going to move off
20 topic just a little bit. But with respect to the --
21 the full price of that couch being approximately
22 \$32,000 --**

23 A. Yes.

24 Q. -- I believe there has been some discussion -

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**1 and I'm not sure if I've read that or heard that on the
2 news - about different spending limits that different
3 persons or justices may have had at the Court. Are you
4 aware of any spending limits that were imposed at any
5 time?**

6 A. Yes. There was a spending limit on me and on
7 the Chief Justice for individual items. However, once
8 the Court had said that they wanted something done like
9 construction or -- - and there was even a document
10 about technology.

11 -- that it was not necessary for me to
12 have to go to them with everything that came in that
13 project because the project, obviously, was gonna have
14 some costs that exceeded that.

15 That once they approved, that that was
16 my go ahead to be able to -- to carry those out things
17 and to submit those invoices for payment.

18 The technology issue had become so, I
19 guess, problematic in the early part of the 21st
20 Century, before I got there, there was a memorandum to
21 that effect.

22 With the construction, they approved
23 various constructions, and I then made it so. I made
24 sure that those things happened.

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1 So there would not have been a limit on
2 this. This would have been a part of his office
3 renovation, and everything would have been under that
4 heading.

**5 Q. As I understand it, the office renovations,
6 the original quote for the office renovations, did that
7 generally include furnishings --**

8 A. No.

9 Q. -- or no? Okay.

10 A. No furniture was included in that. I will
11 point out about the couch: I had zero to do with the
12 couch except for asking him that question. I know that
13 he wanted a couch that was specifically large enough to
14 fill a certain space. That made the couch get more
15 expensive.

16 But he, his wife and his secretary, as
17 I recall, went to the couch shop - Carpet Gallery, I
18 think - and they picked out the fabric. And the fabric
19 was the main cost of that couch.

**20 Q. What -- if you -- if you know, why was that
21 fabric so much more expensive than --**

22 A. It was blue suede, and that was a couch not
23 designed, I suspect, to be a leather-covered couch.
24 Suede comes in hides, not in rolls. It's not like a

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1 wool blend. And you have to cut it and you have to
2 seam it, and it gets really expensive.

**3 Q. Other than the one conversation that you have
4 just told the Committee about in the hallway in which
5 you mentioned the price of the couch to Justice
6 Loughry, do you recall any other conversations that you
7 had with Justice Loughry about the -- the price of the
8 couch?**

9 A. No. That was the one and only moment I had
10 with the couch.

11 Q. Okay.

12 A. I've never even sat on the couch.

**13 Q. Okay. Mr. Canterbury, I'd like to now move
14 to another topic regarding framing --**

15 A. Yes.

**16 Q. -- and costs associated with framing. Let me
17 ask you first: During your time with the Court, was
18 there a policy regarding framing?**

19 A. No.

**20 Q. How, if a -- if a justice -- and I'm going to
21 limit this line of questioning now just to justices.
22 But if a justice wanted to have something framed, what
23 would a justice do, generally speaking, to have
24 something framed?**

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1 A. Ask me to take care of it, typically, and I
2 would either take care of it because they specifically
3 wanted my input, or I would give it to the project
4 manager to take care of.

**5 Q. Over the time -- over your time, rather, with
6 the Court, did all of the justices that you've worked
7 with through the years request framing?**

8 A. Hmm. Not all. I don't recall Justices
9 Albright, Starcher or Maynard ever asking for anything
10 to be framed. I don't know that Justice Davis ever
11 asked for anything to be framed.

12 I could be wrong, but I don't recall
13 it. Justice Benjamin had a few things framed. Justice
14 Loughry had a lot framed. Justice McHugh did
15 absolutely nothing in that regard.

16 Justice McHugh is one of the purest
17 people I've ever met. I don't think he noticed the
18 furniture in his office, to be perfectly honest.

19 And I think that -- but Justice Loughry
20 wanted a lot of things framed.

**21 Q. Let's talk about that for a moment now. If
22 you could, to the best of your ability or recollection,
23 go through to let us -- tell the Committee what types
24 of things Justice Loughry asked you to have framed.**

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1 A. Well, he had myriad things framed. I'll try
2 to recall. They were all framed at The Art Store. So
3 they will have records, I suspect. But -- and I know
4 that some of those records have been sought by other
5 groups.

6 He had the swearing-in -- the big
7 panoramic swearing-in photograph framed, as I recall.

8 But he had some more idiosyncratic
9 things framed. He had a page of uncut \$2.00 bills that
10 was his. He wanted that framed.

11 He had some articles that were about
12 his son and the commercial -- his son won a Telly, good
13 actor. He wanted those framed. They were framed.

14 He had a poster of the front of his
15 book; he wanted that framed.

16 He liked having these presentation
17 frames. He had his first written opinion framed. And
18 those were expensive, because he wanted this gilt
19 frame, and he wanted them to have the title page, the
20 syllabus point page and the signature page. Those are
21 three cutouts. And he wanted fillets in those, and
22 that added to the cost.

23 Excuse me. And he also did the same
24 thing for Justice Workman. He wanted that to be framed

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1 for some primary or essential case of hers, and so he
2 did that and gave her, I guess, a gift of that frame.

3 He also had that done for at least one
4 - and maybe two, I don't really recall - of his law
5 clerks. Those were the most expensive frames he did.

6 He also had framed a -- an etching of
7 the building in which he was married. I never saw that
8 on the wall of the Court anywhere.

9 And he had -- at the bottom of the
10 stairs, when they had gotten married, there was
11 apparently an Asian woman who did these little quick
12 very colorful watercolors of their -- the new last name
13 of the happy couple, and she had a little business at
14 the bottom of the steps.

15 They got one of those - it was a long
16 thing - and he wanted that framed. I also never saw
17 that again at the office.

18 There could have been other things, but
19 I don't know exactly the costs, but the framing total
20 had to be in the \$10,000 to \$12,000 --

**21 Q. You had mentioned - I wanted to just make
22 sure I didn't miss anything - at least two items that
23 you recall having framed that you don't recall seeing
24 in Justice Loughry's office; is that correct?**

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1 A. At least two, right.

2 **Q. And if you could again - just so I'm -- make**

3 **sure that I'm clear - what are those two items that you**

4 **don't recall seeing in his office?**

5 A. The etching of the large old beautiful

6 government building where he was married in England, I

7 believe, and then that rendering of his name in

8 watercolors, very colorful.

9 **Q. The other frames that were not given away --**

10 **I understand that you said some might have been given**

11 **to law clerks and one may have been given to Justice**

12 **Workman.**

13 A. Correct.

14 **Q. Excluding those, the other items you recall**

15 **having framed for Justice Loughry, do you recall seeing**

16 **those in Justice Loughry's office?**

17 A. Yes.

18 **Q. Do you recall where on the wall those were?**

19 A. Two were on the wall that was to the side of

20 the couch, and the others were above the couch. And I

21 -- I never went into his office after two thousand --

22 around May of 2014, so I'm not 100 percent sure exactly

23 how they're placed, but I'm pretty sure that's where

24 they were.

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1 **Q. Mr. Canterbury, you -- you just mentioned**

2 **that time period of May of 2014, so I'm going to go**

3 **ahead and transition there, if that's okay. Let me**

4 **begin by asking you if you could, please, describe your**

5 **working relationship with Justice Loughry between the**

6 **time he became a justice in 2013 and May of 2014.**

7 A. The transformation in Justice Loughry's

8 character from being a law clerk to a justice was, in a

9 word, extraordinary. It was awkward interacting with

10 him pretty early, because fairly early in the -- after

11 he was elected, he told me something that just --

12 I don't know where that came from, but

13 he said that he knew that when he was Justice Maynard's

14 law clerk that I had advised Justice Maynard to fire

15 him.

16 Well, I never had. Never -- I've never

17 advised anybody to fire anybody I recall. But I

18 certainly did not. I said, "No, I think -- I know that

19 didn't happen. I don't know what Justice Maynard told

20 you."

21 But the only thing I suggested to

22 Justice Maynard was that he might not want to write

23 that note of praise for the back of Justice Loughry's

24 book.

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1 I said, you know, "Spike, you're gonna

2 have a lot of friends in that book, and you maybe don't

3 want to write that piece."

4 And I'll never forget what Justice

5 Maynard said. In his style, he said, "Well, I'd rather

6 write the piece on the back of the book than be one of

7 the subjects in the book."

8 I said, "Okay." He wrote -- he wrote

9 the piece. I have never understood where he was coming

10 from on that.

11 And then there were occasional times

12 when he would just be rather difficult. It's hard to

13 describe, just a tone of difficulty. But I was pledged

14 to serve him. I respect the office as much as any Boy

15 Scout could respect anything. And I did everything I

16 could to serve him.

17 It truly soured, though, and it got

18 very un -- difficult in May of 2014. In May of 2014,

19 before an administrative conference, he said that he --

20 he wanted my resignation, which surprised me to no end.

21 And -- and everyone else in the room

22 was surprised. And he said that he felt that I had

23 disrespected him; that he had learned that I had told

24 some judges that he was young and that he would learn

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1 more about drug court as time went on.

2 I don't remember saying that. And I

3 said as much then, and I did not resign. But from that

4 moment on, he wouldn't speak to me. And in fact, would

5 sometimes refer to me in third person while I was in

6 the room in administrative conference.

7 And if there were people around, he

8 might say hello. He would send e-mails to me and want

9 work done and -- I don't think you'll ever find an

10 e-mail that was unanswered by me, and I took care of

11 everything he wanted. I kept thinking I could bring

12 him around.

13 And I did inquire of some judges if

14 they knew what the heck he was talking about, and

15 nobody knew what he was talking about. They all

16 referred back to Justice Ketchum saying -- he's the

17 only one they ever heard refer to his age, because he'd

18 say, "Here comes the boy justice" in Justice Ketchum's

19 style. If you know him, you'll understand that.

20 So I honestly have no idea what he was

21 talking about, and I have really searched my -- my

22 heart, my head, to try to figure out what that was. I

23 never understood it.

24 **Q. I believe you mentioned this earlier, and I**

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1 do want to just confirm. After that -- that issue or
 2 that incident in May of 2014, did you ever go back in
 3 Justice Loughry's office for any reason --
 4 A. No.
 5 Q. -- that you recall?
 6 A. No, no, I was not invited. I mean, he
 7 literally would not -- he talked to others and talked
 8 right through me. It was as if I didn't exist.
 9 Q. During administrative conferences from that
 10 time period forward - May of 2014 forward - did Justice
 11 Loughry speak to you directly in any of the
 12 administrative conferences?
 13 A. I don't recall that he did. He tended to
 14 talk at -- to the room, if he needed to address
 15 something that I'd brought up. But he wouldn't address
 16 me. And in fact, would sometimes refer to me in third
 17 person.
 18 He may have said some things to me, but
 19 it was not typical. And I kept trying to win him over.
 20 I kept thinking that I could. But I failed.
 21 Somebody asked if I had any preparation
 22 for that kind of treatment, and I said, "Well, I went
 23 to junior high like everybody else," because that's the
 24 only thing that I could compare it to.

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1 CHAIRMAN SHOTT: Mr. Canterbury, you're
 2 getting beyond the question now.
 3 MR. CANTERBURY: I'm sorry.
 4 CHAIRMAN SHOTT: You've -- Counsel,
 5 next question.
 6 MS. KAUFFMAN: Sure.
 7 Q. Mr. Canterbury, you had mentioned per curiam
 8 clerks earlier in your testimony, and I'd like to go
 9 back to that. Was there at some point during your time
 10 with the Court a change with respect to the types of
 11 clerks the justices had?
 12 A. Yes.
 13 Q. If you could, please explain the -- the
 14 change. Let's just start with the change and then
 15 we'll go to the reason for the change next.
 16 A. Yes, there had been two per curiam clerks and
 17 two personal clerks. They changed to eliminate the per
 18 curiam distinction and add four personal clerks.
 19 Q. Do you recall approximately -- and I'll take
 20 whatever you have, if you recall by year, or any time
 21 period in which that change occurred?
 22 A. Yes, it happened in 2013 within the first
 23 half of the year.
 24 Q. Do you recall what the reason was that

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1 precipitated the change from two per curiam and two
 2 personal to four personal clerks?
 3 A. Justice Loughry introduced the subject and
 4 wanted the per curiam distinction changed.
 5 Q. Did he give a reason for why he wanted the
 6 per curiam distinction changed?
 7 A. The per curiam clerks were hired by the
 8 Court; the personal clerks were hired by the individual
 9 justice. He wanted to have control over hiring all
 10 four of his individual clerks instead of having two of
 11 them having to have the approval of the justices.
 12 Every justice at that time inherited
 13 two per curiam clerks. He had inherited two.
 14 Q. And just so I'm clear on that, when a justice
 15 would -- would come on, that justice inherited their
 16 two per curiams; is that correct?
 17 A. Correct.
 18 Q. And was that change made?
 19 A. Yes.
 20 Q. Do you recall, was that a vote of the Court
 21 at that time?
 22 A. Yes.
 23 Q. Do you happen to recall what that vote was?
 24 A. No. You'd have to look at the administrative

Page 1212

1 conference minutes. I don't recall.
 2 Q. Okay. I apologize, I'm now bouncing around.
 3 When you'll say something, it makes me think of another
 4 question.
 5 A. That's fine.
 6 Q. We have spoken at length here about
 7 administrative conferences. Can you tell the
 8 Committee, generally speaking, during your time with
 9 the Court how administrative conferences were
 10 scheduled, how often they would generally occur, if
 11 there was any type of set schedule with administrative
 12 conferences?
 13 A. No, there was not. It is up to the Chief
 14 Justice. Some scheduled more; some less.
 15 Q. Were they generally every month, every other
 16 month, or any type of pattern in that regard, or no?
 17 A. No.
 18 Q. No, okay. At some point during some of these
 19 conferences, it is -- there has been, I believe, some
 20 discussion or talk about lunches that were provided to
 21 some justices and perhaps Court personnel during some
 22 of those conferences or on certain days that the Court
 23 was there.
 24 Do you have any knowledge as to the

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1 lunch issue?
2 A. Yes.
3 Q. Let's begin with, if you recall, when did the
4 lunches begin?
5 A. It was either 2011 or 2012. It had been a
6 long and hard day. They still had an administrative
7 conference to do, work. They were wanting to get the
8 day finished. They said, "Let's just order lunch and
9 have the administrative conference during lunch."
10 Q. Okay. And after -- after that one time, did
11 that become a pattern or a practice at the Court?
12 A. Well, it wasn't every administrative
13 conference, but it happened with some frequency, and
14 then there were lunches when I wasn't around that they
15 had for their opinion conferences and other gatherings
16 when they were there without me.
17 Q. Okay. And if -- and I'm not going to ask you
18 with respect to any specific conference, but -- or any
19 specific lunch. But in any of the lunches in which you
20 were involved, how many people were involved in those
21 lunches? If you can, just give an average.
22 A. Twelve.
23 Q. Who -- what types of --
24 A. Fourteen. I just thought of two others.

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1 Q. Who -- what positions -- or who were those 14
2 people?
3 A. The justices would get them for themselves;
4 their assistants; for a while, for both security
5 people. Ultimately, I think Arthur Angus didn't want
6 lunch anymore. And ultimately, Justice Davis chose not
7 to get lunches anymore and I was -- I got lunches at
8 times until about 2015, and then I was excluded.
9 Q. And do you -- was there ever any discussion
10 as to why you were excluded from the lunches beginning
11 in two thous -- the 2015 time period?
12 A. '15 or '16, somewhere in there. I -- no,
13 just I was never -- when they ordered lunch, they
14 didn't call me.
15 Q. Were you actually in there in the
16 administrative conferences with them when they were
17 eating the lunches?
18 A. Yes.
19 Q. But you weren't given lunch.
20 A. No.
21 Q. Was everyone else in the room given lunch?
22 A. Yeah -- well, except Justice Davis would
23 bring her own lunch in '16 and '15. She stopped having
24 many - if any - lunches. I don't know about the others

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1 but in administrative conferences, she didn't.
2 Q. Do you know how those lunches were paid for?
3 A. Yes. They were paid for by the Court.
4 Q. Was it a P-card used, a purchasing card?
5 A. Yes, that's -- sure, a P-card was used.
6 Q. Okay.
7 A. Right. The runner would use a P-card, and
8 all of their names were listed. Everyone who got a
9 lunch has to be listed for the Auditor to go through
10 payment.
11 Q. Did -- were you ever questioned about that,
12 about what names needed to be included?
13 A. Justice Loughry was surprised when he learned
14 that all names were included. It was about another
15 matter. He was concerned that we were having lunches
16 for people we were training for UJA and people who came
17 in from around the state for probation meetings.
18 And to keep them there, we'd provide
19 lunches, and he said, "You don't even know who's eating
20 those lunches."
21 And I said, "Au contraire. Everybody's
22 name has to be listed or it doesn't go through the
23 Auditor's office."
24 He said, "Well, does that include our

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1 lunches?"
2 And I said, "Well, sure, of course."
3 Q. Okay. And was that -- did he indicate
4 whether or not he was aware of that before that time?
5 A. I got the distinct impression he had no idea
6 until that moment.
7 Q. Okay. At the time your employment with the
8 Court ended in January of 2017, do you know -- and this
9 would have been through the end of 2016. Do you know
10 if those lunches were still occurring?
11 A. They occurred through '16. After that, I
12 can't say --
13 Q. Okay.
14 A. -- except what I've read in the paper.
15 Q. Okay. Do you recall any -- and I'm not going
16 to ask for an exhaustive list. But if you could, if
17 you recall any of the restaurants where these lunches
18 came from, if you could please tell the Committee.
19 A. I may get this name wrong, but it's the South
20 Hills Market & Cafe, I think is what it's called.
21 SoHo's. I think they also got some lunches from
22 Panera's. But they liked South Hills. That seemed to
23 be the go-to place.
24 Q. Was there ever any discussion as to the --

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1 the costs of those meals in your presence?
 2 A. No.
 3 **Q. Mr. Canterbury, I'm going to back up now.**
 4 You had indicated - or testified, rather - that you had
 5 a conversation with Justice Loughry about that \$32,000
 6 couch, just about the price of it and --
 7 A. Right.
 8 **Q. -- on one occasion. Do you recall throughout**
 9 **your time with the Court ever having a similar**
 10 **conversation - perhaps not about a couch - but about**
 11 **any other purchase that -- that caused you any concern?**
 12 A. Yes.
 13 **Q. And if you could, please tell the Committee**
 14 **about that.**
 15 A. Justice Davis' chair, I said it was an
 16 awfully expensive chair. And then the next year -- and
 17 those are the last -- I think the very last thing that
 18 was done was actually in 2015, but those -- those rugs,
 19 they were very expensive as well.
 20 **Q. Those --**
 21 A. And I said they were very expensive, the
 22 Edward Fields rugs.
 23 **Q. In Justice Davis' office?**
 24 A. Yes, I'm sorry, in Justice Davis' offices,

Page 1218

1 yes.
 2 **Q. Other than those conversations, do you recall**
 3 **any other conversations that you've had with any**
 4 **justice about -- about prices for specific items?**
 5 A. Well, the floor in Justice Workman's office,
 6 we had a discussion about that.
 7 **Q. If you could, please tell the Committee about**
 8 **that discussion, at least what you recall.**
 9 A. Just that it was an extremely expensive
 10 floor. But she said that since she was doing so little
 11 else in the office - she was just essentially going to
 12 get some repainting and she was leaving the wainscoting
 13 that was there that she inherited - that she felt it
 14 was all right.
 15 **Q. Do you happen to recall the -- the price for**
 16 **that floor?**
 17 A. No, I don't. You can look it up. It's all
 18 -- everything is available.
 19 **Q. Right. Mr. Canterbury, I'd like to now move**
 20 **to talking about reimbursement expenses for out-of-town**
 21 **travel for justices.**
 22 A. Yes.
 23 **Q. And let me ask you just -- just generally, if**
 24 **you could let the Committee know, if a justice had made**

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1 a decision that he or she was going to go to some type
 2 of conference that was out of state, how did -- did
 3 they have to request approval, or what was the process
 4 for getting a justice approved for such travel and then
 5 reimbursed for such travel?
 6 A. Well, they approved themselves. They're the
 7 -- they're the boss; they're in charge. There was no
 8 vote of the Court or anything. If a justice wanted to
 9 go somewhere, he or she went somewhere. As far as the
 10 cost, well, as much as possible, justices, I guess,
 11 generally would have direct payment from the Court for
 12 airfare and even hotels.
 13 But often, of course, the hotels,
 14 especially, wouldn't take such direct approval. They
 15 would use their credit card and then they would get
 16 reimbursed.
 17 **Q. Just to back up, with respect to any**
 18 **conferences that a justice would decide that he or she**
 19 **may -- may want to go to, did you indicate that that**
 20 **was just something that a justice would decide on his**
 21 **or her own; that was not require -- additional Court**
 22 **approval was not required?**
 23 A. Yes. I mean, I didn't even know sometimes
 24 when a justice would go to a certain conference or

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1 another meeting.
 2 **Q. Okay. And -- if you'll give me one moment.**
 3 **Mr. Canterbury, there has been - in some prior**
 4 **Legislative Audit Reports - some discussion about**
 5 **Justice Loughry's use of vehicles and then use of**
 6 **rental vehicles when --**
 7 A. Yes.
 8 **Q. -- he had gone to out-of-state conferences.**
 9 **Let me ask you first just generally: Did -- at the**
 10 **time those were occurring, were you aware that that was**
 11 **happening?**
 12 A. Generally, yes. Not the specifics.
 13 **Q. Okay. And was it uncommon for justices to**
 14 **get or rent vehicles when they were out of state**
 15 **attending conferences?**
 16 A. Not uncommon. They didn't all do so, but it
 17 wasn't uncommon.
 18 **Q. Okay. When the reimbursements for the cars,**
 19 **the rental cars -- and let's just focus now on the**
 20 **rental cars.**
 21 A. Uh-huh.
 22 **Q. When the reimbursement requests were made for**
 23 **the rental cars, were those reviewed by anyone before**
 24 **they were paid?**

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1 A. Well, they'd go through the Fiscal Division
2 who would review them, I suppose. That was what they
3 were supposed to do. But then they would be paid. And
4 anything that a justice submitted pretty much was paid
5 without question.

6 **Q. I've seen a note of a individual named Sue
7 Racer-Troy. Would that have been --**

8 A. Yes.

9 **Q. -- her division?**

10 A. Yes.

11 **Q. Are you aware of - one way or the other - of
12 whether or not any of the -- the current Supreme Court
13 justices would use rental cars and take personal trips
14 while they were perhaps at a conference?**

15 A. Yes.

16 **Q. If you could, please tell the Committee about
17 what you know.**

18 A. Well, what I know is that Justice Loughry
19 would take additional time or would skip parts of the
20 conference and go to, I guess, personal trips. I don't
21 know where he went except in one occasion, I know he
22 went to the Lincoln, Nebraska Capitol in a conference
23 that was held in Omaha.

24 I believe that he also went to parts of

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1 Yellowstone when the conference was in Jackson,
2 Wyoming. Otherwise, what I know is only what's been
3 reported.

4 **Q. Let's go back to the -- the Nebraska trip.
5 How -- how did you become aware of that, that Justice
6 Loughry would have taken the rental car to the State
7 Capitol there?**

8 A. Well, I saw him leaving when the conference
9 had just ended. He was on his way out in the car. And
10 then later when we were talking about actually security
11 at the -- at the Capitol, I pointed out that, you know,
12 when he went to Nebraska, didn't he go to the Capitol
13 and see that they had no security whatsoever, you could
14 go in any of the doors, and he said, "Yes."

15 So that's how I know what when he left
16 that day and got on that interstate - I just happened
17 to be driving behind him - that he was on his way to
18 Lincoln. I didn't have a rental car in Omaha, so --

19 **Q. Did you attend the same conference?**

20 A. Yes, yes.

21 **Q. You had indicated just previously that you
22 believe there were times that Justice Loughry didn't go
23 to the entire conference? How -- how do you have that
24 type of information?**

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1 A. In Asheville, North Carolina, there was a
2 conference, and he had gotten special permission to be
3 able to stay through till Friday night. The conference
4 ended Friday mid day, and it was -- it was a difficult
5 discussion with the manager of the hotel, because the
6 rates only applied through Thursday, the special deal.

7 He got, though, that deal to go through
8 Friday. On Friday, I went to every event of the
9 conference, as did Menis Ketchum. We couldn't find
10 Justice Loughry anywhere.

11 **Q. And what -- if you can, just please elaborate
12 on the -- you indicated that it was a little bit
13 difficult. What did you have to do with respect to
14 Justice Loughry's room or for his accommodations at
15 that -- in North Carolina at that time?**

16 A. Well, the assistant -- I always made a point
17 when I attended conferences with the justices of
18 telling the assistant manager at the desk that if there
19 was anything that came up that they needed any kind of
20 additional help or whatever with the justices, just let
21 me know and I would make it hap -- try to make it work
22 out.

23 And I got involved in the discussion
24 when they called and said that he wanted this special

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1 rate, and I then called the State Court Administrator
2 of North Carolina to see if he could assist, and
3 through all of these efforts, Justice Loughry got the
4 special rate.

5 I don't know that Justice Loughry was
6 even aware that any of that happened behind the scenes.

7 **Q. Okay. Mr. Canterbury, I'm now going to move
8 to your use of the rental cars, and I just have a
9 question about that. It is my understanding that when
10 you would go on trips such as this and -- and have
11 rental cars --**

12 A. Uh-huh.

13 **Q. -- do I understand correctly that you would,
14 when you returned, prorate your use of the car? If
15 there had been any type of what you believed to be
16 personal use, you would prorate that upon your return;
17 is that correct?**

18 A. Yes.

19 **Q. Okay. To your knowledge, did any of the
20 current justices ever do any -- any type of similar
21 proration for any of their out-of-state trips?**

22 A. No.

23 **Q. Do you have any information about whether or
24 not any justices' spouse attended these out-of-state --**

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1 and let's now focus just on Justice Loughry so that I
2 can be clear about my questions.
3 -- whether or not Justice Loughry's
4 family, any family member, attended these out-of-state
5 conferences with him?
 6 A. Yes, his wife and son.
7 Q. Was that generally the case?
 8 A. Yes.
9 Q. Do you know whether or not there was ever --
10 whether the Court paid ever -- ever made any payment
11 for any expenses related to Justice Loughry's daughter
12 -- or I'm sorry, son or wife, for any -- with respect
13 to any of those trips?
 14 A. Not that I'm aware of.
15 Q. Do you recall ever having a conversation with
16 Justice Loughry about that, though, about whether or
17 not the -- his spouse should be allowed to go with him?
 18 A. Sure. It was encouraged by the National
 19 Center for State Courts for spouses -- they even have a
 20 special spouse organization. So it was encouraged. I
 21 likely -- I don't remember the conversation, but I
 22 likely said, "This is encouraged, and there are special
 23 spouse events and even children's events."
24 Q. Okay. Do you recall ever having a

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1 conversation similar to that in which Justice Loughry
2 indicated whether or not he felt that he should have to
3 pay for his wife to attend the conferences?
 4 A. Justice Loughry once told me that he felt
 5 that he was akin -- you know, as one of the people who
 6 was head of the Judicial Branch, and he said, "Our
 7 spouses should be considered a lot like the First Lady
 8 of the Governor, and the First Lady of the Governor
 9 gets things paid for by this state, so why shouldn't
 10 the spouses of the justices?"
 11 And I said, "Well, it just doesn't work
 12 like that. You know, see if the justices will agree
 13 with that."
 14 But he never brought it up in my
 15 presence with the others.
16 Q. Okay. Mr. Canterbury, as part of your duties
17 and -- as the Administrative Director, did you have any
18 involvement in the management of the -- the P-cards
19 that were used by the Court employees?
 20 A. Not specifically. I never had a P-card
 21 myself. It was done through the Fiscal Division, and
 22 they had a person or two who was the specialist for the
 23 P-cards.
24 Q. And just to be clear again, is that

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1 Ms. Troy's area --
 2 A. Right. That's Sue --
3 Q. -- or department?
 4 A. -- Racer-Troy's area.
5 Q. Mr. Canterbury, I'm now going to ask that you
6 please refer to the report labeled No. 3 in the
7 right-hand corner, please. Prior to today, have you
8 ever reviewed this report for any reason?
 9 A. I have seen this report.
10 Q. Appendix C, which begins on page 13, I
11 believe, of this report, appears to be a memorandum
12 from you to all of the justices. Is that correct?
 13 A. Yes.
14 Q. I believe earlier in your testimony, you
15 mentioned a memorandum. Is this the memorandum that
16 you were referring to earlier?
 17 A. That's it.
18 Q. Okay. Did you prepare this memo?
 19 A. Yes.
20 Q. If you can, please tell the Committee what
21 prompted you to prepare this particular memorandum.
 22 A. Justice Workman asked me to prepare it. She
 23 wanted it to be in general terms.
24 Q. And what did she -- I believe you state --

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1 and let me just read this. In the last sentence in
2 Paragraph 1, it states, "In brief, she wants to know
3 where the money went." Is that correct?
 4 A. Correct.
5 Q. And what money did she want to -- was she
6 asking about?
 7 A. She was alarmed that the -- that what she
 8 termed "the rainy day fund" - which is a term I never
 9 used - at the end of 2011, which was roughly
 10 \$29,000,000, had been reduced by 2014 to some \$300,000.
 11 Or maybe it was -- '15, excuse me, 2015, to about
 12 \$300,000.
13 Q. I believe that you state in the first
14 sentence in Paragraph No. 3 that Sue Troy's files would
15 -- will or do account for where all of that money was
16 spent. Is that correct?
 17 A. Yes.
18 Q. Did you personally look through all of
19 Ms. Troy's electronic files to confirm that, or were
20 you just told that by Ms. Troy?
 21 A. Told that by Ms. Troy. I didn't go through
 22 all the files.
23 Q. Okay. But Ms. Troy has indicated to you that
24 her documentation would show where all of that money

1 went?
2 A. Yes. This memo was prepared with her
3 assistance.
4 **Q. Okay. In the second paragraph of this memo,**
5 **you do mention a Constitutional amendment and some**
6 **anger that had led to discussions among legislators**
7 **about a Constitutional amendment.**
8 **Can you please just describe that and**
9 **why you indicated -- included this in the memo to the**
10 **justices back in 2016?**
11 A. Well, Senators Prezioso and Unger were just
12 livid about the huge amount of carryover money in 2011,
13 and it was a topic that frequently came up, about the
14 threat of a Constitutional amendment, ironic that that
15 seems now.
16 The -- they wanted to make sure that we
17 didn't create a problem there. And so the general
18 thought was that we should bring down this carryover
19 amount. And we did.
20 **Q. And when you say "they" --**
21 A. The justices.
22 **Q. Okay. Were there discussions amongst the**
23 **justices in which you were present in which the**
24 **possibility of a Constitutional amendment in relation**

1 to this surplus funds or this amount -- this
2 \$29,000,000 was discussed?
3 A. Yes.
4 **Q. If you can, please tell the Committee about**
5 **those conversations. And first, let me ask you: Did**
6 **they occur -- did all of the conversations, you recall,**
7 **occur in administrative conferences, or at different**
8 **times?**
9 A. Both.
10 **Q. Okay. Let's start, if -- if you can, with**
11 **the earliest conversations that you recall having with**
12 **the justices about this Constitutional amendment and**
13 **this \$29,000,000. Or 28, whatever the --**
14 A. Right. The -- well, it was a topic that came
15 up with some frequency generally, but it came to a head
16 when there was this rather difficult presentation to
17 the Senate Finance Committee, and -- in 2011.
18 **Q. And who did that presentation in 2011, if you**
19 **recall?**
20 A. I don't recall if it was a justice, but I was
21 involved in the discussion.
22 **Q. And you indicate that it was a difficult**
23 **presentation. What happened that made it difficult?**
24 A. Well, a couple of the Senators were just very

1 upset there was such a huge rollover amount, that there
2 was just this excess funds that were in the Court. And
3 they wanted to know why and what the point was, and I
4 did my best to explain it.
5 **Q. And after that occurred in -- in 2011, that**
6 **presentation in the Senate in 2011, what -- please**
7 **describe for the Committee any conversations that you**
8 **were a part of with the justices, discussing that**
9 **possibility of a Constitutional amendment and what**
10 **should be done with that \$28,000,000 or \$29,000,000.**
11 A. Well, they approved the budget in June. We
12 always were putting the budgets together roughly 16
13 months before they were actualized. And so there was
14 obvious discussion about making sure that -- that
15 certain Senators were not gonna be so unhappy as to
16 pursue this. Generally.
17 I don't remember anything more specific
18 other than generally just "Don't let it happen."
19 **Q. Don't let what happen?**
20 A. Oh. The amendment turn into a bill and be
21 presented to the people. They did not want that to
22 happen.
23 **Q. When you say "they did not want" --**
24 A. The justices did not want that to happen.

1 **Q. At the time - I think we're talking about the**
2 **2011 time period - was that all of the justices, or do**
3 **you recall any of the justices not having that same**
4 **opinion?**
5 A. Well, I think they all had the opinion they
6 didn't want the -- they didn't want the amendment.
7 Some justices paid keener attention to budgetary
8 discussions than others. But I think they all were of
9 a mind they did not want that to happen, the amendment
10 to be passed by the legislature.
11 **Q. At some point during those discussions, was**
12 **the topic of this excess money, the -- what has -- some**
13 **people have termed surplus funds or the rainy day**
14 **funds, the \$28,000,000 or \$29,000,000, was it**
15 **discussed?**
16 A. Was it discussed about -- I'm sorry, I didn't
17 quite --
18 **Q. I'm sorry, my question might not have been**
19 **clear. Was it discussed in the context of what -- what**
20 **the Court would do with that money?**
21 A. No, they didn't -- it was pretty clear why we
22 had that surplus. It was because we had been
23 optimistic -- well, I had been optimistic, frankly,
24 that we would be further along with the building of the

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1 unified magistrate system referred to as UJA, and we
2 simply weren't far enough in time to spend down a lot
3 of that money.

4 So it was pretty clear that over the
5 next few years, certain moneys would be spent, because
6 they had approved the UJA, and they had approved,
7 ultimately, e-filing -- but at that time there was no
8 discussion of e-filing. It was about UJA.

9 And then there was also the knowledge
10 that we would be digesting any kind of raise that
11 happened, and they were very hopeful that there would
12 be a raise for the judges, justices, etc., and they --
13 they knew that that would be absorbed by that surplus,
14 as it was.

15 They also discussed giving money back
16 to the general revenue fund, which was done as well.

17 **Q. And that was done; is that correct?**

18 A. Yes, one time, \$2,000,000. And a few years
19 later, \$4,000,000. So \$6,000,000 of it was just given
20 back to general revenue.

21 **Q. Okay. With respect to -- and we'll stay on**
22 **page -- the first page of your memo, on page 13. I**
23 **believe in the -- the third paragraph, you note that**
24 **the Court had approved each of the appropriation**

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1 **requests with the understanding of the major issues.**
2 **And then you note "and expenditures,"**
3 **but "the major issues that the Court was facing." What**
4 **did you mean? What type of major issues did you**
5 **believe the Court was facing when the Court was**
6 **approving the appropriation requests?**

7 A. Well, there was the threat of the
8 Constitutional amendment; that was an issue. But there
9 was also the issues of -- of mandated drug courts and
10 the computer system. Those kinds of things.

11 But I think I was focusing in that on
12 the Constitutional amendment.

13 **Q. I believe that also in that same paragraph,**
14 **in Paragraph 3 on page 1 of your memo, you do mention**
15 **that during this same time, that the State was facing**
16 **greater and greater shortages. Is that correct?**

17 A. Correct. Yes, yes.

18 **Q. And the Court was aware of that.**

19 A. Yes. And I think that's one reason why the
20 Senate was so livid.

21 **Q. Was there -- I'm sorry. At any time during**
22 **this period, are you aware that the Executive Branch**
23 **ever made any type of request - either oral or in**
24 **writing - for the Supreme Court to make some type of**

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1 **budget cuts?**

2 **Do you recall that ever being requested**
3 **of the Court?**

4 A. No. I only remember them requesting that
5 some money be given back to the general revenue fund.

6 **Q. Do you recall who made that request?**

7 A. I do not.

8 **Q. Okay.**

9 A. It was someone in the Executive Branch. I'm
10 not sure who it was.

11 **Q. With respect to this money -- and I**
12 **understand you indicated that you worked with Sue Troy**
13 **on this and that she does have all the documentation.**

14 **Did some of this money, the \$28,000,000**
15 **or \$29,000,000, was some of it spent on the**
16 **renovations --**

17 A. Oh, yes.

18 **Q. -- to --**

19 A. Yes.

20 **Q. And I didn't ask this before, so I'm -- now I**
21 **am going to back up. Could you please tell the -- the**
22 **Committee about the Capitol Building Commission first,**
23 **and any involvement that you might have had in the**
24 **Capitol Building Commission over the years?**

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1 A. Yes, I was the person appointed by the Court
2 to the Capitol Building Commission. I was a nonvoting
3 member.

4 **Q. How long were you on that Commission?**

5 A. Gosh, years and years. I don't even remember
6 when it started, but I was on it at least eight, ten
7 years. I don't know. A long time.

8 **Q. And what -- what does the Capitol Building**
9 **Commission do, if you could just let the Committee know**
10 **generally?**

11 A. It reviews any changes that are proposed by
12 any person involved with government to the Capitol
13 campus to make sure that they're in keeping with the
14 Cass Gilbert vision and other historical, you know,
15 niceties of the -- of the campus.

16 There is an Office of Historical
17 Protection run by Doctor Pierce. Everything had to be
18 reviewed by her, and then there were recommendations
19 made to the Capitol Building Commission.

20 I was kind of known as a fierce member
21 of the Capitol Building Commission.

22 **Q. Let me ask you this with respect to the**
23 **renovations that were done by the Supreme Court - I**
24 **think you've indicated they began in 2008 and may have**

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1 gone through 2014 or '15 - did those renovations have
2 to be approved by the Capitol Building Commission, any
3 of those?

4 A. Most all of them were in private space. And
 5 the private space is not under their purview. The
 6 lights and the -- and the cleaning of the marble in the
 7 hallway and the first floor, there was a discussion
 8 with the Capitol Building Commission about that and
 9 with Doctor Pierce.

10 And I guess the lobby of the -- the
 11 lobby and the bathrooms -- the lobby of -- I'm sorry,
 12 the lobby of the -- the Clerk's Office and the
 13 bathrooms, there was discussion with them about that.

14 Q. But not the -- the actual offices --

15 A. No, they don't have any authority over
 16 private offices.

17 Q. Okay.

18 A. I mean, if the Governor and his office or any
 19 legislature in their private office want to make it
 20 look a certain way, they can make it look any way they
 21 want.

22 Q. Okay. Mr. Canterbury, I'm now going to ask
23 you to stay, please, on Report No. 3, but please refer
24 back to page 1 of Report No. 3. And if you could,

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1 please, certainly feel free to read the first paragraph
2 as well, but I'm going to ask you a question about the
3 second paragraph, if you could please take a moment to
4 review the second paragraph.

5 A. Yes.

6 Q. Mr. Canterbury, it's my understanding from
7 the -- I believe in the second sentence of that
8 paragraph, the second paragraph, that Justice -- that
9 Chief Justice Workman in the May of 2018 Post Audit
10 Subcommittee meeting indicated -- or responded that she
11 nor any of the justice -- justices had discussed the
12 need to spend the balance down to avoid sponsorship of
13 the Constitutional amendment.

14 Do you agree or disagree with that
15 statement?

16 A. I disagree.

17 I agree she said it, but I disagree
 18 with what she said.

19 Q. I'm sorry, my question wasn't clear.

20 A. I thought that's what you meant.

21 Q. Yes. And for what reason do you disagree
22 with the statement made by Justice Workman?

23 A. It was a frequent topic of conversation,
 24 about the Constitutional amendment, and it was pretty

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1 well known that we were not requesting enough money to
 2 keep up a \$29,000,000 rollover amount from one budget
 3 year to the next.

4 And so I don't know how she missed the
 5 conversation, but I will note that she didn't write a
 6 memo in response when I sent the memo out. And she
 7 didn't hesitate to correct me when I was wrong.

8 Q. Mr. Canterbury, I'd now like to move back to
9 some of the duties that you had as the Administrative
10 Director. Did -- as part of your duties, were you in
11 charge of personnel decisions such as sometimes hiring
12 or keeping on or letting go of certain employees?

13 A. While I was there, the process was this:
 14 Anyone who was hired to a permanent position in the
 15 Court Administrative Office or the other offices at the
 16 Capitol had to be approved with a vote of at least
 17 three of the justices.

18 However, when I arrived in 2005 and
 19 until I left, the firing was on me and me alone. The
 20 justices wanted distance. They did not want to be
 21 involved in the firing. I, of course, would notify
 22 them when somebody was fired, but it was on me to do
 23 that.

24 Oh, and one last thing: The hiring of

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1 temporary personnel did not go through the Court. That
 2 was on me.

3 Q. During your time with the Court and during
4 your employment, were you ever asked by any justice to
5 hire specific employees?

6 A. Yes, I was.

7 Q. If you could, please tell the Committee which
8 -- if there were more than one, which justice made such
9 request of you?

10 A. Only Justice Workman ever asked me to hire
 11 anyone.

12 Q. Do you recall the number of times that
13 Justice Workman would request that you hire someone?

14 A. Yes, there were four. Although one of those
 15 has an asterisk, because I'd already talked to that
 16 person and had decided I wanted to hire her without
 17 Justice Workman even knowing I'd had that conversation.
 18 That was just a happy coincidence.

19 Q. And with respect to that -- I think you've
20 just indicated there were four. Were those all four
21 the request for them to be permanent employees of the
22 Court or contract employees?

23 A. Three were permanent; one was contract.

24 Q. When these requests were made by Justice

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1 **Workman, how did you respond? Just generally, and then**
 2 **we can get into the four instances. But typically,**
 3 **what was your response?**
 4 A. "Yes, ma'am."
 5 **Q. Okay. Let's -- let's begin with the contract**
 6 **employee. I believe you indicated there was only one**
 7 **contract employee.**
 8 A. Yes.
 9 **Q. If you could, please, tell the -- the**
 10 **Committee about the request that was made and the --**
 11 **the employee that you then later retained.**
 12 A. It was John Pritt, was the contracted person.
 13 She said that he was a technical whiz, that he had
 14 worked for her as a volunteer setting up her website
 15 during the campaign, as I recall, and she felt that he
 16 would be of great assistance to the Court.
 17 **Q. And do you recall any other conversations**
 18 **that you had with Justice Workman about that -- that**
 19 **hire before he was hired on?**
 20 A. Before he was hired?
 21 **Q. Yes, yes.**
 22 A. No, I don't recall anything else with her.
 23 **Q. Did you hire him as a contract employee?**
 24 A. He was contracted, yes, he was.

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1 **Q. And where -- where did Mr. Pritt work? What**
 2 **type of work did he do, in what department?**
 3 A. Initially, he was in the technology division
 4 working with Scott Harvey. Scott came to me after a
 5 few months and said he -- "His expertise does not fit
 6 with what we are doing here. We don't really need
 7 him."
 8 So I said, "Well, try him" -- he had a
 9 couple of suggestions, that maybe he could try him in a
 10 few other places.
 11 I said, "Let's try that and get back to
 12 me."
 13 He got back to me and said, "It's not
 14 working out."
 15 So I went to Justice Workman and said
 16 so, and she said that she thought that I should try to
 17 figure out a way to make it work. At that point, Scott
 18 Harvey had an idea that since OASIS was starting, that
 19 perhaps Sue Troy could use him as the OASIS person --
 20 **Q. And --**
 21 A. -- to the meetings -- the initial meetings of
 22 OASIS. And he did that for a while. And then
 23 Mr. Pritt quit.
 24 **Q. Do you have any recollection as to the amount**

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1 **of money that Mr. Pritt was paid during his time with**
 2 **the Court?**
 3 A. I have a general recollection that in that
 4 year and a half or so, he received around 160 some
 5 thousand dollars.
 6 **Q. Now I would like to move to the -- the**
 7 **requests that were made of you with respect to the**
 8 **permanent employees. I --**
 9 A. Yes.
 10 **Q. It's my understanding from your testimony**
 11 **that there were three such requests?**
 12 A. Yes.
 13 **Q. Okay. If you could, just go -- let's begin**
 14 **with the first one that you recall. What is the -- who**
 15 **was the first person for -- as a permanent employee,**
 16 **that Justice Workman requested that you hire?**
 17 A. It was Dee Hill as a receptionist and as a
 18 person who would be kind of a fill-in for secretarial
 19 duties as needed.
 20 **Q. Were you looking for a receptionist and**
 21 **secretary -- secretary at that time?**
 22 A. No. But we did need a person somewhere else
 23 so we moved one of the -- the person that Dee filled
 24 in, we moved that person to the other job.

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1 **Q. And what job was Ms. Hill given?**
 2 A. Kind of the -- I think we called her "the
 3 floater." She filled in when the receptionist would
 4 take breaks, and would then also do other jobs as came
 5 up, kind of being the administrative assistants'
 6 assistant for things.
 7 **Q. And was Ms. Hill qualified for those jobs?**
 8 A. Yes, absolutely. And she's a wonderful
 9 person.
 10 **Q. Was Ms. Hill still employed at the Court when**
 11 **-- when your employment ended in 2017?**
 12 A. Yes.
 13 **Q. Now if we could move to the next person that**
 14 **you recall being requested to hire.**
 15 A. I don't remember her first name, but her last
 16 name is Miller, and she also was an administrative
 17 assistant. And at that time, the -- there had been a
 18 request by the Director of Judicial Education for some
 19 assistance beyond what she had, and so when she asked
 20 me to find a place for her, that was the place that
 21 seemed to make sense.
 22 And I will point out the Court approved
 23 all of these. All of the hires were approved by the
 24 Court.

1 **Q. By the Court as a whole.**
 2 A. The entire Court, yes.
 3 **Q. Okay. And again, I'm sorry; I may have just**
 4 **missed this. Did you indicate that Ms. Miller was**
 5 **hired as an administrative assistant?**
 6 A. Yes. In the division of -- of judicial
 7 education. And she was supremely qualified --
 8 **Q. Okay.**
 9 A. -- and she did a great job.
 10 **Q. Was there -- I'm sorry, that was the second.**
 11 **Who -- who is the third person that you recall the**
 12 **request being made to hire?**
 13 A. That one was always kind of an interesting
 14 little private joke. And this may be the first time
 15 that Justice Workman learns of this. But I had a
 16 relationship with Janie Moore that stretched back to my
 17 days at the regional jails.
 18 She was the first magistrate to be the
 19 guinea pig on the remote arraignment. And I had had a
 20 marvelous relationship with her.
 21 I knew that the Director of Magistrate
 22 Services was not working out, and I called her and
 23 asked her if she would do that job. She said that she
 24 would have to finish the campaign. She was working as

1 a campaign person for Justice Workman, and -- then
 2 Candidate Workman.
 3 And if it was still open, that she
 4 would be interested. It was, and I hired her. But
 5 Justice Workman had also asked me to hire her. Janie
 6 Moore knows more about magistrate courts than anybody
 7 in the world. She is extraordinarily good, and I would
 8 not want any of this to be considered a slight of her,
 9 because she is simply amazing.
 10 **Q. And you had actually approached Ms. Moore**
 11 **before --**
 12 A. Right. But I didn't bother to share that
 13 with Justice Workman when she talked to me. I figured
 14 that if she didn't ask, I wasn't telling.
 15 **Q. And --**
 16 A. Now she knows.
 17 **Q. At any time during your employment with the**
 18 **Court, did you speak with Justice Workman about your**
 19 **plans to -- or your belief that an employee - not one**
 20 **that you've already previously mentioned - but that an**
 21 **employee might need to be terminated?**
 22 A. Yes.
 23 **Q. And if you could, please tell the Committee**
 24 **what Justice Workman's response was to your discussion**

1 **about your belief someone needed to be terminated.**
 2 A. Her -- her response -- this was before she
 3 actually had -- it was after her election but before
 4 she had gone into office. And I knew that this
 5 employee had a relationship with her, and so I told her
 6 that I was thinking of -- of firing her because she
 7 just wasn't getting the job done.
 8 And she wasn't showing up as much as
 9 she should, and she exhausted many sick days and
 10 others, annual days.
 11 And Justice Workman was not pleased at
 12 that thought - she liked her very much - and she said
 13 that -- you know, as I recall, she said, you know, "New
 14 justices frequently look for new administrators." So
 15 it was a bit of a threat.
 16 And I said, "If you feel that strongly
 17 about her, we'll keep trying to make her work out and
 18 we'll keep trying to use the positive approach that
 19 I've used all along."
 20 And that was always my approach to
 21 employees that were failing, was to try to get them to
 22 do better. I don't want to get too far off topic here,
 23 but that was it.
 24 **Q. I appreciate that. Any other employees that**

1 **we have not already discussed that Justice Workman**
 2 **requested that you hire at the Court?**
 3 A. I'm not recalling any. Those were the ones I
 4 recall.
 5 **Q. With respect -- and we have been discussing**
 6 **Justice Workman at this point. Let me now ask you a**
 7 **question: Did Justice Workman ever make requests of**
 8 **you that were not work-related?**
 9 A. Yes.
 10 **Q. If you could, please tell the -- the**
 11 **Committee members about those types of requests that**
 12 **were made of you on personal matters.**
 13 A. Well, they were personal things having to do
 14 with her -- her family. And I did my best for her, and
 15 mistakenly, I thought that we had a friendship. I
 16 guess I played the fool on that.
 17 But I don't feel comfortable getting
 18 into the details of what those personal things were.
 19 As angry as I am with her right now, I'll take those
 20 things to my grave.
 21 **Q. When you say "personal," you -- do you mean**
 22 **actually personal that had nothing to do with the**
 23 **Court?**
 24 A. Yes.

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1 Q. Were they requests that made -- that were
2 made during work hours at the Court or after work
3 hours?
 4 A. Both. You know, I -- she would call me in
 5 the evenings and -- but often, she'd call me in the
 6 evenings for work things, so you know --
 7 I was on the clock 24 hours a day. We
 8 had early-rising justices; we had late justices, and I
 9 was ready to answer the phone at 6:00 with some and at
 10 2:00 in the morning with others.
11 Q. I believe you mentioned this earlier, and I
12 want to just confirm. With respect to the request to
13 -- for hiring individuals, did you indicate that
14 Justice Workman was the only person that you recall
15 making such requests?
 16 A. Yes. I don't recall anybody else asking to
 17 hire anybody. There was one contractor asked by one
 18 justice, but no other hires.
19 Q. You just mentioned that, and let me follow up
20 on that just a little bit. With respect to the
21 contractors that might have performed work during
22 renovations such as interior designers or --
 23 A. Oh, well, that's true, yeah.
24 Q. Were those special requests or -- let's not

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1 call them requests.
2 -- by the actual justices as well?
 3 A. I had forgotten that Justice Workman was very
 4 keen on our using Designs by Fisher for her cabinet
 5 work and also when there was a renovation to create a
 6 little kitchenette to the side of the -- the conference
 7 room, that she wanted him to -- to get that work.
 8 And he's very good, so it didn't seem
 9 to be a problem. And so we -- I followed that. She
 10 did make that request. I'd totally forgotten about
 11 that. I'm sorry.
12 Q. No, that's fine. And I have the same
13 question with respect to other justices. During the
14 course of the renovation, I understand that there was a
15 general contractor often, Neighborgall. But were there
16 other contractors that were hired --
 17 A. Subs, yeah.
18 Q. Okay. Were any of those re -- at the request
19 of a specific justice for his or her office?
 20 A. Justice Ketchum had specific requests for the
 21 people who did his wainscoting and his flooring. He
 22 had -- they were from the Huntington area. He's very
 23 jingoistic about Huntington, and he wanted them hired.
 24 And so they were contracted. Their

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1 prices were -- were as good if -- they were
 2 competitive, so it seemed to make sense.
3 Q. With respect -- I understand you indicated
4 that early on, back in the 2008 or whatever that time
5 period was when the renovations began --
 6 A. Yes.
7 Q. -- that that was put out to bid. Were any
8 other -- while you were with the Court, were any other
9 contracts like that with respect to -- let's begin with
10 renovations. Any other type of renovations, were they
11 ever put out to bid?
 12 A. No. After the initial bid, that was it.
13 Q. And what about any other contracts, let's
14 say, for IT, technology type things, were any of those
15 ever put out to bid?
 16 A. The initial UJA software provider was a
 17 competitive -- it wasn't a bid. It was a request for
 18 projects. But it was a -- it was a competitive request
 19 for projects.
 20 We also bid out at least once -
 21 probably twice - the -- the drug screening people,
 22 urinalysis folks. The Court spends a fortune on that,
 23 and I thought we could maybe get a better price. Turns
 24 out that the vendor we had won each time.

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1 Q. Okay. Any other bids that you recall during
2 your time with the Court that were any type of project
3 or renovation that was put out to bid that we haven't
4 already discussed here this morning?
 5 A. I can't think of any. I'm -- I just -- there
 6 may have been, but I don't recall.
7 Q. Mr. Canterbury, I'm now going to ask for you
8 to please refer to Report No. 2.
 9 A. Okay.
10 Q. And if you could, please, refer to page 27 of
11 that report.
 12 CHAIRMAN SHOTT: Counsel, before you
 13 get into your question, let me just ask the witness if
 14 he needs a break. We've been going over a little two
 15 hours. Do you need a --
 16 MR. CANTERBURY: I'm good until lunch
 17 probably.
 18 CHAIRMAN SHOTT: Okay.
 19 MR. CANTERBURY: But thank you very
 20 much. I appreciate that.
 21 CHAIRMAN SHOTT: Okay.
 22 BY MS. KAUFFMAN:
23 Q. Mr. Canterbury, if you could please take a
24 moment to review the letter that is contained on page

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1 **27 of Report No. 2.**
 2 A. Yes, I've seen this.
 3 **Q. That was going to be my next question. Let**
 4 **me ask you first: In the first sentence of the -- the**
 5 **third paragraph of this letter that appears to be**
 6 **written by Ms. Sue Racer-Troy, she states that she told**
 7 **you the -- that the use of a State car or vehicle by**
 8 **Justice Ketchum would be a taxable fringe benefit if it**
 9 **was used for commuting, and she indicates that you told**
 10 **her that it was none of her business.**
 11 **Do you recall that conversation**
 12 **occurring?**
 13 A. No. I've answered that in a memorandum too
 14 that you -- I don't know if it's attached to this
 15 report or not, but I've answered that to the
 16 Legislative Post Audit. It could have occurred.
 17 There was so much discussion about cars
 18 and taxes going back and forth, I can't say she did not
 19 ask that. But I can guarantee I didn't say "It's none
 20 of your business." I had a very pleasant relationship
 21 with her.
 22 And I don't think I've ever told
 23 anybody it's none of their business in my entire life,
 24 so I don't -- it's not my phrasing. I did not say

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1 that.
 2 **Q. Do you recall speaking with Ms. Racer-Troy**
 3 **about the taxable fringe benefit issues for use of**
 4 **State cars?**
 5 A. Generally, I think after the memorandum from
 6 --from Kirk that I requested -- so that's why it also
 7 makes little sense that I would have said "None of your
 8 business." Obviously, I had -- I had requested a legal
 9 opinion on it, for goodness sakes.
 10 So I don't know where that comes from.
 11 But the -- I don't remember any details of that
 12 discussion one way or the other.
 13 But no doubt, she could have said
 14 something to me. I just absolutely strongly deny that
 15 I would have ever told her it was none of her business.
 16 **Q. If you could please now refer to, in the**
 17 **notebook, Exhibit No. 14.**
 18 A. Uh-huh.
 19 **Q. And specifically, I would like to ask you**
 20 **questions about the -- the last page of this letter**
 21 **that appears to be from Ms. Sue Racer-Troy, No. 6. If**
 22 **you could just take a moment to -- to review that.**
 23 A. I don't think I've seen this before.
 24 Okay.

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1 **Q. First let me ask you: Did you have an**
 2 **employee at the time you were the administrator named**
 3 **Connie Toney?**
 4 A. Yes.
 5 **Q. Do you have any information at all as to**
 6 **whether or not Ms. Toney was afforded use of a State-**
 7 **owned vehicle for commuting purposes to and from the**
 8 **Capitol?**
 9 A. No. But I think I might be able to explain
 10 the confusion.
 11 **Q. Okay. If you could, please.**
 12 A. I hired her son as an intern, and those --
 13 that year, the interns were measuring accessibilities
 14 to court functions in various counties. They were in
 15 State cars. There were four of them, and they were in
 16 State -- they had State cars to drive to the various
 17 counties.
 18 I think that a couple of times, he had
 19 the State car in southern counties. They lived, I
 20 think, in Logan County. I'm not even sure it's Logan.
 21 A southern county, that's all I can tell you. And he
 22 probably brought her to work one day - or a couple of
 23 days maybe - when he had the car.
 24 Because he had the use of the car

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1 because he was going from county to county, along with
 2 a couple of others, to measure and to determine
 3 accessibility. That report was a very good report too.
 4 **Q. Mr. Canterbury, I now want to turn your**
 5 **attention to your termination that occurred in January**
 6 **of 2017. I have a few questions about that. I want to**
 7 **make sure first that we have the date correct. Was it**
 8 **January 4 --**
 9 A. Yes.
 10 **Q. -- 2017?**
 11 A. Yes, it was January 4. I heard the
 12 confusion. January 1st was a Sunday; January 2nd was
 13 the holiday; January 3rd, I was in Huntington dealing
 14 with some matters with the new family court function,
 15 so the first time they could get to me was January 4th.
 16 **Q. So January 3rd was -- was a work day but you**
 17 **were not in the office. You were elsewhere working.**
 18 A. I was in the office in the morning, but then
 19 I went to Huntington. I don't know if they were
 20 seeking me on the 3rd or not.
 21 **Q. How did you become aware on January 4th that**
 22 **your employment was being terminated?**
 23 A. At about 10:00 or so in the morning, I was
 24 asked to come up to the Court. That was not an unusual

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1 occurrence, these spontaneous requests. I went up. I
2 didn't expect what I learned. I went into the off --
3 into the conference room.

4 I could tell that there was a problem,
5 because there was emotion on everyone's faces. Chief
6 Justice Loughry said, "You're being terminated from
7 your will and pleasure position."

8 He said, "Do you want to be terminated
9 or would you rather be -- be allowed to resign?"

10 I said, "No, I'd -- I'd be terminated."
11 I said, "I wouldn't qualify for unemployment benefits
12 if I were resigning," and I said, "I" -- I would
13 probably need those. Justice Walker then said that I
14 was wrong, that people who quit got unemployment
15 benefits all the time.

16 It was one of the two cross moments I
17 had in the room. I said, "Well, when you've been
18 around longer than a few days, you'll learn that the
19 Court never allowed people who quit to get any kind of
20 unemployment benefits."

21 I then, frankly, humbled myself and
22 practically begged them to keep me on. I said, "I'm
23 about -- I'm the -- I'm the president-elect of the --
24 of the Conference of State Court Administrators. I'm

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1 on the National Center Board and I'm gonna be vice
2 chairman. I'm gonna be chairman of the Justice Center
3 of the Council of State Governments. In those
4 positions on the boards already, I've helped bring
5 money back to the State, significant money. I'll be
6 able to do that. Would you please just give me a year
7 and a half to be able to do more of that?"

8 They said, no, they wanted me gone,
9 they wanted me gone. I also asked if I could have a
10 few days, because I had a lot of my furniture and my
11 stuff in the office, a lot. Eleven and a half years,
12 you build up a lot. And I said -- and they said, "No."
13 By the end of the day -- he said, "No."
14 By the end of the day, I was to be gone.

15 And Justice Workman said, "You've --
16 you've had a good run, now get along, get along." And
17 she did that (indicating), which I found to be kind of
18 demeaning. And I guess that's why I broke bad at that
19 point.

20 That's when I said, "Well, every cloud
21 has a silver lining. At least I will not have to work
22 for a simulacrum of a chief like you."
23 And he said, "What did you call me?"
24 And I said, "Well, I described you as a

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1 simulacrum."
2 He said, "What's that word? What's it
3 mean?"

4 And I said, "Look it up."
5 And I'm literally getting my things and
6 getting up and he said, "How do you spell it?"
7 I found that to be puzzling, and I
8 said, "Well, figure that out yourself" - or something
9 like that - "I'm not gonna spell it for you," and I
10 left.

11 I see a lot of puzzled expressions
12 about what simulacrum means. "Simulacrum" means an
13 elaborate fraud. It seemed the best word to describe
14 him at the time.

15 **Q. Let me --**
16 A. I was angry.

17 **Q. Let me -- let me ask you, before you --**
18 **before you left the conference room -- did you indicate**
19 **that this meeting occurred in the conference room?**
20 A. Yes, it did.

21 **Q. Were all five justices present?**
22 A. Yes, they were.

23 **Q. Other than Justice Loughry -- and you have**
24 **indicated that when you first walked in -- is he the**

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1 **first person that spoke to you?**
2 A. Yes, he was. Well, actually, Menis Ketchum
3 was in the hall and he just shook his head and he said,
4 "I hate this, I hate this." And I thought, "This is a
5 problem."
6 But I still didn't think I was gonna be
7 fired. And with your leave, I'll explain why. But I
8 won't if it's off subject.

9 **Q. No, if you could.**
10 A. Well, I'd worked very intensely with Justice
11 Walker on her transition. In fact, she thought I did
12 such a good job, she wrote me a lovely Thank You note.
13 But I'd heard through the grapevine
14 that Justice Workman had turned strongly against me and
15 that Justice Loughry clearly hadn't liked me in years,
16 and so I thought it might come to a vote.

17 And I said to her on the last Friday of
18 the year, "Are you -- I hate to put you on the spot,
19 but you're about to be on the spot. It looks like you
20 would be the third vote if -- if I'm gonna be
21 terminated."
22 I said, "Are you -- are you gonna vote
23 to -- to terminate me?"
24 And she said, "Well, I'd have to work

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1 with you for some months before I could make that
2 decision."

3 The reason that was so important to me
4 is because I had already drafted a resignation, because
5 I knew that if I did not resign before the end of the
6 year, I would use or lose annual days that totaled
7 \$15-18,000, and so I wanted to try to keep that money.

8 And I would -- if she'd just told me
9 the truth, that she was gonna vote with them, I would
10 have resigned and I would have not lost that money.

11 And so I thought, well, I mean, she
12 wrote me a nice Thank You card, I mean, I'd take her at
13 her word, you know. So within a week of receiving the
14 Thank You card, she voted to fire me.

15 **Q. And you -- I want -- just want to make sure**
16 **that we're clear about that, "she" --**

17 A. Oh, Justice Walker.

18 **Q. Justice Walker.**

19 A. Justice Walker.

20 **Q. And now let me ask you about back in the**
21 **conference. I understand that Justice Ketchum spoke to**
22 **you in the hallway and then when you went in, Justice**
23 **Loughry, was he the first justice --**

24 A. Yes.

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1 **Q. -- to speak?**

2 A. Yes. After we all sat down, he was the first
3 person to say a word to me.

4 **Q. Was there anyone else in the conference room**
5 **other than yourself and the five justices?**

6 A. No.

7 **Q. Okay. After Justice Loughry indicated your**
8 **position -- that you were being terminated, do you**
9 **recall any of the other justices -- other than Justice**
10 **Workman that you've indicated that she asked you to**
11 **leave. Anybody else, any other justices, make any**
12 **comments to you --**

13 A. No.

14 **Q. -- whatsoever?**

15 A. And what I said about Justice Walker, what
16 I've already said that she said about unemployment,
17 blah, blah, blah.

18 No. Neither Justice Davis nor Justice
19 Ketchum said a word. I think they'd had an argument
20 for the previous hour and they'd probably expended all
21 of their -- because they voted to -- for me to stay.

22 **Q. You have indicated the vote and who voted for**
23 **and against your termination. How did you become aware**
24 **of that?**

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1 A. Well, by their faces, actually I -- I knew
2 it. But I think later, Justice Ketchum told me
3 perhaps. I don't remember, frankly. One of the
4 justices told me. It would have been either Justice
5 Davis or Justice Ketchum.

6 I haven't spoken to any of the others
7 since that day.

8 **Q. Well, that was another question I was going**
9 **to ask you. I think you just answered it. Since the**
10 **date you left the Court in January of 2017, you have**
11 **not spoken to Justice Loughry?**

12 A. No.

13 **Q. And the same with respect to Justice Workman?**

14 A. That's correct.

15 **Q. And finally, with respect to Justice Walker,**
16 **have you spoken with her since that date?**

17 A. No, I have not.

18 **Q. Let me ask you this: With respect to Justice**
19 **Davis, have you spoken with her since the time you left**
20 **the Court?**

21 A. Yes, I have.

22 **Q. On how -- is that a frequent occurrence or an**
23 **infrequent occurrence?**

24 A. You know, frequent, I guess, you know. Every

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1 couple of weeks or so. Sometimes more often; sometimes
2 less.

3 **Q. With respect to Justice Ketchum, was that the**
4 **same? Did you speak with him after January 4, 2017?**

5 A. Well, there was -- he was very hopeful that
6 I'd be able to get another job in government, and he
7 was talking to me a lot about that in January and
8 February of 2017.

9 Then I didn't talk to him again until
10 about December of 2017. And the last time I spoke with
11 him was probably February of -- of this year, and I
12 haven't talked to him since. And it was just a couple
13 of conversations - probably three - between December
14 '17 and February '18.

15 **Q. Other than the one comment that you made with**
16 **respect to Justice Loughry as you were leaving the**
17 **conference that day, do you recall making any threats**
18 **to any of the justices or to the Court in general as --**
19 **while you were in the conference room or while you were**
20 **leaving the conference room?**

21 A. I never threatened them. I did -- the word
22 got around the Capitol I'd been fired and the press was
23 calling. But I didn't -- I had talk to time to Phil
24 Kabler for a moment, but I was under the gun to move my

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1 stuff. I mean, I bro -- things were broken.
 2 And I knew that if I let someone else
 3 -- it would just be a mess, and I didn't have time to
 4 talk to them. And I remember saying something like "I
 5 don't know whether to go to the press and tell them
 6 everything I know or just sail off into the sunset."
 7 And I guess I decided to sail off into
 8 the sunset, for a long time.
 9 **Q. At some -- at some point after you left that**
 10 **day, if you could, please, just generally describe to**
 11 **the -- to the Committee how you got your belongings and**
 12 **left the building that day.**
 13 A. Well, I -- I had been fired, so therefore the
 14 policy of the Court was always that the security people
 15 would watch your every step, and so I -- my every step
 16 was watched by Jess -- Jess Gundy and Arthur Angus.
 17 I asked if I could keep or pay for my
 18 12-year-old Nokia cell phone. That was denied.
 19 I asked if I could transfer the data on
 20 it. That was denied.
 21 I asked if I could have the phone
 22 number, which I had had since the Regional Jail
 23 Authority. It was my number. That was denied. They
 24 took the phone.

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1 The computer was, of course,
 2 immediately disabled. And then I started packing
 3 furiously, and they -- and my assistants were finding
 4 boxes and old newspapers and anything that I could pack
 5 things in, and -- and I went through files with Arthur
 6 looking at -- over my shoulder.
 7 I mean, it's not like he reviewed each
 8 file, but I would say, "Well, this file is my Christmas
 9 card list, that's mine. This file should stay for my
 10 successor," etc. So I left most of the files. There
 11 were very -- relatively few files that I took.
 12 The -- and it was clear that it was
 13 physically impossible for me to drive the 30 minutes to
 14 my house in my car and back and get more stuff and
 15 back. I wouldn't have been able to finish. And so
 16 Arthur said, "We'll use the vans." Arthur was in
 17 charge of the cars.
 18 I don't know if he got permission of
 19 the Court. I have no idea. Just suddenly we were
 20 putting things in vans as well.
 21 So there were two vans and my car that
 22 made the first trip, and then the next trip, we filled
 23 my car literally to the brim and I was able to cram
 24 some things in there where, unfortunately, I cracked a

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1 very nice lamp. But that's neither here nor there.
 2 **Q. And if you recall, how -- how long during the**
 3 **day, how long did that take before you made the final**
 4 **trip?**
 5 A. All day. We didn't get finished until about
 6 8:00 or 9:00 o'clock, I guess. I was very sore the
 7 next couple of days from just moving so hard and so
 8 fast.
 9 **Q. The --**
 10 A. It was -- it was -- it was pandemonious.
 11 **Q. The request that you made regarding your cell**
 12 **phone that you have indicated about whether or not you**
 13 **could --**
 14 A. Uh-huh.
 15 **Q. -- your request to keep the number and such,**
 16 **to whom did you make those requests?**
 17 A. I asked Arthur to ask Justice Loughry, the
 18 Chief Justice, and he said, "No," and all the things I
 19 told you were through him.
 20 **Q. He said, "No" --**
 21 A. Chief Justice Loughry through -- I don't
 22 remember if was Jess Gundy or Arthur Angus. Through
 23 one of them.
 24 **Q. Okay. Could you please tell the Committee --**

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1 **now I'm really going to bounce around. I apologize.**
 2 **Could you please tell the Committee how many Cass**
 3 **Gilbert desks the Supreme Court had while you were**
 4 **there?**
 5 A. Well, I think five. I think originally there
 6 were six. There's been a lot of discussion about that.
 7 I don't know that anybody has the exact data but -- or
 8 information about this. There are some letters back
 9 and forth between the Chief Justice at the time and
 10 Cass Gilbert's architectural office.
 11 But I think there was one for the clerk
 12 and one for each of the justices. Now, when you say
 13 "desks," what you mean are the executive desks.
 14 **Q. Yes, sir.**
 15 A. There were also secretary desks. And what
 16 I'm not remembering exactly is if the secretary in
 17 Justice Ketchum's office had a secretary's desk or if
 18 she had one of the executive desks, and I honestly just
 19 -- I'd have to measure it. They look so much alike.
 20 It's -- the secretary desks are smaller
 21 versions, and there are some other details that are
 22 different, but you know, at a glance, they look a lot
 23 alike. But they're very, very clearly Cass Gilbert
 24 desks.

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1 MS. KAUFFMAN: Mr. Chairman, if you'll
2 give me just one moment.
3 CHAIRMAN SHOTT: Sure.
4 MS. KAUFFMAN: Thank you, Mr. Chairman.
5 **Q. Mr. Canterbury, I have just a few additional**
6 **follow-up questions. With respect to the renovations,**
7 **I know you've indicated there was the original bid and**
8 **you went from that, and then it appears that many of**
9 **the -- or much of the work went by change order as**
10 **opposed to additional bid.**
11 A. Yeah.
12 **Q. Could you just please explain that how that**
13 **came about, that the work was done, for the most part**
14 **it appears, by change orders.**
15 A. Well, as I said, the Court was -- the
16 justices were very pleased with the work of the people
17 who represented Neighborgall, and you can do a -- you
18 can extend a contract through a change order, and we
19 extended their contracts for the other projects.
20 **Q. Okay. All through change orders?**
21 A. All through change orders.
22 **Q. Okay. Now I'd like to ask you to please**
23 **refer to Report No. 3, and specifically page 15 of**
24 **Report No. 3. At the top of page 15 at the first**

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1 **bullet point, there is a note that "The Court did not**
2 **seek reappropriations of approximately \$10,000,000 in**
3 **expenditures in an attempt to bring the year-end**
4 **balance as close to zero as possible, mainly to**
5 **continue to forestall a Constitutional amendment."**
6 **And then there is -- the second**
7 **sentence notes, "The Court discussed the need to**
8 **eliminate any carry-over money at the end of the year**
9 **so that the Senate leadership would not continue down**
10 **the path towards the sponsorship of such amendment."**
11 **My question for you with respect to**
12 **those -- to those statements, I believe that is talking**
13 **about Fiscal Year 2014 when you note the Court**
14 **discussed -- do you recall, was that -- did that**
15 **include all justices at that time?**
16 A. I don't recall. Generally, they would have
17 all been in there, but I don't recall.
18 **Q. Okay. Do you recall any justice taking issue**
19 **with that -- that plan in the attempt to forestall a**
20 **Constitutional amendment?**
21 A. Absolutely not. No one had any comment to
22 the contrary that I recall.
23 **Q. When -- with respect to the -- the rental**
24 **cars, rental car usage -- and I'm going to ask you**

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1 **specifically with respect to Justice Loughry. I think**
2 **you indicated you might have been at one or two**
3 **conferences that he was at. You've mentioned, I think,**
4 **at least two.**
5 A. Yes.
6 **Q. Did you ever become aware as to whether or**
7 **not anyone other than Justice Loughry was -- was**
8 **driving his rental car? And by that, I mean, did --**
9 **was it just Justice Loughry or his wife? If you know.**
10 A. I don't know. And also, I need to clarify,
11 at Asheville, I don't think he had a rental car. I was
12 just talking -- I was responding to his not going to
13 some of the conferences.
14 **Q. I apologize, that's correct, you did not.**
15 A. I want to make sure that that's the case.
16 **Q. I believe you did say that.**
17 A. Right.
18 MS. KAUFFMAN: Mr. Chairman, I don't
19 think I have any further questions at this time.
20 CHAIRMAN SHOTT: Thank you, Counselor.
21 Mr. Canterbury, our typical practice -
22 and you may have picked this up, if you followed any of
23 this - is to allow our Committee members to ask
24 questions in follow-up.

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1 However, in view of the fact you've
2 been on two and a half plus hours, I think maybe it
3 would be a good time to break for an early lunch to
4 give you a break and also to give our members a chance
5 to collect their thoughts.
6 And just so no one's surprised, I'm
7 gonna rotate around a little bit on who'll I start
8 with. I will start with the back row on the right side
9 first and work my way from my right to my left and then
10 come that way, so that gives -- nobody is gonna be
11 surprised when we come back.
12 We will be in recess until 12:45, and
13 that gives everybody just a little over an hour. I've
14 been told the cafeteria is open until 1:30. So please
15 be back in your seats at 12:45. We're in recess until
16 then.
17 (A recess was taken for lunch after
18 which the proceedings continued as
19 follows:)
20 CHAIRMAN SHOTT: Call the Committee
21 back to order. We're going to continue. Counsel has a
22 question or two she wants to follow up on, then we'll
23 begin with Committee members' questions.
24 Counsel, go ahead.

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1 MS. KAUFFMAN: Thank you.
 2 Mr. Chairman, currently being passed out --
 3 MR. CANTERBURY: That's it.
 4 MS. KAUFFMAN: Thank you, Mr. Chairman.
 5 CHAIRMAN SHOTT: Can you put it on the
 6 screen?
 7 BY MS. KAUFFMAN (Resuming):
 8 **Q. Mr. Canterbury, you have just been handed --**
 9 **provided a copy of an exhibit that has now been marked**
 10 **as Exhibit No. 39. And it's my understanding it's**
 11 **currently being passed out to the Committee members as**
 12 **well.**
 13 **Earlier in your testimony, you had**
 14 **mentioned a sketch that you recall that Justice Loughry**
 15 **had provided or had drawn himself with respect to his**
 16 **office.**
 17 **Let me ask you now if you could take a**
 18 **moment to look at Exhibit No. 39 and confirm or deny**
 19 **for us whether or not this is the sketch that you**
 20 **referred to earlier.**
 21 A. Yes, it is.
 22 **Q. Okay. Do you recall when in the -- in the**
 23 **process that you first saw or received a copy of this**
 24 **sketch or how you first saw it?**

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1 A. I think the project manager showed it to me.
 2 She might have been working at Silling at the time. I
 3 just remember it was sometime in early 2013 before
 4 construction got underway, likely late winter. I don't
 5 know. Sometime in early 2013.
 6 **Q. And with respect to this -- this sketch**
 7 **identified as Exhibit No. 39, what is your**
 8 **understanding of the -- the person that prepared this**
 9 **sketch?**
 10 A. What's my understanding of the person? It
 11 was --
 12 **Q. Yes, who prepared --**
 13 A. It was Justice Loughry.
 14 **Q. And does this particular --**
 15 A. Well, I should say Justice Loughry's the one
 16 who handed it to the project manager. He may have had
 17 somebody else draw it, but it looked like his writing.
 18 **Q. And I will now try to refer to you in the**
 19 **bottom left-hand corner, I believe there is an asterisk**
 20 **with a note. If I am reading this note correctly, I**
 21 **believe it -- this might be in other handwriting, but**
 22 **it states, "Preliminary sketch from Justice Loughry."**
 23 **Is that what you read --**
 24 A. Yes, I see that.

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1 **Q. -- as well?**
 2 A. I don't know who wrote that.
 3 **Q. But it's your understanding that Exhibit 39**
 4 **is the sketch that was prepared by Justice Loughry?**
 5 A. Yes.
 6 **Q. And does this particular sketch show the**
 7 **medallion that you have previously testified and we**
 8 **have discussed here earlier in the morning?**
 9 A. Yes, it does.
 10 **Q. Did you personally have any conversations**
 11 **with Justice Loughry about this particular sketch?**
 12 A. No.
 13 **Q. Okay.**
 14 MS. KAUFFMAN: Mr. Chairman, I do not
 15 have any further questions with respect to this
 16 exhibit.
 17 CHAIRMAN SHOTT: Thank you, Counsel.
 18 We'll move now to questions by members. I'm gonna
 19 start, as I indicated before, third row, far right.
 20 Delegate Isner, any questions?
 21 DELEGATE ISNER: Thank you,
 22 Mr. Chairman.
 23 EXAMINATION
 24 BY DELEGATE ISNER:

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1 **Q. Thank you for coming today.**
 2 A. Yes, sir.
 3 **Q. I have several questions. Earlier in your**
 4 **testimony, I believe you said you had only one**
 5 **conversation with Justice Loughry about the \$32,000**
 6 **couch; is that correct?**
 7 A. Yes.
 8 **Q. You also indicated that he had made a trip -**
 9 **or at least it was your understanding - to the Carpet**
 10 **Gallery with his wife and maybe his secretary.**
 11 A. Yes.
 12 **Q. Did that come up in your sole conversation**
 13 **with Justice Loughry?**
 14 A. No.
 15 **Q. How did you obtain that information?**
 16 A. The project manager told me.
 17 **Q. Okay. Then you also talked about the fabric**
 18 **being the most expensive portion of the \$32,000 couch;**
 19 **is that correct?**
 20 A. Yes.
 21 **Q. Did that come up in your conversation with**
 22 **Justice Loughry, or was that also from the project**
 23 **manager?**
 24 A. That was from the project manager. I think

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1 it's -- if memory serves, you can tell that from the
2 invoice itself. But the proj -- I didn't talk about
3 that with Justice Loughry, the first part of your
4 question.

**5 Q. Okay. That was actually gonna be my next
6 question, if the fabric cost was specifically listed on
7 the invoice?**

8 A. I think it is. I -- you probably have
9 copies. I think that's broken down.

**10 Q. Did you ever have any conversation with any
11 other justice or anyone employed by the Court about the
12 \$32,000 couch?**

13 A. No.

**14 Q. You talked about Justice Loughry asking for
15 your resignation at some point in the past, prior to
16 the time you were ultimately terminated, correct?**

17 A. Yes.

**18 Q. Who else was present in the room whenever he
19 asked for your resignation?**

20 A. The other justices: Justices Davis, Ketchum,
21 Workman and Benjamin.

**22 Q. Did they have any follow-up comments to
23 Justice Loughry asking for your resignation at that
24 time?**

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1 A. The only comment that was made that I recall
2 was Workman said, "I wouldn't be -- I wouldn't think it
3 was a problem at all if somebody said I was a young
4 justice." That was the only comment made.

5 They did not want to get into the
6 conversation.

**7 Q. And then when you were ultimately let go,
8 there were some questions about what you said on your
9 way out, but I'll ask you the question: Did you say "I
10 will destroy you"?**

11 A. No, I'm not General MacArthur or anything. I
12 didn't say "I shall destroy you" or anything like that.

**13 Q. Now, you said that each of the justices had
14 four law clerks. Is that correct?**

15 A. Yes.

**16 Q. And we discussed this a little bit, about the
17 switch from the individual choices of those. Are you
18 aware of any justice utilizing any outside firm or
19 individual to assist in writing opinions?**

20 A. Only from what I read in the newspaper after
21 I left. But while I was there, I never heard of
22 anything like that being done.

23 Q. Okay.

24 DELEGATE ISNER: Thank you, I don't

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1 have any other questions.

2 Thank you, Mr. Chairman.

3 CHAIRMAN SHOTT: Delegate Miller.

4 DELEGATE MILLER: Thank you,
5 Mr. Chairman.
6 Mr. Canterbury, thank you for being
7 here.

8 EXAMINATION
9 BY DELEGATE MILLER:

**10 Q. I'm not sure that we covered this previously,
11 but: How did you become the Administrative Director?
12 Did you have any kind of prior government service? How
13 did you come to this position?**

14 A. Well, you've asked two questions. Prior
15 government service, yes. I worked in 1988 for Governor
16 Moore as the Deputy Commissioner of DMV, and then I
17 was, for three months, the acting commissioner, the
18 last one for Governor Moore. And then I took a break.
19 And then in 1997, I was appointed by
20 Governor Underwood to be the Executive Director of the
21 Regional Jail and Correctional Facility Authority. I
22 did that for eight years, and I had let it be known
23 generally that when the last jail was built that I was
24 gonna be leaving and I was gonna find something else to

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1 do.

2 I got a call from Justice Benjamin. He
3 had heard that, and he said they were looking for an
4 administrator and they wondered if I -- he wondered if
5 I might come over to the Court.

6 Frankly, I hadn't heard good things
7 about the job, and I said I didn't think so. But he
8 was relentless.

9 He called a couple more times, and then
10 Justice Davis called. So finally -- I had a
11 relationship with Justice Maynard. So I called Justice
12 Maynard, and I said, "It -- you're conspicuously silent
13 on this."

14 And he said, "It's kind of a miserable
15 job, and we're friends. It would be great for me, but
16 I don't know if it would be great for you, but I'd love
17 it if you did it."

18 And so then Benjamin called again and
19 he was convincing, and I said, "Yes, as soon as the
20 jail is finished in June of 2005, I'll be able to do
21 it." So on July 1st, 2005, I began with the Court.
22 That's the story.

**23 Q. You made reference that you hadn't heard good
24 things about the job and maybe some derogatory things**

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1 that came to your knowledge. Can you elaborate on
2 that, as to why people -- or folks were leading you to
3 believe that it would not be --

4 A. Well, they'd gone through four administrators
5 in five years. People had quit; people had been forced
6 out; and one was forced out away to another job in the
7 Court, then brought back later after somebody else
8 didn't work out.

9 It was -- it's very hard to work for
10 five individuals and then also have to work for the
11 Court. And when you have a Court split 3 to 2, you do
12 what the majority says, but then often you're gonna
13 catch some grief from the other two for doing exactly
14 what the majority said.

15 I guess it takes a certain kind of
16 masochist to do the job. It's not easy.

17 Q. I understand. In general, during your time
18 there, how would you characterize the work environment
19 of the employees for the Supreme Court?

20 A. When I arrived, it was awful. There was no
21 morale. It was like walking into a morgue or
22 something. It was just terrible.

23 So one of the things I wanted to do was
24 to make sure that employees understood that I would --

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1 I was empowering them, that they knew more about their
2 jobs than -- than I did, and I wanted to find out more
3 and I wanted to make sure that I had a group of
4 directors that was very clear in what they did and what
5 their divisions were responsible for.

6 I didn't want the public to have to
7 guess who to call if they had a problem with
8 magistrates or had a problem with family court or
9 whatever. So I developed a number of divisions, and
10 they had often just a few employees.

11 Probation Division had hundreds, but
12 you know, some of them literally just have one or two.
13 But those divisions were clear. And I encouraged them
14 then to start meeting among themselves.

15 By the time I left, I would put the
16 morale of the Court, the services of the Court, the
17 responsiveness of the Court, Administrative Office,
18 against any office in State government, and frankly,
19 any administrative office that I'm aware of in the
20 entire nation.

21 It was -- it was really -- it was -- we
22 had a -- we had it cooking. They were really doing
23 well. Because they knew that they were respected. And
24 that was really important. I don't think they

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1 necessarily felt that so much for the previous several
2 years. There was just so much confusion.

3 Q. You testified and talked about that the
4 relationship between you and Justice Loughry kind of
5 went sour.

6 A. Yes.

7 Q. Were there any instances -- let me back up.
8 He served the Court in a prior capacity before becoming
9 a justice?

10 A. Yes, he was brought in by Justice Maynard as
11 his law clerk, and he was a per curiam clerk, so that
12 when Justice Workman won and took the spot of Justice
13 Maynard, she inherited his service, and they developed,
14 apparently, a very good relationship, and he continued
15 there.

16 And he ran for office while he was also
17 being a law clerk.

18 Q. And I believe you also testified that you had
19 general supervision and control over employees of the
20 Court. During the time that you were director and he
21 was an employee of the Court, did you ever have any
22 conflicts with him prior to his election as -- as a
23 justice while he was under your supervision?

24 A. Let me clarify. If I didn't say this, I want

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1 to clarify it now. I had authority over people in the
2 Administrative Office of the Court.

3 There are two other - for lack of
4 better words - departments. There's the Clerk's
5 Office, and there's the counsel's office. I had no
6 authority over those people.

7 And then specifically the clerks - per
8 curiam at the time as well as personal - their boss
9 were the justices. I had absolutely no authority. In
10 fact, we kind of worked for them to make sure they had
11 whatever they needed as soon as they needed it, because
12 the justices were very defensive of their law clerks.

13 So I -- and then you asked another
14 question.

15 Yes, we had one unfortunate encounter
16 when he was a law clerk.

17 Q. Can you elaborate on that?

18 A. To a point. He was saying un -- sexually
19 harassing things to an employee, a temporary employee,
20 of the -- I've never said this. I see people looking
21 up. I've never said this out loud. But he was. I'm
22 answering your question. He was sexually harassing an
23 employee of the Administrative Office.

24 And I asked her if she wanted to take

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1 it to EEOC. She said, "No," that she'd be out of there
2 in a few months, she didn't want to have to be dealing
3 with this, and she said she just wanted it to stop.
4 So I went to talk to him and I told him
5 it should stop. And I also then went to Justice
6 Maynard, as I told him I would. What their
7 conversation was, I have no idea. But according to the
8 employee, it stopped.

**9 Q. Was there any -- at any point after that -
10 particularly subsequent to his election as justice -
11 that that was ever brought back up to you?**

12 A. It was never mentioned again. It was almost
13 as if it had never happened. And I figured it was --
14 it was water over the dam. I never brought it up; he
15 never brought it up.

16 And since she was free of those
17 comments, I felt that it was an unfortunate situation
18 that was closed.

**19 Q. Understand. And I may bounce around just a
20 little bit here because of the notes and how we got
21 into it, but I want to refer back to Exhibit 39 that
22 was just most recently given to us, the sketch of --
23 that -- that appears to be -- have been produced by
24 Mr. Loughry.**

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**1 I noticed that there is one spot in
2 kind of the center of the -- of the sketch that shows a
3 television.**

4 A. Yes.

5 Q. Can you elaborate on that just a little bit?

6 A. Yes. He wanted a fairly large screen TV, but
7 he wanted it to be hidden behind the cabinetry, and he
8 wanted the cabinetry to be such that you wouldn't know
9 that they pulled out in accordion doors instead of just
10 being like the other doors in the cabinet, just simple
11 opening doors.

12 For lack of better words, he wanted to
13 hide the TV. I don't think from anybody. He just
14 didn't like the look of the TV and he wanted it behind
15 the cabinets.

**16 Q. Somewhere in this process, it's -- I believe
17 I read that that was referred to as his "control
18 panel," "control center." Was there anything other
19 than a television that was associated with that space?**

20 A. Not that I know of. But there may have been
21 some other -- I just don't know. I just know there was
22 a big screen TV in there.

23 Strangely, the entire Capitol is wired
24 for cable. I never figured out who paid the cable

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1 bill. But there are cable hookups all over this place,
2 and it was easy enough to pull the wire over to put the
3 cable in there. You just had to pull it from the
4 central hall.

**5 Q. You also testified in regard to the Carpet
6 Gallery --**

7 A. Yes.

**8 Q. -- and that Justice Loughry, his wife and
9 secretary went there to make a selection of the
10 material that went on the famous couch. Why -- how did
11 the Carpet Gallery get involved in that? How do they
12 come into play?**

13 A. I really don't know. The project -- I had
14 nothing to do with the couch except for the encounter
15 about the cost of the couch with him. So I'm not sure
16 how Carpet Gallery got into the scene. The project
17 manager was the person who sourced furniture at their
18 demands, of the various justices.

19 He wanted a couch that fit this space.
20 The couch that was closest didn't quite fit it, so he
21 asked if the project manager could make the couch --
22 get the couch to be custom made bigger to fill the
23 space. She did, and that added cost. And then they
24 went to the Carpet Gallery and picked out the fabric.

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1 All of this, I got through the project
2 manager. I wasn't involved myself.

**3 Q. And in looking at the documentation that --
4 that we've been trying to go through, I notice several
5 invoices and orders that came from the Carpet Gallery
6 that had one constant signature of Susan Johnson.**

7 A. Yes.

**8 Q. Had -- who is she, or have you had any kind
9 of communication with her in regard to any of this
10 project?**

11 A. I never had any direct communication that I
12 recall. I couldn't pick her out of a line-up. I don't
13 know her. I'm assuming that she was either the
14 manager, the owner, the director or some sort of
15 factotum at the Carpet Gallery.

16 But I have no idea who she is
17 personally. That was something else that I delegated
18 to the project manager. She probably knows her, but I
19 do not.

**20 Q. I understand. We also -- there was also
21 testimony regarding what's been called the Cass Gilbert
22 desk.**

23 A. Yes.

24 Q. I'm not sure that -- that --

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1 DELEGATE MILLER: If you covered it,
2 Mr. Chairman, I apologize.
3 **Q. But do you have knowledge whether Justice**
4 **Loughry knew the status of that desk, the value, the**
5 **historical value, things like that?**
6 A. Well, I do first of all because of testimony
7 on the part of the three people who moved the desk.
8 They all said to you that he knew what it was. But he
9 spent a lot of time in Justice Ketchum's office as a
10 law clerk, as well as then later.
11 And Justice Ketchum -- you couldn't
12 take a step into Justice Ketchum's office without him
13 talking about how proud he was that he had the complete
14 Cass Gilbert office, because he did. He had Cass
15 Gilbert tables, the original chairs, the original
16 desks.
17 And I don't see how he would not have
18 known it was Cass Gilbert. In fact, I think everybody
19 who worked at the Judicial Branch at the Capitol had
20 some understanding of these Cass Gilbert pieces of
21 furniture. They were frequently discussed.
22 And -- yeah, I don't see how he
23 wouldn't have known. But then I know basically from
24 what those three told you.

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1 **Q. Have you ever been to Mr. Loughry's home?**
2 A. No.
3 **Q. Do you have any knowledge regarding his**
4 **request for computers or a computer system to be**
5 **installed or located at his home?**
6 A. I knew from my tech people that he wanted two
7 instead of one. I believe he also wanted a printer. I
8 then have heard reports since that he might have also
9 had a laptop, but I guess he communicated directly with
10 the IT staff and --
11 You know, judge -- justices were
12 absolutely free to communicate directly with anybody in
13 the -- in the Administrative Office. That's one of the
14 reasons why I wanted to have such clear delineation of
15 their titles and their areas of responsibility, so not
16 only the justices but members of the public - anybody -
17 could find them and make requests.
18 And so I guess he dealt directly with
19 that. The only thing I remember is that he initially
20 seemed to want two. And you know, he's the boss, so
21 yes, he got them.
22 **Q. Did it come to your knowledge why he asked**
23 **for two computers?**
24 A. No.

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1 **Q. Did it come to your knowledge as to any**
2 **particular problems with the computers at his home**
3 **after he had requested them?**
4 A. No, nobody ever told me about those. I've
5 since heard about them, of course, but not while I
6 worked there.
7 **Q. You make reference to an Asheville, North**
8 **Carolina out-of-state travel for a conference --**
9 A. Yes.
10 **Q. -- that he was difficult to find, so it gave**
11 **the appearance that he did not attend?**
12 A. Just one day, the Friday. The reason that
13 was such a noticeable absence is because there had been
14 so much consternation about his need to stay Friday
15 night. We got out of there at 1:00 o'clock. It's a
16 four-and-a-half, five-hour drive or so if you go the
17 Corridor G route to Charleston.
18 And I didn't know why he needed an
19 extra night, but he wanted it and I served him, so we
20 did what we could to make it happen, and it worked out.
21 But he was nowhere to be found.
22 **Q. Were there CLE credits issued for attendance**
23 **at a conference such as that?**
24 A. I don't know. I -- you often -- and there

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1 may have been in this case, but I don't know if
2 Friday's would have qualified. The speakers were Bob
3 Mueller and Justice Alito. I would think the Justice
4 Alito lecture might very well have been a CLE-credited
5 thing, but I -- I'm not a lawyer, so I never worried
6 about CLEs.
7 **Q. Understand. We also talked briefly about**
8 **travel in the Supreme Court's car --**
9 A. Yes.
10 **Q. -- by Justice Loughry. And just**
11 **concentrating -- well, in state or out of state, let's**
12 **say. Are you aware of any instance where his family**
13 **traveled with him in a State vehicle?**
14 A. I am now because of all the reports since.
15 But when I was at the Court, it never came to my
16 attention one way or the other.
17 **Q. Were you familiar at any point to where the**
18 **State vehicle was used to travel to book signings in**
19 **West Virginia?**
20 A. I didn't know that when I worked there. No.
21 I learned that afterwards.
22 But while I was there, I had no idea he
23 was doing that.
24 **Q. Were you aware that he was doing book**

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1 signings?

2 A. I knew of one that I read in the newspaper
3 right after he was elected. There was a book signing
4 in Charleston. I didn't know about any of those that
5 have been reported at the Greenbrier and other places
6 like that.

7 I haven't heard -- I learned about
8 those as everyone has, through reports after the fact.

**9 Q. Do you know where the book signing was in
10 Charleston? If you recall.**

11 A. I don't recall specifically. I want to say
12 Taylor Books, but I'm just -- that's just kind of more
13 of a hunch than knowledge. There was a pretty lengthy
14 newspaper piece about it, though. It's pretty easy to
15 look up.

**16 Q. Did you have anyone at the Supreme Court that
17 handled some of the -- the accounts, who reviewed or
18 possibly questioned expenditures that -- on a regular
19 basis that was -- that was the person that reviewed and
20 brought things to light if they thought it was
21 inappropriate, or at least get an explanation for
22 those?**

23 A. About the justices?

24 Q. Any accounts --

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1 A. Oh, any accounts, sure.

2 Q. -- justices or lower courts as well.

3 A. Sure, absolutely. The Fiscal Division would
4 review and they would get directly -- again, I
5 encouraged them not to run with all their problems to
6 me. Lots did anyway.

7 But I encouraged them to be direct, and
8 they would then directly say, "This is not allowable,
9 this -- clarify, be more specific; you didn't give the
10 information you needed to give."

11 And this was not only for the people at
12 the Capitol in Charleston, but throughout the state.
13 Because -- and often it was just a matter of just not
14 understanding how to fill out a form or two to get
15 reimbursed. Sometimes it might have been a little
16 more. I don't know. But they would correct it.

17 With the justices, we never questioned.
18 It was forbidden.

**19 Q. Were you aware of any personal trips taken in
20 a State car by Justice Loughry?**

21 A. We surmised. It was almost just the rumor
22 within the Administrative Office. He just so often
23 checked out cars over weekends. And there just didn't
24 seem to be any Court business over weekends. And there

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1 was also then his apparent checking it out for long
2 periods in December.

3 This was just discussed among folks
4 talking. But I never confronted him about it because
5 it was his -- it was his privilege to do what he did.
6 And I assumed that it was for Court business, and I
7 wasn't gonna question him about it.

8 But there was a lot of discussion about
9 that, a lot of discussion. And I think that's probably
10 what reached the ears of Justice Davis.

**11 Q. Were you aware of any instances where Justice
12 Loughry used a State vehicle to travel to Court
13 appearances by family members?**

14 A. No, just what I read in the paper. That was
15 after the fact, just recently. But not while I was
16 working there.

**17 Q. It's been brought up along the way on vehicle
18 use that you were brought into as well, is your use of
19 a vehicle --**

20 A. Yes.

**21 Q. -- that your personal calendar reportedly
22 disappeared at some point after you left.**

23 A. Yes.

24 Q. Did you take that with you or --

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1 A. No.

2 Q. -- was it there when you left?

3 A. They were there when I left. I had a
4 personal calendar that was my planner that I took care
5 of. But my secretary, my administrative assistant --
6 or Executive Assistant, excuse me, Joan Mullins, wrote
7 down everything that occurred.

8 So if there was a spontaneous trip
9 where I was called to just come down and talk to people
10 at, oh, Division of Community -- Justice and Community
11 Services, for example, I didn't plan that so that
12 wasn't in my personal planner, but she would write it
13 down in the official Administrative Director calendar
14 that was supposed to have been kept for posterity.

15 I was asked to see if these 30 some
16 trips that were blanks -- because the message didn't
17 get through to Arthur Angus, I guess. Anyway, they
18 weren't listed.

19 -- if my personal calendars or any
20 personal recollection could fill in the blanks on any
21 of those 30 some, and yes, I did have information about
22 the vast majority. But there were six that I simply
23 had no information about.

24 They seemed to just be one-day uses. I

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1 suspect that I knew what some of them were, but I
 2 couldn't say for sure. So I said they could check the
 3 calendars. And then that's when we all learned that
 4 the calendars from 2005 through 2012 were there, but
 5 the calendars from 2013 through '16 were missing.
 6 Frankly, I don't even know where she
 7 kept the old calendars in her office. I know where the
 8 current one was - it was on her desk, and she put it in
 9 her top drawer every day - but the others, I don't know
 10 where she kept them.

11 Q. Have you come to learn -- have you come to
12 learn what happened to that calendar?

13 A. I have no idea what happened to those four
 14 years worth of calendars. I have no idea.

15 Q. All right, thank you.

16 A. It's troubling, frankly. That's the kind of
 17 official history of that office, and to have that gone
 18 is a chunk of history that's missing.

19 DELEGATE MILLER: Thank you. Thank
 20 you, Mr. Chairman.

21 CHAIRMAN SHOTT: Delegate Kessinger?
 22 Back to this side. Delegate Byrd.

23 DELEGATE BYRD: Thank you,
 24 Mr. Chairman.

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1 Thank you for being here, sir.
 2 EXAMINATION
 3 BY DELEGATE BYRD:
4 Q. Just a -- can you give -- I don't want to
5 take too much time and have you talk too much about it,
6 but I just want a little -- to know a little bit about
7 you, just like a minute about your background before
8 you got into the conversation about your government
9 background.

10 A. The government background is exactly as I
 11 just said.

12 Q. I'm talking previous to that.

13 A. Previous to that? Oh, I was a -- I went to
 14 grad school in Berkeley, had a master's degree and was
 15 one of those people that was all but dissertation for
 16 my -- my Ph.D. in English. I was an English instructor
 17 at a little college called College of Moraine. I had
 18 contract classes at Berkeley.

19 I came back to West Virginia because of
 20 the illness of my mother and I was -- found myself kind
 21 of wondering what to do. For a while, I worked in the
 22 John Raese for Governor campaign. That didn't go so
 23 well. I then found myself intrigued with Governor
 24 Moore's possibilities. I went to him, and I had a

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1 mutual contact, and the rest is history.
 2 There was a big gap, though, between
 3 that '88 and '97, and you may be asking what I did
 4 then.
 5 Well, you know, when you teach English,
 6 you think of a lot of things you'd like to do in life,
 7 because you get exposed to so much when you're teaching
 8 freshman composition.
 9 And so I kind of wanted to write some
 10 commercials, so I wrote many, many commercials for some
 11 people in Nashville. I did an award-winning sales
 12 video presentation for a cemetery company on pre-need
 13 sales.
 14 I founded a camp for pre-16-year-old
 15 girls and their children, their babies, that went for a
 16 long time, and that was one of the more noble things I
 17 ever did.
 18 I wrote grants for southern West
 19 Virginia health clinics.
 20 I did general PR work, and I then --
 21 what's best known, is I was involved in a lot of
 22 campaigns. Primarily democrat campaigns, a few
 23 republicans. I've never been much of a party loyalist.
 24 I just look for the best person.

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1 Q. Okay. One of the things I wanted -- I'm just
2 going to go through a few things I need to clarify
3 before passing the mic. You talked a little bit about
4 the home office and you had a conversation with Justice
5 Loughry about taking a couch to his home office.
6 Did I hear your testimony correctly?

7 A. He told me that he wanted to take the couch
 8 for his home office.

9 Q. So he never told you he was taking it for his
10 living room; he told you he was taking it for his home
11 office.

12 A. He just said he was taking it to his house
 13 for his home office, and after that, I didn't know what
 14 had happened to the couch; I just knew it wasn't there.
 15 I wasn't even sure if he'd actually gone through with
 16 moving it because he didn't ask me to be involved with
 17 any of the move.
 18 I assumed when he said "home office" he
 19 was just referring to the fact that he had a State
 20 computer or two, but I never thought any more of it
 21 except that it was really surprising to me.
 22 I mean, I -- nobody had ever said
 23 anything like that, and I was stunned.

24 Q. Okay. And we are -- referring to Exhibit 39.

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1 A. Yes, sir.

2 **Q. Just a few things that I wanted to ask if you**

3 **had any knowledge of was -- it looks like he requested**

4 **a taller desk. Do you see that?**

5 A. Yes, he wanted a standing desk.

6 **Q. Okay. And do you recall what the desk was**

7 **before?**

8 A. Well, the desk in that office before was the

9 -- was a Cass Gilbert desk. It was used by McHugh.

10 And it was there for several years, and in -- he -- he

11 wanted a different kind of desk.

12 I think -- the Cass Gilbert desks are

13 very large, and the way he wanted to take that nook of

14 the office, he wanted a smaller desk, but then he

15 wanted the standing desk to fill that corner.

16 He told me he had some back or shoulder

17 or neck issues or something and that he needed to have

18 a standing desk at times to relieve him from working at

19 a sitting desk.

20 **Q. I was curious because I see also -- I'm not**

21 **trying to be funny at all, but I see he requested a**

22 **taller toilet. Was the reason why that -- because of**

23 **medical issues?**

24 A. I don't know. I remember that, and I guess

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1 that was provided for him. I mean, a lot of things

2 come to mind that are irrelevant about a throne, but I

3 won't go into them.

4 **Q. You -- I didn't catch your name -- and I**

5 **think you testified earlier - and please clarify if I'm**

6 **wrong - but the wife and secretary went to pick up the**

7 **fabric. What was the secretary's name?**

8 A. Vici Shaffer.

9 **Q. Okay. And the conversation that you had**

10 **after he was elected, I think you said that he came up**

11 **to you and said that you -- you had disrespected him.**

12 **Were any -- was anyone else present for that**

13 **conversation?**

14 A. The "disrespected" conversation was about my

15 having allegedly said something about him being -- that

16 was in the -- right before we began administrative

17 conference. All of the justices were in the room.

18 **Q. They were --**

19 A. We had just sat down and he said --

20 He just started by saying, "I want your

21 resignation and here's why:" I disrespected him, that

22 he was -- I'd said he was a young justice who would

23 learn more about drug courts. I don't know what he was

24 talking about.

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1 **Q. And the -- one of the last things I wanted to**

2 **ask was about the Asheville conference, just to clarify**

3 **something.**

4 A. Yes.

5 **Q. For what time period did you say he did not**

6 **go to the -- attend the conference?**

7 A. It was -- the last day of the conference was

8 a Friday, and it was that -- that half day that I

9 didn't see him there. To clarify, it went from 9:00 in

10 the morning, was the first speaker, until 1:00, and

11 there -- and then that was it.

12 And I didn't -- we didn't -- I mean, I

13 -- both Justice Ketchum and I looked around for him,

14 and we didn't see him. And -- and it was a fairly

15 large conference, but it wasn't so large that we

16 wouldn't have been able to find him in the room.

17 **Q. And if there would have been -- if Justice**

18 **Loughry would have, say, extended his time to rent a**

19 **car or change a flight, who would have approved that,**

20 **or who would he go through with the State?**

21 A. Well, he approved it himself because the

22 justices approved their own travel. Nobody could look

23 over their shoulders. I have to emphasize that he was

24 the boss. If he decided to go somewhere, he did it.

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1 Now, who did he arrange it through? He

2 would arrange that generally either with his own

3 secretary or, more likely, Mary Greene, who was one of

4 my executive assistants, because she typically handled

5 the direct billing and the travel.

6 And she typically arranged not only for

7 air flight, but for rental cars or for hotel

8 reservations and all of that. And she did that for the

9 justices as well as for me.

10 **Q. And so Mary Greene would receive -- you know,**

11 **if there was a change in extending the rental or a**

12 **change of flights, you'd receive receipts and**

13 **confirmations of those?**

14 A. No, I don't think she would have done that.

15 She just did the original kinds of arrangements. The

16 person who would have gotten the receipts would have

17 been in Sue Racer-Troy's office, and -- or they'd have

18 come directly to Loughry's -- Justice Loughry's office

19 and had been sent down for processing.

20 DELEGATE BYRD: Thank you for your time

21 today, sir. I appreciate it.

22 MR. CANTERBURY: Sure.

23 CHAIRMAN SHOTT: Delegate Fluharty.

24 MINORITY VICE CHAIR FLUHARTY: Thank

Page 1305

1 you, Mr. Chairman.
2 Thank you, Mr. Canterbury, for being
3 here today.
4 EXAMINATION
5 BY MINORITY VICE CHAIR FLUHARTY:
6 **Q. You mentioned this television that's hidden**
7 **in the office.**
8 A. Yes.
9 **Q. Is there a reason that he wanted it to be**
10 **hidden?**
11 A. Well, I mean, two things come to mind. But
12 no, he never told me why he wanted it hidden. Maybe
13 the aesthetics of it. Some people don't like a big
14 screen in their offices.
15 There are obviously other thoughts,
16 that maybe he just didn't want people in his office to
17 know he had that big TV in there.
18 **Q. And do you know what the cost was for that**
19 **television?**
20 A. I don't recall.
21 **Q. Do you know the size? You say it's a big**
22 **screen but --**
23 A. It's large. But I don't know my TV sizes as
24 well as I probably ought to. But -- I haven't bought a

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1 TV in an awfully long time, so I don't really know.
2 **Q. We had testimony previously from**
3 **administrators dealing with security. And are you**
4 **familiar with the process -- for instance, if somebody**
5 **would have a meeting with Justice Loughry or another**
6 **justice, do they have to sign in?**
7 A. No, they don't have to sign in. There's no
8 signing in. I think the justices would not like that.
9 They want to be able to have freedom to be able to meet
10 with people. But you can't just walk to their office.
11 It's not like the legislator's office
12 where anybody can come up and just come to your office.
13 Just anybody, right? But the -- there, you would need
14 to go to the security people who are right outside the
15 door.
16 Typically, they're expected, and they
17 would then have gotten a note from one of the justices
18 that so-and-so's "coming to visit me" at such and such
19 a time, and then the -- one of the security people
20 would unlock the door and let them in and often would
21 escort them all the way to the appropriate office.
22 If they had come before, they would
23 just unlock the door and then they would be on their
24 way; they would know which office to go to.

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1 **Q. Were there any elected officials that would**
2 **regularly meet with Justice Loughry or any of the other**
3 **justices upstairs?**
4 A. I mean, I wouldn't be privy to that because
5 they didn't keep a list and nobody ever shared with me
6 who was meeting whom. There were some rumors about
7 folks that were meeting with Justice Loughry, but those
8 are idle rumors. I don't know the truth to them, and
9 frankly, I don't remember any of the names. They were
10 lawyers.
11 There were some rumors, though, that he
12 was meeting with lawyers from the Attorney General's
13 office. Which, of course, raised some red flags for
14 people.
15 **Q. Do you know who they were?**
16 A. Apparently there was one with -- is his name
17 Elbert Lin? And then there was another person whose
18 name escapes me, but he's now, I think, the chief
19 counsel at the Secretary of State's office.
20 **Q. Did he ever meet with Attorney General**
21 **Patrick Morrissey?**
22 A. I don't know that.
23 **Q. And do you know the time frame for these**
24 **meetings?**

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1 A. They were always later in the day. And they
2 happened in 2016 primarily. Maybe some in '15. But I
3 heard about them in '16. And again, these are -- these
4 are rumors through the halls. I wasn't there; I didn't
5 see them. I didn't let anybody in the door.
6 **Q. You were asked questions previously about the**
7 **-- I guess I'll just call it the spend-down.**
8 A. Yes.
9 **Q. And was there a clear consensus by the Court**
10 **that they supported this activity?**
11 A. Well, until I read Justice Workman's comments
12 and heard her response to the Senate Finance, I thought
13 so. That's why I wrote the memo, as a reminder, and I
14 think a line or two similar to "as you know."
15 Nobody wrote any memos back saying,
16 "Well, that's not right, I don't remember any of that,"
17 so I accepted that that was what they all remembered,
18 because there was no protest.
19 They weren't shy about protesting when
20 they disagreed with something I wrote.
21 **Q. Well, along those lines, did they protest or**
22 **object to this practice taking place when they learned**
23 **about the spend-down? Did anyone in particular come up**
24 **to you and say, "Hey, I don't agree with this and we**

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1 need to stop it"?
 2 A. No, I don't remember anybody saying, "Let's
 3 stop doing that." I think they understood that the
 4 legislature was cross -- and also, I hope they
 5 understood that it was too high. You know, it needed
 6 to be brought back down to some size.
 7 I'm not saying that having a little
 8 rollover amount is a bad thing. Unexpected expenses do
 9 come up. But you know, when you have a \$130,000,000
 10 budget, \$29,000,000 is a big chunk.
11 Q. You were asked questions previously about
12 hirings that took place and specifically as Justice
13 Workman may have --
 14 A. Yes.
15 Q. -- helped to influence some of the hirings.
16 Do you believe that those hires were legit?
 17 A. You mean were they qualified for the job
 18 legit?
19 Q. Yes.
 20 A. Yes, they were all qualified for the jobs
 21 they had. I don't know about the contractor, but the
 22 people who were put on our payroll certainly were.
23 Q. And when she approached you about hiring
24 certain individuals, did she request a certain salary

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1 be paid?
 2 A. She wanted to know what I could pay them, and
 3 she wanted it to be as full as it could be, but she
 4 also understood there were limits. Nobody was paid in
 5 any of these positions more than was commensurate with
 6 other people in those positions.
7 Q. So you would agree that the salary that was
8 got paid, whether it be a full-time salary versus a
9 contracted salary -- I believe one individual was
10 contracted.
 11 A. Right.
12 Q. -- it was for the market rate?
 13 A. The contractor, I'm not sure about, and you
 14 would have to -- I deferred -- I was not -- I was not
 15 intimate with most of the contractors in the divisions.
 16 I let the division directors who knew their jobs and
 17 knew their areas better than I make those decisions, so
 18 frankly, what he was paid would be best discussed with
 19 somebody who was a IT expert.
 20 The fact that he never seemed to be
 21 able to do the jobs that he was asked to do -- not to
 22 say he might not have had some expertise. IT is a huge
 23 field, and he maybe just wasn't in the right bailiwick.
 24 But we couldn't find the bailiwick for him, and -- so I

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1 don't know.
 2 But I will tell you - and I can say
 3 this with certainty - that the three employees who were
 4 hired were hired at exactly the commensurate salaries
 5 of other people in those positions.
6 Q. And before being hired, would the other
7 justices have to approve of the hiring?
 8 A. Yeah, all the -- everybody who was ever hired
 9 at the Court while I was there had to be -- have a
 10 majority of three voting for their hire. So if you
 11 were hired, the Administrative Office - or in the other
 12 offices that were brought to the attention by the
 13 directors -- you know, by the clerk and by the chief
 14 counsel -- they would have the same rigamarole I went
 15 through - they had to get a majority vote, with the
 16 exception of the justices' personal law clerks and the
 17 justices' personal administrative -- well, secretary,
 18 is what they're called.
 19 So those were entirely up to the
 20 individual justice. Everybody else had to have
 21 approval of three. That's from the lowliest, you know,
 22 part -- you know, floater, administrator -- you know,
 23 floater administrative assistant and receptionist, to,
 24 you know, the highest-paid director of something or

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1 another.
2 Q. And they're aware of the salary that would be
3 paid to these individuals?
 4 A. Yes, that had to be -- you'll see in the
 5 administrative conference minutes, it would always say
 6 what they were being hired for and how much and when
 7 their start date was and all of that.
8 Q. I have some concerns over possible taxpayer
9 money being spent that we're not aware of yet.
 10 A. Yes.
11 Q. I know a lot of information has been
12 dispensed about renovations and office expenses and
13 trips. Is there anything that hasn't been disclosed of
14 yet that you know about that involved taxpayer money
15 that we should know about?
 16 A. Well, I will tell you that every penny is
 17 accounted for and available for inspection. Now, you
 18 know, to get into more specifics, I don't want to try
 19 the patience of the Chair or anything, because you get
 20 into specifics --
21 Q. He's a patient man.
 22 A. \$29,000,000 is a lot of money, and all those
 23 budgets were \$130-140,000,000 - as time went on, it
 24 went up - a year, so there's a lot of details there,

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1 and I'll answer questions about any of it if you want
2 to ask about legal or anything, whatever. Some of them
3 went up, and I'm happy to tell it.
4 But to suggest that any of the money
5 was hidden, any of the money spent was not according to
6 practices formed, policies and procedures, it's not
7 true. It's all there. There's not any penny that you
8 won't be able to find accounted for, unless there was a
9 breakdown by somebody I'm not aware of.
10 But I don't think so. I think that Sue
11 Racer-Troy ran a tight ship. I know that Mike Proops
12 ran a tight ship - that was her predecessor - and I
13 think that that money will be accounted for as is
14 supposed to.
15 **Q. Well, do you know if any Supreme Court**
16 **Justice paid someone from outside of the administration**
17 **or outside of the regular work force at the Supreme**
18 **Court to help them write opinions?**
19 A. I understand that happened after I left by
20 Justice Walker, but I never heard of that happening
21 ever before I left.
22 **Q. And what do you know about that?**
23 A. Only what I read in the paper. It was in a
24 column by Phil Kabler. Apparently they contracted

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1 Barbara Allen to write --
2 CHAIRMAN SHOTT: Excuse me,
3 Mr. Canterbury, just testify your own knowledge.
4 MR. CANTERBURY: Well, he -- I agree.
5 But he asked; I'm answering. I'm sorry.
6 CHAIRMAN SHOTT: Just stick with what
7 he knows and not what he read in the paper. Okay?
8 MINORITY VICE CHAIR FLUHARTY: All
9 right, Mr. Chairman.
10 A. I also want it to be noted that I said I read
11 it in the paper. I don't want you to think I'm trying
12 to say anything that isn't exactly right.
13 **Q. Okay. Well, how long were you at the Supreme**
14 **Court?**
15 A. I was there for 11 1/2 years --
16 **Q. And in your --**
17 A. -- almost to the day.
18 **Q. In your 11 1/2 years, you never once recall**
19 **any Supreme Court Justice hiring outside help to write**
20 **an opinion?**
21 A. No. They would have thought that was
22 anathema.
23 **Q. So it wasn't the normal course of practice**
24 **for a Supreme Court Justice?**

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1 A. Not at all.
2 **Q. You referred to Justice Loughry as - now**
3 **correct me if I'm wrong - simulacrum. Is that the**
4 **correct --**
5 A. Simulacrum.
6 **Q. And --**
7 A. Sim-u-la-crum. Now there you go.
8 **Q. Simulacrum.**
9 A. Yes.
10 **Q. And you said it means "elaborate fraud."**
11 A. Yes.
12 **Q. Why did you believe Justice Loughry was an**
13 **elaborate fraud?**
14 A. I think he's dishonest. I don't think he has
15 the temperament to be a justice, and I think that he
16 was -- I don't think he has a temperament to be in
17 charge of -- of hiring and -- people. I just found his
18 entire tone to be off-putting.
19 But I respect the position and I
20 respect the people's will, and I would have served him
21 as hard as I could have had I had the opportunity.
22 **Q. You mentioned previously that you approached**
23 **Justice Loughry about the price of the couch, that you**
24 **didn't really go beyond just kind of that one**

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1 **encounter. But himself and other justices, were they**
2 **aware that you were unhappy with the way money was**
3 **being spent --**
4 A. No.
5 **Q. -- prior to your firing?**
6 A. No, no, they weren't aware. Because -- I
7 mean, I would question some things in administrative
8 conference, ask if we couldn't do things differently.
9 But you know, you get your marching orders and you
10 march.
11 But there wasn't a hue and cry. There
12 wasn't a whole lot of specific interest. I mean, about
13 the budget is what you're asking, in some sense. They
14 would approve the budget. They would express intense
15 interest over certain issues, and just vague and
16 general interest over others.
17 They had intense interest, I think
18 reasonably enough, over their offices. That makes
19 perfect sense. They knew the details on the offices.
20 Other practices, they didn't have that much specific
21 interest.
22 **Q. Now, previously you'd stated that when you**
23 **had an encounter with Justice Loughry about the price**
24 **of the couch, I believe you said something along the**

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1 lines of he told you that if it became public, he would
2 just blame you because you're the Court Administrator.
3 Is that correct in my analysis?
 4 A. Yeah, I think that was a joke.
5 Q. Okay. So it was a joke at the time.
 6 A. Yeah, he said it in that way he has and kind
 7 of laughed.
8 Q. Now that you've had time to reflect back on
9 that encounter, do you believe he was still joking or
10 that he was kind of intentionally deceiving the public?
 11 A. I think the joke was on me, but I -- I don't
 12 know. I can't answer as to what was in his mind. I
 13 just know his affect and what he said.
14 Q. Real quick, back to how these extravagant
15 purchases were made. At any time did Justice Loughry
16 or any other justice request a certain contractor be
17 used?
 18 A. Yes, as I said, Justice Workman very much
 19 wanted Designs by Fisher to be used for her counters
 20 that were built and then later for the kitchen work
 21 that was done. I'm assuming when you take your tour,
 22 you'll be able to see the conference room and the
 23 kitchen to which I refer.
 24 The -- the justices all liked the

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1 project manager, the foreman and the people from
 2 Neighborgall, and they requested that we continue with
 3 them, and then when they -- he changed to another
 4 construction company, for Justice Davis', it was
 5 generally believed that -- I think Justice Davis may
 6 have said something - I don't remember specifically -
 7 but the Court generally wanted to stay with those same
 8 employees and those same --
 9 Because several went over to this other
 10 company with the project manager, and so they wanted to
 11 have those people working that -- that project. But
 12 Justice Loughry, I don't remember him ever saying
 13 anything to me about "Use this contractor" or "that
 14 contractor." I don't know that was of much interest to
 15 him.
16 Q. Was any follow-up made to these vendors or
17 contractors -- for instance, when I hear a \$32,000
18 couch, I don't care what the material is, it just seems
19 impossible.
20 If the Court wanted to request a
21 certain couch - or the public at large - from these
22 vendors, did anybody check to see if that was a valid
23 price that was given to the Supreme Court?
 24 A. Again, I had nothing to do with that except

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1 for seeing the bill, so I don't know if the project
 2 manager went into that or not. I have no idea.
3 Q. And one last thing. Prior to these purchases
4 being made, we've established that for a hire to take
5 place, it requires a majority vote by the Supreme Court
6 justices.
 7 A. Yes.
8 Q. Prior to these extravagant expenses, does it
9 require a similar vote?
 10 A. No. But that was a general -- you're talking
 11 about individual expenses. No.
12 Q. Correct.
 13 A. If you're talking about the construction,
 14 yes, they approved the construction for, first, the
 15 fourth floor, then the Clerk's Office, then the
 16 individual justices' offices. This was all part of an
 17 ongoing approval for the repair to the building, which
 18 is -- the lion's share of those costs were repairs to
 19 the building that had to be made. The building was
 20 crumbling.
 21 And -- and it was all under that
 22 umbrella.
 23 MINORITY VICE CHAIR FLUHARTY: That's
 24 all I have. Thank you, Mr. Chairman.

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1 Thank you, Mr. Canterbury.
 2 CHAIRMAN SHOTT: Delegate Summers?
 3 DELEGATE SUMMERS: Thank you,
 4 Mr. Chairman.
 5 EXAMINATION
 6 BY DELEGATE SUMMERS:
7 Q. Mr. Canterbury, when you were talking about
8 your job description earlier today, you didn't say
9 anything about administering the Court's budget. How
10 is that administered?
 11 A. Well, it's under my watch. I gave a brief
 12 answer, but the budget's under my watch, but it's not
 13 without the Court's approval. The Court approves the
 14 budget, and it's up to me to administer it. I'm not a
 15 -- I wasn't an executive director; I was an
 16 Administrative Director, which means that I followed
 17 the -- the -- I followed the orders of the Court and
 18 the orders of -- and the demands of individual
 19 justices.
 20 So it was up to me to administer the
 21 budget but it was not -- and it was up to me to present
 22 them with a budget or an appropriation request, but it
 23 was their call and their approval at the end of the
 24 day.

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1 **Q. Okay. And you said that individual expenses,**
 2 **they had free rein of that, or in the budget, there**
 3 **were set -- set amounts for each justice of what their**
 4 **individual expenses would be?**
 5 A. There were not individual expenses delineated
 6 per just -- per justice. That would have been under
 7 the headings of whatever they wanted to do. There was
 8 so much that was budgeted for travel, and if they, you
 9 know, wanted to travel, that would have been just under
 10 the general travel budget.
 11 But that also would have included a
 12 whole lot of other people traveling. For example,
 13 judges in multi-circuit counties have to travel to
 14 other counties. That's under travel as well. It's a
 15 big budget.
 16 **Q. Okay. Are there minutes kept at the**
 17 **administrative conferences? Because we've had a lot of**
 18 **talk about what happens there, but we don't really have**
 19 **any documentation.**
 20 A. Yeah, there -- yes -- yes, ma'am, there are
 21 minutes. The minutes aren't necessarily as full-bodied
 22 as the discussions, because they didn't want them to be
 23 very long. They believed - as the Chair did - that I
 24 might be a little long-winded and they wanted it to be

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1 a little to the point.
 2 That's why you'll see that the budget
 3 -- each appropriation request was approved in the last
 4 June administrative conference. And it usually is just
 5 a couple of lines with a copy of the appropriation
 6 request.
 7 But often those discussions would go on
 8 for a long time, but that's -- like I said, they
 9 weren't fully -- every line was not represented in the
 10 minutes.
 11 Sometimes they'd get in arguments and
 12 they'd both -- both sides of the argument would want
 13 everything that they ever said in the minutes. So the
 14 minutes are a mixed bag of brevity and almost
 15 novelistic detail.
 16 **Q. Okay. When you were talking about the**
 17 **process for approving expenditures, I was getting a**
 18 **little bit -- I'm not fully understanding the process**
 19 **or the checks and balances or who makes the final**
 20 **decisions. I know you brought up the Fiscal Division.**
 21 **So if someone gets a rental car and**
 22 **someone uses the P-card for gas and then someone asks**
 23 **for reimbursement for mileage, who approves all of**
 24 **those things and checks to make sure that there's no**

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1 **overlap?**
 2 A. Well, you're saying "someone." Do you mean
 3 justices or Court employees?
 4 **Q. Well, I didn't think the justices would write**
 5 **a check to themselves for --**
 6 A. No, that's not what I mean.
 7 **Q. How does the --**
 8 A. Who are the travelers?
 9 **Q. How does the payment then happen?**
 10 A. Oh, the payment. Well, I delegated to my
 11 deputy director the responsibility of looking over the
 12 judges' -- not the justices.
 13 -- the judges' and other employees'
 14 travel vouchers, travel expense reimbursement forms,
 15 and they would make sure -- I had two different direct
 16 -- deputies through the years. They would make sure
 17 that they had done the forms correctly and there was no
 18 overlap or no problems.
 19 But the justices simply would -- they
 20 were sent directly to the office of Sue Troy, and they
 21 were paid.
 22 **Q. Okay.**
 23 **DELEGATE SUMMERS:** All right, that's
 24 all I have. Thank you.

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1 **CHAIRMAN SHOTT:** Delegate Sobonya.
 2 **DELEGATE SOBONYA:** Thank you,
 3 Mr. Chairman.
 4 Thank you for being here,
 5 Mr. Canterbury.
 6 **EXAMINATION**
 7 **BY DELEGATE SOBONYA:**
 8 **Q. In the Post Audit Report for March 5th, 2018,**
 9 **Ms. Racer-Troy informed you that the commute -- the**
 10 **commuting to work from home was a taxable event under**
 11 **the IRS taxable fringe benefit guidelines and then it's**
 12 **-- she has stated that you told her it was none of her**
 13 **business. Is -- was that correct?**
 14 A. It's correct she said that; it's not correct
 15 that that happened.
 16 **Q. Okay. And who was responsible for**
 17 **determining taxable fringe benefits?**
 18 A. Well, she didn't have anything to do with
 19 payroll, so it was kind of a -- it was the payroll's
 20 responsibility. But she was a CPA, so she would have
 21 felt, I think, some -- had some knowledge. And as I
 22 said earlier, she may have had the discussion with me.
 23 There were a lot of discussions going on.
 24 But I can guarantee I never told her it

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1 was none of her business. We had a very pleasant
2 relationship. There was never -- I don't recall ever
3 having a harsh word with her, so --

**4 Q. So is it the honor system that the justices
5 just turned in their expenses and they were supposed to
6 report that on their own, or -- I mean, how does -- how
7 are they notified? Is it up to the Court Administrator
8 to oversee that?**

9 I'm just trying to --

10 A. No --

**11 Q. I can't get a handle as to the process, of
12 who -- who notifies them of that.**

13 A. They're in charge. They are the bosses. And
14 the documents that are at the Auditor's Office, it says
15 there are not gonna be any questions of whatever the
16 justices turn in. I had no approval; there was no
17 approval from anybody.

18 They approved their own individual
19 work, and they sent in their own individual expense
20 vouchers. And it was -- they were paid.

**21 Q. Okay. In the same Post Audit Report - it was
22 the meeting summary - Ms. Racer-Troy said that she
23 notified you of an existing policy that was voted on by
24 the justices that allowed them to determine for**

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**1 themselves what constituted business trips in State
2 vehicles.**

**3 Do you know, was that in writing, or do
4 you have any record of that?**

5 A. Administrative conference of either late
6 August '16 or September of '16. But then I learned
7 later that they had another meeting without me and
8 decided to undo that policy, so I'm not sure finally
9 what the policy was that they decided, except it seemed
10 that they continued to be able to submit whatever they
11 wanted for expenses.

12 Although after all this hit the fan
13 about the cars, there was far less car use, apparently,
14 on the part of the justices. For example, Justice
15 Ketchum stopped commuting in his vehicle by the end of
16 winter/early spring 2016. The silver Buick was not
17 used anymore.

18 So I'm not sure how much that was
19 really of issue, but -- but no, you'll see in
20 administrative conference minutes that that policy --
21 that I then informed the security people about, that
22 that absolutely was the way they wanted it at the end
23 of that administrative conference.

24 Q. So we could look at the minutes to see what

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1 the current policy is, even if it changed?

2 A. I have no idea. That's up to you and the
3 Court. I don't have -- I'm just a private citizen who
4 has zero authority over anybody.

**5 Q. Okay, thanks. On this notification -- it's
6 from the state-wide truancy court meetings, direct
7 action welfare group and it will -- it was a public
8 announcement there were going to be state-wide truancy
9 court meetings throughout the state, and I think there
10 were gonna be 14 stops throughout the state, and it was
11 determined by a vote of the Supreme Court justices that
12 Justice Davis would be -- would represent them and go
13 around the state during her election year.**

**14 Do you know -- do you know what came
15 out of those meetings? Was there a report given that
16 -- what culminated {sic} from those meetings, those
17 whistle stop meetings?**

18 A. Well, I only went to one of the meetings
19 myself. I went to the one in Clarksburg. I assume
20 that they were all pretty much the same. A Circuit
21 Judge, Judge Moats, had developed a very good program.

22 And then on top of that, we were having
23 remarkable success with lowering truancy by working in
24 concert with local Boards of Education to have a

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1 probation officer paid for by the Board of Education
2 but to be a probation officer responsive to the Court,
3 and in those several counties, that had really done
4 well.

5 So what she did at the meeting, Judge
6 Moats described his program, she described the
7 probation officer work, and then talked about how it
8 was a community problem and that truancy is shown to
9 develop into terrible things later.

10 So that's what the meetings were about.
11 That was the first part of your question.

12 The second part, was there a report? I
13 don't recall any written report. There may have been
14 circulated amongst the justices. I have no idea. But
15 I never got a copy of it, if it was.

**16 Q. Well, the reason why I ask, I attended the
17 one in Huntington and I recall it maybe lasting an
18 hour. I just wondered, since you attended one, did it
19 -- was it an ongoing meeting process in the community
20 that lasted all day or did -- did -- after the meeting,
21 did --**

22 A. The one I was in in Clarksburg was probably
23 two hours. There were a lot of questions and answers.
24 Then there was the after-meeting rush to talk to them,

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1 and I suspect she was there for about three hours, but
 2 I don't remember.
 3 I left after the meeting. I had other
 4 work to get to. But I did want to see one for myself,
 5 and it just dovetailed with something else I was doing
 6 up there.
 7 **Q. Well, the reason I ask, I'm trying to figure**
 8 **out what would constitute an overnight stay when there**
 9 **-- it was surrounded by a campaign fundraising event.**
 10 **I just wondered why like an hour away from Parkersburg**
 11 **it would constitute a -- an overnight stay if it only**
 12 **lasted maybe one or two hours.**
 13 **So I just was trying to find out if --**
 14 **did it go on during the day or were there subsequent**
 15 **meetings? Did you have any knowledge of that?**
 16 A. I don't have any direct knowledge of what
 17 happened with the Wheeling/Parkersburg trip except what
 18 I've heard here.
 19 **Q. Okay. And did -- did you know that Justice**
 20 **Workman was looking for the missing Cass Gilbert desk?**
 21 **It was in testimony -- I think it was in the**
 22 **JIC investigation and part of the federal audit. Did**
 23 **-- were you aware that Justice Workman was looking for**
 24 **the desk?**

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1 A. Well, I didn't know about her specifically.
 2 I do know that at the end of '16, in order to get
 3 prepared for Justice Walker, she was gonna need a desk
 4 because Justice Benjamin was taking his desk, so she
 5 needed a desk.
 6 And the thought was to give her the
 7 Cass Gilbert desk that I thought was in storage, and it
 8 wasn't there. So the search was on.
 9 Now, I don't know about Justice
 10 Workman's direct discussion about that. I was in
 11 discussion with the project manager, and I was pretty
 12 livid, to be perfectly honest.
 13 That was one of the few times that I
 14 actually just kind of lost it with anybody at the Court
 15 Administrative Office. I just said, you know,
 16 "Goodness gracious, how do you lose one of these
 17 desks?"
 18 **Q. That was my --**
 19 A. Now we know --
 20 **Q. I was wondering --**
 21 A. Now we know --
 22 **Q. -- in previous testimony --**
 23 A. -- it was in Justice Loughry's office.
 24 **Q. -- from other -- from other presenters that,**

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1 **you know, she was looking for the desk, I guess, in**
 2 **2016, in -- the -- Justice Loughry had moved it to his**
 3 **home in 2013, so I was wondering why -- what prompted**
 4 **three years wondering where a desk was, if it was --**
 5 A. For Justice Walker.
 6 **Q. Okay. Of the JIC complaint -- I just wanted**
 7 **to get clarification on your testimony here today.**
 8 **Justice Loughry wrote an op ed December 21st, 2017, and**
 9 **in it he stated that you, as the administrator, were**
 10 **not left to unfettered authority, that you had strict**
 11 **spending limits.**
 12 **And I think our counsel had questioned**
 13 **you on this, but the \$32,000 couch, you know, fell**
 14 **under -- fell over that spending limitation.**
 15 **You said something about that they**
 16 **delineated from their policy -- because they had to**
 17 **vote on that policy in the past. Did they delineate**
 18 **from the policy? Did they have a Court action where**
 19 **they had actually voted on it?**
 20 A. No, I think "delineation" is probably a
 21 mischaracterization. What they would say is, "We want
 22 the construction done," knowing full well that the
 23 invoices coming in for construction often would exceed
 24 the \$20,000 limit on each invoice I was allowed to

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1 process, so there was no problem with me, after they
 2 had approved a project, to go ahead and complete the
 3 project without bothering them - as they would have
 4 termed it - with every bill that came in about a said
 5 project they'd already approved.
 6 **Q. So this --**
 7 A. That was my understanding and that's how we
 8 always did it.
 9 **Q. So since that took an action and a vote of**
 10 **the Supreme Court justices, did they send you an e-mail**
 11 **collectively to go away from that policy, to give you**
 12 **more latitude and leeway to go over your \$20,000**
 13 **spending limit?**
 14 **Is there any documentation? Was it**
 15 **just a -- you know, a conversation in the hallway? How**
 16 **-- how did you know to go away from that policy that**
 17 **they had a vote on?**
 18 A. Well, as I said earlier, there was an
 19 explicit memorandum regarding all technology matters
 20 that preceded me and that I continued to function
 21 under. When it came to the construction, it was just
 22 the practice of the Court.
 23 Nobody had ever questioned the
 24 individual invoices being over \$20,000 to get a project

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1 done, when knowing full well they had to get invoices
2 over \$20,000 to do this kind of construction.
3 So it was not an issue. They approved
4 the projects. They were the boss. I followed their
5 directive.
6 **Q. Okay. And -- let's see if I have another**
7 **one. Okay, and you're aware that the proclamation by**
8 **the Governor included matters relating to the removal**
9 **of one or more justices of the Supreme Court, in**
10 **consideration of censure, impeachment, trial,**
11 **conviction and disqualifications, so we're talking**
12 **about all of the justices.**
13 **I was a little troubled that you said**
14 **that you would take some information to the grave as it**
15 **pertained to Justice Walker, that you had some**
16 **knowledge --**
17 A. No, Justice Workman.
18 **Q. -- some conversations --**
19 A. Justice Workman.
20 **Q. I mean Justice Workman, I'm sorry. I mean,**
21 **you're under subpoena and sworn to testimony. Is --**
22 **can you do that, just say that you're taking something**
23 **to the grave? Or can you elaborate on what you meant**
24 **that you were taking to the grave?**

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1 **Because I'm just wondering -- sup --**
2 **Justice Workman had -- you know, her son was in**
3 **trouble, had marijuana charges and DUI arrests a month**
4 **prior to being arrested for an alleged assault, which**
5 **was dismissed, I believe, by the Court.**
6 **Was that -- had something to do with**
7 **that? Was there any conversation --**
8 DELEGATE PUSHKIN: Point of order.
9 **Q. Was there any conversations or --**
10 CHAIRMAN SHOTT: Hold off, let's see
11 what the point of order is.
12 DELEGATE PUSHKIN: I just want to know
13 what the -- the problems that a justice's children have
14 gone through have to do with these impeachment
15 hearings.
16 CHAIRMAN SHOTT: Well, we'll give the
17 -- give the delegate a little bit of latitude. If it
18 had to do -- if it involved some sort of use of
19 authority or apparent authority, I think it is
20 relevant. If it's --
21 If it does not, I don't think it is
22 relevant.
23 So go ahead and finish your question,
24 we'll see where it goes.

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1 BY DELEGATE SOBONYA:
2 **Q. My question is -- excuse me. I don't -- I**
3 **don't know if you can elaborate on what you plan --**
4 **plan to take to the grave. Did it surround anything of**
5 **Justice Workman's -- maybe making phone calls on behalf**
6 **of her family members when it came to charges? Can you**
7 **elaborate --**
8 A. It did not have to do with anything that had
9 to do with charges of her children. They were
10 personal. They had nothing to do with the Court. They
11 had nothing to do with my position. They had nothing
12 to do with her position.
13 They had to do with things that
14 sometimes friends lean on other friends for. They had
15 -- I was asked earlier if I'd ever done any personal
16 favors or had been involved in personal interactions
17 with her outside the Court business. Yes, I had.
18 Those don't -- it didn't strike me as
19 something that is -- is the business of anybody. I
20 tend to treat people honorably. Secrets that are
21 shared are kept. If there was something that had been
22 asked of me that was illegal or something that was
23 asked of me that was an abuse of my authority or hers,
24 I would be telling you.

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1 I'm very angry with her. I wouldn't
2 hesitate to tell you. But they were not those kinds of
3 things.
4 **Q. Okay, I'll move on to another justice,**
5 **Justice Davis.**
6 **As you know, there was an ABC probe**
7 **into the Lear Jet justice and surrounding a certain**
8 **attorney from Mississippi and there was an**
9 **investigation for bundling of -- of donations, and the**
10 **prosecutor in -- in Kanawha County said that it was**
11 **exceeding the five-year statute of limitations.**
12 **Was there any conversations that you**
13 **had had about the court case, the ABC news**
14 **investigation surrounding a certain attorney from**
15 **Mississippi? Have you -- did -- do you recall any**
16 **conversations about that?**
17 A. When ABC shows up, the nationals show up, of
18 course there are conversations about it: "What do they
19 want, what's their issue?" When they showed up earlier
20 about Spike Maynard, we talked about that. Obviously
21 you talk about it.
22 I don't have any intimate knowledge of
23 the jet.
24 The only thing I know about the

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1 bundling of campaign funds was that that person bundled
 2 campaign funds for Justice Davis, Candidate Tish Neese
 3 and Candidate Governor Tomblin, and that's -- that was
 4 some of the conversation.
 5 But there was no other -- I mean, I
 6 didn't have anything to do with any of that. That's
 7 not -- I didn't do any campaign work.
 8 **Q. I'm just trying to get questions answered.**
 9 A. No, I didn't --
 10 **Q. My last question, in looking at Exhibit 39 --**
 11 **it's the rough sketch that was done by Justice Loughry**
 12 **apparently --**
 13 A. Yes.
 14 **Q. -- and in it he says that -- I'm trying to**
 15 **see where he's referencing a sofa, and it says, "This**
 16 **could be a single chair, a wider chair or even two love**
 17 **seats with a couch in the middle, whatever works with**
 18 **the space. I just want it to look professional and**
 19 **comfortable."**
 20 **And then there's another place where he**
 21 **says, "Maybe a comfortable chair."**
 22 **So if this was the sketch that he had**
 23 **presented, who was -- how did the \$32,000 couch come to**
 24 **be? Did he go through a catalog? Did he go shopping?**

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1 **Did somebody present him with this couch and said,**
 2 **"Here, can you sign off on this, here are your**
 3 **options?"**
 4 I mean, did he just -- from what I can
 5 gather, he wanted -- very generically wanting to have a
 6 comfortable chair/couch, whatever, that was
 7 professional and comfortable.
 8 **How did that selection of the \$32,000**
 9 **couch come to be?**
 10 A. I don't know. As I said, the only thing I
 11 had to do with the couch was telling him that -- about
 12 the invoice. I have no idea how he reached the
 13 conclusion he wanted the couch. I don't know if that
 14 was a discussion with the project manager or if he just
 15 got the idea himself. I don't know.
 16 **Q. Was there like a designer that worked on the**
 17 **project --**
 18 A. Yes.
 19 **Q. -- that went to the different justices and**
 20 **made suggestions and said, "Well, here's this and**
 21 **here's that, can you choose which fabric you like,"**
 22 **what --**
 23 A. Well, Silling Associates initially, and then
 24 when we hired Kim Ellis, we eliminated that part of the

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1 cost to Silling and it was just she did it as a -- as
 2 the project manager and also as a person who'd had
 3 years of experience as an interior designer.
 4 So it would have been her probably
 5 trying to flesh out what he wanted. A good interior
 6 designer obviously tries to figure out what the person
 7 wants for their interior, and she probably just did her
 8 best to figure out what he wanted.
 9 **Q. Could you repeat who that designer is?**
 10 A. Who the designer is?
 11 **Q. Uh-huh.**
 12 A. Kim Ellis.
 13 **Q. Okay. And Silling Associates. I'm not sure**
 14 **what you wanted me to repeat.**
 15 DELEGATE SOBONYA: That's all I have
 16 right now. Thank you.
 17 CHAIRMAN SHOTT: Delegate Harshbarger?
 18 DELEGATE HARSHBARGER: Thank you,
 19 Mr. Chairman.
 20 Thank you, Mr. Canterbury, for being
 21 here today.
 22 MR. CANTERBURY: Sure.
 23 EXAMINATION
 24 BY DELEGATE HARSHBARGER:

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1 **Q. Just -- I'll kind of bounce around in my**
 2 **questioning. You'd mentioned a couple of times the**
 3 **process, the change orders for the original bid that**
 4 **was like \$500,000, I believe.**
 5 A. Uh-huh.
 6 **Q. We'd heard testimony - I think it was last**
 7 **week - that there were 17 change orders to a purchase**
 8 **order.**
 9 A. Yeah.
 10 **Q. What is the process of that? Who eventually**
 11 **signs off? Does that -- do all the justices meet and**
 12 **sign off, or who actually has the ultimate authority to**
 13 **approve that change order?**
 14 A. Well, the change order process is my
 15 signature. But my signature didn't happen until they
 16 had approved that they wanted, for example, the Clerk's
 17 Office to be redesigned.
 18 And so once that happened and they made
 19 it clear that they liked the services of this
 20 construction company, I signed the change order.
 21 **Q. What was that? I didn't hear that.**
 22 A. I signed the change order. Excuse me.
 23 **Q. Okay. Okay. And then you mentioned Justice**
 24 **Workman had preferred a particular designer for**

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1 **cabinets and stuff, I believe it was Design by Fisher?**
 2 A. Yes.
 3 **Q. Did that go out to bid, or it was just**
 4 **basically their personal preference who to use?**
 5 A. No, the Court didn't have to bid anything, so
 6 it was her preference; we went there.
 7 **Q. And so you mentioned -- you know, you'd**
 8 **inquired about the \$32,000 invoice for the sofa. What**
 9 **about other expenses for other justices? You know,**
 10 **like there's been a couple pretty expensive rugs that's**
 11 **been purchased and --**
 12 A. Right.
 13 **Q. Did you actually see and question those**
 14 **invoices?**
 15 A. I did have discussion with Justice Davis
 16 about the chair and the -- and the rugs, and I had a
 17 discussion with Justice Workman about the floor.
 18 **Q. And basically what is your discussions?**
 19 **What those --**
 20 A. "You sure you still want it? This is pretty
 21 expensive," and gave them the number.
 22 **Q. Okay. As far as Justice Davis' office,**
 23 **there's been some reports of \$498,000 to half a million**
 24 **dollars --**

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1 A. Uh-huh.
 2 **Q. -- on her office. Was some of that**
 3 **structural, plumbing, HVAC, electrical? Or is that**
 4 **basically all cosmetic, furniture?**
 5 A. No, it's almost -- the vast majority of it is
 6 structural. Her office -- man, when they pulled those
 7 walls out and started to gut those interiors, it was
 8 downright scary. The wire still had the original
 9 paper-covered wiring and the sockets were the
 10 old-fashioned kind.
 11 The clay was crumbling, those clay
 12 tiles had crumbled. They were not -- they were being
 13 held up by their own weight. There was no structure
 14 left. Usually you get to a point, you can piggyback on
 15 -- on more recent wiring.
 16 That was able to be done in Justice
 17 Loughry's office because sometime in the previous 20 or
 18 30 years apparently, they'd pulled reasonably modern
 19 wire. But none of that could happen in Justice Davis'
 20 office.
 21 **Q. Okay.**
 22 A. It all had to be redone.
 23 **Q. As far as those structural, are those**
 24 **documented in any type of --**

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1 A. Sure.
 2 **Q. -- work order?**
 3 A. All of it's documented. First of all, it's
 4 been publicly documented by Kennie Bass, but it's --
 5 it's also for your perusal. It's all in specific
 6 terms.
 7 **Q. Okay, thank you.**
 8 A. Sure.
 9 DELEGATE HARSHBARGER: Thank you,
 10 Mr. Chairman.
 11 CHAIRMAN SHOTT: Delegate Capito.
 12 DELEGATE CAPITO: Thank you,
 13 Mr. Chairman, and thank you, Mr. Canterbury, for being
 14 here.
 15 EXAMINATION
 16 BY DELEGATE CAPITO:
 17 **Q. One -- well, I think, one question here,**
 18 **confirmation and then a question. You had said when --**
 19 **when you were terminated that you had left the office**
 20 **or the conference room and you either -- I don't know**
 21 **whether you said it out loud or you simply contemplated**
 22 **whether to report this all -- everything you know to**
 23 **the press or sail off into the sunset.**
 24 **That was your testimony?**

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1 A. Yeah, something -- something along those
 2 terms, that's true.
 3 **Q. Well, that implies, I think, that there had**
 4 **been inappropriate spending and activity going on in**
 5 **the past. Would you -- is that an accurate statement?**
 6 A. I -- I -- yes. But you know, in the anger
 7 and the flush of the moment and all these calls coming
 8 in from the press about what happened, I can't say that
 9 I was really focused on any specific wrongdoing or
 10 overspending or anything except, you know, just general
 11 anger.
 12 **Q. Understood. Did you ever --**
 13 DELEGATE CAPITO: And this is the last
 14 question.
 15 **Q. Did you ever consider in -- throughout any of**
 16 **your tenure on the Court and your service, coming**
 17 **forward with anything that you thought was**
 18 **inappropriate before you were terminated?**
 19 A. I had occasional crises of conscience, but I
 20 thought that I was doing other things that -- that made
 21 those mountains not worth dying on, and so I didn't
 22 pursue them.
 23 But, you know, there were a lot of
 24 other things the Court was doing that were very

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1 important things: Domestic violence, with children and
2 divorce, the opiate crisis. I mean, just so many
3 things. And I just thought that, you know, you just
4 kind of grin and bear some things from bosses that want
5 things.

6 DELEGATE CAPITO: Thanks,
7 Mr. Canterbury.

8 MR. CANTERBURY: Thank you.

9 DELEGATE CAPITO: Thanks, Mr. Chairman.

10 CHAIRMAN SHOTT: Delegate Lane.

11 DELEGATE LANE: Thank you,
12 Mr. Canterbury, for being here.

13 EXAMINATION

14 BY DELEGATE LANE:

15 **Q. I have a whole lot of questions. Since we**
16 **haven't done the tour yet --**
17 A. Yes.

18 **Q. -- could you explain to me and for the**
19 **Committee how many floors the Court takes up and what's**
20 **on each floor?**
21 A. Yeah, essentially two and a half floors. All
22 of the fourth floor. The side towards the river, the
23 southern end of the East Wing is -- on the fourth floor
24 is the Office of Counsel where you find the Chief

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1 Counsel's office. Also some law clerks are there, as
2 well as the writ clerks.

3 In the center, there's some more law
4 clerks.

5 Then the law library is to the north
6 end. The law library also has a half floor above it,
7 and that half floor is found after you go into the
8 bowels of the law library.

9 There are also some law clerks who have
10 offices off to the side of the law library.

11 The third floor on the south side are
12 the justices' offices. In the center is the courtroom.
13 And on the other side of the courtroom is the press
14 office and -- or the information office, and the
15 security office.

16 And then on the -- the north side is
17 the office of clerk. And then it extends back -- where
18 the law library used to have another half floor, that
19 was taken -- excuse me.

20 -- that was taken by the Clerk's Office
21 as it expanded in that very overwhelming remodeling.

22 Then on the first floor, the northern
23 part of the first floor is administrative offices.
24 That's where my office was, in the back corner, and

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1 where employees of the Administrative Office worked.

2 **Q. Okay, thank you. So just -- is this getting**
3 **feedback?**
4 A. Yes, it is. It's gone.

5 **Q. So the renovations that were done, I think we**
6 **heard that they were like 3 1/2 million dollars, or**
7 **maybe 3.2 million dollars. I'm not sure. That --**
8 **those renovations were on all three floors.**
9 A. Yes. Very little on the first floor, but
10 yes.

11 **Q. Okay. And I believe that you said that the**
12 **Court is divided into like three departments --**
13 A. That's one way to look at it.

14 **Q. -- there's the administrative department and**
15 **the Clerk's Office and the counsel's office.**
16 A. Correct.

17 **Q. And so I assume the Fiscal Officer then is**
18 **under you.**
19 A. Correct.

20 **Q. And I believe that you testified that you**
21 **reviewed - or your deputy would review - invoices that**
22 **came in, and you would approve them.**
23 A. That's right. Well, it was almost all my
24 deputy, but some of the larger, more interesting ones

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1 would come across my desk. And some were sent directly
2 to the Fiscal Office. The ones from the justices went
3 straight to them; it didn't go through an intermediary.

4 **Q. Okay. I'm going to jump around a little bit**
5 **too. The invoices to -- or the renovations that were**
6 **done to the individual justices' offices, now, you**
7 **would see those invoices; is that correct?**
8 A. Not most, I would not. They would just go
9 straight to -- through the project manager. Fletch
10 Adkins, with whom you've talked, was the first person
11 in that position, then later Kim Ellis came in.

12 So one or the other would see them,
13 make sure that they were right, make sure the work had
14 been done, everything was performed according to the
15 letter of the invoice, then they would send it straight
16 over to the -- to the Fiscal Office.

17 **Q. Okay. Would -- would the justices have seen**
18 **the invoices for their -- or his or her particular**
19 **office before it went to the Fiscal Officer?**
20 A. No, they would not. They never saw them. To
21 the best of my knowledge. If they did, that was
22 between the project managers and them.

23 **Q. I believe you testified that each of the**
24 **justices were involved in the renovations to his or her**

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1 office.
 2 A. Yes. And in that regard, they saw estimates
 3 for what things would cost.
 4 **Q. Okay, they would have gotten estimates.**
 5 A. Oh, sure, they got those.
 6 **Q. Okay. Now, in looking at the drawing --**
 7 A. Yes.
 8 **Q. -- here of Justice Loughry's office, I see**
 9 **that there is a refrigerator in the office?**
 10 A. Yes.
 11 **Q. Did all of the justices have refrigerators in**
 12 **their offices?**
 13 A. I think they all had those little portable
 14 refrigerators. Yeah, I think they did.
 15 **Q. Okay. Now --**
 16 A. You know, I don't know about Justice
 17 Benjamin, but I think he --
 18 **Q. Okay. Now, I may -- I may be mistaken on**
 19 **this, but I heard that part of the renovation was**
 20 **installing a shower in the Court premises. Is that**
 21 **correct?**
 22 A. Well, there was already a shower, but we took
 23 the shower out when we redid that because that so-
 24 called bathroom was more than a bathroom. It was also

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1 the safe room, and it had a lot of special security
 2 construction involved.
 3 But in the safe room, they wanted both
 4 a toilet and a shower. And so that room had just had a
 5 shower. There was -- it was as a result of one of the
 6 justices in the 1990s wanting to do exercise mid day
 7 and then being able to take a shower and go back to
 8 work, and so there was a shower built then.
 9 **Q. Okay. What floor was -- is the shower on?**
 10 A. It's on the third floor. It's the safe room
 11 for the justices' courtroom.
 12 **Q. Okay, thank you. Now, you testified that the**
 13 **Mark Starcher contract - which apparently was**
 14 **\$1,000,000 over an 11-year-period - you said something**
 15 **about that part of that contract was scanning?**
 16 A. Well, the majority was scanning. That's
 17 his --
 18 **Q. Okay. Was that the scanning --**
 19 A. -- expertise, but not entirely.
 20 **Q. -- of the court records way back from the**
 21 **beginning of time?**
 22 A. Well, not with the magistrates. With the
 23 magistrates, it was -- his -- he didn't actually do the
 24 scanning. He was the cleanser of the scanned

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1 documents. But before that, he was also involved in
 2 sundried other ways. I just mentioned the scanning.
 3 And it's not a contract; it was a
 4 number of contracts. And then also he was called as
 5 needed. So sometimes there were contracts covering his
 6 work, sometimes not. It's kind of like the difference
 7 between contracting a plumber to do some sort of
 8 reconstruction and then calling a plumber to fix
 9 something that's leaking.
 10 You don't have a contract for the
 11 latter, obviously. So he would be called. He did --
 12 early on when he was still on the active counsel's West
 13 Virginia bar list, he did some legal -- technical legal
 14 work for us, because he's a lawyer as well as a tech
 15 expert. And he went on the inactive list and we never
 16 used him for legal work, obviously, after that.
 17 But he did sundry jobs. I mean, he --
 18 he's really quite an expert in a number of areas. He's
 19 really quite brilliant. But in the last several years
 20 - and that's what we're talking about, with when he
 21 left and what he was doing then - he was involved in
 22 scanning.
 23 He was also involved in the -- the
 24 creation of the Domestic Violence Register, as I

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1 recall. I think he was also involved with the mental
 2 hygiene or the Mental Health Registry to get us
 3 compliant with the Brady bill.
 4 And he was involved in a number of
 5 other projects. He's -- he's really quite a utility
 6 player. He's very good.
 7 So over the years, 11 years of work,
 8 more or less, he -- at least 10 - I don't know exactly,
 9 but 11 -- 10 or 11 - his billing added up to about
 10 \$1,000,000.
 11 **Q. Okay, thank you. Now, you talked about the**
 12 **floor in Justice Workman's office was expensive. What**
 13 **kind of a floor is it?**
 14 A. It's wide-planked cherry from Vermont.
 15 **Q. Okay. How much did that cost?**
 16 A. I don't recall.
 17 **Q. Okay.**
 18 A. I think it was in the \$45,000 range, but I
 19 can't swear to that.
 20 **Q. I'm sorry, what was the number?**
 21 A. Maybe \$45,000, but I'd have to -- I --
 22 really, you have the documents, you should look. I
 23 don't recall specifically. Might have been more. I
 24 don't know.

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1 **Q. Now, I'm sort of surprised at your testimony**
 2 **that said that private spaces such as offices are not**
 3 **part of the Capitol Building Commission. Who**
 4 **determined that justices' offices are private spaces**
 5 **and are not subject to the Building Commission?**
 6 A. Well, I don't know who determined that, but
 7 that's what was determined. Because I know in the
 8 Capitol Building Commission, you never got to talk
 9 about private spaces.
 10 **Q. Well, but nothing in a public building is**
 11 **private, is it?**
 12 A. Well, in the sense that the public can't just
 13 go marching into the justices' offices or the
 14 Governor's office or, I suppose, the Attorney General's
 15 office. You know, I think in that sense, they do have
 16 some expectation of privacy.
 17 But I do understand your point,
 18 Delegate. Everything here is paid for by the public,
 19 so in that sense, it's all public.
 20 **Q. You -- you may have answered this, but I've**
 21 **forgotten what your answer was.**
 22 A. Okay.
 23 **Q. How often did the Court have administrative**
 24 **conferences?**

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1 A. Oh, it was up to the chief. Some chiefs had
 2 them every two or even more months, and then Justice
 3 Ketchum wanted them every two weeks and everything in
 4 between.
 5 **Q. Okay. Now, as I understand it, Justice**
 6 **Loughry was a law clerk before he became a justice.**
 7 A. Yes.
 8 **Q. And so where was his office when he was a law**
 9 **clerk?**
 10 A. He had one of the offices on the fourth floor
 11 directly -- in the center, directly across from where
 12 the elevators open up.
 13 **Q. And if you know, what -- while he was a law**
 14 **clerk, did he have one of the Cass Gilbert desks?**
 15 A. Yes, he did.
 16 **Q. Okay. Did you see it in his office?**
 17 A. Yes, I did.
 18 **Q. Okay. But you don't recall being in his**
 19 **office when it was gone.**
 20 A. I don't recall what? Excuse me?
 21 **Q. Did you ever go in his office, in that**
 22 **particular office, after he was elected justice and see**
 23 **that the desk was gone?**
 24 A. I don't recall that. I may have, but I don't

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1 recall.
 2 **Q. In your 11 1/2 years at the Court, it was the**
 3 **traditional practice that a chief justice would be**
 4 **elected every year.**
 5 A. Yes.
 6 **Q. Now, were those elections done in one of the**
 7 **administrative conferences?**
 8 A. The last one of the year preceding --
 9 calendar year preceding when the new chief would take
 10 office in January. So it usually happened in late
 11 November.
 12 **Q. And would you be present at those elections?**
 13 A. Yes.
 14 **Q. Okay. Now, tell me about the election where**
 15 **Chief Justice Loughry was elected for four years.**
 16 A. I wasn't there for the --
 17 **Q. Oh, you weren't there?**
 18 A. No. I was there when he was selected for the
 19 one year, because that was in November '16. But he --
 20 sometime later, they came up with the four years,
 21 according to reports. But it wasn't four years then;
 22 it was just one year when I was there.
 23 **Q. Okay. So at the end of 2016 when --**
 24 A. Yes.

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1 **Q. -- you had the normal voting of -- for the**
 2 **new chief justice, Justice Loughry was elected for a**
 3 **one-year term.**
 4 A. That's right.
 5 **Q. And then at some point in 2017, he was**
 6 **elected for a four-year term.**
 7 A. Apparently.
 8 **Q. Okay. And that was after you were fired.**
 9 A. Long after I was fired.
 10 **Q. I'm sorry, what?**
 11 A. Long after I was fired sometime.
 12 **Q. Okay. So if it were followed in the normal**
 13 **pra -- procedure or process, would there be**
 14 **administrative notes on that election?**
 15 A. Yes, if it happened in administrative
 16 conference, I suppose there'd be minutes that would
 17 show that whenever it happened in 2017. That would be
 18 the normal course.
 19 Lots of things changed after I left,
 20 though, so I can't say that with certainty.
 21 **Q. Okay. When you were fired, were there other**
 22 **employees fired at the same time?**
 23 A. Yes.
 24 **Q. Who -- who else was fired?**

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1 A. They fired the Administrative Counsel, Kirk
2 Brandfass, that day.

3 **Q. Okay. They fired the administrative counsel.**

4 A. And then later, within the next few months,
5 they fired the Director of Mental Hygiene, Linda
6 Artimez. They fired the grants expert, the head of
7 Court services, Director of Court Services, Angie
8 Saunders.

9 And there was -- there were a lot of
10 people who left after that. Don't know how many were
11 fired. I know they eliminated a position, and thus
12 Tina Payne, who many of you may know - she was our
13 legislative liaison - her position was eliminated, so
14 she was therefore laid off.

15 And then the pressures mounted, and my
16 understanding was from talking to some of these people
17 and hearing about it from others, that others just got
18 out of there rather than being fired, because they felt
19 that the ax was coming, a lot of people.

20 The entire drug court staff, none of
21 them are there anymore who were there. They were truly
22 grand, experts. And others.

23 **Q. Okay. Thank you. Now --**

24 A. They -- he also -- they fired 20 some

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1 probation officers as well. That was later in the
2 year.

3 **Q. When -- when a new chief justice is elected,**
4 **they keep their same office, right? They don't --**

5 A. Yes.

6 **Q. There isn't a chief justice office that**
7 **people move into.**

8 A. No, they stay in their office.

9 **Q. Okay, thank you.**

10 **Okay. I know I'm going to be stepping**
11 **outside the bounds probably, but if you know, why did**
12 **Justice Ketchum resign?**

13 A. I don't know.

14 DELEGATE LANE: Okay, thank you. I
15 don't have any further questions.

16 CHAIRMAN SHOTT: Delegate Pushkin?

17 DELEGATE PUSHKIN: Thank you,
18 Mr. Chairman. And I thank you for being here,
19 Mr. Canterbury.

20 EXAMINATION

21 BY DELEGATE PUSHKIN:

22 **Q. Many of the questions I was going to ask have**
23 **already been asked and answered. I'm going to try to**
24 **skip those, if memory serves me wrong -- but because of**

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1 **that, I will be skipping around a little bit, so**
2 **forgive me for that.**

3 A. Sure.

4 **Q. Just to follow up on a couple of questions**
5 **about the Cass Gilbert desk that was in then Law Clerk**
6 **Loughry's office. You said you remember it being on**
7 **the fourth floor when he was a law clerk.**

8 A. Yes.

9 **Q. Now, when his -- after he was elected and his**
10 **office was being renovated, where was he working?**

11 A. While he was -- after he was a justice, he
12 took over the office that was vacant in the clerk's --
13 excuse me, in the clerk's -- I'm sorry, in the chief
14 counsel's suite of offices. I don't know which one,
15 but it was just one that was not currently being
16 occupied by a writ clerk.

17 **Q. Okay. Now, was the desk in there?**

18 A. No, it wouldn't have fit in there.

19 **Q. It wouldn't have fit in there. So sometime**
20 **between when -- his election and -- and when he moved**
21 **into his newly-renovated office is when you noticed**
22 **that the Cass Gilbert desk was not there, correct? Or**
23 **you said it wasn't until --**

24 A. Well -- I never noticed the desk was gone. I

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1 just assumed -- I guess I just assumed -- I never
2 really thought about it, to be perfectly honest.

3 **Q. Okay.**

4 A. I just assumed it went to storage, you know,
5 like so many things do.

6 There is also -- you've heard about two
7 warehouse spaces. What you haven't heard is there's
8 also a storeroom that the Court has in the basement of
9 the Capitol.

10 So Cass Gilbert furniture could be
11 stored there and not be in violation of the Code that
12 says that those pieces can't be out of the Capitol. So
13 there's a storeroom. And I just guessed that it went
14 to the storeroom.

15 The storeroom floods, so everything is
16 up on blocks. But they're protected on blocks, at
17 least when I was there.

18 **Q. So an item that was not supposed to be**
19 **removed from the Capitol would -- the -- I guess the**
20 **procedure would be for that to be stored in the**
21 **basement.**

22 A. That was my procedure, yes. That was what I
23 wanted them to do. Now, I didn't do any moving myself.
24 So I don't know where they moved it. But that was

1 supposed to be what happened.
 2 **Q. Okay. Well, I'm going to skip -- just to try**
 3 **to stay on the same subject. When the moving -- well,**
 4 **actually, when the -- when the -- we heard testimony**
 5 **from some of the Court employees that were at Justice**
 6 **Loughry's house moving the -- the couch and the desk to**
 7 **the storage area over in -- in Kanawha City.**
 8 **And I can't remember which one, but**
 9 **during one of their testimonies, they stated that he**
 10 **explained to them that you told him he could take it**
 11 **home. Now, will you dispute that?**
 12 A. That's just a bare-faced lie.
 13 **Q. Okay. So --**
 14 A. I had no idea he had moved a desk. I had no
 15 idea there was a desk at his house. I learned in
 16 November 2017, a day or so before the general public
 17 learned.
 18 **Q. Okay. Well, that was -- and I don't doubt**
 19 **the person who was -- who was also testifying under**
 20 **oath who said that that's what Justice Loughry told**
 21 **them.**
 22 A. Oh, I have no doubt that that's true.
 23 **Q. So he was not --**
 24 A. Those are honorable people.

1 **Q. He was not telling them the truth if that was**
 2 **the -- if that's what he told them, correct?**
 3 A. Yes.
 4 **Q. All right.**
 5 A. Yes, I want to clarify. I am not calling the
 6 security person you're talking to -- about, a liar
 7 here.
 8 **Q. Okay.**
 9 A. I'm saying that Justice Loughry lied to him
 10 about something that I allegedly told him. I never
 11 did.
 12 **Q. Okay, thank you. Did you state earlier that**
 13 **your spending limit that you were allowed to spend on**
 14 **remodeling or on -- or on office furniture was up to**
 15 **\$20,000?**
 16 A. No. I said that invoices that would come in
 17 that were not already preapproved by the Court would
 18 have to go to the Court for approval if it was over
 19 \$20,000.
 20 **Actually, it just went to the Chief**
 21 **Justice if it was up to \$25,000, but then anything over**
 22 **\$25,000 had to go to the Court.**
 23 **But if they had approved -- if they had**
 24 **approved a project like a construction project --**

1 A. Uh-huh.
 2 **Q. They made -- it was very clear from practice**
 3 **and procedure that those were just to be paid until the**
 4 **project was finished. So obviously when you're doing**
 5 **construction, you're gonna get many invoices that are**
 6 **over \$20,000, of the kind of construction we were**
 7 **doing, and they didn't want to have that pile to have**
 8 **to go through and approve and go through and approve.**
 9 **They just left that to the project to**
 10 **be approved, and that's what I did.**
 11 **Q. Okay. But would new furniture be considered**
 12 **part of the construction project?**
 13 A. Yes, it would be part of the remodeling, it
 14 would be under the same thing.
 15 **Now, perhaps hindsight being what it**
 16 **is, that was not a good idea, but that was my**
 17 **understanding. That was the procedure that had**
 18 **happened for years before Loughry, so it continued**
 19 **after Loughry -- well, during Loughry and then**
 20 **afterwards with Davis.**
 21 **Q. Okay. And you stated before that it was the**
 22 **project manager that -- that was working closer on the**
 23 **-- ordering the furniture, and the floor for then Chief**
 24 **Justice Loughry's office.**

1 **Now, have you read the -- I believe**
 2 **Exhibit 36, which is the Affidavit from Kimberly Ellis?**
 3 **Are you --**
 4 A. Well, I haven't read it, but I heard it read
 5 when I watched this proceed -- these proceedings live
 6 streamed.
 7 **Q. You heard it read?**
 8 A. Yes.
 9 **Q. Did you find anything -- do you recall**
 10 **anything in that not being factual, to your knowledge?**
 11 A. No, it was absolutely factual. Everything I
 12 heard was right, direct and true.
 13 **Q. Okay. Because we -- we also -- I believe**
 14 **that same day, we heard a recording from then Chief**
 15 **Justice Loughry testifying -- or giving a budget**
 16 **presentation in front of the House Finance Committee,**
 17 **and I believe at one point, he said -- he stated, "A**
 18 **lot of you" - and I'm paraphrasing, I don't have it in**
 19 **front of me - "A lot of you have known me for decades,"**
 20 **or for "two decades. I would never approve of that**
 21 **spending."**
 22 **So would you find that to be less than**
 23 **factual?**
 24 A. Yes, I find it to be less than factual.

1 **Q. He did approve of the spending.**
 2 A. He -- well, at least the \$32,000, he did.
 3 And he knew what the renovation costs were, and he did
 4 not say, "Don't do it." And I think there are e-mails
 5 to him that are in evidence. He knew.
 6 He was very involved with everything.
 7 And those throw pillows, those \$1700 throw pillows, I
 8 mean, that was just back and forth forever. I did get
 9 copied on those e-mails, I think, at least -- or the
 10 project manager, in frustration, showed them to me - I
 11 don't know which - but I saw them. And they --
 12 You know, he was very involved in all
 13 of this.
 14 **Q. Okay. So -- and I'm asking because he was**
 15 **under oath at the time when he -- when he was giving**
 16 **that pres -- budget presentation and answering**
 17 **questions of the Committee, and I believe it was during**
 18 **the question-and-answer part when he said that he had**
 19 **no -- he didn't approve of -- he didn't -- he would**
 20 **never approve of that.**
 21 A. Yes.
 22 **Q. Now, you said the -- the frus -- you just**
 23 **mentioned the frustration of the -- of the project**
 24 **manager. Did she ever speak with you about having any**

1 **misgivings about the amount of money that was being**
 2 **spent on his furniture?**
 3 A. No, I don't recall that, except for the throw
 4 pillows. That was just -- that was difficult. But I
 5 don't recall her saying anything else about that. I
 6 think we all knew the -- that the power came from the
 7 justices and you don't question what they do. They're
 8 in charge.
 9 **Q. Okay. You mentioned earlier that Justice**
 10 **Davis' office, that a lot of that was -- a lot of the**
 11 **renovations were structural renovations as opposed to**
 12 **like aesthetic renovations. What -- could you give --**
 13 **what percentage do you think of her office renovations**
 14 **were structural?**
 15 A. Oh, three-fourths.
 16 **Q. Three-fourths of it was structural?**
 17 A. Yes.
 18 **Q. Okay. Now, and her office had --**
 19 A. And you have to keep in mind, one -- well,
 20 never mind. I don't want to -- sorry.
 21 **Q. And you stated her office hadn't been**
 22 **renovated in -- during your tenure here, and not to**
 23 **your recollection, hadn't been renovated in quite some**
 24 **time?**

1 A. Right. I -- in the 1990s, they slapped some
 2 paneling up and put some shelves in that were not very
 3 stable. I think the carpeting had been changed several
 4 times. They kept going with this red carpet, and they
 5 kept changing it.
 6 But other than that, I don't -- there'd
 7 never been any in-the-wall sorts of -- of remodeling,
 8 to the best of our knowledge. And then from the
 9 evidence when they ripped the walls out.
 10 **Q. Was that the only justice's office that had**
 11 **-- had been that long -- I mean, since this last round**
 12 **of renovations?**
 13 A. No, there was one other: Justice Benjamin's.
 14 And his was the first that was done, because there was
 15 a telltale odor of electrical wires burning and
 16 something had to be done.
 17 **Q. Okay. So that was renovated while he was --**
 18 A. Yeah, sure, while he was there. The --
 19 **Q. And that --**
 20 A. None of the duty (Phonetic) stuff was done
 21 and then -- I've read that then Justice Walker
 22 redecorated at some 130 some thousand.
 23 **Q. And that was after it had been renovated**
 24 **while Just -- that's the same -- same office --**

1 A. Same office. She took his office.
 2 **Q. -- Justice Walker's then. So how long had it**
 3 **been since it had been renovated, since she had it --**
 4 A. Four years or so. Not long.
 5 **Q. Four years?**
 6 A. Uh-huh. There was -- there were architects
 7 -- there was an architect involved with each of the
 8 justices' remodelings because there were structural
 9 issues, and you better have an architect who has a bond
 10 in case something goes very wrong.
 11 And so they were directing and making
 12 sure that this was done to the letter. My
 13 understanding is there was no architect for Justice
 14 Walker's renovation because there was no need for any
 15 of that. It was already done.
 16 **Q. So you're saying that -- I asked you before**
 17 **about the percentage in -- for Justice Davis' office**
 18 **that was structural. You said about 75/three-fourths.**
 19 **So you're saying that the percentage that would have**
 20 **been structural in the renovations in Justice Walker's**
 21 **office would be -- be zero?**
 22 A. Well, I would say so. But again, that
 23 happened after my -- I wasn't around for hers. I just
 24 know what I read. I was fairly keenly interested

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1 because I thought that it seemed premature to be doing
2 the kind of redecorating she was doing. So --
3 But they didn't have an architect hired
4 for that, so I think that tells a lot right there.
5 **Q. Okay. The Supreme Court also has -- or the**
6 **Court has offices over in Kanawha City --**
7 A. Yes.
8 **Q. -- at City Center East.**
9 A. City Center East.
10 **Q. Now, they recently had remodeling or**
11 **redecorating, or under your tenure, was there --**
12 A. Every floor.
13 **Q. Every floor?**
14 A. No, we took -- of the several floors that the
15 Court's on. We did that over a several-year period.
16 The Court had employees in six different offices -- six
17 different buildings scattered all over the place.
18 And there was also the server for the
19 Court's computer system, was in yet another facility.
20 So there were seven facilities.
21 Some of those facilities -- well, one
22 of them was referred to as "the crack house" because of
23 the neighborhood it was in. They weren't good. And --
24 and so we decided we also needed security -- I learned

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1 that City Center East was not 100 percent available,
2 but a lot of the floors were available.
3 I negotiated the best rent I could for
4 a long period of time, knowing that we have one-year
5 renewals, of course, but a long period of time rent,
6 knowing that we would have to do the buildouts on each
7 floor.
8 We did. And as a result, we combined
9 all of those people into one building, and we also did
10 some strategic things to cut costs in other ways that I
11 can get into if anybody wants to know.
12 **Q. Okay. So you -- you oversaw that project**
13 **over at City Center East?**
14 A. Generally, yes.
15 **Q. Okay. And when -- when looking for a vendor,**
16 **say, for furn -- new office furnishings, could you tell**
17 **-- what kind of market research goes into that to see**
18 **whether or not -- you said you did it at the greatest**
19 **expense you could do over there {sic}. Can you --**
20 **I mean, can you tell us a little bit**
21 **about the market research that you would do in deciding**
22 **on to purchase the furniture from?**
23 A. Well, I don't know if there was any market
24 research, per se. I think that the project manager

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1 would try to figure out what should go in the offices,
2 talking with the employees and knowing what kind of
3 work they were doing.
4 For example, there are a lot of books
5 that are put together, these big notebooks, and so one
6 thing that they wanted was a stand-up counter that was
7 high enough to be able to do stuff with a copier right
8 behind it. That's the kind of discussion she would
9 have with them.
10 And then she would try to find what was
11 available for the least amount of money - not the most,
12 but the least amount of money - for those offices to
13 meet their -- their -- their needs.
14 One bit of research we did - and I
15 don't want to get too deeply into this, because I know
16 that this could get too far afield - but we actually
17 looked into the Biederman theories of retention of
18 millennials by their -- by the spaces that they're in,
19 the architecture, the interior architecture.
20 Now, I know -- I'm not going any
21 further into that --
22 **CHAIRMAN SHOTT: Mr. Canterbury, you**
23 **are getting really far afield now.**
24 A. But I just want you to know, there was that

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1 kind of market research. That was in response to --
2 **Q. I just have to ask then: Did it work? Did**
3 **you retain millennials in these offices?**
4 A. Not after Justice Loughry came.
5 **Q. I'm going to go on to something else. Let's**
6 **see. Yeah, you mentioned earlier about some items that**
7 **were framed, you said at Art Emporium, and you said**
8 **that there should be records of those --**
9 A. No, no, The Art Store.
10 **Q. The Art Store.**
11 A. Different place.
12 **Q. I'm sorry, I apologize to both businesses.**
13 A. I think they're competitors. We'd better not
14 mess that up.
15 **Q. Yeah, they're both in the district that I**
16 **represent. So there would be records at The Art Store**
17 **of -- and what were the pictures of that you -- you say**
18 **that there were certain ones that were paid for, of**
19 **course, by the Court, and you never saw those pictures**
20 **anywhere in the Capitol, not in --**
21 A. Hanging on any of the Court walls or any
22 other walls in the Capitol, that's right.
23 **Q. So I guess we're to assume that -- well, do**
24 **you remember what those pictures were?**

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1 A. The two I never saw that I recall was the --
 2 the name "Loughry" in a lovely Asian kind of
 3 watercolor, long, and then there was also the etching
 4 of the building - which was a huge etching, it was very
 5 large, expensive framing - of the place where they got
 6 married in England.
 7 I never saw them. I never saw neither
 8 of those on the walls. Now, perhaps he put them up
 9 after I was no longer in his office. I don't know.
 10 But -- after May of '14.
 11 But before that, I never saw them hung
 12 in there.
 13 **Q. Okay. I'm going to skip around a little bit.**
 14 **There were some questions earlier about these -- these**
 15 **conferences where circuit judges, I guess, come to,**
 16 **they come to Charleston?**
 17 A. Well, they come to -- there are two of them a
 18 year, and roughly once a year, it's in Charleston,
 19 though it's not exact. Sometimes it will be a couple
 20 of years before they're in Charleston.
 21 **Q. And is there -- is there usually a reception**
 22 **involved --**
 23 A. Yes.
 24 **Q. -- at those conferences?**

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1 A. There's usually a Judicial Association
 2 dinner. I encouraged them to come to Charleston
 3 because it's so much cheaper when they came to
 4 Charleston because I didn't have to expense the
 5 employees to go to Pipestem or Canaan or wherever.
 6 **Q. Now, have there been occasions when these**
 7 **receptions were held at local hotels?**
 8 A. Generally that's where they were held.
 9 **Q. Generally the receptions are held -- I**
 10 **imagine the Court pays for the -- the renting the room**
 11 **at the hotel?**
 12 A. Right. Not the hospitality suite; that's
 13 paid for by association dues. Not the booze; that's
 14 paid for by the individual judges or, I guess,
 15 association dues.
 16 However, the food would be paid for by
 17 the Court with the banquets, as I recall, and you know,
 18 any kind of snack things that were -- and all the
 19 breakfasts for the conference, all the lunches for the
 20 conferences.
 21 **Q. Okay. So what I'm getting at, if it was held**
 22 **at -- the occasions that it was held at Justice Davis'**
 23 **house, would have been -- that would have saved money**
 24 **because the reception wasn't held at a hotel.**

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1 A. Well, the one year, it didn't save any money.
 2 But the other several years, it saved the Court a whole
 3 lot of money because she didn't -- she paid for it
 4 herself, and -- and that meant none of the judges could
 5 get a per diem, nor was there any cost for any kind of
 6 banquet on the part of the Court.
 7 So those years, it saved a lot of
 8 money. One year, she got reimbursed and it was a wash.
 9 **Q. A couple more questions. I'm looking at the**
 10 **-- at the diagram here, Exhibit 39. Was this largely**
 11 **-- if -- when we go -- if we go look at the -- at the**
 12 **justices' offices, is this what we're gonna see? Is**
 13 **this largely -- was this largely followed?**
 14 A. You're gonna see a few things differently.
 15 You're gonna see that the couch does go around, as he
 16 did -- but it's a sectional that makes -- you know,
 17 it's kind of a three-sided sectional instead of having
 18 a break there.
 19 The main difference is you're gonna see
 20 that underneath -- where there's all that writing
 21 underneath where the state is, kind of underneath Wayne
 22 County, you'll see a table and three chairs that ended
 23 up -- he wanted that there.
 24 The standing desk and his desk and the

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1 couple of chairs, they're all exactly as described. I
 2 think everything in his secretary's office is pretty
 3 much as he drew it out.
 4 **Q. The three radiators --**
 5 A. Yes.
 6 **Q. I'm seeing at least three. Yeah, three**
 7 **radiators, were they in the office already?**
 8 A. Yes.
 9 **Q. Okay.**
 10 A. They just had to have special covers.
 11 **Q. They got special covers?**
 12 A. Yes.
 13 **Q. Okay.**
 14 A. To match. I think they were walnut and
 15 something.
 16 **Q. Okay. You'd mentioned earlier about the -- a**
 17 **conference that you attended in Asheville, North**
 18 **Carolina.**
 19 A. Yes.
 20 **Q. It was also attended by Justice Ketchum and**
 21 **Justice Loughry?**
 22 A. Right.
 23 **Q. Okay. Did -- had -- did you drive there?**
 24 A. I drove. I drove my car.

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1 **Q. Okay. And how did -- how did Justice Loughry**
2 **get there?**
3 A. He drove his own car.
4 **Q. He drove his own car?**
5 A. Yes.
6 **Q. Okay.**
7 A. That's what I was clarifying earlier, that
8 was not a rental car situation; it was just his not
9 showing up for the last day.
10 **Q. Okay, all right. Okay. I think I just have**
11 **a couple more questions. You mentioned earlier that**
12 **close to your last day of work, you said you had a --**
13 **it was one of your two cross moments that you had with**
14 **Justice Walker.**
15 **What was the other cross moment?**
16 A. No, I never said I had any cross moments with
17 Walker.
18 **Q. Oh, I thought that was --**
19 A. Except in -- I had one moment where I lost it
20 a little bit in -- while I was being fired in the
21 administrative -- I'm sorry, in the conference room.
22 She -- I said, "Well, I'll have to be fired because I
23 need to get -- collect unemployment," and she said,
24 "Well, you can collect unemployment even if you are

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1 resigning," and I turned to her - and I shouldn't have
2 said this - I said, "Well, when you've been around
3 longer than a couple of days, you'll learn that the
4 Court never allows that."
5 **Q. Yeah, and I --**
6 A. So that was a bad comment.
7 **Q. Yeah, and I --**
8 (Overtalk)
9 A. I never had another cross moment --
10 **Q. Maybe I misunderstood you. I thought you**
11 **said that was one of two.**
12 A. No. No, that was it. It was one of two in
13 the conference room.
14 **Q. Oh, okay.**
15 A. In the conference room. The second one was
16 the simulacrum thing with the -- with the Chief
17 Justice.
18 **Q. Oh --**
19 A. But only one encounter like that with Justice
20 Walker.
21 **Q. -- one of the two cross moments --**
22 A. Justice Walker and I went out to lunch three
23 times during the transition. I thought we were doing
24 pretty well. And the Thank You card even made me think

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1 even better of it.
2 **Q. Okay, all right. It was asked before about**
3 **the calendars that you said that when you left, they**
4 **were -- to your knowledge, they were still there.**
5 A. Yes.
6 **Q. And what you -- what you later learned, that**
7 **the calendars -- not all of the calendars, but just**
8 **dating from 2013 until -- until your termination --**
9 A. Right.
10 **Q. Okay. And does that -- was -- was Justice**
11 **Loughry elected in 20 -- what year was he elected?**
12 A. He was sworn in -- he was elected in '12,
13 sworn in in '13.
14 **Q. So the calendars that were there while he was**
15 **there as a justice were missing.**
16 A. Yes.
17 **Q. All right.**
18 DELEGATE PUSHKIN: Thank you very much.
19 CHAIRMAN SHOTT: Delegate Zatezalo.
20 DELEGATE ZATEZALO: Thank you,
21 Mr. Chairman, and thank you for being here,
22 Mr. Canterbury.
23 I beg the Committee's indulgence in
24 case I ask a question or two that I -- that has already

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1 been asked. I -- like the delegate from the 32nd, I've
2 been trying to cross out the ones, but I'm not sure
3 I've achieved that totally.
4 EXAMINATION
5 BY DELEGATE ZATEZALO:
6 **Q. Mr. Canterbury, you mentioned that you did**
7 **not know that Justice Loughry took the desk; is that**
8 **correct?**
9 A. That's correct.
10 **Q. Okay. Did you get any invoices for moving**
11 **material to his house?**
12 A. I wouldn't have seen those invoices. They
13 would have handled by Fletch Adkins, who appeared here.
14 I would have never seen those invoices. He had
15 authority to approve and for payment any invoices that
16 had to do with moving materials.
17 **Q. I see. Thank you. A general question for**
18 **you.**
19 A. Yes, sir.
20 **Q. Were you ever asked or -- by the justices if**
21 **something that they were about to do was doable or not**
22 **doable, or did you ever caution any of the justices**
23 **that maybe they don't want to do that?**
24 A. I was never asked whether things were doable

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1 or not. They tended to decide on their own whether
2 they wanted to do things or not. However, I would
3 occasionally say that I thought it was a bad idea what
4 they were doing, especially in administrative
5 conference, I would feel free to disagree.
6 That probably wasn't good for my
7 health, but I did it. I -- for example, we've talked
8 about the per curiam clerks. I thought that was a very
9 bad idea, to eliminate that distinction, and I told
10 them why, and they disagreed. At least the majority
11 did.

12 Q. Thank you. Another question. Did you -- you
13 had been there since around 2007, if understand the
14 math correctly.

15 A. 2005, yes.

16 Q. 2005, okay, so it's over -- okay. You
17 witnessed all the latest round of renovations of the 3
18 1/2 million dollars; is that correct?

19 A. Yes.

20 Q. You at least witnessed them. My
21 understanding from your previous testimony is, the
22 Court -- the chambers, or the justices' offices, you
23 didn't really have that much to do with.

24 A. Well, I -- I had to do with making sure it

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1 was done in a general management sense, but I didn't
2 have specific day-to-day involvement in them.
3 That was -- I had some involvement;
4 some more, some less. It depended on the justice and
5 what they might ask me to be involved with.
6 And I was at their beck and call; if
7 they asked, I tried to respond. Some wanted more; some
8 wanted less. But when they'd ask, I would give my
9 advice and tell them what I thought, you know.
10 And then they would do what they wanted
11 to do.

12 Q. Okay, very good. Are you aware of -- of
13 floor lighting that was done for Justice Davis' office,
14 for instance?

15 A. Yes.

16 Q. And when -- when about would that have been
17 done?

18 A. That was done in 2014 with the rest of her
19 renovation. They'd ripped the floor up, and to add
20 light into that dark entryway, they put the floor
21 lights in.

22 Q. And were you aware of large amounts of
23 drilling or any of that type of thing that had to go
24 with the floor lighting?

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1 A. Large amounts of what?

2 Q. Drilling.

3 A. The drilling had already been done, sir.
4 They'd already taken all of the floor out. They just
5 had to move wire, and -- you know, they were down to
6 the concrete. And so they had to dredge for
7 information wiring and electrical wiring into the
8 concrete to have a flat surface, and then to cover it,
9 in the conduit.

10 But there would have been some for
11 that, yes, sir.

12 Q. But it was a rather unusual construction; is
13 that correct, or not?

14 A. Her -- when you see her office, you're gonna
15 realize it's very different than any other offices you
16 see. It's very modern.

17 Q. Okay. I'm looking forward to it.

18 A. And it's a matter of taste, I guess, whether
19 you like it or not.

20 Q. I wanted to double-check something with you.
21 The Court did not have to bid any -- anything for the
22 private offices; is that correct?

23 A. They didn't have to bid anything for anything
24 - any project ever - if they didn't want to. As I said

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1 earlier, we did bid some things. For instance, the
2 drug testing companies' contracts, I had those bid out
3 a couple of times.
4 But the Court was not under any
5 obligation to follow Purchasing in any way, shape or
6 form.

7 Q. Okay, thank you.

8 A. Still isn't at this point.

9 Q. Very good. A couple of -- couple of final
10 questions. We were given a first and only appraisal of
11 a Cass Gilbert desk as of March of 2018.

12 A. Yes.

13 Q. If you're in charge of the -- I find it --
14 and I mentioned it previously -- do you think it is
15 good practice not to have any appraisals of the
16 equipment that the Court holds?

17 A. It would probably be a good idea to have that
18 done, and I'm disappointed in myself I didn't think to
19 do it. But in hindsight, yes, that would be a good
20 idea.

21 Q. It's kind of hindsight, so I --

22 A. Yes.

23 Q. -- I mean, I understand. But -- okay, very
24 good.

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1 DELEGATE ZATEZALO: Thank you.
 2 CHAIRMAN SHOTT: Delegate Hollen.
 3 DELEGATE HOLLEN: Thank you,
 4 Mr. Chairman. Thank you for being here,
 5 Mr. Canterbury.
 6 MR. CANTERBURY: Yes.
 7 EXAMINATION
 8 BY DELEGATE HOLLEN:
 9 **Q. I just wanted to follow up on some questions**
 10 **that has been asked, I just wanted to drill down a**
 11 **little bit deeper on it, figuratively speaking, on the**
 12 **construction.**
 13 **Now, you had mentioned that there was**
 14 **two offices that hasn't -- that haven't been renovated**
 15 **in quite a long time; is that correct?**
 16 A. Yes.
 17 **Q. And those were -- being Justice Benjamin's**
 18 **and Justice Davis' offices?**
 19 A. That's correct, yes, sir.
 20 **Q. So both of them were in the same condition at**
 21 **the time of renovation, before the renovation.**
 22 A. Yes, I'd say more or less that's true. There
 23 may have been a little bit of difference here and
 24 there, but -- Justice Benjamin's, for example, still

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1 had exactly the original bathroom, I mean, exactly
 2 original.
 3 Justice Davis' sometime in the '70s,
 4 '80s, it looked like to me, had been gutted and they'd
 5 put in something else.
 6 So it's not exact, but when you get
 7 into the walls, it was pretty exact, as I recall.
 8 **Q. Okay. To follow up on that answer, they're**
 9 **pretty exact, but the construction costs were**
 10 **significant difference.**
 11 A. Uh-huh.
 12 **Q. We're talking Justice Benjamin's construction**
 13 **costs \$230,000, but Justice Davis', \$433,000, a**
 14 **difference of \$203,000.**
 15 A. Correct.
 16 **Q. What incorporated that huge difference?**
 17 A. I think the competition of the moment might
 18 have had a lot to do with it. 2008 was a dreadful
 19 period for construction; you could get really good
 20 deals. Otherwise, I can't really tell you.
 21 Both were done with prevailing wage.
 22 I'm not sure --
 23 **Q. Would the --**
 24 A. -- what else had been done there.

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1 **Q. Would the special floor lighting as -- as has**
 2 **been heard that it's considered runway lighting, would**
 3 **that add to that significant cost?**
 4 A. It might have added some cost, yes.
 5 **Q. Because as we hear --**
 6 A. It would have added some cost. I shouldn't
 7 say "might." It would have added some cost.
 8 **Q. But we hear in testimony, you know -- and the**
 9 **issue that we hear, is that Justice Loughry's floor**
 10 **medallion was \$33,000, and we know that's -- that's**
 11 **extravagant, but we never hear of the amount that the**
 12 **runway lighting cost.**
 13 A. Well, I don't -- I won't be able to tell you
 14 that off the top of my head. You'd have to look at the
 15 documents to see.
 16 **Q. Okay. And now, the change orders --**
 17 A. Yes.
 18 **Q. -- those were -- those were no approval**
 19 **process for the change orders, and some of the change**
 20 **orders are probably significant? The cost.**
 21 A. In -- I don't know what your question is,
 22 sir. I'm sorry.
 23 **Q. Okay. So my question is: If you've got a**
 24 **contract for a renovation and, you know, as it's**

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1 **probably general knowledge, you know, one way for**
 2 **contractors to -- to make money is to do change orders.**
 3 **Are you -- do you agree or disagree**
 4 **with that terminology?**
 5 A. I would agree that some change orders can be
 6 profitable for companies; some not so much.
 7 **Q. So my question would be: On change orders**
 8 **that were being done in the renovations, was there an**
 9 **approval process for the change orders above and beyond**
 10 **the contract that was negotiated in the beginning?**
 11 A. The Court wanted to keep with Neighborgall,
 12 and so we did.
 13 **Q. I'm sorry, I didn't -- I didn't hear that.**
 14 A. The Court wanted to keep with Neighborgall,
 15 the company, and so we did.
 16 **Q. Okay. And what was the name of that company?**
 17 A. Neighborgall.
 18 **Q. Neighborgall. And was there any personal**
 19 **relationship with any of the justices with -- with the**
 20 **owner of that company?**
 21 A. Not that I'm aware of. I doubt it.
 22 **Q. Okay. Switching gears here, on -- on the**
 23 **lunches, the working lunches, I believe you testified**
 24 **that that's what they were, working lunches?**

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1 A. They were when they were -- the ones I was
2 involved with were working lunches. Either the ones I
3 actually ate with them or the ones I witnessed them
4 eating, was our administrative conference. I can't
5 testify to the others.

**6 Q. Okay. So those were -- those were purchased
7 with a P-card. Is that what your understanding is?**

8 A. Yes. One of the runners would use his P-card
9 to buy them.

**10 Q. And P-card policy is -- the policy of
11 P-cards, is it permissible for personal expenses to be
12 put on P-cards?**

13 A. I don't think so.

**14 Q. And would some -- would personal lunches be a
15 violation of a P-card policy?**

16 A. Well, personal lunches would. I guess the
17 fine line here is whether those were personal or
18 working lunches. The JIC just said they were working
19 lunches. I only know about the ones that I was
20 involved with.

21 They were certainly -- they were eating
22 while we were going through administrative conferences.

23 Q. Okay.

24 A. Not all the administrative conferences had

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1 lunches either. Some did; most didn't.

**2 Q. Okay, thank you. I just want to follow up
3 also on Exhibit No. 38, because I wasn't the creator on
4 some of the things.**

5 A. Okay.

6 Q. Give you a second to pull that up.

7 A. Yes.

**8 Q. Okay. On June 14th of 2011, the \$907.50 for
9 Kanawha Valley Regional Transportation Authority for
10 transporting judges and spouses from the hotel to
11 Justice Davis' residence and back, can you explain
12 that?**

**13 I'm not sure if I heard your testimony,
14 and if -- I apologize if you've already answered that.**

15 A. No, I don't think that's come up, sir.

16 Well, the judges were in a hotel
17 downtown, and there's limited parking at her house.
18 The previous times, it had just been catch as catch
19 can. For a couple of them then, she had paid for the
20 buses for, I guess, 2007 and 2006. And so the Court
21 paid for those buses.

22 It's parallel to when the Court, when
23 the judicial conference was in Huntington and there was
24 a dinner at - what's that called - Pioneer Village or

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1 Frontier Village or whatever that's called out there.

2 Anyway, the buses were used to get them
3 to that, and -- to get to that dinner. That was where
4 they had their judicial dinner. And so it was the same
5 kind of thinking, that they would just be transported
6 as a group.

7 And I think Arthur Angus handled the
8 arrangement of all of that.

**9 Q. Did there -- was there an event at Justice
10 Davis' residence for that transportation --**

11 A. Well, there was dinner -- there was dinner
12 just like there was at the village in Huntington and --
13 it was just they went to dinner.

**14 Q. And I'm under the assumption that the dinner
15 was covered by the -- because I don't see an expense
16 here, so that was covered by Justice Davis?**

17 A. Yes, the only thing that was paid for that
18 year by the Court was the transportation.

**19 Q. Okay. And then we'll switch gears to October
20 8th of 2013.**

21 A. Correct.

**22 Q. You've got, you know, a State total dollars
23 spent, \$11,360 --**

24 A. Correct.

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**1 Q. -- and we have a breakdown here on the right
2 side of the expenditures. Approximately -- you -- did
3 you attend that?**

4 A. Yes, I was at all of these dinners, as well
5 as the others that the Court -- the Judicial
6 Association had.

**7 Q. Approximately how many people attended that
8 specific one in 2013?**

9 A. Oh, I think there are -- you know -- I mean,
10 I'm gonna have to just guess.

11 Q. Sure.

12 A. I don't know the exact number. But roughly
13 seven -- about 80, 85 people. Some just -- some judges
14 have their spouses, just as they would do with the
15 judicial banquets, they would have their spouses. And
16 then there are -- there were 60 some judges in
17 attendance and then some spouses, and then there was
18 also -- there were also a few senior staff people from
19 the office, like yours truly, as well as the clerk of
20 the Court and the deputy clerk of the Court, some
21 people like that.

**22 Q. Okay, let's go back, we'll go a little
23 deeper. Approximately how many judges from out of town
24 or other Court employees from out of town would be**

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1 eligible to file an expense acc -- expense report or a
2 travel claim for eating dinner that night?
 3 A. Well, all of them except the Charleston-
 4 based, Kanawha County-based judges, and none of the
 5 Court employees would have been able to file a --
6 Q. Or their spouses.
 7 A. Well, the spouses couldn't file --
8 Q. Right.
 9 A. -- no matter where they're from.
10 Q. So my question goes back into your testimony,
11 it says because it was cheaper to hold an event for
12 \$11,000 than to -- to turn in expense accounts or to
13 per diem --
 14 A. Uh-huh.
15 Q. -- for those that's eligible for per diem.
16 My question is to you is: How many would have been
17 eligible for per diem that would exceed \$11,000?
 18 A. I suppose 50 some, towards 60. Because
 19 that's how many judges would have been from out of
 20 Kanawha County there. I don't know how many judges
 21 actually came to the judicial conference that year.
 22 But I wasn't comparing it just to the
 23 fact that they would be able to submit their vouchers,
 24 you know, for their per diem payment; I was comparing

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1 it to the typical cost for a banquet.
 2 The typical banquets included the
 3 spouses and people who were local as well as people
 4 from out of town.
5 Q. Oh, okay, thank you.
 6 A. Yes, sir.
 7 DELEGATE HOLLEN: Thank you,
 8 Mr. Chairman.
 9 CHAIRMAN SHOTT: Mr. Canterbury, we've
 10 been going about two and a half hours, and the fact
 11 that there's only three people left on the front row
 12 will be no assurance that we'll be finished soon.
 13 So would you like a ten-minute break?
 14 MR. CANTERBURY: I'm -- I'm at the
 15 pleasure of the Chair. If you'd like to have a break,
 16 I'm with you. If you --
 17 CHAIRMAN SHOTT: It's not --
 18 MR. CANTERBURY: -- want to keep going,
 19 I'm happy to.
 20 CHAIRMAN SHOTT: If you're comfortable,
 21 we'll move on.
 22 MR. CANTERBURY: I was thinking -- not
 23 to anticipate, but I was thinking we could get through
 24 round one and then take a break.

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1 CHAIRMAN SHOTT: We can do that if
 2 you're --
 3 MR. CANTERBURY: I'm with you.
 4 CHAIRMAN SHOTT: All right, if you're
 5 game.
 6 Delegate Overington.
 7 DELEGATE OVERINGTON: Thank you,
 8 Mr. Chairman.
 9 Thank you, Mr. Canterbury, for being
 10 here.
 11 EXAMINATION
 12 BY DELEGATE OVERINGTON:
13 Q. Back to the three floors that you operate in
14 the East Wing, you have -- the second floor, I believe,
15 is the legislative offices.
 16 A. True.
17 Q. So you're on the first floor and then the
18 third and the fourth floor.
 19 A. About half of the first floor. You also have
 20 the Treasurer's Office and all of that on the other
 21 side, but yes.
22 Q. And the basement is separate as well.
 23 A. Yeah. We only have a store -- the -- we --
 24 the Court only has a storeroom in the basement.

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1 Q. Over the last couple of weeks, there's sort
2 of been uncertainty about the change of command at the
3 Supreme Court. There are some decisions that you made;
4 there are some decisions that the Chief Justice made;
5 and then there were other decisions that three of the
6 five justices made together.
 7 Was there -- was that pretty clear
8 among the different parties involved, which group made
9 the decision or how each decision was made?
 10 A. Well, every decision I made would always go
 11 back to a decision made by the Court in some general
 12 way.
 13 The specifics, they had little interest
 14 in. They didn't want to be administrators; they wanted
 15 to be justices.
 16 But -- and the Chief Justice's powers -
 17 while I was there - had to do with appointments,
 18 setting schedules, setting, you know, when the
 19 administrative conferences were, as we've discussed.
 20 So primarily the power resonated in the majority of the
 21 Court, those three that you mentioned.
 22 So that's how the pow -- that's where
 23 all of the power went back, with those exceptions that
 24 I said about the Chief Justice.

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1 Because there's also the clerk that
2 does -- he did not work for me. There was a chief
3 counsel who did not work for the Administrative Office,
4 and they direct -- and they were directly under the
5 watch of the -- of either the Chief in some cases,
6 though usually under the majority of the -- of the
7 Court.

8 I don't know if that answered your
9 question, but that's --

10 **Q. For decisions like the renovations --**
11 A. Decisions like renovations were decisions
12 made by the Court, and then the details were left to
13 others.

14 **Q. What -- you had mentioned that the -- for a
15 lot of the renovations, they were major projects so
16 that they were exempt from the \$20,000 approval
17 process. What -- what was the understanding about what
18 decisions had to be made separately that were over the
19 \$20,000 --**

20 I mean, for example, obviously if
21 you're renovating the building, taking it down to the
22 concrete walls, that's gonna be -- that's gonna be way
23 beyond the \$20,000.

24 A. Right.

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1 **Q. Was there a clear understanding about what
2 decisions were that had the \$20,000 limit, like
3 furniture, office equipment, that type of thing?**

4 A. Well, everything that you mentioned came
5 under the -- under the direction of their decision to
6 have the renovations, and so the individual bills would
7 have been paid as a result of their own -- their own
8 direction, but not individually. Because they didn't
9 want to be bothered with the individual invoices.

10 When you're doing construction at the
11 level that we were doing construction, there were a lot
12 of invoices over \$20,000. They didn't want a pile of
13 those to have to, you know, use up their time to go
14 through. They had told me to make it happen; I was to
15 make it happen.

16 The other part of your question was:
17 So then what did come to their attention that was over
18 \$20,000. We would get legal bills that would be over
19 \$20,000. I would bring it to the Court. They would
20 know that the lawyer had been hired, but they wanted to
21 see those individual bills, so we would take it to
22 them.

23 Things that were not previously
24 approved by the Court that had resulted in some -- you

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1 know, previously approved in an umbrella manner that
2 would come in would be taken to the Court for approval.
3 Or I'd just take it to the Chief.

4 Because as I said, the Chief had
5 approval power up to \$25,000. So if we got a legal
6 bill for \$22,000, I could take it to the Chief and he
7 or she could just approve that for payment.

8 **Q. Would furniture decisions be considered in
9 the \$20,000 or \$25,000 category for higher approval?**

10 A. They never were. They were always under the
11 -- under the watch of remodeling. I mean, remodeling
12 involved not only taking out the walls, putting in the
13 power, putting in things like plumbing, but it also
14 involved carpets, floors, furniture.

15 And it never was of issue. Nobody ever
16 raised it. They felt that it was going along the way
17 they wanted, I guess.

18 **Q. So for rugs and couches, they would be
19 considered within that \$20-25,000 range which would
20 need greater approval?**

21 A. No, they would not. They'd be under the
22 general approval of things like the remodeling, which
23 would have been things like a bill for -- for wiring
24 the -- new wiring in an office or something. It would

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1 have been that sort of -- that sort of --

2 That was my understanding. And that
3 seemed to be their understanding, because we did it for
4 years and nobody had any -- a word of protest.

5 **Q. Regarding Exhibit 39 --**

6 A. Yes.

7 **Q. -- when you look at that chart --**

8 DELEGATE OVERINGTON: Maybe staff could
9 put it up on the board.

10 **Q. -- right below -- was that -- who prepared
11 that? Who drew it, did the artwork, handwriting, on
12 that?**

13 A. It was Justice Loughry that did the drawing,
14 to the best of my knowledge. That's what I was told by
15 the -- by the project manager.

16 **Q. So the -- the --**

17 DELEGATE OVERINGTON: Maybe staff could
18 put that up on the --

19 **Q. So the handwriting would be -- would have
20 been by --**

21 A. With the exception of the asterisk section,
22 it all looks like Justice Loughry's writing to me.

23 **Q. The artwork, the drawing of the map of the
24 state, the assumption that would have been as well?**

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1 A. Yes, that was what he wanted. He wanted to
2 show what he wanted in his office, in general terms.
3 Like I said, there were a few things that turned out
4 differently.
5 **Q. Right -- right below the map in small print**
6 --
7 A. Uh-huh.
8 **Q. -- it says, "I am open to suggestions on --**
9 **on this" --**
10 A. -- "wall."
11 **Q. Who -- who was that referred to? Was that**
12 **being referred to -- to you?**
13 A. No, that was --
14 **Q. He was open to your suggestions --**
15 A. No, that was --
16 **Q. -- or who would have been gone to?**
17 A. The suggestions would have gone to the
18 designer, the interior designer who was working for
19 Silling. At the time this was drawn, I think -- it was
20 around this time that she went to work for the Court.
21 So --
22 But it would have been to Kim Ellis.
23 "I'm open to suggestions on this wall," is what it
24 says. And the wall he's referring to is the wall

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1 that's between his space and the space of his
2 secretary.
3 **Q. So that would not have been open to you or to**
4 **the other justices for suggestions. That was to the**
5 **person doing the design work.**
6 A. Yes. Not me.
7 **Q. To move on to a different topic, when you**
8 **were escorted out of the building, the -- the security**
9 **that was escorting you out quoted you as saying that --**
10 **in your frustration, that you were going to go to the**
11 **press with this, with what happened, your being**
12 **terminated.**
13 **Do you remember that, saying that?**
14 A. Well, I think more particularly I said, "I
15 don't know whether I'm going to the press or I'm just
16 gonna sail off into the sunset."
17 **Q. Who was that -- what did you mean by that?**
18 A. Well, the press was calling that day, because
19 they had heard that I had been fired. I only contact
20 -- I only took the call from -- from Phil Kabler, and I
21 figured everybody else could learn it from him.
22 I was -- I was angry; I was tired; I
23 was moving; I was frustrated --
24 **Q. Sir --**

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1 A. -- I was going as hard as I could to get
2 things out of there because I'd been given until the
3 end of the day, which was ungentlemanly.
4 But I didn't really have too much
5 specifically in mind. Perhaps -- I mean, I was
6 mouthing off at that time. But if I had arranged my
7 thoughts, I might have had some real thought about what
8 I'd tell the press, but I didn't.
9 You know, I'm answering under oath. I
10 did not have anything in mind except I'm angry.
11 **Q. So when you directed this to the security,**
12 **you were just expressing frustration and --**
13 A. Ticked off.
14 **Q. -- didn't have specifically how you were**
15 **going to present this to the press or how you might be**
16 **taking it --**
17 A. Well --
18 **Q. -- to them.**
19 A. I was thinking specifically at the moment, I
20 think, about just what I was going to say to the press
21 about having been fired and -- and fired in the manner
22 I was.
23 Because that was the issue of the
24 moment. I had not collected my thoughts about anything

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1 else that would ultimately come to pass here.
2 **Q. I think earlier, you were -- you were quoted**
3 **as saying that you were going to go after the three**
4 **that had voted to fire you.**
5 A. Now, that's not true. I never said that.
6 **Q. That you were going to get them or that -- do**
7 **you -- so you didn't say that to them collectively**
8 **then --**
9 A. No.
10 **Q. -- or --**
11 A. No. As I left the room, the only thing I
12 said was the simulacrum comment. I didn't -- I didn't
13 turn to them and say what, I guess, Justice Loughry
14 said was something like "I shall destroy you." He
15 actually said "I will destroy you."
16 I think I would have -- if I'd have
17 said that, I would have used proper grammar. But
18 anyway, the point is, I -- I didn't say it.
19 I didn't turn to them and say it. It
20 wasn't said. And I don't know where he dug that up or
21 what he's thinking about.
22 **Q. So you didn't say that either collectively to**
23 **them --**
24 A. No.

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1 **Q. -- or individually at any time to them.**
 2 A. No, no. Even in my anger, I don't think I
 3 said anything about destroying anybody.
 4 **Q. The last question I have is: Did the**
 5 **justices -- you had mentioned the missing calendars**
 6 **after 2013.**
 7 A. Uh-huh.
 8 **Q. Did the justices or others have access to**
 9 **your office or other offices?**
 10 A. Well, they weren't kept in my office. I'm
 11 not even sure where they were kept in Joan Mullins'
 12 office. She was my executive assistant whose office
 13 adjoined mine. They were in one of those drawers, but
 14 I don't even know where, because --
 15 I never handled those calendars. Those
 16 were her responsibility.
 17 Having worked at the Regional Jail
 18 Authority, I realized the value of administrative
 19 calendars to be referenced for history, lawsuits, all
 20 kinds of reasons you have the official calendar.
 21 Those were the official calendars, and
 22 she was very conscientious about making sure everything
 23 was on it.
 24 Now, I don't know - because it would be

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1 proving a negative - if those six trips were actually
 2 listed on those calendars. I suspect they would have
 3 been. But we'll never know unless the calendars show
 4 up; then I guess we will.
 5 But I have no idea where they are; I
 6 have no idea where she kept them; and I have no idea if
 7 after I left, others would have had access to be able
 8 to take them.
 9 Because I was gone, so I wouldn't have
 10 known.
 11 **Q. Do you know if other copies were kept of**
 12 **those calendars or --**
 13 A. I don't think so.
 14 **Q. -- of those years?**
 15 A. I don't think there were any other copies. I
 16 think it was just the copy of the calendar. They were
 17 paper. There was some discussion about whether they
 18 were paper or electronic. They were just big paper
 19 planner kind of calendars, and you know, with a vinyl
 20 binder and a spiral kind of arrangement.
 21 **Q. So in other words, helping to coordinate the**
 22 **activities and who was going where and what --**
 23 A. Yes.
 24 **Q. -- vehicles --**

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1 A. Right.
 2 **Q. -- or security was needed.**
 3 A. Right.
 4 **Q. Those types of things.**
 5 A. Especially the vehicles. When I wanted a
 6 vehicle, I would just tell Joan I needed a vehicle,
 7 "Call Arthur and see if it's available." There were
 8 two sets of keys kept, actually, in her office, but I
 9 knew where those were.
 10 And like I said, sometimes it was so
 11 spur of the moment that I was needed someplace that I
 12 would just grab them. As often as not, I would just
 13 take my own car. But you know, sometimes I'd take the
 14 State car.
 15 If it was available, I would. If it
 16 wasn't available, I wouldn't think about just taking
 17 mine. And that's how that worked. But -- but she
 18 would then keep track of what was going on on the
 19 calendars.
 20 **Q. Who else had access to her office and those**
 21 **records?**
 22 A. While I was there, it would have been Mary
 23 Greene. I think she generally locked her desk. I
 24 don't know if she locked the other file cabinets or --

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1 or other case goods. But like I said, I don't even
 2 know where she kept the calendars.
 3 I know that a couple of times, I needed
 4 her to get a calendar out so we could figure out what
 5 had happened on a certain day, and she'd - Johnny on
 6 the spot - have the calendar, have the date and we'd
 7 figure it out.
 8 But I have no idea where she took them
 9 after she left my office.
 10 **Q. Do you -- did the justices have access to her**
 11 **office?**
 12 A. Well, her office itself wasn't locked; it's
 13 just that her desk was locked. And I don't know if the
 14 drawer where she kept the calendars was locked or not.
 15 But yeah, anybody who had access to the
 16 Administrative Office would have been able to go in her
 17 office.
 18 So it's a mystery where they went. I
 19 have no idea. The thing that I find especially
 20 interesting is that only '13 through '18 -- through '16
 21 is missing.
 22 2005-2012, they're still available,
 23 according to what I read in the Auditor's report.
 24 **Q. And lastly, you had made the statement that**

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1 you felt Justice Allen Loughry was dishonest.
 2 A. Yes.
 3 **Q. Would you want to expand on that or clarify**
 4 **it or explain it?**
 5 A. When I presented him with the situation as a
 6 law clerk, when he was harassing an employee, he was, I
 7 thought, dishonest. I think he was dishonest in some
 8 other specific points of discussion.
 9 I don't think he told the truth about
 10 my having said that he was young and would learn more
 11 about drug courts. I know I never said that. Maybe
 12 somebody told him that. I don't know. But it wasn't
 13 the truth.
 14 He seemed frequently to be dissembling
 15 in subtle ways. He also presented two very different
 16 sides of himself. If a person in the public would say,
 17 "Justice Loughry," he would always say, "Now, just call
 18 me Allen, I'm just regular Allen."
 19 But he called down a few people who'd
 20 worked with him for years when they said "Allen" - who
 21 were at the Court - and said, "From now on, you'd
 22 better call me 'Justice Loughry,' and you better never
 23 forget it." I found that to be a sort of dishonesty.
 24 I thought his character was -- was --

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1 well, just not suitable for the bench.
 2 That's my opinion. I was asked.
 3 **Q. Thank you.**
 4 DELEGATE OVERINGTON: Thank you,
 5 Mr. Chairman.
 6 CHAIRMAN SHOTT: Delegate Foster.
 7 DELEGATE FOSTER: Thank you.
 8 EXAMINATION
 9 BY DELEGATE FOSTER:
 10 **Q. The first question I have for you is: We --**
 11 **we've talked a lot here today about the original**
 12 **contract of the construction. Whenever you did that,**
 13 **first it was done by Neighborgall, and then the project**
 14 **manager, you said, went to a different company?**
 15 A. Yes.
 16 **Q. And my question there is: When you all**
 17 **switched to this other company, it was originally bid**
 18 **out by -- or originally done by contract -- even you**
 19 **didn't have to, it was bid out, received a contract --**
 20 A. Right.
 21 **Q. -- and then the remainder of the project, the**
 22 **different floors and offices and everything, was done**
 23 **by change order.**
 24 A. That's --

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1 **Q. How's that work whenever it's a change**
 2 **order --**
 3 A. No.
 4 **Q. -- to a separate company or --**
 5 A. Well, I misspoke. I understand where you're
 6 going. When it went to -- I wish I could remember the
 7 name of that company. I just don't remember. I'm
 8 wanting to say Gander Brothers, but that's not right.
 9 But when it went to that company, that
 10 was just a new contract; it was not a change order.
 11 **Q. All right. So there was a new contract.**
 12 A. Right, for them, right.
 13 **Q. And when these were done, obviously when they**
 14 **dug into the walls and stuff, they weren't gonna know**
 15 **what was in there, so they couldn't have -- I mean,**
 16 **would they have been able -- they wouldn't have given**
 17 **you a budget number of "Here's how much it's gonna**
 18 **cost" --**
 19 They would have -- was it done by a
 20 time and like a materials and man hour bid whenever
 21 they came to you and said, "Here, here's how much" --
 22 A. Well, they didn't --
 23 **Q. -- "the materials and man hours" and then it**
 24 **was approved after they were done with the project?**

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1 A. Well, the -- the one that wasn't Neighborgall
 2 was not bid, so there was nothing that had to do with
 3 that. They simply billed for service as they got into
 4 the digging of the walls, etc.
 5 **Q. So it was man hours and materials.**
 6 A. Yes. It was -- as I said, I think, earlier -
 7 if I didn't say this, I should have - it was all
 8 prevailing wage. The law hadn't changed yet about
 9 that. And -- and it was -- yes, I guess it was man
 10 hours/materials and then there was also the architect's
 11 services.
 12 **Q. All right. So all of that would have been --**
 13 **basically you see -- you see the price after it's done**
 14 **and then pay it, pretty much how it would work.**
 15 A. In installments, correct.
 16 **Q. Okay. And then the -- we -- we talked**
 17 **earlier a little bit about Justice Workman, and there**
 18 **were some hire requests.**
 19 A. Uh-huh.
 20 **Q. And my question on those: Were all of those**
 21 **done to you in person or were any of those by e-mail?**
 22 A. No, they were conversations. There was
 23 nothing in e-mail.
 24 **Q. So it was all in --**

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1 A. That I recall. I recall the conversations.
 2 I don't recall any e-mail follow-ups. I may have
 3 e-mailed her back about some details of it, but the
 4 initial conversations were in conversations with her
 5 either live or on the telephone.
 6 **Q. And then whenever the -- and as you discussed**
 7 **in your memo and everything, the \$29,000,000 being**
 8 **spent down over those years, and the discussion was**
 9 **that all the justices agreed that it should be taken**
 10 **down from that -- that amount.**
 11 I'm trying to get the five justices
 12 that would have been on the Court in 2011. Was it
 13 Workman, Davis, Benjamin, Ketchum and -- who would have
 14 been the fifth one?
 15 A. You asked me too fast. It's Workman,
 16 Ketchum, Davis, Benjamin and McHugh.
 17 **Q. McHugh. Okay. And one other thing - and**
 18 **it's in the audit report, the second one on page 5 -**
 19 **and we went over -- I'll let you get there first.**
 20 A. The second audit report. Sorry.
 21 **Q. It's the second audit report on page 5.**
 22 A. Okay.
 23 **Q. And what that is the rental car usage --**
 24 A. Uh-huh.

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1 **Q. -- for -- for yourself?**
 2 A. Yes.
 3 **Q. And I just had a few questions on it. First**
 4 **of all, if you go down through, the round trip mileage**
 5 **airport to hotel, and my --**
 6 A. Right.
 7 **Q. My understanding is how the Auditor separated**
 8 **this out is, hey, well, this is how far he had to get**
 9 **-- drive to get to the conference and back to the**
 10 **hotel.**
 11 A. Right.
 12 **Q. And they subtracted that out and the**
 13 **difference of mileage.**
 14 A. Uh-huh.
 15 **Q. Because they were -- they were making the**
 16 **assumption that anything other than that was additional**
 17 **extra mileage. But on some of them, like for example,**
 18 **down in November 28th to December 3rd, Palm Springs,**
 19 **California --**
 20 A. Yes.
 21 **Q. -- why is the round trip mileage from the**
 22 **airport 481 miles?**
 23 A. It wasn't. It wasn't 481 miles. You know,
 24 when the conference was over, I'd go for drives in the

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1 desert or whatever. The fact is that it was not
 2 charged by the mile; it was charged by the day, at
 3 unlimited mileage.
 4 And also, any further days that were
 5 not conference days, I paid for myself. I prorated all
 6 of those days.
 7 And their point is to say -- I think
 8 they feel there should be a change of policy. But I
 9 think that their point is that clearly I was using the
 10 car for other than just going to the conference and
 11 going back to the airport. Sure, I was. But at no
 12 extra cost to the State.
 13 And I never billed the gas to the State
 14 either. That was out of my pocket. So the -- the
 15 prorating -- there were two mistakes made in the
 16 prorating where -- I heard about in the spring of this
 17 year, and I instantly wrote the check for \$911 and some
 18 cents, when --
 19 I will also freely admit that I had my
 20 Executive Assistant, Mary Greene, take care of the
 21 expenses. And when she did the prorating, she failed
 22 to keep in mind that the weekend days cost more than
 23 the weekday rates, so I hadn't reimbursed enough.
 24 And also then, my bad was that when I

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1 would go to the airport and leave my car, I just turned
 2 that in for reimbursement, the cost of the parking.
 3 And in fact, I should have prorated out the couple of
 4 days that weren't on the Court.
 5 They found that in the audit. I wrote
 6 the \$911.00 check. But I -- in fact, a lot of these
 7 were far more expensive than on this that the State
 8 paid, because I paid the rest. There was no -- there
 9 was nothing improper in this. There was nothing that
 10 wasn't by the book.
 11 If there is a change of policy, well,
 12 that is prospective, not retrospective. And so I -- I
 13 don't know what else I can say except I did my best to
 14 make sure that I separated out the personal use from
 15 the -- from the appropriate State-reimbursement use.
 16 That was it.
 17 **Q. So part of my question is, on the -- that**
 18 **round trip -- so are you saying that those -- there's**
 19 **like 244, 481, 120 miles, 212, and it's like that round**
 20 **trip just seems like a -- it seems like the airport**
 21 **would be a whole lot closer to the conference.**
 22 A. Well, in one --
 23 **Q. Is that --**
 24 A. In only one case was the airport a long way

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1 off from the conference. It -- I got off the plane in
 2 Denver rather than the plane from Denver to Vail. But
 3 in fact, I did a lot of other driving through the
 4 mountains when we had free time, when there was no more
 5 conference going on.
 6 But my participation at the conferences
 7 is legend. I participate in every moment. In fact,
 8 went up the ranks within the National Center for State
 9 Courts, which was why I was the president-elect. I was
 10 very involved.
 11 But when it was over, you did what you
 12 want. And I would take the car then -- because it was
 13 no more cost to the State at all. Just keep in mind,
 14 there was no extra mileage cost. It was unlimited
 15 miles. The cost was per day, not per mile.
 16 **Q. Yeah, and I understand that part.**
 17 A. Good. Thanks.
 18 **Q. But my question's on -- and it seems that**
 19 **these would make a little bit more sense to me if -- so**
 20 **after -- like, for example, the dates -- I believe the**
 21 **dates of the conference, from July 23rd -- the very**
 22 **first one there, for example, July 23rd through July**
 23 **27th --**
 24 A. Yes.

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1 **Q. -- it says that there's 1922 miles? That**
 2 **seems extreme. Is that to say that those 1922 miles,**
 3 **you rented the car --**
 4 A. That was --
 5 **Q. -- further afterwards --**
 6 A. Right.
 7 **Q. -- and you paid for that yourself?**
 8 A. Right, I paid --
 9 **Q. And then those miles were accrued on those**
 10 **days?**
 11 A. I paid for the days; I paid for the gas. And
 12 those were accrued as -- as I went for a drive through
 13 southern Utah and looped around into Wyoming and -- and
 14 then came back to Denver. So --
 15 **Q. So 1900 wasn't put on them --**
 16 A. Not in three days. I --
 17 **Q. I mean, it's --**
 18 A. That would have been a heck of a lot of
 19 driving.
 20 **Q. I mean, it's like six or seven hours a day**
 21 **driving.**
 22 A. Yeah, I know. That would have been
 23 impossible.
 24 **Q. Okay.**

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1 A. It wouldn't have been impossible. It would
 2 have been impossible for me to go to the conference and
 3 do those kind of miles. Those are the total miles, I
 4 guess, is how they did that.
 5 But the point is that I -- I did do my
 6 level best to prorate properly and make sure that there
 7 was no further cost to the State for my personal use.
 8 They found \$911.00 I missed, and I wrote the check.
 9 **Q. Okay.**
 10 DELEGATE FOSTER: All right, thank you.
 11 MR. CANTERBURY: Thank you.
 12 CHAIRMAN SHOTT: Delegate Fast.
 13 DELEGATE FAST: Thank you,
 14 Mr. Chairman.
 15 EXAMINATION
 16 BY DELEGATE FAST:
 17 **Q. Mr. Canterbury, when were you -- you say it**
 18 **was 2005 when you first came on to the Court?**
 19 A. Yes.
 20 **Q. And who hired you?**
 21 A. The Court. There were -- it was four votes
 22 and one not voting.
 23 **Q. And who was the Chief Justice?**
 24 A. Justice Albright.

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1 **Q. You had mentioned early on in your testimony**
 2 **that Justice Davis asked about -- and you used the word**
 3 **"our," "asked about our use of State vehicles," and**
 4 **then you discussed about how you prepared a responsive**
 5 **memorandum, etc.**
 6 As I look at the exhibits here,
 7 Exhibits 4 and 5, those memoranda from Justice Davis
 8 only asked about Justice Loughry, not anyone else.
 9 So was that a correct phrase that you
 10 used or a correct word when you said "She asked about
 11 our use of vehicles," or did she ask about Justice
 12 Loughry's use of vehicles, or did you have other
 13 conversations just with Justice Davis?
 14 A. She asked about the -- I'm afraid that
 15 sometimes I say something about the Court and I say
 16 "our," out of habit. My apologies for that.
 17 What I should have said was that she
 18 asked initially what the Court policy was and how the
 19 Court had used the cars, the State cars, how --
 20 employees of the Court. That was the initial question.
 21 **Q. Well, I see a memorandum to Arthur Angus**
 22 **about Court policies and his response was, "There were**
 23 **no Court policies."**
 24 A. Right.

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1 **Q. But as far as usage of vehicles, she --**
 2 **according to the Exhibits 4 and 5, these two memoranda**
 3 **from Justice Davis directly to you, she seems to hone**
 4 **in specifically and exclusively to Justice Loughry.**
 5 A. That's what it says, you're right.
 6 **Q. Okay. So is it -- I don't want to put words**
 7 **in your mouth, but was she asking about Justice**
 8 **Loughry, or was she asking about all the justices when**
 9 **-- when this issue came up and you had to prepare some**
 10 **response?**
 11 A. Initially, she was asking about how the State
 12 cars were assigned, how they were, you know, scheduled.
 13 She was asking about the process.
 14 Arthur Angus responded. Then as she
 15 looked through that response, of some details -- I
 16 guess started to look through details of uses of cars.
 17 She found that there were a number on the part of
 18 Justice Loughry that were just blanks.
 19 And there were some blanks in some
 20 other cases too but there were just so many blanks in
 21 his case, far more than anyone else.
 22 There were some blanks on my list.
 23 There were some blanks on -- a couple
 24 of blanks, on Justice Workman, I guess. Although I

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1 don't think Justice Workman ever drove a State car
 2 herself. She always had one of the security people
 3 driving it, and so --
 4 Just as with Justice Davis. I don't
 5 think she ever drove a State car herself.
 6 **Q. Okay. Art -- let me -- let me get back to**
 7 **this, if I can. Justice -- so the -- so the memoranda**
 8 **that she -- she made specific questions about Justice**
 9 **Loughry only, and no other justice.**
 10 A. Well, that's what the memorandum of August
 11 25th is preoccupied with.
 12 **Q. Okay. Now, you had mentioned that Justice**
 13 **Ketchum had asked to use a vehicle to commute and the**
 14 **Court said he could. I think those were your words.**
 15 A. Yes.
 16 **Q. "The Court said he could." Is there any**
 17 **documentation of that? Would that have been at some**
 18 **administrative meeting where the Court granted him**
 19 **permission?**
 20 A. It was at the end of the administrative
 21 conference, and I don't think there's a note on there,
 22 but I could be mistaken. You'd have to look at the
 23 administrative conference to see if there was an
 24 addendum. But honestly, I -- I don't think there was.

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1 **Q. Was that some special grant of authority that**
 2 **-- unique to him?**
 3 A. No one else had ever asked, and they'd never
 4 decided it about anybody else.
 5 **Q. Okay. Who was the chief -- in reference to**
 6 **Exhibit 2, there's a memorandum to you from Justice**
 7 **Davis again. At that time, in August of 2016, was it**
 8 **Justice Ketchum who was Chief Justice?**
 9 A. Yes, he was.
 10 **Q. And on Exhibit 38, if you could look at that,**
 11 **that is a memorandum from yourself to all the justices,**
 12 **and you provided some detail as to what Delegate**
 13 **Foster, I believe, had asked you - or one of the**
 14 **previous delegates, Delegate Hollen, I think - about**
 15 **some of the State dollars spent on Justice Davis' meal**
 16 **events.**
 17 A. Yes.
 18 **Q. Where did you get that detail?**
 19 A. From the Finance Office and through,
 20 specifically, Sue Racer-Troy.
 21 **Q. Okay. And so how was that -- I'm just**
 22 **curious. How was that recorded, that \$11,360, how was**
 23 **that -- did Justice Davis turn that in?**
 24 A. No. They were directly billed to the Court.

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1 **Q. Okay.**
 2 A. I think that's what happened. I mean, I
 3 don't recall exactly, but I believe it was all directly
 4 billed to the Court. But again, you'd have to review
 5 the documents. Those documents, though, came out of
 6 the Fiscal Office.
 7 **Q. Okay. And was that wrongdoing? The \$11,360**
 8 **expenditure of State dollars, was that wrong?**
 9 A. I don't think so. Apparently the JIC didn't
 10 think so a few other day -- a few days ago. But
 11 wrongdoing, I guess that's what your guys -- you guys
 12 are deciding.
 13 **Q. Okay, gotcha on that. The -- you had**
 14 **mentioned that there were some blanks in some of the**
 15 **documents as far as car usage -- and I'm sorry for**
 16 **jumping around here. And you said there were blanks on**
 17 **yours. And I'm looking at -- I think it's Exhibit 7 --**
 18 **actually, 8. Exhibit 8. It's a spreadsheet there.**
 19 A. Yes.
 20 **Q. And there's some highlighting, all the**
 21 **blanks. Is that what you were referring to?**
 22 A. Yeah, the six that I couldn't -- I think
 23 there were six that I could never determine where --
 24 excuse me, where they went -- where they -- where I

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1 took the car.

2 **Q. Okay.**

3 A. So that's when I suggested to the Auditor's

4 Office that they might be able to find out if they

5 looked at the official calendars, and that's when I

6 learned that the calendars weren't there.

7 **Q. The previous Exhibit 6 -- 7 --**

8 A. Yes.

9 **Q. -- and it has its own attachment Exhibit 1.**

10 **Now, do you see that attachment to Exhibit 7?**

11 A. Yes, I see it.

12 **Q. Okay, the yellow --**

13 A. Reservation Chart.

14 **Q. The yellow areas, I believe, were corrections**

15 **or additions made after the fact by Justice Davis where**

16 **she filled in a bunch of information that was not**

17 **previously on the record.**

18 A. I don't know.

19 **Q. Okay.**

20 A. That's after my time, so I don't know.

21 **Q. Assuming that the yellow parts were filled in**

22 **after the fact, after she was questioned about it,**

23 **wouldn't there be a lot of blanks in her record as**

24 **well?**

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1 **If one were to look at it before all**

2 **these additions were made, there would be a lot of**

3 **blank spaces in her record as well, correct?**

4 A. Yes.

5 **Q. The 3-2 vote where you came out and made the**

6 **announcement that "Don't ask justices to put a**

7 **destination on their vehicle usage," where did that**

8 **vote take place?**

9 A. In administrative conference in either late

10 August or early September.

11 **Q. And when was that, what year?**

12 A. Oh. 2016, I'm sorry.

13 **Q. Okay. The couch. Not the -- the new couch,**

14 **but the one that was in -- was Justice Albright's couch**

15 **earlier. I assume you knew Justice Albright quite**

16 **well, as -- having worked under him?**

17 A. I wouldn't say that I knew him well, but I

18 knew him professionally.

19 **Q. Did you know that that was his couch at one**

20 **time?**

21 A. I did not. I thought it was State property.

22 **Q. Okay. To this day, do you know who owned**

23 **that couch when it left this premises?**

24 A. Well, I learned later that it was Justice

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1 Albright's, I guess. But he left -- they left it

2 behind. When -- after Justice Albright died, his wife

3 and son came to collect his things.

4 I met with them for a little while, and

5 then I left them in the able hands of Fletch Adkins.

6 They never mentioned the couch.

7 **Q. Assuming that was Justice Albright's couch**

8 **and the family left it, then -- then it still was not**

9 **State property; it was just left.**

10 A. Well, I've sat -- I've heard there's State

11 Code that says if things are left behind, it reverts to

12 the State. But I'm not a lawyer. You are. You could

13 probably find out if that's true or not.

14 **Q. And do you know, as far as that couch and it**

15 **being moved to Justice Loughry's house, was that a**

16 **violation of any policy?**

17 A. I -- there was no policy about home office,

18 so it couldn't be a violation of a home office policy.

19 There was none.

20 The taking of a couch could be viewed

21 as taking State property if indeed it became State

22 property after it reverted from Albright. Because

23 after all, it was used by McHugh in McHugh's office for

24 years after Albright, so it had been put to State use

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1 for some time.

2 So again, I think that that's a

3 question you can ask a lawyer, prosecutor, and not me.

4 **Q. Okay. About home offices, are you con -- are**

5 **you confirming that there was no policy regarding home**

6 **offices?**

7 A. That's right.

8 **Q. So computer, one, or another computer, still**

9 **no policy?**

10 A. That's what I said. The technology got ahead

11 of policy.

12 **Q. The same if they had a printer or not, same**

13 **thing?**

14 A. Correct.

15 **Q. If they had pencils from the Court, pap -- a**

16 **ream of paper from the Court, still no policy? Is that**

17 **correct?**

18 A. That's right.

19 **Q. And even if there were items of furniture,**

20 **desks, still no policy.**

21 A. No policy about an abstract desk. There is

22 Code that prevents the Cass Gilbert desk.

23 **Q. I'm familiar with that Code.**

24 A. Okay.

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1 **Q. Okay. As far as renovations, you had**
 2 **mentioned that Justice Loughry was involved daily and**
 3 **that he had issued multiple e-mails. Were any other**
 4 **justices involved to the point of sending and receiving**
 5 **e-mails as -- just keeping up with what was going on in**
 6 **their office renovations?**
 7 A. Yes. But a fraction --
 8 **Q. Who were they, first?**
 9 A. -- a fraction of what he sent.
 10 **Q. Who were they?**
 11 A. Well, Justice Workman was a little more
 12 involved with hers.
 13 Justice Benjamin somewhat.
 14 Justice Ketchum, much less so. He
 15 pretty much handed it over. He had made his thoughts
 16 clear and handed it over to the designers.
 17 Justice Davis, virtually not at all.
 18 She had some furniture that she wanted in there. She
 19 just wanted it to be modern and trusted the designers.
 20 In fact, she was gone for a few months, came back and
 21 just saw what had been wrought and she seemed to be
 22 happy.
 23 **Q. So it's a matter of degree.**
 24 A. That's right.

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1 **Q. As far as the other justices, were they aware**
 2 **of the costs of -- I think maybe you'd mentioned the**
 3 **floor -- the floor lighting and -- and some other**
 4 **flooring.**
 5 A. They all got copies of the -- the costs of
 6 the renovation, and then there was some discussions
 7 about some specific furniture items.
 8 **Q. And you've seen several justices come and go.**
 9 **Was it customary for each justice, new justice, to**
 10 **renovate their office to some degree?**
 11 A. No, not -- well, it's just a matter of -- of
 12 the timing as well as the personality. We realized
 13 there were some really serious structural things that
 14 needed to be corrected, and then there was -- there
 15 were some new justices coming along about that time.
 16 You had Justice Workman coming back;
 17 you had Justice Ketchum coming along. Justice Benjamin
 18 had been there for some time and there had been no
 19 renovation.
 20 Justice Davis had been there since '96
 21 and had not spent much of anything at all. I don't
 22 know. I don't remember. Maybe there had been some
 23 spending before I got there. After I got there, there
 24 wasn't anything spent by her.

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1 So no, it wasn't like a new justice
 2 came -- and like I said, Justice McHugh wouldn't --
 3 abso -- he didn't care. He just inherited the office
 4 and was happy to do what he did.
 5 But -- so I guess it's a matter of
 6 personality and then timing. The timing was such --
 7 **Q. So was it --**
 8 A. -- that we needed to do some structural
 9 things.
 10 **Q. -- the final product more of the personal**
 11 **tastes of the justice?**
 12 A. Yes. All of those offices reflect their
 13 personal taste.
 14 **Q. Okay. As far as framing, who paid for the**
 15 **framing?**
 16 A. The State paid for the framing.
 17 **Q. And you're sure of that.**
 18 A. I'm positive the Court paid for the framing.
 19 There are invoices that show as much.
 20 **Q. And all of these particular framed items that**
 21 **you mentioned, you're positive that each and every one**
 22 **was paid for by the State?**
 23 A. The ones I mentioned, they were paid for by
 24 the State.

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1 **Q. Even the one where they got married?**
 2 A. Yes.
 3 **Q. Okay.**
 4 A. If it turned out he paid it back, I'm not
 5 aware of that. But the State paid at least the
 6 initial --
 7 **Q. Okay.**
 8 A. -- the initial invoice.
 9 **Q. Did you keep -- have anything to do with the**
 10 **individual justices' schedules on noncourt -- or**
 11 **out-of-court events?**
 12 A. No.
 13 **Q. Okay. So if Justice Workman was gonna go**
 14 **speak at a graduation ceremony, that was her deal.**
 15 A. That's right.
 16 **Q. Okay. The same with Justice Davis or Justice**
 17 **Loughry or Ketchum. That was their deal. Now, did**
 18 **they -- do you know, maybe just from being there. Did**
 19 **they often go to multiple events out of the court, like**
 20 **civics classes, graduation ceremonies, things of that**
 21 **nature, community type events?**
 22 A. Some justices more; some justices less.
 23 **Q. So that was not a --**
 24 A. The most traveling justice was Justice

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1 Benjamin, who never missed a drug court graduation and
2 showed up for all manner of things.
3 Other justices were less interested in
4 -- in doing the work out in the field, as it was
5 called, the rest of the state. It just depended on the
6 individual justice's temperament.
7 **Q. Okay. Now, you had mentioned that -- and I**
8 **-- and I want to get as specific as I can.**
9 **-- that Justice Workman had asked you**
10 **to do some personal things, personal tasks. Correct?**
11 A. Correct.
12 **Q. Okay. And am I correct that you said some of**
13 **these were during work time, normal work time, and some**
14 **were not?**
15 A. Well, the "ask" sometimes was in the Capitol,
16 but the favors were not about doing things on work
17 time. They were about things that were on off time,
18 just that she might have asked while we were meeting
19 about something else, she'd take me to the side and ask
20 something.
21 Usually they came in forms of phone
22 calls at night, often late at night. But one or two
23 times, she asked me to do something while she was at
24 the Court. But they were not things that I took care

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1 of at the Court. They were taken care of afterwards.
2 **Q. Were --**
3 A. Although -- although, you know, I mean, I
4 could have taken a break and done some of that stuff,
5 but you know, it's just not how it worked out.
6 **Q. Were -- so you didn't do any of these favors**
7 **during court time.**
8 A. During my work time?
9 **Q. Yeah.**
10 A. No. But you know, my work time, I worked
11 ten-hour days and more --
12 **Q. But you had established hours, didn't you?**
13 A. No, I did not. I worked all the time. I was
14 always available. I was at the court early; I left
15 late.
16 **Q. What were the court hours?**
17 A. Court hours were -- the 8:00 to --
18 8:00 o'clock till 5:00 o'clock, and then some employees
19 worked 9:00 to 5:00, some worked 8:00 to 4:00. There
20 were a few who had special interest needs, to work 7:00
21 to 3:00. We had flex time in summer when people had
22 babysitting kind of issues and we'd work out different
23 schedules with them.
24 But mine were all the time. I mean,

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1 even my detractors will tell you, I'm a very hard
2 working guy and I worked all the time.
3 **Q. So you didn't do any of these favors before**
4 **5:00 p.m. on a work day?**
5 A. Not that I recall.
6 **Q. Not that you recall. You had mentioned on**
7 **the travel trip to North Carolina, the conference or**
8 **whatever, you, Justice Ketchum and Justice Loughry**
9 **went --**
10 A. Yes.
11 **Q. -- and you mentioned -- and I noticed this on**
12 **-- on both times you were asked about that.**
13 **-- that on that Friday, he was "nowhere**
14 **to be found." And I believe those are your exact**
15 **words.**
16 A. Yes, I said that.
17 **Q. Okay. Now, can you state with certainty**
18 **under oath that he wasn't there, or you just didn't see**
19 **him?**
20 A. I didn't see him.
21 **Q. Okay. So he could have been there; you just**
22 **didn't see him. You're not sure.**
23 A. No. I said I didn't see him, and I don't
24 think he could have been there, because it just wasn't

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1 that big of a room. There weren't that many people
2 there. But I can only say under the oath -- under oath
3 that I did not see him.
4 **Q. Okay. You had mentioned about Justice**
5 **Workman had asked you to hire a couple -- I think four**
6 **different people?**
7 A. Contract one; hire three. Yes.
8 **Q. Pardon me?**
9 A. Contract one --
10 **Q. -- hire three.**
11 A. Yes.
12 **Q. And when was this that she had asked you to**
13 **do that?**
14 A. After she was elected in 2008.
15 **Q. Early on?**
16 A. Early on.
17 **Q. Okay. Were any of these people campaign --**
18 **if you know, campaign supporters of hers?**
19 A. She told me they'd all worked in her campaign
20 in some capacity or another. I think volunteering. I
21 don't think they were paid campaign people.
22 **Q. Do you know if any of them contributed money**
23 **towards her campaign?**
24 A. I don't know.

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1 Q. And you had mentioned - and again, I don't
2 want to put words in your mouth - there was a
3 receptionist; there was an administrative assistant;
4 there was another person, and I think you said that you
5 had an extraordinary relationship with?
 6 A. Yes, that was the Director of Magistrate
 7 Services, Janie Moore.
8 Q. Okay. And what kind of a relationship did
9 you have with this person?
 10 A. Well, as I said, I had met her in 1999 or
 11 1998 when we were -- I was at the Regional Jail
 12 Authority and we were putting in the remote arraignment
 13 system. We needed some magistrate to volunteer to be
 14 the first one to use it. She volunteered. I met her
 15 then.
 16 She appeared in Fortune magazine, as
 17 did I, as a result of that. I got to know her pretty
 18 well during those years. By phone. I never actually
 19 met her until years later. But we were talking quite
 20 often on the phone about this project. It was a very
 21 important project, one of the proudest projects of my
 22 career.
 23 But anyway, that's when I got to know
 24 her.

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1 Q. Was this a strictly professional
2 relationship?
 3 A. Yes, of course.
4 Q. Okay, that's fine. And you had mentioned
5 that a son -- someone's son was hired as an intern?
 6 A. Yes, one of the employees, a fiscal clerk's
 7 son, was hired as an intern.
8 Q. Okay. And is there any anti-nepotism policy
9 of the Supreme Court?
 10 A. There really isn't. We have people who are
 11 there who are husbands and wives; we have people who
 12 are -- I've had several interns who are the sons of --
 13 any daughters? Maybe a daughter.
 14 -- of people who work at the Court.
 15 These are two-month, you know, internships.
16 Q. As far as -- I -- the Supreme Court budget,
17 you had mentioned you have a hundred and - what - forty
18 some million dollar budget that the legislature
19 appropriates.
20 Can you explain for me how that is
21 broken down and how that relates down to these
22 renovation projects, and -- so you've got this large
23 pool of money. How does it get broken down?
 24 A. Well, there's personal services, there's -- I

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1 mean, it's the usual budget in government. There's
 2 nothing special about ours. But there are improvements
 3 and renovations. And that, of course, wasn't just for
 4 the Capitol.
 5 There were some renovations that needed
 6 to be done and furniture bought for magistrate courts
 7 around the state. New judicial annexes would be built
 8 and it would be our responsibility to do some part of
 9 the magistrate and family court offices.
 10 So there's that category. There are
 11 various lines in the budget that are broken down. You
 12 can just get a copy of the budget and you can see how
 13 --
14 Q. And --
 15 A. -- it's broken down. Without one in front of
 16 me, I'd hesitate to start just rattling off what the
 17 lines are.
18 Q. Is this broken down at the beginning of the
19 fiscal year, or is it we'll itemize certain things and
20 then we'll see what comes up and use the rest of it as
21 we need it? Or how --
 22 A. No, it was broken down at the beginning of
 23 the fiscal year.
24 Q. And so these --

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1 A. Well, it's actually broken down a year before
 2 -- or 16 months before the beginning of the fiscal
 3 year, because you're doing it so far ahead.
4 Q. So the renovation projects, they were
5 preplanned fiscally.
 6 A. Yes, although there were some things that
 7 came up that we did not anticipate and one year
 8 especially, it went over the budget that we had
 9 essentially established earlier.
10 Q. Now, we had some prior testimony about the
11 extensive needs that it took to renovate the justice
12 offices, and someone said - and I thought they were
13 referring to all the offices - but they pretty much had
14 to be gutted down to the walls --
 15 A. Right.
16 Q. -- to -- and then go from there.
 17 A. Right.
18 Q. Is that true?
 19 A. It's true. But what you found when you
 20 gutted them to the walls was a different kettle of fish
 21 in the various offices. Some offices had -- had wiring
 22 sometimes since the 1920s. At least it was wiring that
 23 could be piggybacked on, from my understanding of how
 24 this worked.

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1 Other, you just had to pull all new
2 wire, as an example.
3 **Q. Now, Justice Loughry's office, if you know,**
4 **did it have to be rewired?**
5 A. No, I don't think it had to be rewired
6 entirely. It had had a lot of work done previously.
7 But there had to be a lot of infor -- the information
8 line had to be pulled.
9 There was also some other structural
10 matters handled. I'd have to see the documents to be
11 able to give you --
12 **Q. Do you know if it had to have new plumbing?**
13 A. I think there were some plumbing issues in
14 his bathroom. But his office is right next to the
15 center of the building, and all of that goes back to
16 the center of the building in these old style
17 constructions, and so his is the closest to the center,
18 so the plumbing would have been much less of a -- of a
19 cost and a problem than one that goes to the very end
20 of the building where Benjamin's and Davis' offices
21 were.
22 **Q. How about HVAC?**
23 A. Yeah, all of them had to have HVAC work, all
24 of them.

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1 **Q. Okay. Now, someone told us - as far as**
2 **expense-wise for these offices - that Justice Davis'**
3 **would have been the most expensive; Justice Benjamin's**
4 **would have been the least; and Justice Loughry's would**
5 **have been somewhere in the middle.**
6 A. I don't think that's exactly right. I think
7 Workman's was actually -- I don't remember. I
8 shouldn't say that. But Benjamin's was less than the
9 other two, yes. Workman's was less than the other two.
10 And Ketchum's was less than the other two.
11 **Q. And how about Loughry's?**
12 A. Loughry's was second most expensive, as I
13 recall.
14 **Q. And who was the most? Workman or --**
15 A. Davis.
16 **Q. -- Davis? Davis' was, you're sure?**
17 A. Yes.
18 **Q. Okay. And Diagram 39, Exhibit 39, the**
19 **diagram --**
20 A. Yes.
21 **Q. -- I noticed quite a lot of language on**
22 **Diagram 39. Right in the middle, "I am open to**
23 **suggestions," up at the top left.**
24 A. Yes, right.

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1 **Q. "Maybe legal-size drawer and sort of top**
2 **middle. Maybe this is a legal-size filing drawer."**
3 **Over on the middle right: "This could be a single**
4 **chair." Goes on to say there "Whatever works."**
5 **Bottom right: "Maybe open wall there."**
6 **And then down in the bottom middle: "Similar to**
7 **Workman and Ketchum." All these maybes and -- who is**
8 **he asking suggestions for?**
9 A. The designer.
10 **Q. Okay. And so was he not being absolutely**
11 **specifically direct or --**
12 A. Well, he got much more specifically
13 interested in what he maybe wanted at the beginning.
14 **Q. Okay. And in that, is -- is there anything**
15 **-- is there anything illegal about that, him being**
16 **direct and specific about how to renovate the office?**
17 A. Not a thing.
18 **Q. Okay. And as far as his car usage, are you**
19 **aware of any violation of any policy or law of his car**
20 **usage?**
21 A. Only what I've read.
22 **Q. What, in the paper?**
23 A. I didn't -- I didn't know at the time.
24 **Q. Okay. Just what you're --**

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1 A. The --
2 **Q. -- reading in the newspapers?**
3 A. Well, as I said earlier, there was a general
4 discussion amongst several employees that he so often
5 seemed to check the car out on -- on Thursday or Friday
6 for weekends.
7 And there was a lot of discussion about
8 what possible Court business there could be or what
9 other kind of business there could be with him taking
10 it so frequently then.
11 There was also a lot of discussion
12 about why he had it for those blocks of time in Dec --
13 in two or three Decembers, if memory serves.
14 **Q. I'm glad you brought that up.**
15 A. But I -- but I had no specific knowledge of
16 what he did with the cars.
17 **Q. Okay. Did -- are you aware, did anyone --**
18 **has anyone been able to nail it down through**
19 **investigation to find out, was he using the car on all**
20 **of those days? Did he go to an event sometime during**
21 **the weekend that would necessitate a car?**
22 **I mean, are you aware of any solid**
23 **concrete evidence as to whether he was doing right or**
24 **wrong on these weekends in December?**

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1 A. I am aware that there were examinations of
2 the gas card usage and where those places were when he
3 used the gas card. Those places suggest personal use
4 because they were in places like Tucker County, Morgan
5 County, where he's from and where his wife is from.
6 There were other suggestions by the
7 analysis of the E-Z Pass that he was taking the car to
8 book signings at the Greenbrier. But I've learned this
9 from reading the indictment that the Feds put together
10 as well as information that I've gotten through media
11 sources.
12 **Q. Okay.**
13 A. I myself did not do any of that examination.
14 It was after my time.
15 **Q. Okay. While you were at the Court and seeing**
16 **these things, did you -- did anyone start logging miles**
17 **of his cars or --**
18 A. Well, not to my knowledge. But I've heard
19 the testimony you heard, so apparently somebody was,
20 but not me.
21 **Q. Okay. Last question, I think. The missing**
22 **calendar.**
23 A. Yes.
24 **Q. Missing calendars.**

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1 A. Yes.
2 **Q. -- that came up missing after you left.**
3 A. Right.
4 **Q. I think the memo stated - by Judge Johnson,**
5 **your successor - that he had the calendars and they**
6 **disappeared. What would these calendars tell us, if we**
7 **found them?**
8 A. Well, they'd tell us where and -- I went, who
9 came to my office, what kinds of appointments I had,
10 what the nature of those were.
11 I mean, I never actually looked through
12 the calendars. I would ask her for information, once
13 or twice - very rarely - about something: "Could you
14 tell me what happened on" such and such a date, you
15 know, a couple months back or whatever because
16 something's come up that would make me want to know
17 that.
18 And I don't even remember the specifics
19 of that; they were just in passing.
20 But she'd always be able to tell, she
21 always -- she seemed to keep very complete and very
22 clear calendars. I never had a single entry in a
23 calendar myself --
24 **Q. So --**

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1 A. -- because they were kept by her.
2 **Q. -- it would have been information about you**
3 **and you only --**
4 A. Yes.
5 **Q. -- not any of the justices.**
6 A. No, just me, absolutely just about me. But
7 you know, she was very specific. Whenever I went
8 upstairs to the third floor to talk to a justice, I got
9 the impression she would write that down because of my
10 activities.
11 But again, I didn't examine the
12 calendars, so she may not have written it down. I
13 don't know.
14 DELEGATE FAST: Thank you. Thank you,
15 Mr. Chairman.
16 CHAIRMAN SHOTT: Delegate Hanshaw.
17 Delegate Fleischauer.
18 MINORITY CHAIR FLEISCHAUER: Thank you,
19 Mr. Chairman.
20 And thank you, Mr. Canterbury, for
21 being here today.
22 MR. CANTERBURY: Sure.
23 EXAMINATION
24 BY MINORITY CHAIR FLEISCHAUER:

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1 **Q. I'd like to go over some questions from that**
2 **November 7th, 2016 memo that you did which was, I**
3 **believe, attached to one of the audits, probably No. 3.**
4 A. Yes.
5 **Q. Because I'm a little bit confused about some**
6 **things. The gentleman from Putnam asked you who was on**
7 **the Court -- I guess what I would like to know is a**
8 **couple of things.**
9 **This is sort of a chronology and I'm**
10 **just -- we have all of these documents that are all**
11 **different, talking about different things, and I'd sort**
12 **of like to get a better sense of the chronology in my**
13 **head.**
14 **So he was -- you had indicated that**
15 **Workman, Ketchum, Davis, Benjamin and McHugh were there**
16 **in 2011.**
17 A. Yes.
18 **Q. Okay. And then -- and who was chief justice**
19 **then? If you can remember.**
20 A. I don't remember. I could maybe figure it
21 out but I don't remember.
22 **Q. You might figure it out as we go along. It**
23 **might come back to you.**
24 A. Perhaps.

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1 **Q. But in 2012, was there -- when was the next**
2 election?
3 A. 2012 was the election of two members of the
4 Court: It was Justice Loughry and Justice Davis.
5 **Q. Okay, so Loughry and Davis. Davis was**
6 reelected.
7 A. Correct.
8 **Q. And Benjamin left. So Loughry and Davis --**
9 or Loughry came on that year, and Davis stayed.
10 A. Correct.
11 **Q. And -- and do you know who was the chief that**
12 year?
13 A. No, Loughry did not come on that year. Two
14 thousand -- yeah, I'm sorry, Loughry and Davis, right.
15 **Q. Right. But he'd been there for 11 years as**
16 clerk.
17 A. Right, exactly, yes.
18 **Q. So then in 2013, that stayed the same. So it**
19 would have been Workman, Ketchum, Davis, McHugh -- no.
20 A. No, Loughry.
21 **Q. -- Loughry --**
22 A. -- Benjamin.
23 **Q. One, two, three, four -- and Ketchum.**
24 A. Ketchum, Benjamin. I don't know which one

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1 you said.
2 **Q. And then he -- and you don't know who was**
3 chief in 2013?
4 A. No. I could try to remember, but I don't
5 remember off the top of my head.
6 **Q. Okay. And '14 would have also been the same,**
7 right?
8 A. Yes.
9 **Q. And then -- and that's all the farther you**
10 went. Okay.
11 **Can you remind me when the change came**
12 for the law clerks? Was that when --
13 A. Yes. That happened in -- sometime in late
14 winter, I think, of -- may have been spring. But
15 winter or spring of 2013.
16 **Q. Okay. So -- okay. And prior to that time,**
17 all the justices could pick two.
18 A. Yes.
19 **Q. And no one had any oversight of that, right?**
20 A. That's right, entirely their choice.
21 **Q. And how much did the law clerks make?**
22 A. The law clerks could make, when I left -- I
23 don't know what it was in 2011, because they did raise
24 it a few times. They could make up to \$120,000. And

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1 some justices paid the max to all of their law clerks.
2 **Q. Uh-huh.**
3 A. Other justices did not; they paid
4 commensurate with experience.
5 Justice Benjamin never paid the max to
6 all of his law clerks.
7 Justice Davis did not. She may be now,
8 but she didn't when I was there.
9 But Justice Ketchum and Justice Loughry
10 paid the max.
11 And I don't remember Justice Workman.
12 **Q. Okay. So in 2013, in the winter, that policy**
13 changed, so each of the justices had total authority to
14 hire whichever clerks they wanted, and I think you said
15 that Justice Walker, when she came in in 2016 --
16 A. Right.
17 **Q. -- she would have been able to hire four.**
18 A. That's right.
19 **Q. And did she inherit any, or did she fire four**
20 new -- I mean, hire four new ones?
21 A. I think she kept -- she came in in '17 and I
22 went out. But my understanding is she kept one of
23 Justice Benjamin's clerks and hired three new.
24 **Q. Okay. And if any of the justices had had any**

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1 **of these clerks working as a volunteer in their**
2 campaigns --
3 A. Yes.
4 **Q. -- that -- there was no -- they had -- there**
5 was no policy against that.
6 A. No, there was no policy against it.
7 **Q. Are you aware whether any of them might have**
8 had help from people that later became their clerks?
9 A. I'm pretty sure that that didn't happen.
10 Well, no, I don't know. Let me just
11 say I don't know.
12 **Q. So we could have had a whole lot of people**
13 who would have gotten really good jobs who may have
14 worked on campaigns.
15 A. That's true.
16 **Q. And I assume you've heard within the**
17 legislature and within the Executive Branch that it's
18 not unusual for -- and other -- the Executive Branch,
19 more broadly speaking, because we have the Governor, we
20 have the Treasurer's Office, the Secretary of State and
21 the Attorney General, that I've certainly heard of
22 people who worked on campaigns and then received jobs.
23 **You've heard of that too.**
24 A. Sure. That's a tried and true practice.

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1 **Q. That's not really very unusual.**
 2 A. Not at all.
 3 **Q. Okay. And you mentioned this incident where**
 4 **you counseled Justice Loughry. I think you said it was**
 5 **sexually harassing. Would you -- would you**
 6 **characterize -- it was statements, correct?**
 7 A. It was all verbal, yes.
 8 **Q. And would you characterize that in any**
 9 **particular way?**
 10 A. It made her very uncomfortable. It was about
 11 her body and it was -- embarrassed her, made her feel
 12 just really bad. She didn't want that to happen
 13 anymore.
 14 I, naturally, immediately said that
 15 "The EEOC should be notified, you need to go through
 16 that." She didn't want to.
 17 **Q. Would you say it was crude, vulgar, any of**
 18 **those words?**
 19 A. Yes.
 20 **Q. Now, I think you said that that was one of**
 21 **the statements that you thought was untruthful. Did he**
 22 **deny that he had made those statements?**
 23 A. Yes.
 24 **Q. And do you think that he was unhappy about**

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1 **you raising that issue with him?**
 2 A. Well, I think he was at the time. Yet
 3 afterwards, he seemed to be able to interact with me
 4 without any problems when he was a law clerk.
 5 **Q. Uh-huh.**
 6 A. But that could have been the beginning of
 7 his --
 8 **Q. But you supervised him.**
 9 A. No. No, I had --
 10 **Q. I mean -- well, I mean, you were higher than**
 11 **he was.**
 12 A. I was just -- no, that's like -- you know, I
 13 was in a different country.
 14 **Q. Right, I know, I know. But you had a**
 15 **position --**
 16 A. Well, a lot of people would say the law
 17 clerks are actually much, much more important than
 18 anybody, including me in the Administrative Office.
 19 **Q. Okay.**
 20 A. So no, I would never characterize that I had
 21 any supervisory authority or superiority to him in any
 22 way.
 23 **Q. But you had the authority to talk to him**
 24 **about the --**

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1 A. I did have the authority to talk to him
 2 because it was my employee. But mainly I had the
 3 authority to tell his boss, which I did.
 4 **Q. Okay.**
 5 A. Which I regret that we won't be able to get
 6 testimony.
 7 **Q. Well, we've heard some testimony about him,**
 8 **about his personality, about his not speaking to people**
 9 **- not just you - for months at a time. Do you think**
 10 **it's possible that he resented the fact that you spoke**
 11 **to him and held that against you?**
 12 A. Well, yes.
 13 **Q. Okay. Lots of us have read things in the**
 14 **paper and heard things. One of the things I heard was**
 15 **that Justice Loughry was responsible for firing 60**
 16 **people. Do -- would you have any knowledge -- and you**
 17 **said it was a large number.**
 18 A. Yes.
 19 **Q. Do you think -- and some of the people that**
 20 **were gotten rid of -- and I don't know if this was a**
 21 **decision of all the Court, but the -- the -- all of the**
 22 **programmers, I was told, had gotten fired and all of**
 23 **the -- I'm blanking on the name for the people that**
 24 **check up on sexual offenders. The probation officers.**

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1 A. The probation officers, he did fire all of
 2 those, yeah. Well, I think all but eight. I think
 3 they created jobs for eight. But of the 35 or 37 or
 4 so, eight were left and the rest were gone.
 5 **Q. Well, what happened to that duty, that job**
 6 **duty?**
 7 A. Well, my understanding is that they simply
 8 eliminated the sex offender unit and decided that the
 9 judges' probation officers would just take over that
 10 job.
 11 **Q. Well, hadn't that originally been done by a**
 12 **probation office --**
 13 A. Yes, it had --
 14 **Q. -- officers?**
 15 A. And the legislature --
 16 **Q. And then the Court created a special unit.**
 17 A. Well, first, the legislature requested the
 18 Court do that. It's one of those, the Court may, but
 19 the legislature decided --
 20 **Q. Oh, okay.**
 21 A. -- it needed to happen because --
 22 **Q. And do you remember when that was?**
 23 A. Hmm. Sometime before 2008, because Justice
 24 Maynard was still on the Court. It was when now Judge

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1 Webster was chair of this very Committee. So whenever
2 that year was is when it happened.

3 Q. So the Court was strongly encouraged to --

4 A. Strongly encouraged. And the Court didn't
5 like it. So we had an extraordinary meeting with
6 leaders from the legislature and the justices to
7 suggest that that shouldn't be a job handed to
8 probation; it should be a job handed to parole.

9 Because this was primarily for sex
10 offenders post-incarceration extended supervision,
11 because it's rare a sex offender gets probation.

12 So that specifically seemed more of a
13 job for parole, but they were absolutely firm it was
14 going to go to probation. And so that's when we began
15 the unit. But we didn't have instantly need for 30
16 some, because we didn't have these people coming out of
17 prison instantly. But as they came out, we had to add
18 more and more people.

19 Some of the higher employment costs
20 from this \$29,000,000 were the additional probation
21 officers for that unit.

22 Q. So that --

23 A. We'd gotten up to about 36 units -- 36
24 probation officers.

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1 Q. Are you saying that part of the expenses that
2 were absorbed were for these employees?

3 A. Yes.

4 Q. Okay. And would there be an advantage of
5 having a state-wide group as opposed to a local group
6 because sex offenders sometimes move around?

7 A. Well, that's not the primary reason, to be
8 perfectly honest. The real reason was a way to try to
9 organize this so that we could get sex offenders
10 organized in regions and have probation officers in
11 regions, because we didn't feel there was a need to
12 have one per county --

13 Q. Okay.

14 A. -- or one per circuit.

15 Q. Uh-huh.

16 A. There just wasn't that kind of a number --

17 Q. So it's a smaller number than 55.

18 A. It's a smaller number. Also, there's very
19 special training that goes into supervising these
20 offenders. They're extremely seductive, and they're
21 very different from the typical offender.

22 Frankly, I think probably 85 percent of
23 them don't need it, but that 15 percent's a scary
24 bunch. And that's what these people, these probation

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1 officers, were focused on, yes.

2 Q. And --

3 A. But they were -- they were fired.

4 Q. They were all gotten rid of.

5 A. All but eight, all but eight.

6 Q. And how many -- and are you clear on who is
7 doing this now?

8 A. Well, only from reports from other probation
9 officers that I -- whom I happen to know. But it's
10 been digested by the Court. And I think that Justice
11 Loughry had said some things about that as well -
12 perhaps in his Finance statement, perhaps otherwise -
13 that that jobs -- those jobs were being done for less
14 expense around the state under the judges' watch.

15 Q. Okay. So the programmers, can you tell me
16 what they did and why they were dismissed and about
17 when that might have happened in this chronology?

18 A. I'm not sure about them. The tech folks,
19 there were a number of contractors, and I think they
20 simply dissolved their contract. We didn't want to
21 hire a lot of people for the building of a system.
22 Once the system is built, they'd have jobs; we'd really
23 not have much need for them.

24 So they were contracted or they were

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1 temp employees, depending on the nature of their job.

2 And I know that a lot of people in the
3 field who were doing the scanning work for e-filing
4 were let go, and -- but a lot of those, as I said, were
5 temps or -- or they were -- they were contracted.

6 I think the entire probation office -
7 the director, the deputy director, the secretary, the
8 counsel, all of the drug court people - they're all
9 gone. All those people who were there in '16 and who
10 did extraordinary jobs have been lost to State
11 government.

12 Q. So do you know if the 60 figure -- 60 figure
13 is close or in the range?

14 A. I think that that figure probably includes
15 people who felt that the atmosphere was such that they
16 had to leave. I don't know if all those people were
17 fired. And also, I don't know how many of those people
18 were technically contractors.

19 Q. And it sounds like you think that the -- some
20 of the programmers, maybe their job was done?

21 A. Well, not if they had to do with e-filing.
22 There is no full e-filing system in West Virginia, so
23 they weren't done. But it is true that the Unified
24 Judicial Application Information System for the

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1 magistrate courts is complete.
 2 And why the public portal is not open,
 3 I can't answer that; that's after I left. But it is
 4 complete. And so those folks weren't necessary
 5 anymore.
 6 **Q. Okay.**
 7 A. All of that scanning had been done, all --
 8 **Q. Can you talk a little bit more about the**
 9 **Unified Judicial -- what's the A stand for?**
 10 A. Application.
 11 **Q. Application.**
 12 A. It's a mouthful.
 13 **Q. And what does "Application" mean when you're**
 14 **talking about the UJA?**
 15 A. Well, it means "applied data." It's just an
 16 information system, and it was to join all of the
 17 magistrate courts into a single system so that anybody
 18 in the State could go to any computer, get on and be
 19 able to see - in any magistrate court - what they
 20 needed to see, whatever is public.
 21 **Q. Okay. And I think you explained about how**
 22 **the domestic violence and the mental hygiene orders**
 23 **would then be available, and you could --**
 24 A. Right.

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1 **Q. -- know whether somebody was in violation of**
 2 **one of those --**
 3 A. Well --
 4 **Q. -- in any county.**
 5 A. The Domestic Violence Registry would be able
 6 to tell police officers instantly if there was some
 7 threat or somebody was a problem, and others could get
 8 on and look to see those people as well.
 9 **Q. Would they have -- would -- well, would that**
 10 **have been possible before the UJA? Was that --**
 11 A. That was separate from UJA, but it ultimately
 12 got some linkage, but it was a separate stand-alone.
 13 But we got federal grants to build -- it was really one
 14 of the more dramatic -- I mean, it's gotten national
 15 praise.
 16 **Q. The Domestic Violence Registry.**
 17 A. Yes. Our registry was - along with New
 18 York's - was considered the best in the nation by the
 19 National Center and by some federal groups.
 20 **Q. Okay. One of the reasons I was asking you**
 21 **about that is because this memorandum of November 7th,**
 22 **you talked about -- where you were talking about the**
 23 **expenses, and you said --**
 24 **One of the things you said, it was to**

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1 **forestall a Constitutional amendment.**
 2 A. Yes.
 3 **Q. But you also listed things about like the new**
 4 **drug courts.**
 5 A. Yes.
 6 **Q. That was -- that was a statutory issue,**
 7 **right?**
 8 A. That was mandated by the legislature, yes, it
 9 was.
 10 **Q. And do you know how much that cost?**
 11 A. Not off the top of my head.
 12 **Q. On page -- the third page of that - which is**
 13 **page 15 - at the bottom of the first bullet, you said,**
 14 **"Some of the increases in the new -- were in the new**
 15 **drug courts, the roll-out of the UJA, the completion of**
 16 **all remodeling in the Capitol and at City Center East,**
 17 **and with mandated raises of certain classification of**
 18 **employees."**
 19 **I'm thinking that all of those things**
 20 **together would be a very big number.**
 21 A. It is a big number. And then to add to the
 22 number, the Court also raised the fees for guardians ad
 23 litem during this time, and that's why the legal fee, I
 24 think, primarily went up.

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1 Two -- two things about guardians ad
 2 litem: Their out-of-court fee went from \$45.00 to
 3 \$80.00 an hour; their in-court fee went from \$65.00 to
 4 \$100.00 an hour.
 5 And then on top of that, we had the
 6 opiate crisis which hit family court right between the
 7 eyes. There was so much more need for guardian ad
 8 litem to be appointed. Alas, I think that's also been
 9 dwindled, from what I hear.
 10 **Q. So you mean the amount in the budget for**
 11 **guardian ad litem?**
 12 A. No, the number of guardians ad litem
 13 appointed. I don't know what their budget is now, but
 14 my understanding is they're doing only 10 percent of
 15 what they used to do, and I find that to be troublesome
 16 personally. But that's, nevertheless --
 17 About the issue with this document,
 18 those legal fees had a lot to do with the increase in
 19 legal. And that's --
 20 **Q. So that had already started occurring in two**
 21 **thousand four -- oh, we're all the way back to 2014.**
 22 A. 2011 is when those fees went up, so that
 23 started hitting us almost immediately after the
 24 \$29,000,000 year of 2011.

1 **Q. And if this was written in November 2016, how**
 2 **come we don't have 2015 in here? Do you know?**
 3 A. '15 is the year that they were focused on
 4 about us having only -- I think if you read then, you
 5 can see --
 6 **Q. Oh, yeah --**
 7 A. -- the fiscal year of 2015 was the \$330,000
 8 year, which troubled Justice Workman especially.
 9 **Q. Oh, that -- that it had dropped so much.**
 10 A. Yes. I mean, I -- you're trying to -- you're
 11 trying to satisfy a lot of masters. She did not like
 12 it was so narrow. You know, I'm sure that legislators
 13 would have thought that was appropriate since other
 14 spending units of government end up at zero at the end
 15 of the year, and so \$330,000 seems like quite a nice
 16 little amount.
 17 But she did not agree. She was very
 18 upset about it.
 19 **Q. She thought it should have been --**
 20 A. -- higher.
 21 **Q. -- smaller -- higher.**
 22 A. Much higher.
 23 **Q. Okay. And I suppose that you would have a**
 24 **lot of unanticipated expenses that you detail in here.**

1 A. A lot of those were unanticipated.
 2 **Q. Do you think that that's what she was**
 3 **thinking about or --**
 4 A. Well, she just thought that I should have
 5 asked for enough money to have kept a nice bundle.
 6 When I didn't ask for about \$10,000,000 that I could
 7 have asked for -- after all, the legislature can't do
 8 anything with whatever is demanded by the Court.
 9 That that would have kept us with at
 10 least about a \$10,000,000 surplus. And she was rather
 11 cross about that. She thought we should have had a
 12 bigger surplus.
 13 **Q. Okay. In this overall review, would it be**
 14 **fair to say -- and I think that -- and I don't have a**
 15 **photographic memory, but the lady from Kanawha was**
 16 **talking about 3.2 or 3.3 million for the renovations.**
 17 A. Yeah.
 18 **Q. Does that sound about right?**
 19 A. I think it's closer to 3.7.
 20 **Q. 3.7.**
 21 A. That's from memory.
 22 **Q. 3.7. I will -- and a lot of money was given**
 23 **-- you know, given back a couple times.**
 24 A. Right. \$6,000,000; \$2,000,000 one year;

1 \$4,000,000 another. We also --
 2 **Q. And you used the word "digested."**
 3 A. Yeah, the Court digested the increases for
 4 the judges, and they got a pay increase in 2012, so all
 5 of that was digested.
 6 **Q. I guess where I'm trying to go with all this**
 7 **- and I don't know if this is the point of your memo -**
 8 **but I think what you're saying -- and -- and if I'm**
 9 **putting words in your mouth, tell me I'm wrong.**
 10 **-- is that \$29,000,000 was money that**
 11 **was mostly needed for things like the UJA --**
 12 A. Right.
 13 **Q. -- for the City Center East security.**
 14 A. Right.
 15 **Q. And -- and I don't think we've talked very**
 16 **much about that. Can -- we talked a little bit about**
 17 **that.**
 18 A. Uh-huh.
 19 **Q. But do you think that was a really important**
 20 **expense?**
 21 A. Yes, it was vitally important. First, we
 22 needed to have a secure area for the server, and it
 23 needed to have all of the bells and whistles. In fact,
 24 that's one of the reasons City Center East was very

1 appealing, because there had already been a server room
 2 in the City Center East when Workers' Comp had been
 3 there, so there was --
 4 As server rooms go, we didn't have to
 5 spend as much to get that back up to -- to standards.
 6 We did have to put in two new generators. You have to
 7 have a generator, then a backup generator. You have to
 8 think of every bad thing that could happen.
 9 Then we needed them to be in secure
 10 premises. And City Center East, you could secure it
 11 very easily with the way we set up the -- the elevator
 12 for -- the top floor, for example, had the -- the
 13 Judicial Investigation Commission, the Office of
 14 Disciplinary Counsel, and the Bar people and they all
 15 needed a conference -- they all needed a board room,
 16 but we could use one board room and schedule around.
 17 We can also secure people going up
 18 there. Because people can get remarkably angry and
 19 upset with all three of those groups. The lawyers'
 20 group can really get people angry, and so can people --
 21 **Q. I'm shocked.**
 22 A. -- failing the bar. I know, isn't it
 23 amazing? And so can people failing the bar. And so
 24 there was security provided.

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1 In fact, you learned that one of the
2 security officials is located over there and secures
3 the entire building.
4 **Q. Okay. So in that last paragraph on page 15,**
5 **that last sentence, all of those things, you felt, were**
6 **either mandated or critical to the operation of the**
7 **Court. And do you have any idea how much of the**
8 **\$29,000,000 that might have entailed?**
9 A. Well, the \$29,000,000 is marbled throughout
10 these budgetary reductions. You know, we just kept --
11 **Q. So it's back and forth and back and forth?**
12 A. Well, it's just slowly but surely, as we
13 spent for things that had been demanded by the Court --
14 for instance, the increase in the fees for the -- for
15 the legal --
16 **Q. Uh-huh. The guardian ad litem.**
17 A. Guardians ad litem. I also failed to mention
18 that there was an enormous increase in mental hygiene
19 hearings again. I think that's related to the opiate
20 problem.
21 But all of those costs went up. The
22 reason that we ended up with the \$29,000,000 to begin
23 with was because I thought that we would be able to
24 spend money sooner on UJA, and we didn't.

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1 It took a couple of years longer than I
2 had anticipated --
3 **Q. To implement it.**
4 A. -- to start the scanning and have --
5 **Q. And the --**
6 A. -- to have all of those people out there
7 scanning and going through the files and making sure
8 that none of the domestic violence files were thrown
9 out -- they have to be kept to perpetuity; everything
10 else to ten years.
11 They weren't always filed very clearly
12 in the individual magistrate offices in paper, in
13 boxes.
14 **Q. When did the UJA project start? Did that go**
15 **back a long way?**
16 A. 1996.
17 **Q. Okay.**
18 A. And it just never got anything done. It was
19 just one false start after another.
20 **Q. And so when did it actually go into**
21 **implementation?**
22 A. It was -- all the counties were in by the
23 fall of 2016.
24 **Q. Okay.**

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1 A. And I really expected the public portal to be
2 open. Because I know it's constructed. It should be
3 open. I don't know why the Court has not seen fit to
4 open it.
5 **Q. When did all this scanning, when -- when was**
6 **that taking place?**
7 A. From about 2012-2013 on.
8 **Q. So it's during this time period.**
9 A. Exactly right.
10 **Q. And then -- and then there's -- you -- I**
11 **think you -- from what you're saying, there's less of a**
12 **need for it now but there's still some need for**
13 **scanning --**
14 A. For e-filing, there's a great need, because
15 all of that paper has to be turned into electronic data
16 in order for e-filing to work. But the magistrates are
17 finished. That's complete.
18 **Q. Okay.**
19 A. And one hopes that the circuit clerks will
20 have slightly stronger filing and more -- more ease of
21 use.
22 But then again, you have to go back so
23 much further with the circuit courts than you had to
24 with the magistrate courts, with the exception of

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1 domestic violence.
2 **Q. Okay. Let's go to another topic, the sketch,**
3 **Exhibit 39.**
4 A. Yes.
5 **Q. One of the things that we learned from the**
6 **Affidavit was about the marble in the medallion.**
7 A. Yes.
8 **Q. And I heard some conversations about the blue**
9 **pearl marble. Are you --**
10 A. Yes.
11 **Q. -- familiar with that term?**
12 A. I am. Yes, I am.
13 **Q. And what can you tell us about blue pearl**
14 **marble?**
15 A. It's not marble; it's granite.
16 **Q. Oh, granite, I'm sorry. Thank you.**
17 A. It's a lustrous blue granite with a high
18 shine.
19 **Q. Okay. And do you know what form it comes in**
20 **when it's --**
21 A. Sheets.
22 **Q. -- purchased? It comes in sheets?**
23 A. Yes.
24 **Q. Do you know if it has to be sliced?**

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1 A. Yes, I think so.

2 **Q. And this medallion -- or this shape of Tucker**

3 **County --**

4 A. Uh-huh.

5 **Q. -- it had to be sliced and also shaped.**

6 A. Yes, it had to be jig sawed and cut very

7 precisely.

8 **Q. Okay. And so the bathroom also had this blue**

9 **pearl marble? It sounds beautiful.**

10 A. Blue pearl granite on the floor.

11 **Q. Oh, granite. I can't get that right.**

12 A. Yes, it's dark. It's nice, yes.

13 **Q. Did anyone -- did any of the other justices**

14 **have any granite or blue pearl granite?**

15 A. No.

16 **Q. Anywhere in their facilities?**

17 A. Not that -- no, they did not.

18 **Q. Okay. One of the things that I got confused**

19 **about - going back to this 2016 memo - was the use of**

20 **the term "project manager."**

21 A. Yes.

22 **Q. And is that a person that works for an**

23 **outside company or a person that works for the Court?**

24 A. The reason you're confused is because there

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1 was a transition during this time.

2 **Q. Yeah.**

3 A. The person who was -- I'm terming "project

4 manager" actually had a better title, and it's eluding

5 me right now. But that was the person you had in here,

6 Fletch Adkins.

7 Fletch Adkins was the director of that

8 division and he was the manager of projects when there

9 was a -- any renovation anywhere in any of the courts

10 in the state, it would go through Fletch.

11 And I mean everything from taking

12 furniture to surplus to making sure the contractors

13 understood the standards that the Court had

14 established. All that went through Fletch Adkins.

15 Fletch Adkins told me he was retiring,

16 and his office -- his job was really big, and it was

17 really comprehensive. So that's when I told the

18 justices we needed to get someone in who would be

19 appropriate to train for his position and make that

20 person a deputy so that they could have a -- we could

21 have a seamless transition.

22 Justice Workman believed strongly - as

23 I did - that Kim Ellis, with whom we'd had really good

24 work with Silling during this time, become that person.

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1 Fletch then, because she'd already worked with the --

2 worked with the construction, just allowed her to

3 continue to be the project manager for the

4 construction, and now she's the director of facilities.

5 **Q. Okay.**

6 A. Facility services, I think is the title.

7 **Q. Okay. So was he the project manager? Or was**

8 **she the project manager?**

9 A. He was the one who -- who --

10 **Q. Was he a deputy?**

11 A. A deputy?

12 **Q. A deputy director, you said?**

13 A. No, no. I -- there was only one deputy

14 director, and that was not a position who was a

15 division head. That was my deputy director.

16 He was a director, a director of

17 facility services, I think was the name of it, or

18 judicial facility services.

19 So before she came over, he would sign

20 off on invoices, moving furniture to the warehouse, for

21 example. He signed off on that.

22 **Q. Okay.**

23 A. He signed off also on the construction

24 invoices that were then sent to the Fiscal Office for

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1 processing. Once she came in, he continued to do all

2 that work out in the field, slowly turning it over to

3 her.

4 But she then became the person who was

5 able to start to sign off on the -- the invoices that

6 went through. And I think for a while, they did it

7 together while she learned exactly how that worked.

8 **Q. Okay.**

9 A. So that --

10 **Q. So -- and do you remember when she came on?**

11 A. Yes. She came on in May of 2013.

12 **Q. 2013, okay. I'm still a little confused. Is**

13 **the project manager a person on the inside?**

14 A. Yes.

15 **Q. Okay. And because we had the -- the company**

16 **called Neighbor --**

17 A. -- gall.

18 **Q. Gone?**

19 A. Neighborgall.

20 **Q. Gone.**

21 A. Yes.

22 **Q. And I think we've called --**

23 A. Right. Well --

24 **Q. We've used some word like "project**

1 manager" --
2 A. Right.
3 **Q. -- for someone that worked there, and then**
4 **that person went to another company.**
5 A. Right. That was the construction project
6 manager who worked for them.
7 **Q. Oh.**
8 A. I'm sorry that I'm using language that --
9 that overlaps. The project manager for the Court is
10 the person who's overseeing all of that work.
11 The project manager for the
12 construction company is not, for example, interested in
13 the furniture.
14 **Q. Uh-huh.**
15 A. He's only interested in making sure that the
16 wiring's put back right and the floors are right, etc.,
17 the subcontractors are showing up and doing what
18 they're supposed to do and all that.
19 That person works for a private company
20 - in this case, Neighborgall - and then ultimately
21 Gander Brothers or -- I don't think that's the name,
22 but whatever it is.
23 **Q. But something along those lines, okay.**
24 A. Yes.

1 **Q. And so I think you said that she was an**
2 **interior decorator?**
3 A. Yes.
4 **Q. That's one of the parts of her background.**
5 A. Interior design.
6 **Q. Plus she had worked for this architectural**
7 **company --**
8 A. Right.
9 **Q. -- for a number of years.**
10 A. Right.
11 **Q. So she had -- in addition to the interior**
12 **part, she had --**
13 A. General knowledge of construction.
14 **Q. -- a broader knowledge about construction.**
15 **So did -- and then I also -- I think it**
16 **sounds like Carpet Gallery must have had interior**
17 **decorators on staff or --**
18 A. I don't know.
19 **Q. Sounds like they were consulted for the**
20 **fabric and so on.**
21 A. I never directly interacted with Carpet
22 Gallery. I don't know.
23 **Q. You don't know.**
24 A. I have no idea.

1 **Q. And do you know if the Court ever hired any**
2 **interior decorators for any of the justices?**
3 A. I hear that that happened for Justice Walker
4 after I left, but that's hearsay on my part. You'd
5 have to ask somebody there now.
6 **Q. Okay. But the others --**
7 A. No.
8 **Q. The others did not, and --**
9 A. No.
10 **Q. -- you had --**
11 A. No, wait a second. I'm not sure. Justice
12 Ketchum might have hired somebody to do some interior
13 work. I just don't recall. I mean, I really don't. I
14 -- I'm scratching my brain.
15 But there may have been somebody hired
16 at Justice Ketchum's request, but I don't recall if
17 that's accurate or not. But no one else did.
18 **Q. But as of 2013, you had one who had that**
19 **background on staff.**
20 A. Right, exactly, on staff.
21 **Q. And a broader background at that.**
22 A. Yes.
23 **Q. So can you go through this little chronology**
24 **and tell me when the rooms -- the offices were**

1 **redecorated, like in chronological order? Would that**
2 **be possible?**
3 A. Well, I can try. I think Justice Benjamin's
4 was either 2011 -- or I'm sorry, it was either 2007 or
5 2008. I don't remember which.
6 But Justice Workman's and Justice
7 Ketchum's was in 2009 and into 2010.
8 And then we have Justice Loughry in '13
9 and Justice Davis in '14. That's from memory.
10 **Q. Okay. So Justice Davis was the last.**
11 A. Yes. She said for Loughry to just go ahead
12 in front of her. She was actually slated to be in '13,
13 but Justice Loughry really wanted to have his office
14 redone and she said, "Let him do it."
15 **Q. Now, you mentioned the safe room?**
16 A. Yes.
17 **Q. I've never -- does that mean there's a safe**
18 **in there --**
19 A. No, it's a --
20 **Q. -- or is that a place for the justices to be**
21 **secure --**
22 A. Security --
23 **Q. Okay.**
24 A. If somebody came in on the bench and

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1 threatened them, that's a place they can go and the bad
2 guys could not get in there.

3 **Q. Okay. And then there were a couple of**
4 **questions -- had you ever heard that term "control**
5 **center" about Justice Loughry's --**

6 A. I've never heard that before until today.

7 **Q. You hadn't? Okay. And it says there were**
8 **flags in there. I assume they were flag -- they were**
9 **hanging and not -- they were hanging on a pole and not**
10 **framed?**

11 A. I don't remember framed flags. I do remember
12 them -- I think he had flags that were on free-standing
13 poles like you see in the hallways.

14 **Q. Uh-huh. Okay. I think there was something**
15 **else here that I wondered if it was framed. Diplomas.**
16 **I don't think you've said anything -- are those things**
17 **that he brought with him, his framed diplomas?**

18 A. I don't recall if those were done at Court
19 expense or if he had already gotten those framed. I
20 know they were hanging behind his desk in that kind of
21 cubbyhole, but I don't remember if they were framed at
22 our -- at the Court expense or --

23 **Q. You mean when he was a law clerk or when --**
24 A. No, no, I don't --

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1 **Q. -- when he was in his --**
2 A. I don't remember what he had on his wall.

3 **Q. -- justice offices.**
4 A. Yeah, just in his justice office.

5 MINORITY CHAIR FLEISCHAUER: Okay, I
6 think that's all the questions I have, Mr. Chairman.

7 EXAMINATION
8 BY CHAIRMAN SHOTT:

9 **Q. There's a question that's really been nagging**
10 **at me throughout these proceedings, and maybe you can**
11 **-- you can help me. And I'm probably not the only one**
12 **that wonders about this.**

13 **In between the 12 years that there's an**
14 **election, to whom is an individual justice accountable**
15 **if they decide to push the envelope, let's say?**

16 A. His or her own conscience, and then -- it
17 depends on the situation. Potentially the other
18 members of the Court about certain matters. But
19 primarily, it's the conscience of the individual
20 justice, and then if the envelope's been pushed to the
21 point of breaking, there probably would be a complaint
22 to the Judicial Investigation Commission.

23 **Q. During the 11 1/2 or 12 years that you were**
24 **working at the Court, were you aware of any situation**

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1 **in which the majority of the justices basically caused**
2 **another justice to change his or her behavior?**

3 A. "Behavior," is that what you said?

4 **Q. Yes, uh-huh.**

5 A. No. People who get elected to justice have
6 pretty strong egos. It would be very hard to change
7 their behavior. Now, peer pressure being such that
8 some people such as I who tend to talk too much in
9 conference would talk a little less because they'd get
10 the uncomfortable looks and things like that. But
11 their fundamental personalities, no.

12 **Q. Well, for instance, we talk about the**
13 **renovation costs --**

14 A. Yes.

15 **Q. -- and as I understand your testimony, we**
16 **really had sort of two different things going on. We**
17 **had a base construction budget that was dealing with -**
18 **I'll call it - infrastructure and so forth, that each**
19 **justice would get in advance. Correct?**

20 A. Would get in a -- yes, yes, they would get an
21 estimate --

22 **Q. They knew what --**
23 A. -- right.

24 **Q. They knew what the budget --**

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1 A. Yes.

2 **Q. -- the face budget for their --**
3 A. Exactly.

4 **Q. -- specific office was gonna be. Did each**
5 **justice know what the other justices' budget for their**
6 **office was gonna be, for his or her office?**

7 A. I don't know if they did or not. It was up
8 to them to share it. It was pretty clear that they
9 wanted to interact directly about it. I don't know
10 that they shared it with others.

11 But I don't think I copied them on it,
12 so I think it was just justice to justice.

13 **Q. So the justice whose office was being**
14 **renovated would most likely be the only person that**
15 **would see that --**

16 A. Yes.

17 **Q. -- other than the person paying -- paying the**
18 **bills?**

19 A. Right. As it added up.

20 **Q. Was there any general understanding or policy**
21 **among the judges as to a limit on what they're gonna**
22 **spend on a particular office?**

23 A. There was never a discussion about limits.

24 **Q. What about with regard to furnishings?**

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1 A. There was never a discussion about any limit
2 on furnishing costs.

3 **Q. So is it fair to say that the justices sort
4 of acquiesced to what each other spent with regard to
5 their office, to his or her office?**

6 A. Well, acquiesced out of ignorance. They
7 didn't know. But yes.

8 **Q. Did they make any effort to find out?**

9 A. No. Not that I'm aware of. If they did, it
10 was among themselves.

11 **Q. So until this friction arose in the summer --
12 I think it was August of 2016, basically it was sort of
13 laissez faire, leave -- leave the other guy alone and
14 let him do whatever he wants to with his office. Is
15 that fair to say?**

16 A. Yes, they were equals and they -- that's
17 right.

18 **Q. Well, in terms of whether -- do you know if
19 any effort was made to determine if there's like a
20 standard among justices throughout the country as to
21 what seems to be appropriate to spend on a renovation,
22 or was it just sort of whatever it took?**

23 A. I regret to say I never did that for them, so
24 they didn't have any kind of basis for that.

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1 **Q. Well, let me --**

2 A. Unless they did it on their own that I'm not
3 aware of.

4 **Q. Okay. So in -- in these administrative
5 conferences, the issue of whether some Justice A was
6 spending too much money on his or her office for a
7 specific item was not discussed, at least not before
8 August of 2016?**

9 A. Oh, I don't think it was discussed before
10 January '17. I don't remember it ever being discussed.

11 **Q. Fair enough. These administrative
12 conferences, I think you mentioned before there are
13 minutes, but sometimes the minutes are more complete
14 than other times. Is that fair to say?**

15 A. Right. Often the minutes are very general
16 statements of just a final conclusion, nothing else.

17 **Q. Were there ever any discussions in those
18 administrative conferences that you attended where
19 there was a "Let's go off the record and talk about
20 this and don't put it in the minutes"?**

21 **Anything like that that you know of?**

22 A. They didn't use those terms that I recall,
23 but it was pretty clear afterwards when they had a
24 chance to edit the minutes that they wanted some things

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1 not brought up. And on the contrary, sometimes they'd
2 be very livid that they didn't get their licks in and
3 they wanted their information in. That was especially
4 true during the Maynard/Starcher years.

5 **Q. Could -- could that be an explanation for why
6 your memorandum regarding this reduction from this
7 \$29,000,000 down, there was never any indication in the
8 administrative -- the minutes of the administrative
9 conference that there was a discussion about the what
10 was going on over in the Senate and that we wanted to
11 avoid this Constitutional amendment?**

12 A. Yes, I don't think they wanted that in
13 writing, and it was never in the minutes. Although
14 obviously it was a theme -- even in Justice Loughry's
15 presentation that you heard, he was saying "We're
16 reducing the expenditures, we're reducing expenditures,
17 we don't need a Constitutional amendment."
18 It was very much on their minds.

19 **Q. Even before Justice Loughry came.**

20 A. Oh, long before. Yeah, that was one of the
21 first things that I learned. In 2005, in a private
22 discussion, with Justice Maynard, I said, "I don't know
23 if I agree with this philosophically." He said, "Well,
24 you're gonna agree with that now, because that's one

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1 thing we're unanimous about. We can disagree about
2 everything else, but you don't mess with this."

3 And if anybody read my op ed, you know
4 how I really feel about it.

5 **Q. Okay, fair enough. Well, for instance, the
6 vehicle policy, when you look at that -- and that's --
7 or the travel policy, I'm sorry, and that's on page 34
8 of the first Legislative Audit Report. Beginning on
9 34.**

10 **If you'd take a minute, I have a few
11 questions about that.**

12 **You'll see there at the very beginning,
13 it has in italics, "The regulations set out in this
14 section supersede the travel regulations previously
15 promulgated by the Supreme Court of Appeals effective
16 October 3rd, 2016."**

17 **And we've yet to find any travel
18 regulations that predate that. Do you recall if there
19 were travel regulations that were adopted or utilized
20 prior to this date?**

21 A. If you look -- I'm not sure. I would say,
22 though, that if you look in the policy and procedure
23 manual that was just kind of haphazardly thrown
24 together from the 1990s on until we did this rewrite, I

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1 think that this language is pulled from that language,
 2 but I think you'd have to find it in the policy and
 3 procedural manual that predated this one.
 4 And that copy should be available over
 5 there someplace. But it's not an easy read, because it
 6 literally is just, "Let's paste this on, let's add this
 7 page, let's strike through." It was not easy for
 8 employees to understand what they were reading, and yet
 9 they were all mandated to read it and sign a document
 10 after the first week of employment that they had read
 11 it. So --
12 Q. So there were travel regulations that
13 predated October of 2016. Do you know if they were -
14 for lack of a word, better word - seriously adhered to
15 in terms of how, for instance, the justices' vehicles
16 were -- the vehicles used by the justices were checked
17 out and --
 18 A. Well, the justices were always exempt from
 19 these things in some instances. They didn't have to
 20 worry about reserving. If, for instance, an employee
 21 had reserved a -- I don't remember a justice ever using
 22 a van.
 23 But if an employee had reserved a van
 24 and a justice wanted the van, that employee got bumped;

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1 the justice got it.
 2 But they ended up with the three
 3 Buicks. The Buicks were for the use of the justices,
 4 the clerk of the Court and me. And that kind of
 5 eliminated that bumping issue.
 6 But I don't know how well they adhered
 7 to the details of it. Obviously there are blanks in
 8 several spaces for most of the justices.
9 Q. There are places within the regulation that
10 exempt -- expressly exempt out the Supreme Court
11 justices, like --
 12 A. Yes.
13 Q. -- the Transportation Rental Vehicle Section
14 on page 35, and then again on Out-of-State Travel on
15 page 38, they're exempt from that.
 16 A. Uh-huh.
17 Q. And then on 39, 10.4, it says, "An expense
18 account submitted by a Justice of the West Virginia
19 Supreme Court of Appeals, pursuant to Judicial Branch
20 policy, shall be honored irrespective of any of the
21 language in these travel regulations."
22 Now, first question about that: Is
23 the Judicial Branch policy what you're referring to
24 earlier with this notebook? Or is that something

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1 different?
 2 A. I guess -- I think it's what's being -- yes,
 3 it's what's being referred to earlier in this policy
 4 and procedure manual.
 5 I -- what -- the assumption was, as
 6 Justice Loughry said in his own memo, if he's using it,
 7 it must be for official purposes. And it therefore
 8 adheres to any policy.
9 Q. So really, pretty -- is it pretty fair to say
10 that the travel regulations applied to everyone but the
11 justices?
 12 A. I think that's a fair statement, sir.
13 Q. And would it also be fair to say that you
14 could almost interpret the situation as an invitation
15 to do whatever you want with the Buicks?
 16 A. Well, if a person is less than savory of
 17 character. We didn't have the problem.
18 Q. So we sort of had an honor system.
 19 A. Yes, and I think it was honored until Justice
 20 Loughry.
21 Q. All right. So there wasn't any internal
22 protection --
 23 A. No.
24 Q. -- from any justice who might not be -- who

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1 might be less than honorable. Fair enough?
 2 A. Right.
3 Q. Well --
 4 A. Go ahead.
5 Q. I'm sorry, you were going to answer.
 6 A. No, I said "Right."
7 Q. Okay. Similarly, it doesn't appear that
8 there was any effort to produce any type of policy to
9 protect the physical assets of the Supreme Court, in
10 other words, like an inventory control system. Is that
11 fair to say?
 12 A. There was an inventory control system under
 13 FIMS that pre -- predecessor to OASIS. Every time
 14 there was anything bought, the invoicing, that went
 15 through our Finance Division, then created that
 16 inventory.
 17 But after OASIS, somebody dropped the
 18 ball. Because I learned very late in '16 that that was
 19 no longer happening, that no one was bothering to
 20 inventory.
 21 So that was a real problem, obviously.
 22 It had to be remedied and it was going to be fixed, and
 23 I think they're probably fixing it. But I don't know
 24 that. I left.

1 **Q. So if -- would you agree that if we had an**
 2 **effective inventory control system, a property control**
 3 **system, we wouldn't have been missing a Cass Gilbert**
 4 **desk for three or four years before anybody realized it**
 5 **was gone?**

6 A. Perhaps. But I don't know that the
 7 historical furniture was ever even on the FIMS system,
 8 so I don't know that that would have made a difference
 9 to knowing where that was.

10 And I'm not sure that -- I mean, I
 11 think that Fletch Adkins believed that it was either in
 12 the storeroom or in one of the warehouses, so I think
 13 that, you know, it would have been perhaps mislabeled
 14 as to where it was. I don't know.

15 Like I said, I didn't know the desk had
 16 left the -- the property.

17 **Q. But you would agree that there was not a**
 18 **fully effective protection system for property of the**
 19 **Supreme Court --**

20 A. Right.

21 **Q. -- there was a functional effective system.**

22 A. Right. I think especially with the
 23 historical furniture, there should have been a better
 24 inventory system of --

1 **Q. Let me move to another area of your**
 2 **testimony: The individuals that you were told to hire.**
 3 **Did you ever - either in connection with the hiring of**
 4 **any of those three individuals or the resistance to**
 5 **letting another person go - ever sense any threat to**
 6 **your job if you didn't follow those instructions, or if**
 7 **you went forward with that discharge?**

8 A. Well, I specifically felt that in the case of
 9 the individual who -- who we felt -- I felt should be
 10 discharged. I mean, she was pretty blunt about that.
 11 I didn't know if she had the votes, but you know, she
 12 certainly didn't express anything more than -- she
 13 said, you know, new administrators -- I mean, "New
 14 justices frequently bring in their own new
 15 administrators," and this was, after all, before she
 16 had actually taken the oath.

17 So I felt that. It was a little more
 18 implicit - not explicit - with the hiring of the
 19 others. Then once I interviewed them and talked to
 20 them, I felt like they would do good jobs, or at least
 21 adequate jobs.

22 You know, in one case, I'd already had
 23 the discussion, so that was something I really wanted
 24 to do.

1 **Q. But the implicit threat with regard to the**
 2 **termination was a pretty clear message.**

3 A. It was pretty explicit with the termination.

4 **Q. Okay. With regard to the furnishings -- I**
 5 **know you said you didn't do competitive bids with**
 6 **regard to -- excuse me -- with regard to some of the**
 7 **construction other than the initial --**

8 A. That's right.

9 **Q. -- the initial construction. Were any of the**
 10 **major items of furnishings -- like I noticed there was**
 11 **a lot of money spent on rugs, there was a lot of money**
 12 **spent on window treatments --**

13 A. Uh-huh.

14 **Q. -- there was even a good bit of money spent**
 15 **for design services. Were any of those things bid out?**

16 A. No, Silling was the choice for -- of
 17 architects because they had been the architects for so
 18 court projects in West Virginia, they knew the
 19 standards. They understood backwards and forwards what
 20 was necessary.

21 They also, you know, did a lot of work
 22 in the courtroom. I don't know that that's been
 23 mentioned, but the courtroom work was very intense and
 24 remarkably, I think, helpful to returning it to its

1 original look. And that's something that the
 2 historical architects of Silling were really good at.
 3 And so it was -- it was -- the choice
 4 of Silling was the obvious choice. We didn't bid that
 5 out. That's the design services.

6 As far as the furniture, I don't know
 7 if -- if Kim Ellis looked at competitive products. I
 8 suspect she did somewhat. But I also think the
 9 justices said, "I specifically want" this, that or the
 10 other.

11 The infamous desk chair problem with
 12 Justice Loughry -- you know, he had a desk chair that
 13 he wanted and then he didn't like it, so we ended up
 14 getting several different sample desk chairs for him to
 15 try out, and finally he decided that he liked one
 16 enough.

17 He never was really satisfied with it,
 18 but he got then that desk chair. The first desk chair
 19 we'd already bought, it went to another employee of the
 20 Court.

21 **Q. There's been testimony - and I think you**
 22 **confirmed this - that there's two warehouses and also a**
 23 **storeroom.**

24 A. Yes.

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1 **Q. My question is: When someone came into the**
 2 **Capitol, like when -- when those of us that are here**
 3 **today come into the Capitol, we're shown our desk and**
 4 **our chair and that's the end of the --**
 5 A. Yes.
 6 **Q. -- that's the end of the story --**
 7 A. Yes.
 8 **Q. -- unless you swap with somebody that's here.**
 9 **Was there ever any effort to say, "Why don't you go**
 10 **down to the warehouse and see what -- what's available**
 11 **that won't cost anything more"?**
 12 A. With everybody but the justices.
 13 **Q. Okay.**
 14 A. That was standard practice for every other
 15 office need but the justices. But as we added
 16 employees at City Center East, I mean, there wasn't any
 17 preexisting furniture. We moved lots of furniture over
 18 from the other buildings, but in many cases there were
 19 new employees who had to have new furniture.
 20 **Q. Is there still, as far as the last time**
 21 **you've been there, a good bit of furniture stored in**
 22 **the two warehouses?**
 23 A. There wasn't that much left. They had
 24 managed to distribute it pretty effectively, I think.

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1 The last time I was there. But you know, now it might
 2 be piled full. I have no idea.
 3 **Q. And the reason for two warehouses is what?**
 4 A. Well, that's really an easy answer. The
 5 warehouse that's owned by the State is primarily a
 6 warehouse of -- of filed documents from the Clerk's
 7 Office. There are very few other things there besides
 8 paper.
 9 The warehouse on Venable was created
 10 primarily initially for two purposes. It was because
 11 we were taking out all of those books from the
 12 libraries -- we expanded the Clerk's Office. We had to
 13 have a place to put those books and have them in
 14 climate-controlled decent space and easily retrieved
 15 for any people who might need them from the law
 16 library, so that's about a quarter of that space.
 17 Then the technology group, you know,
 18 they -- they would pull computers and they'd take
 19 computers apart, they'd use this part and that part to
 20 put together a computer, prepare a computer and other
 21 technical equipment, so we had that in another part of
 22 the space.
 23 We also had a couple of offices there
 24 for a couple of employees, and then we also then had

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1 room for furniture.
 2 **Q. One other area I'd like to explore with you:**
 3 **There is -- or we have seen an e-mail from you to**
 4 **Justice Loughry, and I think it's an exchange in**
 5 **December of '13, about Christmas cards. You had a**
 6 **habit, I think, of sending many Christmas cards out.**
 7 A. Yes, I do.
 8 **Q. The e-mail mentions a concern that you had**
 9 **about - and I'll -- I'll have to give my best**
 10 **interpretation on it - about any of this information**
 11 **about the renovations getting out in the public.**
 12 A. Well, specifically I was concerned about the
 13 floor.
 14 **Q. The floor in --**
 15 A. The floor in Justice Loughry's office, that
 16 -- I was concerned that the -- the member of the press
 17 who was there might see that floor and think, "That's
 18 excessive" and then whatever he had him up there for
 19 would suddenly turn into another story, and I was
 20 concerned.
 21 **Q. And I think you may have mentioned also that**
 22 **you were concerned that that would lead to stories**
 23 **about other renovations of some of the other justices'**
 24 **offices. Am I --**

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1 A. I might have. I do know that I was -- I
 2 don't remember exactly, but I do remember that I was
 3 concerned about that reporter saying something about
 4 the floor, therefore that would be perhaps a difficult
 5 story for him and for the Court. I was just trying to
 6 protect the justice.
 7 **Q. Did you, after that date, ever send similar**
 8 **type expressions of your concern to other justices -**
 9 **for instance, Justice Davis - about any of the expenses**
 10 **with respect to her renovations?**
 11 A. No, I didn't. Justice Loughry, as you notice
 12 in the e-mail, rejected my concerns. And it turned out
 13 he was right. The reporter didn't say a word about it.
 14 **Q. At that time.**
 15 A. At that time.
 16 **Q. At that time.**
 17 CHAIRMAN SHOTT: I think that's all I
 18 have.
 19 If you've been following us, you know
 20 that we have allowed the justices to have counsel
 21 present, and if they wish to ask questions, and if --
 22 once that's done, we will take a break, if you are
 23 still able to handle -- hang on.
 24 Mr. Allen, any questions from you, sir?

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1 MR. ALLEN: Mr. Chair, I have no
2 questions. Thank you.
3 CHAIRMAN SHOTT: Thank you.
4 Mr. Carr?
5 MR. CARR: No, sir.
6 CHAIRMAN SHOTT: Mr. Carrico, this is
7 your client. Do you have any questions you --
8 MR. CARRICO: I have no questions,
9 thank you, sir.
10 CHAIRMAN SHOTT: Thank you. We've got
11 -- holy cow. It's 5:00 o'clock and we were planning to
12 eat at 5:30.
13 Could you stand it for another 20 or 30
14 minutes and then we'll break for our -- a good while?
15 MR. CANTERBURY: All right. You mean
16 right now?
17 CHAIRMAN SHOTT: Yes.
18 MR. CANTERBURY: All right, sure.
19 CHAIRMAN SHOTT: Can you go a little
20 further?
21 MR. CANTERBURY: I can go a little
22 further.
23 CHAIRMAN SHOTT: Counsel, I believe
24 you're up next. Is there --

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1 MR. CANTERBURY: Are my eyeballs
2 floating?
3 THE COURT REPORTER: Could I perhaps
4 stand up a minute?
5 CHAIRMAN SHOTT: Oh, yeah. The hardest
6 working person in the room, I overlooked.
7 MR. CANTERBURY: Absolutely.
8 CHAIRMAN SHOTT: If you need a break,
9 we can go ahead and break now.
10 THE COURT REPORTER: Oh, no, I'm good.
11 Just let me stand a second.
12 CHAIRMAN SHOTT: All right. Let's go a
13 little longer and we'll stop for dinner.
14 Counsel, do you have some redirect?
15 MS. KAUFFMAN: Yes, Mr. Chairman, just
16 briefly.
17 RE-EXAMINATION
18 BY MS. KAUFFMAN:
19 **Q. Mr. Canterbury, I do want to ask about**
20 **something that I had not mentioned earlier, and that is**
21 **about payments that were made by the Supreme Court to**
22 **senior status judges. Let me -- let me begin by just**
23 **stating that it's my understanding that there are some**
24 **statutory caps in the Code regarding -- and in the**

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1 **State retirement laws about the amount of money that**
2 **senior status judges can be paid.**
3 **Are you aware of that being the case?**
4 A. I'm generally aware.
5 **Q. Do you have any knowledge as to how the**
6 **Supreme Court - while you were employed with the**
7 **Supreme Court - as to how the Supreme Court paid senior**
8 **status justice -- judges and what, if anything, they**
9 **did with respect to that cap?**
10 A. I -- some of the first conversations I had
11 with my new deputy, and I said, "I want you to handle
12 the senior status judges payment and hours," and she
13 knew about the cap. Kathleen Gross had worked there a
14 very long time, and she knew all about it, and she
15 said, "Well, there's a cap and we have to keep track of
16 that."
17 And I said, "Well, that's part of your
18 job too, I guess, then" -- because I figured it had
19 been going on for some time and it hadn't been broken,
20 so there was no need to fix anything there. So I
21 turned it over to her.
22 And I'm -- I'm probably less
23 knowledgeable about the details of that than just about
24 any function of the Court.

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1 **Q. Would that -- if you know, first, does --**
2 A. Yes.
3 **Q. -- is Ms. Gross still -- is she still**
4 **employed by the Court?**
5 A. Oh, no, she retired some time ago. And then
6 Jennifer Singletary took over and then she continued
7 with that work as well, and also was in concert with
8 the -- the Personnel Division, the Human Resources
9 Division.
10 They also were involved with keeping
11 track of this because of the -- because of the cap.
12 And the cap was very problematic at times, though.
13 **Q. If you -- if you know, were there times that**
14 **the Court paid these senior status judges over the**
15 **statutory cap?**
16 A. I think that did happen. I think that what
17 they did was that they then entered into a contractual
18 relationship. But again, I don't know the details very
19 well.
20 I do know that the need for it was
21 because there would be a -- there would be a case that
22 was a very cumbersome, lengthy case that a judge was
23 on, and it just couldn't be accomplished in the amount
24 of time allowed by the cap, and so then they would try

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1 to find a way to continue the judge on the case, "they"
2 meaning just the personnel.
3 All of the senior status judges were
4 appointed by the Chief Justice. But the Chief Justice
5 -- none of the chief justices had anything to do with
6 their payment at all, and I don't think they ever gave
7 it much of a thought.

**8 Q. As to how the just -- as to how the judges
9 were being paid?**

10 A. Correct.

**11 Q. So would it be correct to state that at least
12 as far as you know, there was some knowledge about the
13 cap?**

14 A. Yes.

**15 Q. And the -- some of the senior status judges,
16 it is your understanding, were paid in excess of the
17 cap.**

18 A. I think so, yes.

**19 Q. And if you know, how was that done? Was
20 there a change in how they were paid? Did they begin
21 as W-2 employees and then moved to 1099 employee -- or
22 1099?**

23 A. I think so. But again, I -- I didn't handle
24 it, but I -- that's what I said: I think they moved to

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1 contract them after they'd run to the cap.
2 **Q. Were you -- let me -- let me rephrase that.
3 Were there ever any conversations about the -- the
4 senior status judges and the cap in any of the
5 administrative conferences during your tenure with the
6 Court?**

7 A. I don't recall a word about the cap or how
8 senior status judges were paid during administrative
9 conference. But -- I could be misremembering, but I
10 don't recall.

**11 Q. Do you know whether or not anyone would make
12 the justice -- or the judges, rather, the judges aware
13 that they were being moved from a W-2 type employee to
14 contractor status for -- the reason for that change,
15 that they had reached a cap?**

**16 Do you know if there were ever any
17 conversations with the judges to let them know that's
18 why that was occurring?**

19 A. I don't know.

**20 Q. If that had occurred, who - if you know -
21 would have -- who was in charge of that that would have
22 told the judges?**

23 A. It would have either been one of the two
24 deputies I told you, or it would be someone in the

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1 Office of Human Resources.
2 **Q. And I'm sorry, you told me the second one.
3 Was that Jennifer Singletary?**

4 A. Yes. Or it could have been Tammy Smith at
5 the -- and before her, Chris Workman at the Personnel
6 Division. Honestly, I just -- I had nothing to do with
7 it, so I don't know.

**8 Q. Mr. Canterbury, you have made some comments
9 about some specifications or requests that certain
10 justices had with respect to their offices, including
11 Justice Loughry with the medallion and the TV, and then
12 Justice Workman requesting the wide-planked cherry
13 floor from Vermont.**

**14 Were there such requests or
15 specifications laid out by Justice Davis for her
16 office?**

17 A. Yes, she had some furniture that she had
18 purchased to be part of this office, but it needed
19 work, re-upholstering a couple of chairs, some metals
20 polished out from some scratches. So she was leaving,
21 going out of state and she wanted us to just take care
22 of that, then she'd repay it at the end of the summer.
23 I failed to remind her at the end of
24 the summer, and my understanding is she learned about

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1 it -- it was roughly \$10,000. She learned that that
2 was never paid when all of this came down and she wrote
3 the check. Those were a couple of specifics she
4 wanted.

5 And then she also wanted the expensive
6 chair that she became aware would be helpful to her
7 arthritic problems with her back.

8 And then after a year of being in there
9 without rugs and the echoes and the -- it was really
10 kind of -- almost as echoey as this room can be, she
11 wanted some rugs. And then she hit upon that she
12 wanted those specific rugs.

**13 Q. And are those the rugs that you talked about
14 earlier that total somewhere around \$27,000 or \$28,000?**

15 A. Yes, correct.

**16 Q. Did Justice Davis also make a request that
17 her office be glass -- have a lot -- some glass and
18 steel and be icy?**

19 A. Yes. Well, she said specifically that she
20 wanted it to be "cool and icy." That's the words she
21 used. And that she wanted it to be a lot of -- a lot
22 of metals, a lot of white and a lot of glass.
23 So her cabinets are plastic. Her
24 cabinets are plastic laminate, and they're shiny, you

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1 know, laminate -- shiny formica. And the glass
2 counters are very thick glass. And to support their
3 weight, there's stainless steel.

**4 Q. Do you recall Justice Davis making a comment
5 that some people had referred to her as the ice
6 princess and that she wanted her office to be icy?**

7 A. Yes, actually, that's exactly what she said.
8 I'd kind of forgotten about the "ice princess" comment,
9 but yes, that's what she said.

**10 Q. Mr. Canterbury, I'm going to move now as I
11 did before and kind of jump around. I have, I think,
12 just two more questions. Were you ever personally --
13 and I'm talking about just to you.
14 Were you ever personally asked by any
15 justice during your time with the Court to call or make
16 any type of complaint with the Office of Disciplinary
17 Counsel against any attorney that might have filed any
18 type of motion to recuse at the Court?**

19 A. I don't recall that ever happening about an
20 attorney with the Office of Disciplinary Counsel. No.
21 I don't recall -- I don't think I ever filed a
22 complaint with the ODC.
23 I might have, but I don't recall it.

24 Q. Okay. And I believe in answering a prior

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**1 question, you had mentioned -- this had something to do
2 with the desk, and I just missed what the context was.
3 I think you indicated that you had learned something
4 about the desk either being moved or maybe being moved
5 a day before the public.
6 Do you recall making that comment?**

7 A. Oh, yes.

**8 Q. How did that come about, and if you could
9 just please explain that.**

10 A. I was told by one of two people in a
11 conversation either with Kennie Bass or with Kim Ellis
12 - I honestly don't remember which; it was all a
13 cluster; we were all talking in about a two-hour time
14 period - and I really saw red, because I firmly believe
15 you protect the historical icons, and I was probably
16 not much fun on the phone with either one of them at
17 that point.

**18 Q. And what -- what was the context of that
19 conversation, that the desk was -- was being moved or
20 had --**

21 A. Yes.

22 Q. -- had been moved?

23 A. I knew of the couch, and I was called by Phil
24 Kabler to confirm that -- about the couch. And I told

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1 him about the Albright couch, so-called. But I had no
2 idea he had the desk.

3 And then I learned that when they moved
4 the couch, they also were now preparing to move a desk,
5 and it was one of the originals. And that really hurt
6 me. I mean, it really did.

7 I -- I don't know if you recall the
8 Bollard story and the tree story and all that. I had
9 really worked hard to protect this place. And when a
10 desk under my watch got taken off campus, I felt like a
11 putz. I felt terrible. I hated it.

12 There's nothing worth than self-
13 loathing, and that's what I felt then, that it had
14 gotten away from me.

15 Q. Okay.

16 MS. KAUFFMAN: Mr. Canterbury, thank
17 you very much. I do not have any further questions for
18 you.

19 MR. CANTERBURY: Thank you.

20 CHAIRMAN SHOTT: We'll start back in
21 the back of the third row. Delegate Miller, any follow
22 up by you? Please proceed.

23 DELEGATE MILLER: Thank you,
24 Mr. Chairman.

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1 RE-EXAMINATION

2 BY DELEGATE MILLER:

**3 Q. Were you aware of any threats made against
4 any of the justices of our Supreme Court?**

5 A. Yes.

**6 Q. Can you elaborate on any of those, to keep
7 some degree of security as well?**

8 A. Yes, that's what I was -- was going through
9 my head. There were threats made against Justice
10 Benjamin, but those were more of the flippant variety
11 and they weren't taken quite as seriously. It was
12 during all of the -- the Massey Caperton case.

13 There were also threats at that time
14 when the pictures came out with Justice Maynard.

15 There was another threat that was very
16 serious about Justice Maynard. When he was a circuit
17 judge, he had -- he had sentenced somebody to a long
18 sentence, and now they were getting out, and they had
19 told somebody in prison that as soon as they got out,
20 they were gonna kill Spike Maynard, and he was a pretty
21 difficult hombre, and there was a lot of concern. So
22 there was heightened security at that time.

23 Fortunately, he decided to do some
24 other bad things and went back to prison. That ended

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1 our security threat.
2 But by far, the worse security threats
3 were to Justice Davis. They were abysmal.
4 **Q. Visible threats?**
5 A. Abysmal. One of them was from a person off
6 and on through the years - they finally got him; he's
7 got mental health problems - and he has -- the general
8 subject was that he was very anti-semitic. And of
9 course, Justice Davis is married to Scott Segal, who's
10 a Jew.
11 And they were -- they were spine-
12 chilling threats. And there were some others to her on
13 occasion, but nothing like this.
14 So yes, I knew of some. There were
15 some threats against me. It happens, you know, when
16 you're in public positions. I never took them very
17 seriously. I always thought the guy would shoot me but
18 not be announcing it ahead of time.
19 **Q. I understand. I think there was some inquiry**
20 **earlier about a specific inquiry by Justice Davis and**
21 **-- on Justice Loughry's use of the vehicle kind of**
22 **specifically.**
23 A. Very specific.
24 **Q. In regard to that inquiry, as well as any**

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1 **others, it seemed as though there was a little bit of**
2 **confusion about why it was directed specifically toward**
3 **Loughry. Were there any uncertainties about the**
4 **vehicle use -- usage by other members of the Court?**
5 A. Well, I think there were some blank spots on
6 the register. But in the case of Workman and Davis,
7 they just, I'm sure, believed that the person who drove
8 them who was also in charge of keeping track of this
9 would enter it, so I don't think she thought anything
10 of that.
11 She did ask generally about all car
12 uses, the policies, the -- how -- not so much the
13 policies. Just the mechanics, how it works.
14 **Q. Okay.**
15 A. Then when she got back reports of the
16 specifics regarding various justices' uses of the cars,
17 there were just so many from Justice Loughry that
18 that's when she wrote that memorandum.
19 **Q. You feel that's why it was more**
20 **specifically --**
21 A. Yes.
22 **Q. -- aligned toward him?**
23 A. Yes. But there was also a lot of argument
24 back and forth between them.

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1 **Q. In regard to the construction/renovation that**
2 **-- that took place --**
3 A. Uh-huh.
4 **Q. -- in the Court chambers, were there any**
5 **particular participation or supervision to detail on**
6 **office renovations by any of the justices?**
7 A. Was there supervision, like they were coming
8 in and looking over what had been done and asking
9 questions about it and how it should be done
10 differently and things --
11 **Q. Were the just --**
12 A. -- those kind of things?
13 **Q. Were any of the justices particularly taking**
14 **the supervision role --**
15 A. Justice Loughry.
16 **Q. -- under (overtalk).**
17 A. Justice Loughry mentioned that for a few
18 summers, he'd worked construction and knew a lot about
19 construction, and he had a lot of opinions. And he was
20 there all the time. I mean, I didn't -- I wasn't there
21 to see that he was there, but it was to the point that
22 the foreman of the job mentioned to me that they were
23 certainly slowed a bit from the time that Justice
24 Loughry would come in, they'd have to stop and explain

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1 what they were doing, it was slowing them down.
2 He was afraid that they weren't going
3 to meet the -- the scheduling objectives.
4 **Q. Okay. During the examination of travel logs,**
5 **if you're aware, was there any examination of travel**
6 **logs where locations or reasons registered by Justice**
7 **Loughry that appeared to be illegitimate on their face**
8 **were followed up on to actually see if they were**
9 **legitimate or legal?**
10 A. I don't know. That wouldn't have come
11 through me.
12 **Q. If a justice is advised by staff of some type**
13 **of infraction or potential crime and refused to correct**
14 **the impropriety, is it fair to say that that's on the**
15 **individual justice?**
16 A. If a justice is informed of a crime or
17 something, it's on the individual justice to report?
18 **Q. Something that they were doing themselves.**
19 A. Yes. Should they be self-reporting, is that
20 what you're saying?
21 **Q. Should they be self-reporting, or is it fair**
22 **to say that that's not the staff's fault, that that**
23 **lays strictly on the justices?**
24 A. We weren't in positions as staff to be able

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1 to second guess the justices. We could never report a
2 justice without some problems for our continued
3 employment, if that's what you're saying.

**4 Q. So you never had the ability to - if you saw
5 an infraction - to be able to approach a justice and
6 either politely, friendly or - formally or informally -
7 advise them that what they were doing might not be
8 correct?**

9 A. I think that most members of the
10 Administrative Office and others who worked at the
11 Court would be very hesitant. They would just try to
12 either get word through some back channel, maybe
13 through another justice that they might want to talk to
14 him or to her.

15 But I don't think anyone would have
16 felt very comfortable doing that. I think that a lot
17 of the employees would have rejected an illegal order.
18 You know, if some justice had said, "Do" such and such,
19 and it wasn't legal, I think that a number would have
20 said, "I can't do that," you know.

21 But they would have trembled even
22 saying that. The justices have absolute power in the
23 Court.

24 Q. So those people that were employed to serve,

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**1 support, even go so far as to protect a justice didn't
2 have the ability to talk with a justice if they saw an
3 impropriety, something the justice might be doing
4 wrong?**

5 A. I guess that would be up to the individual,
6 the conscience of the individual. And also, I think
7 they would want to know more fully what you mean by
8 "wrong." I think that if one of the security people
9 saw something that a justice was doing illegally, I
10 think that they would have a word with the justice
11 because they would --

12 I think they're -- they're all former
13 state troopers, and I think their state trooper
14 background would certainly kick in.

15 But then "wrong" in terms of unethical,
16 irresponsible, improper, that becomes a matter of
17 degrees, and I don't know that they would feel that
18 they were in a position to make that judgment.

19 But you know, I'm guessing how they
20 would think. I know that's what I would think and how
21 I would work.

**22 Q. Based on your tenure and your service with
23 the Supreme Court, during your -- your period of
24 time --**

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1 A. Yes.

**2 Q. -- would a justice be familiar with the West
3 Virginia Ethics Act regarding financial disclosure?**

4 A. I would think they would, but I also wonder
5 if they might think that the Ethics Act doesn't apply
6 to the Court. They would think that's a separate
7 branch. I'm not sure they wouldn't have a lengthy and
8 very lawyerly discussion about that.

**9 Q. Based on your experience, do you feel that
10 the Ethics Act applies to a justice of the Supreme
11 Court?**

12 A. I'm not a lawyer; I'm not gonna be able to
13 answer that with anything more than my opinion, and
14 it's not a legal opinion. I will also give you an
15 example. I always filled out the form that was sent to
16 me every year or two by the ethics people. I never
17 failed.

18 I'm not sure all the justices filled
19 that out. And I don't know that anybody else at the
20 Court was asked or if they filled it out, like the
21 clerk or the chief counsel.

22 That in itself makes you wonder if the
23 Ethics Act does apply to all of the members of the --
24 the significant leaders in the Court. So --

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1 I think it does. That's why I filled
2 out my form. But I can't speak for how they may think
3 and -- I've sat through these legal back and forths
4 where I thought I had a strong opinion at the end. I
5 don't think I know my own name anymore; they've gotten
6 me so confused.

7 Because they can make remarkably good
8 arguments for different sides of different issues.

**9 Q. Based on your prior experience with the
10 Supreme Court, would a justice be familiar with West
11 Virginia Code - specifically criminal provisions - to
12 know the -- know the elements of a criminal code
13 dealing with embezzlement, grand larceny, falsifying
14 accounts, obtaining property under false pretenses or
15 fraudulent schemes?**

16 A. Sure, they'd know that. That's fundamental
17 law. They'd know every bit of that.

**18 Q. Would it be your opinion if -- if that took
19 place, that that would be a crime?**

20 A. Yes, of course. Those are criminal acts.

21 Q. And this is a general assumption question --

22 A. Okay.

23 DELEGATE MILLER: And this will be my
24 last question, Mr. Chairman.

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1 **Q. Based on how you answered the questions**
2 **regarding the West Virginia Ethics Act as well as -- as**
3 **part of the -- the criminal code question, do you feel**
4 **there is a general belief by certain members of the**
5 **Supreme Court that they -- that they are above the law?**
6 A. No, I believe they think that what -- they
7 say what the law is.
8 **Q. That they are the law.**
9 A. No, that they say what the law is. That's a
10 little different. But that doesn't mean they're above
11 it. They say what it is.
12 **Q. Explain your thoughts on that, please.**
13 A. Well, I think that they believe - after case
14 after case after case comes in - that they are the
15 people who decide what the law means, what the law is.
16 Again, I'm not a lawyer, as I've said many times, and I
17 may be explaining this very poorly.
18 But it seems that Courts decide again
19 and again what is meant by the Constitution, what is
20 meant by various Code created by this body. As they
21 determine that, they are saying what the law is.
22 That doesn't mean they're above the
23 law. I don't think they would ever believe they were
24 above the law. Though at times perhaps one or two may

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1 have acted it. I don't know that they, even then,
2 would believe that they were.
3 But I think they do believe that they
4 say what the law is.
5 **Q. Do they make an application as to who the law**
6 **applies to?**
7 A. That wasn't your last question, incidentally,
8 but --
9 **Q. Yeah, I -- the Chairman's gonna -- the**
10 **Chairman's gonna get me on that.**
11 A. That's not up to me, brother. I -- yes, in
12 some circumstances, they would. Depending on what the
13 matter was before them.
14 **Q. Thank you.**
15 DELEGATE MILLER: Thank you,
16 Mr. Chairman.
17 CHAIRMAN SHOTT: Delegate Queen?
18 Delegate Byrd?
19 Delegate Fluharty?
20 MINORITY VICE CHAIR FLUHARTY: No,
21 thanks.
22 CHAIRMAN SHOTT: Thank you. Back over
23 to Delegate Summers?
24 DELEGATE SUMMERS: (Nodded negatively.)

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1 CHAIRMAN SHOTT: Delegate Sobonya?
2 DELEGATE SOBONYA: Sure. Thank you,
3 Mr. Chairman.
4 RE-EXAMINATION
5 BY DELEGATE SOBONYA:
6 **Q. Mr. Canterbury, was Ms. Ellis under your**
7 **supervision?**
8 A. Yes.
9 **Q. Okay. In her Affidavit, she states that her**
10 **-- one of her duties or part of her duties included -**
11 **but was not limited to - managing the fleet vehicles**
12 **and overseeing the two warehouses.**
13 **And she also mentions that her initial**
14 **meeting with Justice Loughry to discuss renovations,**
15 **that he never mentioned the desk in his office was a**
16 **Cass Gilbert desk, and then she goes on to state that**
17 **she was first made aware of the couch at Justice**
18 **Loughry's house when she received the phone call from**
19 **Paul Mendez, a Court employee, who worked for her**
20 **division, and then he subsequently said "that during**
21 **that phone call, Mr. Mendez also informed me that**
22 **Justice Loughry also had a Cass Gilbert desk at his**
23 **house that he also wanted to move, but they were only**
24 **getting the couch at that time."**

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1 **Would she have had -- since she was the**
2 **supervisor of that department and her duty was to**
3 **oversee the warehouses, who would be responsible for**
4 **knowing that that Cass Gilbert desk should be moved to**
5 **the Capitol storage room as stated in State Code and**
6 **not off premises at the -- at the offsite warehouse?**
7 A. Well, that would have been her
8 responsibility, and I want to point out that the fleet
9 management duty was added after I left. She was not in
10 charge of fleet when I was there. And --
11 But she should have known. But then
12 again, Justice Loughry was her supervisor and said, I
13 guess, "Move it to the warehouse." I don't know. I
14 wasn't there.
15 **Q. But she did have prior knowledge that it was**
16 **a Cass Gilbert desk prior to the removal from Justice**
17 **Loughry's home; is that correct? According to the**
18 **Affidavit?**
19 A. According to the Affidavit.
20 **Q. And did you have any discussions with her**
21 **about the Cass Gilbert desk being moved? Did she call**
22 **you and say, "Hey, there's a Cass Gilbert desk and I've**
23 **-- I've been requested to -- Mr. Mendez has been**
24 **requested" --**

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1 Was there any conversation whatsoever
2 between you, Ms. Ellis, Mr. Mendez or anyone about that
3 desk being moved prior to its movement?
 4 A. I haven't talked to Paul Mendez since I was
 5 fired. I have talked to Kim Ellis, but I don't
 6 remember if I called her to find out what was going on
 7 with the couch - because I'd heard about the couch -
 8 and she brought up the desk, or if she called me. I
 9 don't remember.
10 Q. Okay. And when Justice Davis was up for
11 reelection --
 12 A. Uh-huh.
13 Q. -- she had filmed a commercial in her -- in
14 the chambers within the Supreme Court. Who gives
15 access to noncourt use to the Supreme Court chambers?
 16 A. The justices.
17 Q. You wouldn't have to sign off on that?
 18 A. No. No, that wouldn't be up to me.
19 Q. And did she have the contractor, the foreman
20 of the -- the contractor who did the work for the
21 Supreme Court, was in the commercial, filmed in the
22 Supreme Court? Is that -- do you have any knowledge of
23 that?
 24 A. I think that -- yeah, a couple of contract --

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1 a couple of construction employees might have -- one or
 2 the other or both - I don't recall - were in a
 3 commercial. It's been a while.
4 Q. So would using the Supreme Court for personal
5 gain, which would be a -- an election or a campaign
6 commercial, would that be ethical?
 7 A. Well, I think the ethics -- the investigation
 8 commission ethics had allowed judges to use their
 9 courtrooms in an election, and even people running for
 10 court can use courtrooms.
 11 In fact, if the judge agrees,
 12 courtrooms can be used for attorneys' commercials. I
 13 can think of attorneys in a few courtrooms around the
 14 state. So --
15 Q. But using people paid -- paid with taxpayer
16 funds for construction projects in that same vein,
17 would that be acceptable?
 18 A. I don't know. I'm not the ethics person to
 19 answer that question. I guess that on the one hand,
 20 the way you opine it, sounds like that might be a
 21 problem, but on the other hand, even people who are
 22 paid in a project with taxpayer money have a right to
 23 support a candidate of their choosing.
 24 So I'm not sure. I don't know how the

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1 ethics people would look at that.
 2 DELEGATE SOBONYA: Thank you.
 3 MR. CANTERBURY: Are we there?
 4 CHAIRMAN SHOTT: Delegate Harshbarger?
 5 MR. CANTERBURY: Are we there?
 6 CHAIRMAN SHOTT: Let's -- let's stop
 7 here.
 8 MR. CANTERBURY: Yeah.
 9 CHAIRMAN SHOTT: Just show of hands
 10 among those of you who haven't answered -- asked
 11 questions, if you still have some questions left.
 12 Okay, let's -- let's take a break for
 13 dinner. I think we have enough for our court reporter,
 14 our witness, his counsel, our two guest counsels and
 15 all our members, so --
 16 In the Judiciary Committee room, you'll
 17 find some food. Because it's already here and it's
 18 ready to go, let's -- let's break for 45 minutes and
 19 try to wrap up at 6:15. 6:15.
 20 (A break was taken for dinner after
 21 which the proceedings continued as follows:)
 22 CHAIRMAN SHOTT: Okay, folks, we're
 23 back in session. I was reminded by Minority Chair that
 24 I ought to announce for the public that although that

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1 was a working dinner, it was not paid for by the
 2 taxpayers. It was paid for by a taxpayer, but not the
 3 taxpayers plural.
 4 All right. We were, as I recall, just
 5 at Delegate -- I almost -- I almost promoted you.
 6 Delegate Harshbarger, questions?
 7 And Mr. Canterbury, you're still under
 8 the same oath.
 9 MR. CANTERBURY: Yes, sir.
 10 DELEGATE HARSHBARGER: Thank you,
 11 Mr. Chairman.
 12 Thank you, Mr. Canterbury, for still
 13 being here.
 14 RE-EXAMINATION
 15 BY DELEGATE HARSHBARGER:
16 Q. I just want to kind of dig in a little bit
17 more to these change orders. The original agreement
18 or, I guess you'd say purchase order, with the
19 contracting company back to 2009 was like for \$500,000
20 or \$800,000; is that correct?
 21 A. Yes, it was \$500,000 --
22 Q. Yeah.
 23 A. -- if memory serves.
24 Q. So when the Court issues that, is that based

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1 on a scope of work? Because you said you didn't have
2 to bid anything. So was that just basically -- so
3 there's no dollar value associated?
4 So that's how I'm baffled, is how --
5 how that division order -- or purchase order is
6 determined? Is it by the scope of work or the dollar
7 value?
 8 A. Well, we didn't have to bid it, but we
 9 actually did bid the initial construction, so
 10 Neighborgall won the bid. They looked at the scope of
 11 work; they submitted the bid. Theirs was the lowest;
 12 they got the job.
13 Q. Okay. So the -- the following change orders,
14 did they have to submit a new price to -- for that
15 change order if there's another project coming up, an
16 estimated cost?
 17 A. Yes, and they were told that I wanted to see
 18 what their price would for the per change order, for
 19 the Clerk's Office, was the next big chunk out of this
 20 -- or the -- I'm not sure if that came before or after
 21 the courtroom renovation.
 22 But I let them know that if I felt that
 23 it was excessive, we could always bid again.
24 Q. Yeah. Now, did this same original purchase

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1 order cover the remodeling for the justices' office?
 2 A. No, the original -- the original -- when you
 3 say "purchase order," I think what you mean is the
 4 bid --
5 Q. The bid, yeah.
 6 A. -- covered the fourth floor Chief Counsel's
 7 Office, which is basically half of the east -- the East
 8 Wing of the building.
9 Q. Okay. So that original 2009 agreement does
10 not cover the justices' office renovation.
 11 A. No, that came with change orders, and that's
 12 why there are so many that were individual change
 13 orders for each of the offices. And there was an
 14 individual change order for the -- for the courtroom.
 15 I've got a frog in my throat, I'm sorry.
16 Q. So there was a change order, say, to do the
17 renovations to Justice Ketchum's office, there was a
18 change order, correct?
 19 A. Yes.
20 Q. So there had to have been an idea or a
21 ballpark cost associated with that.
 22 A. Well, yes. They talked to the justice --
 23 talked to Silling, got an idea of what they wanted --
 24 what he wanted and what they thought needed to be done.

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1 Based on the scope of work that was presented by
 2 Silling, they then presented a change order, as I under
 3 -- as I recall and understand it.
4 Q. Okay. So the change order would be the same
5 thing for all the other justices' office.
 6 A. Right.
7 Q. When a new project came up, they'd kind of
8 get a rough idea, saying "It's gonna cost X amount of
9 dollars for these renovations."
 10 A. Right.
11 Q. Okay, so --
 12 A. But there were unexpected costs that were
 13 associated that came up --
14 Q. Okay.
 15 A. -- and they were -- in some cases, they were
 16 simply added on. In other cases, there was an
 17 additional change order.
18 Q. Okay. And if I remember right, back in my
19 previous questioning in the first round, these change
20 orders, you basic -- you said they were discussed among
21 all the justices and you eventually were the one who
22 signed it.
23 So they were aware of the possible
24 costs on these remodelings.

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1 A. Yes.
2 Q. Okay. So they were --
 3 A. I don't think they were aware of each of the
 4 costs. They just knew that there were gonna be change
 5 orders that were handled in order to keep this
 6 construction company on the job and the people they'd
 7 gotten to know and -- and liked and thought that they
 8 were respectful of their work habits.
 9 A lot of this had to do with them
 10 feeling that the -- that the Neighborgall Construction
 11 people would -- would not work and make a lot of noise
 12 when they were in court, they would not be bothersome
 13 when they were in opinion conference, they would work
 14 around their schedule.
 15 And they found -- they found them
 16 compliant and excellent, and so that's why they wanted
 17 to keep them.
18 Q. Yeah, based on their previous work.
 19 A. Right. But I don't recall that they saw
 20 actual numbers for the change orders for the individual
 21 offices. I think they did for the Clerk's Office,
 22 because that was very expensive.
 23 And I think they might have -- I can't
 24 say if they did for the courtroom or not. I just don't

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1 recall.

2 **Q. Okay. The JIC reported - I think it's on**
3 **page 3, and I think it's also been reported else**
4 **somewhere - that Justice Loughry's office was**
5 **approximately \$363,000 for renovation costs.**

6 A. That sounds about right. And that does not
7 include the furniture, does it? I think it was just --
8 well, maybe I'm misremembering. Maybe that does
9 include furniture and it was close to \$300,000 for the
10 actual construction. I just, frankly, don't remember.

11 **Q. Yeah, and that's where I'm going with this.**
12 **Do you know how much -- this goes back to the previous**
13 **question I asked about Justice Davis. How much of that**
14 **was actually for structural and --**

15 A. Right. I would say it was probably about the
16 same ratio in Loughry's office.

17 **Q. So there was a --**

18 A. Well, no, actually, I wouldn't. I would
19 think it was a higher ratio, because every stick of
20 furniture in Loughry's office was bought by the State.
21 He didn't have a single personal piece in there. From
22 the frames on the walls I've discussed to every chair,
23 every everything, it was all bought by the State.
24 And Davis' office, there were a couple

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1 of expensive purchases, but the vast majority of the
2 furniture in her office - her desk, her couch, her
3 chairs, her coffee table, things like that - they're
4 all hers and at her expense.

5 **Q. Yeah, I just did some quick math of some of**
6 **the big ticket items that was reported for his office,**
7 **and that ended up being about \$60,000 for the**
8 **furnishings, and you said there's more.**

9 A. Yeah.

10 **Q. So that still left about \$300,000.**

11 A. Right.

12 **Q. So -- but you say some of that was structural**
13 **or HVAC, electrical.**

14 A. Some of it is structural; some of it is
15 casework. A lot of built-in counters, cabinets, things
16 like that.

17 **Q. Okay.**

18 A. And it was very expensive because he wanted
19 sculpted walnut. As I recall, the sculpted walnut
20 alone was 100 and some thousand dollars, because he
21 wanted wainscoting out of the walnut, very expensive,
22 and he also wanted the walnut to match the cabinets
23 throughout, and so it was all sculpted walnut, the
24 doors, etc.

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1 I think also the radiator covers were,
2 so that was not cheap. But again, if you have the
3 documents, you can review them. I don't have them so I
4 can't really --

5 **Q. Yeah, I think --**

6 CHAIRMAN SHOTT: Let me just mention to
7 the Committee that we expect to have documents to
8 submit tomorrow that have been analyzed and have been
9 broken down in various ways, and we'll have a member of
10 the Legislative Auditor's Office to be here to answer
11 some questions.

12 So this witness probably isn't going to
13 have the kind of detail that we'll get tomorrow.

14 DELEGATE HARSHBARGER: Okay.

15 CHAIRMAN SHOTT: And one other reminder
16 to our members, and also our witness: With our court
17 reporter here, it is hard for her to take everything
18 down when both parties are speaking at the same time,
19 so I would just encourage the questioner to wait till
20 the answerer or the responder finishes before you start
21 the next question.

22 DELEGATE HARSHBARGER: Will do.

23 BY DELEGATE HARSHBARGER:

24 **Q. I know there's been a lot of talk about this**

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1 -- about the \$7500 floor medallion, but also you know
2 there's been reported costs for Ketchum's office,
3 there's \$12,000 worth of carpet. I mean -- and I
4 believe your statement was that his office was
5 remodeled before Loughry's office in 2009.

6 A. Yes, it was.

7 **Q. Okay. So Workman's office was also before**
8 **Loughry's office.**

9 A. Yes, it was.

10 **Q. And I think it was reported that there was a**
11 **\$9,000 sofa purchased for her office.**

12 A. No, that's not exactly right. It was a
13 \$9,000 reupholster. She owns the sofa; the State owns
14 the upholstery. I don't know how you divide it up, but
15 that's the way it is.

16 **Q. Okay, that's interesting.**

17 A. I found -- I found it to be interesting too,
18 sir.

19 DELEGATE HARSHBARGER: Okay, that's all
20 I have. Thank you, Mr. Chairman.

21 CHAIRMAN SHOTT: All right. Back to
22 the right side of the room, first row, Delegate Lane.

23 DELEGATE LANE: Thank you. I'm going
24 to try to talk and keep this on. Let me know if you

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1 get feedback.

2 RE-EXAMINATION

3 BY DELEGATE LANE:

4 **Q. Mr. Canterbury, I have a copy of this year's**

5 **budget.**

6 A. Okay.

7 **Q. And for the Court -- for the judicial system,**

8 **and the budget's \$139,759,000. Approximately how much**

9 **of that budget would be for the Supreme Court**

10 **operation, just the Court itself?**

11 A. Well, I've never been asked that, so I'm

12 gonna have to kind of calculate for a second. I doubt

13 if it would be more than 12 percent.

14 **Q. 10 or 12 --**

15 A. You're talking about the Supreme Court

16 itself, or are you talking about the Administrative

17 Office, the clerks, the --

18 **Q. I'm talking about the operation of -- the**

19 **operations in the East Wing.**

20 A. Okay. I'd say it's closer to probably 18

21 percent. But again, I -- it's been a while. I don't

22 know that I can say that with absolute assuredness.

23 But so much of the expense of the court

24 system is in the field with circuit judges, family

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1 court judges, probation officers, mental hygiene

2 commissioners, magistrates, ad infinitum.

3 **Q. Okay. Now, going back to a follow-up**

4 **question that the just -- or the delegate from Boone**

5 **asked, the Court has two security guards.**

6 A. Three.

7 **Q. Three. One of them's over at --**

8 A. -- City Center East.

9 **Q. -- City Center East. So -- and you said that**

10 **Justice Davis never drove herself, that she always had**

11 **someone drive her. And I think we had prior testimony**

12 **that that was the security person.**

13 A. Yeah. It -- yes, that's true, Delegate.

14 Neither Justices Davis nor Workman drove themselves.

15 It was always a security person driving them.

16 At times, the other justices had

17 security people driving them. But always Justices

18 Davis and Workman.

19 **Q. Well, who -- who was securing the Court when**

20 **the security guards or the security personnel were out**

21 **chauffeuring justices?**

22 A. There was a retired state trooper who was on

23 call, and he was contracted to come in. Of course,

24 there were two at the Court, so quite frequently, it

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1 would just be one on the road.

2 And if all the justices were at a

3 meeting, the security people would be there, and there

4 would be nobody as the security person at times; and

5 then other times, they would feel that they needed to

6 have the -- the contracted person.

7 **Q. Okay. And you testified that there'd been**

8 **threats against the justices?**

9 A. Yes, against some justices.

10 **Q. And is that why the justices asked the**

11 **security personnel to drive them places?**

12 A. I think that's part of it, and I think,

13 frankly, some of it was - well, for lack of better

14 words - chauvinism from the 1990s.

15 Justice Miller felt strongly that

16 Justice Workman should never drive. I heard this. I

17 wasn't there. I heard this story. That she should

18 never drive herself.

19 **Q. Okay. But let's -- let's talk about --**

20 A. And I -- I -- but that's just apocryphal. I

21 don't know if that's true or not.

22 **Q. Sorry.**

23 A. Me too.

24 DELEGATE LANE: Sorry.

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1 **Q. Let's talk about Justice Davis.**

2 A. Yes.

3 **Q. So she never goes anyplace without being**

4 **driven by the Court personnel.**

5 A. If it's a State car, that's true.

6 **Q. And part of that, you said, is for her own**

7 **safety?**

8 A. Yes.

9 **Q. Okay. So does she have a guard when she goes**

10 **to the supermarket at night because she would be out**

11 **there in the public and theoretically would be unsafe**

12 **there too?**

13 A. At the height of this -- I do not want to get

14 into too much detail. But at the height of this, yes,

15 Mr. Segal and Justice Davis did have private security

16 that they paid for themselves.

17 **Q. So --**

18 A. That was at the height of the -- of the

19 matter, before they rounded him up and --

20 **Q. Okay.**

21 A. I think he went to a mental institution.

22 **Q. Okay. So I think you testified that the**

23 **justices had computers at home and that it was**

24 **necessary that the computers be secure.**

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1 A. Yes.

2 **Q. And did -- did that require Court personnel**

3 **going to the residences to make those computers secure,**

4 **or is it a matter of -- I think one of the prior**

5 **witnesses talked about it was really just a matter of**

6 **logging in to the secured network.**

7 A. Well, both things are true. The initial

8 setup, to make sure that it was a clean system and a

9 clean line that they were connected to, you had Court

10 personnel go to set them up.

11 After that, they just needed to log in,

12 and then it could be if they felt that there was

13 somebody doing something they shouldn't through their

14 system on their computer, then out of the central

15 office, they could take a look and see if there was

16 some sort of problem.

17 It's perhaps hard to believe, but we

18 had 3000 to 3500 attempts every day to get in illegally

19 to the system. Most of them with North African-

20 originating addresses.

21 **Q. Did -- did anybody ever check to see if the**

22 **justices were actually doing work from home on -- on**

23 **the computers?**

24 A. No.

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1 **Q. This is sort of just a off-the-wall question.**

2 **We've heard all about these Cass Gilbert desks, and**

3 **we've heard that at least one of them has been valued**

4 **at \$42,000 and there are -- of historic value, but it**

5 **doesn't appear that any of the justices - except maybe**

6 **Justice Ketchum - ever used the Cass Gilbert desks.**

7 **Why are the justices not using these**

8 **desks?**

9 A. Also Justice McHugh used one.

10 Well, it's a matter of taste and a

11 matter of what they feel they can use. These are big,

12 kind of cumbersome desks. They're perfect for the

13 1920s era.

14 **Q. But it still -- but the size of the chambers**

15 **hasn't -- hasn't expanded any.**

16 A. Oh, no, no, they'd fit, but they

17 just -- you're right. But they're used -- there are

18 two used by law clerks. There's one used by the

19 Security Director, Arthur Angus.

20 I don't know why they don't want to use

21 them. It's one of the very few legal phrases I know in

22 Latin: De gustibus non est disputandum. Matters of

23 dispute, there can be no -- the matters of taste, there

24 can be no dispute.

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1 Some people like shorter, smaller

2 desks, I guess. I don't know.

3 **Q. Okay. Now, the justices are all on the**

4 **fourth floor; is that correct? No, the third floor.**

5 A. Third floor.

6 **Q. Third floor. During your 11 1/2 years at the**

7 **Court, was it your observation that the justices**

8 **interacted with each other in each other's offices, or**

9 **not?**

10 A. Different strokes for different Courts. My

11 original experience was that Justices Starcher and

12 Albright were pretty fast friends, they frequently were

13 in one or the other's offices talking.

14 Justice Maynard got to know Justice

15 Benjamin pretty well, they'd talk a lot. Justice Davis

16 would float in occasionally.

17 Later when Justice McHugh was there, he

18 was really a wonderful person to hold people together,

19 among other things, and all of the justices talked

20 frequently among themselves. It was a very collegial

21 Court. Those four years were golden years for

22 collegiality. It was remarkable just how -- how easy

23 the interactions were.

24 But when he left, some barriers started

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1 to rise between their interactions and -- Justice

2 Ketchum, Justice Loughry spent a lot of time talking.

3 Sometimes -- and Justice Loughry and Justice Workman

4 interacted a lot, sometimes with Ketchum.

5 Justice Benjamin and Justice Davis

6 would talk, and they had a good relationship. I think

7 everybody kind of tried to get along. But I think

8 there were some just -- it wasn't like it had been.

9 **Q. Well, would it be fair to say that when the**

10 **ren -- when the renovations were going on, that the**

11 **justices would have been in each -- each other's**

12 **offices and could have observed what the renovations**

13 **were?**

14 A. Well, sure. I'm sure that -- I'm sure they

15 would see things. Whether they knew -- you know, it's

16 like The Price is Right. Would they know what the

17 couch cost or what the chair cost or any of that? I

18 don't know that they would have known that.

19 And I always kept it between the

20 justice and me, I mean, unless the justice wanted me to

21 go telling the other justices, I felt --

22 One of the harder parts of the job - I

23 think I mentioned earlier - I had to serve the Court,

24 which was the majority of the Court - but I had to

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1 serve each one of them individually. I did my level
2 best, which means that I had to keep certain
3 confidences if they seemed to want me to keep the
4 confidence.
5 Of course, I felt -- if I felt the
6 confidence was out of line, I would take it to
7 administrative conference. That rarely happened,
8 however.
9 **Q. Okay, one -- one final question. I can't**
10 **remember, but somewhere in all of this, it was said**
11 **that Justice Benjamin spent -- either it was \$122,000**
12 **on travel or maybe it was \$222,000, something like**
13 **that. What -- how could you do that much -- how could**
14 **you run up that much expense?**
15 A. Well, Justice Benjamin felt that the Court
16 needed to have somebody who did some outreach to
17 represent the Court on the road, and he started that
18 right after he got elected. He felt very strongly
19 about that.
20 So he made a point of going to all the
21 drug court graduations; he made a point if there was a
22 -- if there was a rural county with a small bar
23 association and they had invited any justice to show
24 up, he'd drive to the eastern panhandle, he'd drive to

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1 the central part of the state.
2 And the reason that he built up the
3 expenses is because Justice Benjamin is more of a Boy
4 Scout than just about anybody I've ever met, and he
5 believed that he should never take a State car if he
6 was going to go anywhere that wasn't related to the
7 State.
8 Well, while he was out to the bar, he
9 might want to go visit a pal who lived nearby or take
10 kind of circuitous route back, and he didn't think it
11 was appropriate for the Court to pay, so he would
12 simply have the MapQuest figures for how much it cost,
13 how many miles it was from the Capitol to wherever the
14 heck he was going and have that computed.
15 It didn't matter how many miles he
16 actually put on that amazing old Toyota. I was always
17 terrified that Toyota would break down in the middle of
18 nowhere. But he always, always felt that it was the
19 only way he could do that and be honorable, and that's
20 the way he did it.
21 He's one of the most honorable people
22 I've ever known in my life.
23 **Q. Okay, thank you.**
24 CHAIRMAN SHOTT: Delegate Pushkin.

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1 DELEGATE PUSHKIN: Thank you,
2 Mr. Chairman.
3 RE-EXAMINATION
4 BY DELEGATE PUSHKIN:
5 **Q. Just to -- you stated that -- that the**
6 **threats against Justice Davis were -- were - I don't**
7 **know if you said taken more seriously than others - but**
8 **you said they were taken -- they were obviously taken**
9 **fairly seriously.**
10 The -- the gentleman who was eventually
11 picked up, was he considered to be part of like a
12 larger group? Is that why it was taken more seriously?
13 A. No, it was the vitriol and his specificity in
14 their move -- he had knowledge of their movement and
15 other specifics. And I don't know that he was ever
16 part of any organization. I never heard that.
17 **Q. He never claimed to be part of any sort of**
18 **paramilitary --**
19 A. He may have, but I don't recall that. But he
20 had that -- you've got the right kind of mentality
21 there.
22 Also, I don't know if he's still
23 institutionalized or not. I know that he was. He may
24 be out now for all I know, and maybe they've fixed him.

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1 I don't know. I don't think there are any recent
2 threats from him.
3 **Q. Okay. The storage area downstairs --**
4 A. Yes.
5 **Q. -- you mentioned -- this is the first that**
6 **I've heard of that.**
7 A. Right.
8 **Q. You said that's where the -- a Cass Gilbert**
9 **desk should be stored because there was a -- well,**
10 **there's a rule in place that it -- that it should not**
11 **leave the Capitol. I guess it's a statute, correct?**
12 **There's a --**
13 A. Yes, I believe it is.
14 **Q. -- State law that those desks can't leave the**
15 **Capitol.**
16 A. I think -- if memory serves, it's 29-1-7, but
17 I'm no -- again, I'm not the lawyer around here. I
18 think it's 29-1-7.
19 MR. HARDISON: 29-1-7.
20 **Q. We have confirmation from our -- from our**
21 **counsel.**
22 A. Well, if Joe says it, it must be true.
23 **Q. Yeah, so it's State law that it's not to**
24 **leave the Capitol. Is that the reason for the storage**

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1 area downstairs, for items that are not allowed to --
2 A. I don't know. The storage area, I inherited.
3 I don't know why it was there, but that's one of the
4 reasons it was used. There were other things in there,
5 documents -- not clerk's documents, but documents and
6 various and sundry things the justices had had in their
7 offices and decided they wanted in storage instead of
8 in their offices, you know, framed certificates, things
9 that were honorary, plaques that they'd been given
10 them. They wanted to keep them, but they didn't
11 necessarily want them in their offices.
12 Just a -- it's a mixed bag in that
13 room. It's not a very big room; it's a relatively
14 small room. But it did have enough room to put a
15 couple of case goods, pieces of furniture.
16 And so I think that -- you know, at
17 least my thought was: Make sure if we have a Cass
18 Gilbert thing, don't let it stray over to the
19 warehouse. That's -- that's my feeling about it.
20 Q. Do you know of any other -- any other items
21 in the Capitol that are specifically named in State law
22 that are not to be removed from this building?
23 A. I think everything that you're sitting in.
24 And you might laugh at that, but the Minnesota State

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1 Capitol lost some of those desks and they were sold on
2 the open market that had been in legislators' chambers,
3 from reports. I wasn't there, but I read that.
4 Architectural furniture is -- is a very
5 hot property right now, so I think anything that was
6 originally chosen by the Cass Gilbert firm is -- is
7 supposed to stay in the Capitol, and it's -- I don't
8 know of anything else that's desig -- designated in
9 there. I just remember the Cass Gilbert reference.
10 Q. Okay. Well, I'm -- I've got -- I'm just -- I
11 don't know that I'm speaking for everybody, but I know
12 I'm just learning today that that was actually -- not
13 just a policy of the Court, but actually State law.
14 Was it widely known over in the Court that that is
15 State law, that those desks are to stay in the
16 building?
17 A. I wouldn't say it was widely known at the
18 Court, but it was widely known among the more alert
19 members of the Capitol Building Commission.
20 Q. So would it be known by someone who served as
21 a clerk at the Supreme Court for 11 years and then was
22 later a chief -- a chief justice?
23 A. I don't know if he would have known that or
24 not, to be perfectly honest. But you know, I -- and I

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1 didn't know he took the desk, so I didn't have any
2 opportunity to think of telling him about it.
3 So I don't know.
4 Q. Okay. One more question. The -- the female
5 employee that, I guess, spoke with you and you later
6 spoke with then Clerk Loughry, she stated she didn't
7 want to follow through with any sort of formal
8 complaint or charges as long as it stopped. Correct?
9 A. Right.
10 Q. And it stopped?
11 A. It stopped.
12 Q. And -- one follow-up question. Did she --
13 how long -- how much longer after that did she remain
14 employed at the Court?
15 A. Until she left for school in the end of the
16 summer. And she didn't go except -- because she
17 decided it was time to go. She was a temp. She wasn't
18 a permanent employee.
19 Q. She was a temp, not --
20 A. So she was there roughly from -- gosh, this
21 is -- this is hard to remember. But it was in 2006.
22 January or February until August, maybe September,
23 whatever, and then she went off to school.
24 Q. Okay.

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1 DELEGATE PUSHKIN: Thank you.
2 MR. CANTERBURY: Sure.
3 CHAIRMAN SHOTT: Delegate Hollen?
4 Overington? Delegate Overington?
5 DELEGATE OVERINGTON: Yes, thank you,
6 Mr. Chairman.
7 RE-EXAMINATION
8 BY DELEGATE OVERINGTON:
9 Q. It sounds like you had four desks of the Cass
10 Gilbert desks. The good news was you didn't have the
11 five justices battling for them.
12 A. That's true, yes, sir.
13 Q. For the administrative meetings that you had
14 that were every month or two where you attended most of
15 them, were any of those meetings recorded?
16 A. No, the meetings were never recorded, ever.
17 Did you just ask if the meetings were recorded? I kind
18 of coughed for a second. But none of the
19 administrative conferences were recorded in any way.
20 Q. Were any other meetings recorded?
21 A. Not that I'm aware of. If they were
22 recorded, they were done surreptitiously. There was no
23 official recording.
24 Q. I know here at the Capitol, here in the House

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1 of Delegates, every year the staff tells us that we
2 have our Ethics Commission reports that we have to fill
3 out --
 4 A. Yes.
5 Q. -- and sort of as a reminder. There was
6 nothing in your office where you did that for the
7 justices?
 8 A. No, I think they were sent directly to them
 9 by the Ethics Commission. I know I always got mine
 10 directly from the Ethics Commission. But they also had
 11 to file something with the Clerk's Office, the clerk's
 12 version of the ethics statements, as I recall.
 13 I had nothing to do with that. No,
 14 that was a Clerk's Office function. And I think they
 15 had to file something every year with them.
 16 But I don't know if it was as
 17 comprehensive as the ethics form that I always had to
 18 fill -- that I always chose to fill out. I think I had
 19 to fill it out. I always did.
20 Q. Did most of the staff for the Court have to
21 do an ethics report?
 22 A. No.
23 Q. Do the judges have to do one?
 24 A. No, I think the judges, the circuit judges,

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1 family court judges -- that's why I think there's
 2 something filed with the -- with the Clerk's Office,
 3 but I swear, I just never had anything to do with that,
 4 so I'm not conversant enough to tell you much.
5 Q. Would the assumption have been that if the
6 judges do it, the justices should also do it?
 7 A. Sure. And I think that the justices filed
 8 with the Clerk's Office. But I don't think that they
 9 -- they may have. I don't know if they submitted stuff
 10 to the ethics office or not.
 11 But I know that there was some question
 12 early on about whether or not they needed to or should.
 13 But that was in the first few years I was there.
 14 The later ones might have thought it
 15 was just a matter of, you know, another office thing to
 16 do. I don't know.
17 Q. And my last question then: Do -- was there
18 any policy about bringing private furniture into the
19 court?
 20 A. No, you could bring in your personal
 21 furniture if you wished. Justice Workman, Justice
 22 Benjamin, Justice Davis, I, all had personal furniture
 23 in our offices.
 24 Justice Loughry had absolutely nothing

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1 that wasn't paid for by the Court.
 2 And I don't think Justice Ketchum did
 3 either. I think all of his was State furniture.
 4 DELEGATE OVERINGTON: Thank you. Thank
 5 you, Mr. Chairman.
 6 CHAIRMAN SHOTT: Delegate Fast?
 7 DELEGATE FAST: Thank you again,
 8 Mr. Chairman.
 9 RE-EXAMINATION
 10 BY DELEGATE FAST:
11 Q. Mr. Canterbury, have you ever attended any
12 fundraisers for Justice Davis?
 13 A. No.
14 Q. Okay. I wanted to ask you some questions.
15 There was a memorandum by Justice Loughry writing to
16 the other members of the Court, and he stated that
17 there was no written policy regarding use of Court
18 vehicles by either members of the Court or Court
19 employees. Is that true?
 20 A. There was nothing about the -- there -- I
 21 think that's true, yes.
22 Q. Okay. He also stated -- that that you had
23 utilized a Court vehicle on 38 occasions without
24 providing a destination.

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1 A. That's true.
2 Q. That's true?
 3 A. Whether either Arthur Angus didn't write it
 4 down or my secretary, executive assistant, didn't give
 5 him the information. I never did that. It was always
 6 her doing, so I don't know what happened.
7 Q. Okay. He stated that on at least eight
8 occasions, Justice Benjamin checked out of court
9 without stating a destination. Is that true?
 10 A. I read that. I'll assume it's true, but I
 11 don't know that.
12 Q. Okay. And that Justice Workman had use of a
13 vehicle without a destination being supplied as well,
14 that there were entries of that. Do you know if that's
15 true?
 16 A. I believe absolutely in the Auditor's report,
 17 so I'll say it's true. But I wasn't part of it. I
 18 will also say that that would have been a failure on
 19 the part of one of the security staff because not only
 20 were they the security people, but they were in charge
 21 of entering that information.
 22 Justice Workman would not have gone in
 23 and entered the information herself, for goodness
 24 sakes.

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1 **Q. And likewise, Justice Davis did not list a**
2 **destination on her use of a Court vehicle on multiple**
3 **occasions. Would that be true?**
4 A. Again, that's what was on the report, and I
5 have no reason to disbelieve the Auditor's report.
6 However, again, I would say that that would not have
7 been a failure of Justice Davis; it would have been a
8 failure of her -- Arthur Angus, who not only was the
9 driver, but also in charge of the system.
10 **Q. So lack of entry of a destination for any**
11 **justice, are you saying would most likely be a failure**
12 **on the part of the staff versus the individual justice?**
13 A. Well, of course, the justices have to be
14 responsible for what staff does, and in that sense, it
15 falls -- it falls back on them. But also, they didn't
16 do the entries themselves; they were done by Arthur
17 Angus and/or Jess Gundy.
18 And so since they were doing the
19 driving and then they didn't enter the information,
20 then that would have been their omission, not the
21 justices'.
22 **Q. Okay.**
23 A. Just as I said about my secretary following
24 up, maybe she did; maybe she didn't.

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1 **Q. Now, what about for you? Were you**
2 **responsible for your own entries, or did you --**
3 A. Well --
4 **Q. -- have staff for yourself as well?**
5 A. -- ultimately, I'm responsible. But again, I
6 had -- Joan Mullins was the person -- or in some
7 occasions, Mary Greene, was the person who was supposed
8 to call up and say, "Steve's taking the car to" X, Y
9 and -- you know, to X for this purpose or that purpose.
10 **Q. Okay.**
11 A. And either she didn't make some of those
12 calls or they took the call and didn't put the
13 information into the system. I don't know which --
14 where the breakdown was.
15 **Q. Okay. And while campaigning to become a**
16 **justice of this Court, he personally observed Justice**
17 **Davis arrive on more than one campaign event in a Court**
18 **vehicle driven by Court security.**
19 **Do you have any knowledge of that or**
20 **whether that's true or not?**
21 A. I have no idea.
22 **Q. Okay. There was a -- some communication**
23 **between Denny Rhodes, West Virginia Legislative**
24 **Auditor's Office and Sue Racer-Troy, and he had sent**

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1 her a summary of a meeting and asked for accuracy, and
2 there was one -- this is Exhibit 14, No. 5, second
3 page.
4 It said, "The Court use" -- and he --
5 and right here, she's quoting what was in this summary,
6 and then she responds to it. "The Court used the Fixed
7 Asset Inventory Management System in WVFIMS, but from
8 her inspection, it appears that the Court had not
9 updated or utilized it since 2010."
10 "Mr. Canterbury had informed her this
11 was intentional because he did not want others knowing
12 the Court" -- I assume means "what" "the Court had."
13 "Since 2010, even IT inventory such as
14 server, routers, computers, etc., had not been
15 recorded. The IT department -- IT department of the
16 Court may have kept an internal record in an Access
17 database."
18 And then her response was, "After
19 returning to the office on Monday afternoon, I reviewed
20 the fixed assets in FIMS. The latest acquisition date
21 for technology equipment (servers, routers, computers,
22 etc.) is 7-9-2010. No technology equipment was added
23 after that date.
24 The last acquisition date for vehicles

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1 was 9-24-13. No vehicles were added after that date."
2 Now, her response right there, is that
3 true?
4 A. No, not entirely. As I said earlier, as we
5 transitioned the phones to Amazon -- Amazon -- to
6 OASIS, we -- there was a breakdown of keeping records.
7 I'm not sure why Ms. Troy didn't keep the procedure
8 that Mike Proops, her predecessor, had established.
9 But I certainly never told her that I
10 wanted to keep from the public any information about
11 what the Court had.
12 She says further on -- or commenting
13 about --
14 **Q. I haven't got to that part yet.**
15 A. Okay.
16 **Q. I'm just asking about the entry of -- of the**
17 **data in the system.**
18 A. Apparently she stopped entering it and felt
19 that it was somebody else's responsibility, I guess.
20 **Q. So that was her misgiving -- misdoing.**
21 A. Well, it had been her predecessor's job, so
22 it would have been her job too.
23 **Q. So was she under you?**
24 A. Oh, yes.

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1 **Q. Okay.**
 2 A. So it falls back on me ultimately.
 3 **Q. So is it true that the last acquisition data**
 4 **for technology equipment such as servers, routers and**
 5 **computer was July 9, 2010? And she wrote this in March**
 6 **of 2018.**
 7 A. Well --
 8 **Q. So is that -- is that an accurate statement**
 9 **right there?**
 10 A. I can't say if that date's accurate. But I
 11 also know that the IT department decided that they
 12 wanted to keep their own records and to take that out
 13 of everybody else's hands, because they felt that some
 14 of the information wasn't being recorded properly, so
 15 they started doing it on their own.
 16 I think she references that as well.
 17 **Q. Is it true that no -- no vehicle acquisitions**
 18 **were recorded since -- or --**
 19 A. Well, there were only 19 --
 20 **Q. The last acquisition for vehicles was**
 21 **September 24, 2013. Was that -- is that true?**
 22 A. Could be. I'm not sure that -- that anything
 23 was bought after '13 when I was there. There might
 24 have been. But there were only 19 vehicles. There was

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1 a list of them. I presented that list in the spring of
 2 '16, as I recall, to Aaron Allred when he requested it,
 3 so I submitted the list of vehicles we had.
 4 It was only 19 vehicles. So we knew
 5 what the vehicles were. We just may not have had them
 6 in the system she's referring to.
 7 **Q. Okay. Then she goes on to requote the**
 8 **summary again, quoting, "Mr. Canterbury had informed**
 9 **her this was intentional because he did not want others**
 10 **knowing the Court -- knowing what the Court had," and**
 11 **she said, "I don't recall that Mr. Canterbury told me**
 12 **this specifically related to the fixed asset inventory.**
 13 **He often referred to being a third branch of government**
 14 **and the independence of that came with that. I felt**
 15 **that best practices were not always followed due to**
 16 **wanting to exercise independence."**
 17 **And she goes on. So you dispute that**
 18 **you told her that you -- you -- that was on purpose**
 19 **because you didn't want people knowing what the Court**
 20 **had.**
 21 A. I didn't tell anybody to hide anything.
 22 That's not my style. I didn't do that.
 23 I did, though, frequently talk about
 24 that we were a third branch of government, frequently

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1 OASIS especially -- and she was head over -- she was up
 2 to her eyeballs in OASIS.
 3 Kept referring to the Court as an
 4 agency, not as a branch. They didn't seem to really
 5 know how to compute us. And they just had a hard time
 6 understanding it, and I think in lots of discussions
 7 with her, I would say, "When you're in there, remind
 8 them that we're a branch, we're not an agency. No, we
 9 don't work for the Governor. No, we don't respond like
 10 an executive agency."
 11 There was a need to make sure that that
 12 -- that there is an independence to the three branches,
 13 and I did emphasize that. But in relationship, as I
 14 recall, with the OASIS -- well, situation, I'll say.
 15 **Q. Okay. Quick question about the floors.**
 16 **Which floor was more expensive, Justice Workman's floor**
 17 **or Justice Loughry's floor?**
 18 A. Just -- I think Justice Workman's was more
 19 expensive. Even with the medallion, I think hers was
 20 more expensive. Again, though, I don't have the
 21 documents in front of me, but that's just what memory
 22 serves.
 23 **Q. Okay. When you were terminated in 2017, were**
 24 **State vehicles used to transport your items to your**

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1 **home?**
 2 A. I said that earlier. Yes.
 3 **Q. And were State vehicles ever used to**
 4 **transport any of your personal items into the Capitol?**
 5 A. No. I brought them in my own vehicles.
 6 DELEGATE FAST: Thank you,
 7 Mr. Chairman.
 8 MR. CANTERBURY: Thank you.
 9 CHAIRMAN SHOTT: Delegate Capito.
 10 DELEGATE CAPITO: Thank you,
 11 Mr. Chairman.
 12 RE-EXAMINATION
 13 BY DELEGATE CAPITO:
 14 **Q. During your time on the Court, did you, or to**
 15 **your knowledge, any other employee or employees of the**
 16 **Court, receive bonuses or any other additional**
 17 **compensation from any of the justices?**
 18 A. No. Bonuses aren't allowed. There were no
 19 bonuses.
 20 **Q. Not even from -- not even a personal from --**
 21 **personally from any one of them -- another person?**
 22 A. Not that I'm aware of.
 23 **Q. Okay.**
 24 A. I never got one.

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1 **Q. Fair enough.**
 2 A. So if somebody else got one, I am now even
 3 angrier.
 4 **Q. Fair enough.**
 5 DELEGATE CAPITO: Thank you, thank you
 6 for being here. Thank you for your patience.
 7 CHAIRMAN SHOTT: Delegate Fleischauer.
 8 RE-EXAMINATION
 9 BY CHAIRMAN SHOTT:
 10 **Q. Mr. Canterbury, the name Zach Johnson has**
 11 **come up a few times, and I think he's somehow**
 12 **associated with the construction and maybe even became**
 13 **an employee of the Court. Can you --**
 14 A. He did.
 15 **Q. -- help me follow that?**
 16 A. Zach was extremely popular as a construction
 17 person. He was -- he was a very good construction man.
 18 He's a good -- he's a certified -- I think he's a union
 19 carpenter by training.
 20 But he's just really knowledgeable
 21 about all manners of construction. Justice Ketchum was
 22 extremely impressed with him and brought up, I think,
 23 at administrative conference --
 24 I think he brought it up with me

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1 personally a few times and at administrative
 2 conference, that he thought that we could use somebody
 3 to go around and perhaps save the State a little money
 4 by Zach taking care of a lot of this stuff that we were
 5 -- at the magistrate courts, family courts, for some
 6 repairs and some minor construction, rather than having
 7 to contract it.
 8 And so I -- he was hired by the Court
 9 and he worked under the watch of Kim Ellis.
 10 **Q. Do you know what time frame he switch -- he**
 11 **basically transitioned from working with an outside**
 12 **contractor to when he became a Court employee?**
 13 A. You know, I'm not 100 percent sure, but I'm
 14 gonna say 2014 or '15. It was towards -- it was after
 15 -- either towards the end of the Davis project or after
 16 it was over.
 17 **Q. We have information that he may have appeared**
 18 **in one of her campaign commercials or her husband's**
 19 **commercials. Do you know whether or not that's true?**
 20 A. I don't know about the husband's commercial.
 21 But yes, as I recall -- I wasn't involved with the
 22 making of the commercial, but I saw them and I think
 23 Zach was in one of those commercials when he was still
 24 working -- and not for the Court, but still working as

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1 a carpenter for -- a union carpenter, I think, for
 2 Neighborgall still.
 3 **Q. And was that in Justice Davis' commercial or**
 4 **her husband? I didn't --**
 5 A. No, I think -- I don't -- I've never seen him
 6 in -- I'm one of those people who changes channels on
 7 commercials, but I do watch the political ads.
 8 I can't really tell you much about
 9 Scott Segal's commercials, but I don't really recall
 10 him being in any of those that I've seen, but she -- he
 11 definitely was in one of - or maybe a couple, but at
 12 least one - of Justice Davis' ads.
 13 **Q. Before he was hired by the Court.**
 14 A. Yes, before he was hired by the Court.
 15 **Q. Okay. I hesitate to ask this next question,**
 16 **but I've been asked to do so just to dispel a rumor.**
 17 **There was a rumor going around that you were**
 18 **communicating directly with one or more members of our**
 19 **Committee during our proceedings.**
 20 **Is that -- is there any truth to that?**
 21 A. Yes. I texted a person who asked me a
 22 question, and I texted him back and texted him a few
 23 other times.
 24 **Q. Okay. Can you identify who that was?**

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1 A. That was Andrew Robinson, Delegate Robinson.
 2 **Q. And was it more than one occasion?**
 3 A. A couple of days, I -- a couple of different
 4 texts. I really don't know how many.
 5 **Q. All right. Final question. One of the tasks**
 6 **of this Committee is to come up with recommendations**
 7 **for changes in legislation, and you were intimately**
 8 **involved with the Court for 11 1/2 years, if I**
 9 **calculated right.**
 10 **Do you have any suggestions for our**
 11 **group as to what suggestions we should make to the**
 12 **House as to changes in the legislation affecting the**
 13 **Court?**
 14 A. Well, one you've already done, I strongly
 15 believe. And this will strike some people as
 16 surprising unless you read my op ed in the Gazette. I
 17 never believed that the Court should have control of
 18 its own budget.
 19 I thought that just was a imbalance,
 20 the balance of power. I think the legislature is the
 21 purse keeper, and you should have that authority.
 22 Also just strategically, I always
 23 thought that whenever -- you -- whenever you folks see
 24 judges, magistrates, family court judges around, you

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1 think one thing: It's pay raise time, they're up there
 2 lobbying for a pay raise.
 3 And that brings a very bad impression
 4 of them. But if every year while the budget's being
 5 developed, you interacted with all of those people from
 6 the Court, you would start to have more understanding
 7 of their jobs, you wouldn't think that they were just
 8 money-grubbing pay raise people.
 9 And they would have more of an
 10 understanding of the challenges you face in trying to
 11 balance everything. That can't help but be good to
 12 have that kind of familiarity. So I always believed
 13 strongly in that.
 14 But you know, I worked for them, and
 15 after that initial conversation with Spike Maynard who
 16 said, "Never mention that again," and I never did until
 17 I was gone.
 18 The second thing I would suggest -- and
 19 I feel strongly about this too. You may know that I
 20 played a pretty instrumental role in community
 21 corrections work -- I'm sorry, the criminal -- if I can
 22 get this out. Criminal justice reform work, criminal
 23 justice reinvestment.
 24 Justice reinvestment is really

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1 valuable. Take a look at Connecticut and see how their
 2 numbers of crimes have gone down and their numbers in
 3 institutions have gone down.
 4 But as long as the probation officers
 5 are working for the Court, they will never, ever do
 6 what they need to do to make this work. They simply
 7 are not under your watch.
 8 And I believe that like the vast
 9 majority of states -- only 13 or so states have
 10 probation officers who are under the Court's watch. I
 11 think there should be a separated division of probation
 12 and parole.
 13 Parole should be brought out from DOC;
 14 probation should be brought out from under the Court,
 15 and then they should have to follow the dictates of
 16 this body to make sure that they're doing the work they
 17 need to do to lower the numbers of people who are
 18 recycling back into prison.
 19 I -- I here endeth my lecture. I could
 20 really go on a long time about this. I know a lot
 21 about it. I was really proud that I was able to get
 22 the justice center to bring \$4,000,000 to this state,
 23 along with Governor Tomblin, and -- and to help us get
 24 the statistics we need.

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1 You've got a great start on juvenile
 2 justice. You need to see it through. And I'm a little
 3 concerned that you -- that the legislation that
 4 combined juveniles under the watch of the -- of an
 5 agency that also has adult offenders.
 6 That's -- that doesn't work out very
 7 well in most states, and I think that you better watch
 8 very carefully to make sure the juvenile justice
 9 reforms work.
 10 Look, we don't have to have this
 11 recidivism. We could lower the crime rate
 12 dramatically. It just takes being smart. Look at what
 13 Texas did. Look at what Connecticut did. They have
 14 the lowest crime rates in their history.
 15 And can you think of any two states
 16 that are any more different than Connecticut and Texas?
 17 Well, they have one thing in common: They got into
 18 justice reinvestment and they did it right. You can
 19 too. But it's up to you to have the will to do it.
 20 **Q. Thank you. Thank you, Mr. Canterbury. And I**
 21 **do need to change one thing I said. The name is not**
 22 **Zach Johnson; it's Zach Thompson.**
 23 A. Yeah, I didn't think Johnson was right, but I
 24 was having a crisis of memory and I thought, "Is it?"

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1 And I thought it was Thompson.
 2 **Q. It is Thompson.**
 3 A. But I knew exactly who you were talking
 4 about. Zach's a good man.
 5 **Q. All right.**
 6 CHAIRMAN SHOTT: Thank you,
 7 Mr. Canterbury.
 8 MR. CANTERBURY: Thank you, sir.
 9 CHAIRMAN SHOTT: Counsel, any further
 10 follow-up?
 11 MS. KAUFFMAN: No.
 12 CHAIRMAN SHOTT: All right. You are
 13 excused. We appreciate your endurance tonight.
 14 MR. CANTERBURY: Sure. Thank you.
 15 MS. KAUFFMAN: All day.
 16 CHAIRMAN SHOTT: All day, yes.
 17 To the members of the Committee, just a
 18 brief sort of overview of what we're going to do
 19 tomorrow. We will have some information for you
 20 regarding the construction costs.
 21 It's the -- the Legislative Auditor's
 22 Office has been doing a lot of work. They had a huge
 23 notebook for of invoices and so forth delivered to
 24 them. They've made an effort to analyze that and to

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1 summarize it. As well, our executive assistant over
2 here has done some charts that hopefully will be
3 helpful to you.

4 We'll start with that tomorrow. We'll
5 entertain some -- some questions about that, although
6 the -- as I said, the documentation is pretty -- pretty
7 overwhelming, so I'm not sure how much beyond the scope
8 of what the charts and so forth show we'll be able to
9 do. But at least you'll have that information for the
10 next week.

11 We also will be developing some
12 information regarding this issue of working lunches
13 that the JIC dealt with, and you will -- one of our
14 staff has basically done an analysis of those, and you
15 can decide for yourself whether the working lunches all
16 occurred during administrative conferences and so
17 forth. That's part of the information.

18 There's some information that our
19 managers have developed - and particularly Delegate
20 Miller - on the -- on the Greenbrier book signing
21 excursions, and we'll have some information and
22 documents to share with you then.

23 And finally, some information on that
24 Tucker County magistrate case that was mentioned in one

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1 of the JIC -- I think it was the JIC charges.
2 And that will be probably what we'll be
3 doing tomorrow. And so I don't expect we'll be here all
4 day or even late into the afternoon. And as I said
5 earlier, we won't be here Saturday.

6 Now, I would like to meet with the
7 managers for a few minutes after this meeting so that we
8 can finalize our agenda for tomorrow and for future
9 purposes. Here's what we're facing: We -- because the
10 JIC has concluded their investigations that were focused
11 on the -- the lunches and a few other issues, that
12 information which was out of bounds, so to speak, because
13 of the confidentiality provisions of the -- of the JIC's
14 procedural rules, we have subpoenaed that information, but
15 we've also been told that it won't be available probably
16 before Wednesday of next week.

17 And if it's anywhere near as voluminous as
18 the last series of information we got, we're gonna need
19 some time to digest that. We also have the handicap that
20 we are going to have two of our staff members gone next
21 week, and we also have given Ms. Loughry some additional
22 time to get -- to get counsel.

23 So we're not going to meet on our normal
24 schedule next week, but we probably will meet the

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1 following week early, and we're thinking at this point by
2 maybe mimicking the -- the interim schedule, since we're
3 not having interims in August and maybe do a Sunday
4 afternoon, Monday and Tuesday.

5 We have tentatively confirmed the tour for
6 the Supreme Court facilities on Monday, and so please pay
7 attention to our e-mails. It's possible if we don't feel
8 like we have enough information to spend Sunday, Monday
9 and Tuesday, we may just wait until Monday and do a long
10 day Monday, sort of like what we've done tonight, and then
11 Tuesday, rather than three days.

12 So pay attention. We're gonna -- we'll be
13 bringing you up to date. It's gonna take us a little
14 while to figure out what to do with all this JIC
15 information, how to -- how to present it, if we feel like
16 it's necessary.

17 So with that, I'll entertain a motion that
18 we be in a -- in recess until, let's just say, Sunday a
19 week -- the 5th -- no, I'm sorry, tomorrow morning, 9:00
20 o'clock. Tomorrow morning, 9:00 o'clock.

21 DELEGATE CAPITO: Mr. Chairman, I move the
22 Committee stand in recess until 9:00 a.m. tomorrow.

23 CHAIRMAN SHOTT: You've heard the
24 gentleman's motion. All in favor will say "aye."

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1 DELEGATES: Aye.
2 CHAIRMAN SHOTT: Opposed "no."
3 The ayes have it. We are in recess until
4 tomorrow morning.

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1 STATE OF WEST VIRGINIA,
2 COUNTY OF KANAWHA, to wit:
3 I, Teresa Evans, Registered Merit Reporter and a
4 Notary Public within and for the County and State
5 aforesaid, duly commissioned and qualified, do hereby
6 certify that the foregoing proceedings were duly taken by
7 me and before me at the time and place and for the purpose
8 specified in the caption hereof.

9 I do further certify that the said proceedings
10 were correctly taken by me in shorthand notes, and that
11 the same were accurately written out in full and reduced
12 to typewriting by means of computer-aided transcription.

13 Given under my hand this 8th day of August,
14 2018.

15 

16 _____
17 TERESA EVANS, RMR, CRR



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