

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 VI
 14
 15 Hearing held on July 27, 2018, before the House
 16 Judiciary Committee of the West Virginia Legislature.
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 10 Mark White, Clerk
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 16 Chad Lovejoy
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 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)
 24

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 3 JUSTIN ROBINSON
 4
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1 PROCEEDINGS
 2 CHAIRMAN SHOTT: Once again, good
 3 morning. We'll call this meeting to order. I'll ask
 4 the clerk to take the roll to ascertain the presence of
 5 a quorum.
 6 (The roll was taken.)
 7 CHAIRMAN SHOTT: All right. As I
 8 indicated yesterday, we're going to have some testimony
 9 to start the day regarding the construction project in
 10 the East Wing. A couple of comments before we begin:
 11 The Legislative Auditor's Office is in the process of
 12 digesting all the materials in the notebook that you
 13 see here on the podium beside the witness stand.
 14 It is our intent -- and I want to make
 15 this as clear as I can. We will go through that
 16 notebook, copy each page, scan it after it's been
 17 assigned a Bates stamp, which is a method - for those
 18 of you who aren't familiar with that term - of
 19 specifically identifying each page, so if one gets out
 20 of sequence, we'll -- we'll know it.
 21 Once those documents are scanned -- and
 22 we'll probably do it in 12 or 13 subparts. For each
 23 part, for instance, First Floor Renovations, Justice
 24 Loughry's Renovations and so forth.

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1 Those will be sent to you so you can,
2 at your leisure, go through them invoice by invoice, if
3 you wish.
4 Now, today's -- the purpose of today's
5 testimony is to basically give you a glimpse of what's
6 going on, the process. We've also asked Mr. Robinson
7 to address some specific issues or specific items that
8 have come up during the testimony.
9 But I'm not going to go through and
10 ask -- allow questions of Mr. Robinson on each and
11 every invoice. We'd be here all day. We're not going
12 to do that. You'll have those invoices. But he will
13 give you an idea of what -- what they're doing.
14 And at the conclusion of that process,
15 the Legislative Auditor's Office will provide us with a
16 report similar to what's been provided to us in pre --
17 three previous reports.
18 So we're going to take a few minutes to
19 -- to hear from Mr. Robinson, and counsel will lead him
20 through some questions. And we're not going to open
21 the floor for questions. If you have a procedural
22 question as opposed to a specific question about a
23 specific invoice or so forth, we may entertain those,
24 but I'd like to avoid going through this invoice by

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1 invoice.
2 So for instance, don't ask "How much
3 was the light fixture" in so-and-so's office.
4 Otherwise, we'll never get out of here.
5 Okay, Counsel, would you call your
6 first witness.
7 MS. KAUFFMAN: Thank you, Mr. Chairman.
8 The House Committee on the Judiciary calls Justin
9 Robinson.
10 CHAIRMAN SHOTT: Mr. Robinson, let's go
11 through this again.
12 (The witness was sworn.)
13 CHAIRMAN SHOTT: Thank you. Welcome
14 back.
15 THE WITNESS: Thank you, sir.
16 JUSTIN ROBINSON
17 Was called as a witness by the Committee on the
18 Judiciary, and having been sworn, testified as follows:
19 EXAMINATION
20 BY MS. KAUFFMAN:
21 **Q. Mr. Robinson, can you please state your full**
22 **name for the record?**
23 A. Yes, Justin Robinson.
24 **Q. And Mr. Robinson, just to remind the**

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1 **Committee, where do you work and what position do you**
2 **hold?**
3 A. I am the acting Director of the Legislative
4 Post Audit Division.
5 **Q. Thank you. Mr. Robinson, the last time that**
6 **you were before this Committee in these proceedings, I**
7 **believe you mentioned that your office was in the**
8 **process of trying to review and analyze and obtain**
9 **copies of information regarding renovations that were**
10 **done by the Supreme Court of Appeals.**
11 **Is that correct?**
12 A. That is correct.
13 **Q. Is your office still in the process of trying**
14 **to undertake or -- to do that project?**
15 A. Yes, we are currently in the process.
16 **Q. Okay. Since the last time you were here, has**
17 **your office come into possession of documents regarding**
18 **the renovation that you did not have when you were here**
19 **last?**
20 A. Yes, that's correct. We were provided a
21 binder of no -- of invoices and documentation
22 concerning the renovation project here at the Capitol
23 concerning the Court.
24 **Q. And approximately -- I think the Committee**

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1 **can see it, but just so that we're all clear,**
2 **approximately how large and how many pages is that**
3 **binder of information?**
4 A. It's approximately 1000 pages of
5 documentation and invoices.
6 **Q. Okay. And is your office in the process now**
7 **of going through those documents?**
8 A. Yes, we are.
9 **Q. Have you done a prelim -- any type of**
10 **preliminary analysis with respect to that -- this**
11 **notebook of invoices?**
12 A. Yes. For the four current justices, we have
13 done a recalculation of the invoices contained for each
14 section of those justices to confirm that the summary
15 totals contained within the binder are accurate.
16 **Q. Before we go any further, I do want to ask**
17 **you a question: With respect to the documents that are**
18 **in that binder, do you have -- well, let me just ask it**
19 **this way: Is that a complete copy, to your knowledge,**
20 **of all the expenditures that were take -- undertaken**
21 **during the renovations?**
22 A. When we were first provided the
23 documentation, we believed so. However, we were
24 notified yesterday by the current Interim Director of

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1 Court Administration that this binder is not complete,
2 and that there were some items omitted at the request
3 of Justice Loughry when it was re -- prepared -- when
4 it was prepared.

5 Q. And where do we go from here?

6 A. Essentially, the Court said they would
7 provide the additional documentation that was omitted,
8 so we are awaiting that information, and we will
9 continue our path of reviewing the documentation and
10 confirm that it's complete and accurate.

**11 Q. Were you informed of any other areas in this
12 notebook that may not be complete at this time?**

13 A. Not with any specificity to any particular
14 areas, but we were informed that what we were provided
15 was not complete.

**16 Q. Okay. And once you obtain that new document
17 -- or additional documentation from the Court, do you
18 have any objection to sharing it with our Committee?**

19 A. Oh, no, we will absolutely share it.

**20 Q. Okay, thank you. Mr. Robinson, let me ask
21 you -- and our Committee has been provided not a copy
22 of the entire notebook yet. As the Chairman indicated,
23 we are in the process of trying to scan that to get
24 that to the Committee in electronic form today.**

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**1 But with that said, could you please
2 just tell the Committee how this notebook is divided
3 up?**

4 A. Yes. The notebook's divided into several
5 sections concerning specific areas of the Court that
6 received renovations. Just giving it a quick glance,
7 it appears there's approximately 13 areas that it
8 summarizes costs for.

**9 Q. Mr. Robinson, could you please take a look in
10 the exhibit binder at Exhibit No. 41?**

11 A. Okay.

**12 Q. The first page of Exhibit No. 41, does that
13 appear to be the same cover page or a table of contents
14 that's contained in the notebook?**

15 A. Yes, it is.

**16 Q. Let me actually go back -- and you had
17 mentioned some summary pages. If you could, please,
18 for the Committee, just describe what that notebook
19 contains behind the -- each tab, in addition to the
20 invoices.**

21 A. Okay. So there are approximately 13 sections
22 -- well, there are 13 sections, covering the various
23 renovations. For each section behind the cover page,
24 for each section, there is documentation invoices that

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1 summarizes the expenditures made concerning those
2 renovations, and at the very first page of each
3 section, there's a summary page that attempts to
4 summarize the totals of all those invoices.

**5 Q. Okay. Now, if you could, please, go to --
6 let's turn to the third page, and also look at the
7 fourth page of Exhibit No. 41. I believe we are behind
8 the tab of Justices' Conference Room.**

**9 If you could, please -- and I believe
10 page 3 is -- contains the same information as page 4,
11 so let's go to page 4.**

**12 Could you please tell the Committee --
13 or just identify what page 4 appears to be.**

14 A. Page 4 is a summary of the invoices for the
15 justices' conference room, and it details out
16 approximately ten invoices totaling \$300,350.

**17 Q. Okay. And that is your understanding - at
18 least from the documentation you've been provided so
19 far - that that's the total cost of the renovation for
20 the justices' conference room.**

21 A. Yes, solely based on the documentation
22 provided. Our office hasn't had a chance to review the
23 documentation behind this subsection, but yes, it is
24 accurately stated that this reflects what was in the

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1 binder provided.

**2 Q. Okay. Mr. Robinson, I'm going to go now page
3 by page just -- and ask you the same questions with
4 respect -- if you could go two to three more pages for
5 the summary regarding renovation of common areas.**

**6 If you could, please, just let the --
7 tell the Committee what your understanding from the
8 documentation you have been provided as to the total
9 amount that it cost to renovate the common areas.**

10 A. Based on the documentation in the summary
11 page for the common areas, the total amount for the
12 renovations is \$340,562.

**13 Q. Okay, thank you. We'll now move on to the
14 courtroom. Could you please let the Committee know
15 your understanding of the total cost of renovations for
16 the third floor courtroom?**

17 A. Yes. Based on this documentation, the
18 summary page indicates that the total cost for the
19 courtroom renovations on the third floor were \$157,120.

**20 Q. Okay. We are now going to move on, I
21 believe, by tabs into some of the justices' offices,
22 and I believe it begins with Justice Benjamin. If you
23 could, please, turn just a few pages and tell the
24 Committee your understanding of the total cost of the**

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1 renovations to former Justice Benjamin's office.
2 A. Again, based on this summary page provided,
3 the total cost for renovations to Justice Benjamin's
4 office was \$264,301.
5 Q. We will now move on to Justice Davis's
6 office. If you could, please, tell the Committee the
7 -- your understanding of the total cost of renovations
8 for Justice Davis's office.
9 A. The summary page denotes that the total cost
10 for Justice Davis's office renovations was \$500,278.
11 Q. In your preliminary analysis, did you make a
12 determination as to whether or not this summary page
13 was accurate?
14 A. We did denote one invoice that was not
15 included in this summary for \$400.00 for shipping and
16 labor concerning, I believe, the rugs.
17 Q. Okay. So with respect to this summary page
18 that was provided in the binder, you did find a
19 discrepancy and you believe this summary may be off by
20 -- by \$400.00; is that correct?
21 A. Yes, by -- by \$400.00. It would take the
22 total to \$500,678.
23 Q. Okay, thank you. We will now move on to
24 Justice Ketchum's office. With respect to his

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1 renovations to his office, could you please tell the
2 Committee the total cost for that?
3 A. There are two totals noted in this summary
4 page for Justice Ketchum's office renovations. The
5 first subtotal is \$193,909.72. However, it's noted at
6 the bottom that there were approximately \$22,071 of
7 charges that Justice Ketchum disputed, including one
8 regarding the renovation of a Cass Gilbert desk, and
9 the revised total for his renovation costs is \$171,838.
10 Q. Thank you. We will now move on to Justice
11 Loughry's summary. If you could, please, tell the
12 Committee from the summary that was provided in the
13 notebook you were given, what the summary was, the
14 total for Justice Loughry's office renovation.
15 A. Yes, based on the documentation provided, the
16 total for Justice Loughry's office renovation was
17 \$363,013.
18 Q. We'll move on now to Justice Walker. If you
19 could, please, tell the Committee from the documents
20 you've been provided, your understanding as to the
21 total cost for Justice Walker's office.
22 A. Based on the documentation provided, Justice
23 Walker's office renovation project cost approximately
24 \$130,655.

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1 Q. And we will now move on to Justice Workman.
2 If you could please tell the Committee your
3 understanding from the documentation received so far as
4 to the total cost of renovation for Justice Workman's
5 office.
6 A. Again, based on the documentation provided,
7 the renovation cost for Justice Workman's office was
8 \$111,035.
9 Q. We will now move on to the third floor
10 women's restroom. Could you please tell the Committee
11 what the summary page indicates with respect to total
12 cost of renovation for that area?
13 A. Yes, this documentation indicates that the
14 third floor women's restroom renovation cost was
15 \$77,725.
16 Q. Thank you. We will now move on to the third
17 floor men's restroom. If you could, please, tell the
18 Committee the total cost of the renovation for the
19 third floor men's restroom.
20 A. The total cost for the third floor restroom
21 -- men's restroom, was \$38,887.
22 Q. We will next move on to the -- what has been
23 labeled a third floor bathroom that is behind the
24 bench. If you could, please, inform the Committee of

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1 the total cost of renovation for that bathroom.
2 A. The third floor restroom behind the bench,
3 summary page, indicates that the total cost of this
4 renovation was \$98,513.
5 Q. And finally, if you could, please, tell the
6 Committee your understanding from the summary page of
7 the total cost of renovations to the first floor
8 hallway here in the East Wing where the Supreme Court
9 Administrative Offices are located.
10 A. The renovation costs, according to the
11 summary page from the first floor hallway, was \$79,197.
12 Q. Thank you, Mr. Robinson. We -- I asked you a
13 question with respect to Justice Davis's, that there
14 might have been a discrepancy. I want to confirm, with
15 respect to the other justices' offices that you have
16 looked at already and tried to match the invoices to
17 the summary page, did you find any other discrepancies
18 so far?
19 A. Based on our preliminary analysis, the only
20 incorrect summary page was concerning Justice Davis's
21 office and that \$400.00 charge. The others were
22 accurate.
23 Q. Okay, thank you. Mr. Robinson, if you could,
24 please, now refer to Exhibit No. 42. As Chairman Shott

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1 noted, we have pulled out just a few invoices that may
2 have been mentioned during the proceedings up to this
3 point.
4 A. Okay.
5 Q. If you could, on page 1 of Exhibit No. 42,
6 please inform the Committee of your understanding as to
7 what this invoice represents or is for.
8 A. The first invoice in Exhibit 42 concerns the
9 wool runner rug, costing approximately \$58,100 that the
10 Court purchased.
11 Q. Thank you.
12 A. It's from Carpet Gallery as well.
13 Q. Thank you. If we could now move to page 2 -
14 and I believe it's actually a two-page invoice - pages
15 2 and 3, of Exhibit No. 42. This also appears to be a
16 Carpet Gallery invoice; is that correct?
17 A. Yes, this is a Carpet Gallery invoice.
18 Q. If you could, please, tell the Committee your
19 understanding as to what this invoice represents or
20 what this invoice is for.
21 A. There's a few charges on here, but primarily
22 the costs associated with this invoice is regarding the
23 purchase of the sectional sofa in Justice Loughry's
24 office.

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1 Q. And is that located as No. 1, I believe, on
2 page 1 of this invoice?
3 A. Yes, that's correct.
4 Q. It appears - and I want to make sure that I'm
5 looking at this correctly - that the sectional sofa
6 itself, the total cost was \$8,500, and then the leather
7 that was added to it was \$23,424. Is that correct?
8 A. That's correct.
9 Q. Your understanding?
10 A. That's correct.
11 Q. And on the last page of Exhibit No. 42, if
12 you could, please, tell the Committee what this invoice
13 is for.
14 A. The last invoice is from Carpet Gallery, and
15 this regards the purchases of two Edward Fields rugs
16 for Justice Davis's office.
17 Q. Okay. Mr. Robinson, I now just have a few
18 general questions, understanding that your office is
19 still in the process of working through this notebook.
20 Did you -- and I'll note from Exhibit No. 42, it does
21 not appear that any justices themselves signed off on
22 any of these invoices that are contained in Exhibit No.
23 42. Is that correct?
24 A. That's accurate. I don't believe that's the

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1 Court's practice.
2 Q. And just spot checking or your beginning
3 analysis and review of this notebook, did you -- have
4 you noted any invoices yet where you've noted that any
5 particular justice signed off on the invoice?
6 A. Based on our preliminary review and what I've
7 documented and seen, I have not seen that.
8 Q. Does it appear to be other people from
9 perhaps the Administrative Office --
10 A. Yes.
11 Q. -- and of the Supreme Court?
12 A. Yes, it appears individuals from the
13 Administrative Office of the Court signed off on the
14 majority of these invoices.
15 Q. Thank you. Mr. Robinson, I'm now going to
16 move to another topic, and I understand that there
17 might not be much information on it, but we just want
18 to make sure the Committee is aware. Has your office
19 already or previously been looking at issues regarding
20 framing?
21 A. Yes, we've done some preliminary analysis
22 concerning invoices we've obtained regarding the Court,
23 concerning purchases of framing from The Art Store.
24 Q. If you could, please, just let the Committee

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1 know where -- where that stands or what you've been
2 able to find generally with respect to framing.
3 A. In regards to framing, we've identified
4 several invoices that range from the year 2009 through
5 2015 concerning the purchase of the framing, all from
6 The Art Store. The total amount of these purchases and
7 invoices is \$114,788.
8 Our office has been attempting to
9 assign these costs to particular justices or projects,
10 and the result of our analysis has identified only
11 \$6,288.69 of invoices that can be attributed to a
12 particular justice.
13 Q. Is your analysis ongoing, or do -- are you
14 just having trouble determining from the invoice which
15 justice to -- that this may -- the invoice may
16 attribute to?
17 A. Based on the information we -- contained
18 within the invoices, we are unable to determine
19 particularly if any other purchases outside of the
20 \$6,288 were attributed to anyone based on the fact that
21 there's just no identifying information within those
22 invoices.
23 Q. Let me -- let me ask you this also. I mean,
24 I understand you might still be looking at this. If

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1 you could let the Committee know with respect to the
2 \$6,000 or approximately \$6,000 that your office has
3 been able to attribute to a specific justice what you
4 have found so far.
 5 A. What we've found so far is of the \$6,288
 6 amount, there was \$2,357 attributable to Former Justice
 7 Benjamin; \$998.00 attributable to Justice Davis;
 8 \$597.00 attributable to Justice Ketchum; \$1,337
 9 attributable to Justice Loughry; and \$998.00
 10 attributable to Justice Workman.
11 Q. And that's all you've been able to attribute
12 to a justice at this point in your review.
 13 A. That's correct.
14 Q. Okay.
 15 MS. KAUFFMAN: Mr. Chairman, I don't
 16 believe I have any further questions.
 17 CHAIRMAN SHOTT: Thank you,
 18 Mr. Robinson. In case you weren't here when we made
 19 initial comments, we will be providing everyone with a
 20 full copy of this notebook, and based on what the
 21 testimony has been here today, what we'll probably try
 22 to do is Bates stamp each section in a different way so
 23 if we receive some supplemental information that wasn't
 24 in the notebook, we will Bates stamp it according to

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1 the section so you can just add it to your section.
 2 That way it won't get -- be confusing
 3 as to where it belongs in the overall -- overall
 4 process. And once again, and we'll entertain some
 5 procedural questions for Mr. Robinson, but let's stay
 6 away from individual invoices, because as he's
 7 indicated, he hasn't had time to really digest all this
 8 information and give you specifics.
 9 All right, are -- and I'm just not
 10 going to go around the room. If you have a procedural
 11 question for Mr. Robinson, will you -- Delegate Fast.
 12 DELEGATE FAST: Thank you,
 13 Mr. Chairman.
 14 Mr. Chairman, could we ask the witness
 15 to just run down through those numbers that he just
 16 gave -- he went through them so fast, I tried to write
 17 them down, the \$6,288, and he had it broken down?
 18 CHAIRMAN SHOTT: By -- by justice?
 19 DELEGATE FAST: Yeah. He -- he
 20 mentioned --
 21 CHAIRMAN SHOTT: Could you go through
 22 that one more time, please, Mr. Robinson.
 23 THE WITNESS: Yes. Delegate, you're
 24 referring to the framing costs, specifically?

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1 DELEGATE FAST: Yes.
 2 THE WITNESS: Okay. For the framing
 3 costs, we identified \$6,288.69 directly attributable to
 4 justices. Of those, the breakdown is Justice Benjamin,
 5 \$2,357.28; Justice Davis, \$998.20; Justice Ketchum,
 6 \$597.38; Justice Loughry, \$1,337.66; and finally, Chief
 7 Justice Workman, \$998.17.
 8 DELEGATE FAST: Okay.
 9 And just to clarify, what's in that
 10 notebook, the large note binder in front of you, those
 11 are the supporting documents for what we now have,
 12 these summaries?
 13 THE WITNESS: Yes.
 14 DELEGATE FAST: Okay, thank you,
 15 Mr. Chairman.
 16 CHAIRMAN SHOTT: Delegate Miller,
 17 question?
 18 DELEGATE MILLER: Yes, Mr. Chairman,
 19 thank you. And this may be more for counsel. That he
 20 had testified that -- that they had received an initial
 21 incomplete book and information was withheld by the
 22 request of Justice Loughry.
 23 Is there some way that we can document
 24 that and get that for our use later on?

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1 MS. KAUFFMAN: I can -- I can follow up
 2 with Mr. Robinson with additional questions that can be
 3 on the record about that.
 4 DELEGATE MILLER: Okay.
 5 RE-EXAMINATION
 6 BY MS. KAUFFMAN:
7 Q. Mr. Robins --
 8 CHAIRMAN SHOTT: Go ahead, Counsel.
9 Q. Mr. Robinson, when was your office first
10 informed that the notebook that you have before you on
11 this desk is not incomplete?
 12 A. Yesterday morning, our office got a call from
 13 the current Interim Director of Court Administration,
 14 and essentially she had a conversation with one of our
 15 attorneys from Legislative Services and indicated that
 16 the information provided initially from the Court con
 17 -- with this documentation, this very large binder, was
 18 incomplete.
 19 The statement was made that the
 20 omission was made at the request of Justice Loughry.
21 Q. And you have indicated the title. Was that
22 Ms. Allen that made the call?
 23 A. Yes.
 24 MS. KAUFFMAN: Thank you.

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1 CHAIRMAN SHOTT: Further questions,
2 Delegate Miller?
3 DELEGATE MILLER: Thank you,
4 Mr. Chairman.
5 EXAMINATION
6 BY DELEGATE MILLER:
7 **Q. Is this the only invoices regarding framing**
8 **that -- that you've examined, only from The Art Store?**
9 **Or are there any others that you have examined or have**
10 **access to records?**
11 A. These are the only ones we've examined
12 through our efforts to ind -- or identify expenditures
13 made by the Court concerning framing. We are still in
14 the process of reviewing the breadth of documentation
15 that we have. And if we do identify anything further,
16 we will update the Committee and it will possibly be
17 included in a future audit report.
18 DELEGATE MILLER: Thank you.
19 Thank you, Mr. Chairman.
20 CHAIRMAN SHOTT: Are there other
21 procedural questions? Delegate Fleischauer?
22 MINORITY CHAIR FLEISCHAUER: This is
23 just asking him to repeat something he said that I
24 couldn't hear.

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1 EXAMINATION
2 BY MINORITY CHAIR FLEISCHAUER:
3 **Q. I think in the beginning you said -- you went**
4 **through the number of invoices and the total cost, and**
5 **I got the understanding that some of the total costs of**
6 **framing, you couldn't link to anyone.**
7 A. Regard --
8 **Q. -- in -- what particular person.**
9 A. -- regarding framing?
10 **Q. Yes, what was the total cost of framing?**
11 A. Oh, absolutely. The total cost of framing --
12 and apologies, I don't have the exact number of
13 invoices, but I would say it's approximately 30 to 40
14 invoices. The total cost was \$114,788.
15 **Q. And are you going to continue to figure out**
16 **if it can be attributed, or is there a way to do that,**
17 **or do you think this is all you're gonna be able to do?**
18 A. I believe at this time, this may be -
19 concerning these particular invoices that we have
20 reviewed - the extent of what we can attribute to a
21 particular justice.
22 The information contained on the
23 invoices just are simply not either thorough enough to
24 provide any sort of identification or they're related

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1 to something that may or not be directly related to a
2 justice in the first place.
3 **Q. Right. Some of them could be the courtroom**
4 **or something else.**
5 A. Absolutely.
6 **Q. Okay, thank you.**
7 MINORITY CHAIR FLEISCHAUER: Thank you,
8 Mr. Chairman.
9 CHAIRMAN SHOTT: Delegate Byrd?
10 DELEGATE BYRD: Thank you,
11 Mr. Chairman.
12 THE WITNESS: Oh, sorry.
13 DELEGATE BYRD: No, you're fine. Thank
14 you for being here.
15 EXAMINATION
16 BY DELEGATE BYRD:
17 **Q. My only question is, is: We're all wor -- we**
18 **all try to get our timing around here correct, and so**
19 **did -- did the Court tell you, that one, they've**
20 **located this -- the documents that were omitted, and**
21 **two, how long it would take to submit to you?**
22 A. I'm not aware of the time frame that it would
23 require the Court to provide us the additional
24 documentation. We anticipate it sometime next week,

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1 but don't quote me on that. But you know, obviously
2 it's something we would like to get our hands on so we
3 can complete our analysis.
4 **Q. But they have represented they've located**
5 **those documents?**
6 A. They represented that they're aware the
7 documentation was omitted. Whether or not they've
8 identified the particular documentation, I can't speak
9 to.
10 DELEGATE BYRD: Thank you.
11 CHAIRMAN SHOTT: Further procedural
12 questions for Mr. Robinson? Delegate Pushkin.
13 DELEGATE PUSHKIN: Thank you,
14 Mr. Chairman.
15 EXAMINATION
16 BY DELEGATE PUSHKIN:
17 **Q. You stated that -- on Exhibit 41, where you**
18 **were giving the -- I guess, the bottom line numbers on**
19 **the expenses on the renovations of each individual**
20 **justice's office that -- you revised the number on**
21 **Justice Ketchum's office because -- was it he disputed**
22 **some of the expenditures?**
23 A. Yes, the actual summary page provided in this
24 packet of documentation denotes that Justice Ketchum

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1 had disputed some of the charges, yes.
2 Q. Okay, so --
 3 A. And that's the discrepancy.
4 Q. Okay. Were there any -- did any of the other
5 justices dispute any of your findings?
 6 A. No. And again, it's not necessarily our
 7 findings. This is -- the summary pages were prepared
 8 by the Court and provided along with this
 9 documentation.
 10 Particularly with regard to the summary
 11 page regarding Justice Ketchum's office renovation, at
 12 the very bottom of the page, it notes, "The following
 13 invoices were billed and paid as work in Justice
 14 Ketchum's office. He disputes the transactions. This
 15 work was not performed in his office and he does not
 16 agree to the amount invoiced and paid."
 17 Now, whether or not these invoices were
 18 disputed with the vendors that provided them and the
 19 charges were reimbursed to the Court, I am unaware.
20 Q. Okay. Well, were any other reimbursements by
21 any of the other justices reflected in the -- in this
22 report?
 23 A. No, I did not note any of the summary pages
 24 for the other justices' office any disputed charges or

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1 revised totals.
2 Q. I -- any reimbursements, not disputed --
 3 A. Oh, reimbursements, no. And again, I'm not
 4 certain that the denotation in Justice Ketchum's
 5 section are necessarily reimbursements or it's just the
 6 Court's attempt to reflect the accurate total to the
 7 renovations based on Justice Ketchum's assertion that
 8 the work was not performed in his office.
9 Q. Okay. But of any of the justices, were
10 reimbursements reflected in this report?
 11 A. No.
12 Q. Were reimbursements made?
 13 A. With regard to Justice Davis's office,
 14 actually, yes, there was some personal reimbursements
 15 that she made. I believe the total is somewhere around
 16 \$10,000. And based on the documentation - I believe
 17 you were provided the summary page for Justice Davis
 18 - it denotes a few of these reimbursements.
19 Q. Okay, thank you.
 20 A. You're welcome.
 21 CHAIRMAN SHOTT: Further procedural
 22 questions for Mr. Robinson?
 23 Delegate Sobonya.
 24 DELEGATE SOBONYA: Thank you,

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1 Mr. Chairman.
 2 EXAMINATION
 3 BY DELEGATE SOBONYA:
4 Q. Mr. Robinson, did you -- did you all -- or
5 are you able to, say, go to the Carpet Gallery and find
6 out what they would have charged for -- you know, a
7 customary charge for a sofa? I mean, I see that this
8 is excessive charges, and I'm just wondering if that
9 was looked at and --
 10 A. If the question is if we would have the
 11 ability to inquire of Carpet Gallery what a -- what a
 12 typical price for a sofa is, I'm sure that we would be
 13 able to do so. However, we have not.
 14 DELEGATE SOBONYA: Okay, thank you.
 15 CHAIRMAN SHOTT: Further questions for
 16 Mr. Robinson? Further questions?
 17 Mr. Robinson, the Chair has a question
 18 or two.
 19 EXAMINATION
 20 BY CHAIRMAN SHOTT:
21 Q. In Exhibit 42, there's reference to a 50
22 percent deposit on one of the -- I think the last page,
23 it actually has - on the left-hand side - a reference
24 to a check for the deposit. But have you at this point

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1 been able to determine whether this is in the form of a
2 discount or there's actually a prepayment toward the
3 total cost?
 4 A. I have not looked into that issue, no.
5 Q. I don't know how frequently that happened,
6 other than at the Carpet Gallery, but I would just ask
7 you all to try to be alert to that and determine if
8 it's a discount. Somewhere along the line we've heard
9 -- either read or heard about some special pricing that
10 might have been offered to the Court.
11 And so we'd certainly want to know what
12 it actually cost the taxpayers for a specific item.
 13 A. We'll take that under advisement and review
 14 that.
 15 CHAIRMAN SHOTT: Thank you. Any other
 16 questions for Mr. Robinson? Mr. Robinson, we thank you
 17 and Mr. Allred for your -- your all's support in our
 18 efforts in this time. We really appreciate it.
 19 THE WITNESS: Thank you, Mr. Chairman.
 20 CHAIRMAN SHOTT: Counsel, next.
 21 MS. KAUFFMAN: Thank you.
 22 Mr. Chairman, the Committee should have as part of the
 23 packet of information you received this morning Exhibit
 24 No. 40. We do not have a witness here for that. Those

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1 are certified records from the West Virginia State
2 Auditor's Office.

3 So I just wanted to make the Committee
4 aware of that exhibit and to let you know that the
5 cover page indicates that it reflects payments made to
6 JRP Consulting, LLC. The Committee has heard some
7 testimony regarding a Mr. Pritt that was a contractor
8 for the Court, and there had been some questions about
9 the amount of money paid to Mr. Pritt or his company.

10 The documents in Exhibit No. 40 that
11 you now have for your review and consideration should
12 have those documents and the invoices as well as the
13 payments. It, as a -- as just a quick note - and
14 again, the Committee has them now to review - it is --
15 it appears that Mr. Pritt's company was paid a total of
16 \$167,280 for the time period beginning October 15, 2011
17 through March of 2013, and from the invoices, it
18 appears that the hourly rate that was paid was \$82.00.

19 But I leave the rest for the
20 Committee's consideration.

21 CHAIRMAN SHOTT: Let me just ask if any
22 members of the Committee have questions of counsel just
23 in general regarding that exhibit, understanding that
24 counsel did not prepare the exhibit. It's just we've

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1 obtained these certified records from the Auditor's
2 Office. Are there any questions?

3 Are there any questions? If not, thank
4 you, Counselor. Who do you --

5 DELEGATE FAST: Mr. Chairman --

6 CHAIRMAN SHOTT: I'm sorry. Delegate
7 Fast.

8 DELEGATE FAST: Thank you, Counsel.
9 I'm just wondering on the cover letter to Exhibit 40,
10 these invoices you have, like -- let's take the first
11 one there, the date's 3-26-13, and then the same date,
12 3-26-13 in the same amount.

13 They have different document ID
14 numbers, different vendor invoice numbers, same warrant
15 number and the same amount, and that seems to be a
16 pattern throughout most of this cover page.

17 Why -- why these mult -- duplicate
18 payments?

19 MS. KAUFFMAN: They do not -- in going
20 through the invoices, they do not appear to be
21 duplicate payments. The -- for whatever reason, the
22 date of payments are duplicative to the extent, for
23 example, on the first page, Vendor Invoice Numbers 33
24 and 34 were both paid on the same day.

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1 However, once you look through the
2 invoices, the invoices are for two different time
3 periods.

4 So invoices were -- for example, the
5 first two invoices behind the cover page are the first
6 two invoices that were provided by JRP Consulting, and
7 they cover from 10 -- let's see here. In October of
8 2011.

9 They usually go for two-week periods,
10 the 15th of the month through the 30th of the month or
11 the first or second part of the month through the 15th
12 or 17th of the month.

13 They all do at least, and you will note
14 -- I can just speak to the note in the change in the
15 amounts. The earlier invoices that began in 2011 for
16 each invoice -- and it appears there were -- and I
17 can't say with certainty, but two invoices per month
18 submitted, and each of those invoices bill for 68 hours
19 per invoice.

20 Those all appear to be relatively the
21 same 68 hours per invoice. And then at some point in
22 2012, I believe, around the summer - July of 2012 - the
23 invoices continue to be, it appears, every two weeks --
24 or twice a month, rather, but the qua -- the quantity

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1 of hours goes down to approximately 51 hours per
2 invoice.

3 DELEGATE FAST: Well, just to clarify -
4 again looking at the first two dates, 3-26-13 and
5 3-26-13 - on that day, are you -- were -- was there an
6 \$8300 plus dollar amount paid total, or was it just
7 \$4182?

8 MS. KAUFFMAN: My understanding is that
9 there were two checks -- oh, I'm sorry, I'm going to
10 have to go back. These are the earlier ones. It is my
11 understanding -- and I don't know if it went by -- by
12 different check, but it is my understanding that those
13 -- on that date of 3-26-2013, they paid two separate
14 invoices. Each invoice was for \$4,182.

15 DELEGATE FAST: And that would be the
16 same throughout the remainder of this summary.

17 MS. KAUFFMAN: That appears to be the
18 case, yes.

19 DELEGATE FAST: Okay, thank you.

20 CHAIRMAN SHOTT: Other questions for
21 counsel?

22 Delegate Miller.

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

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1 Counsel, do we know why that the
2 numbers changed? Was there a -- if this person was
3 acting as a contractor, was there a contract that
4 specified minimum numbers or a set number of hours or
5 anything like that?

6 MS. KAUFFMAN: We do not know that. I
7 intend to file a FOIA request in -- with respect to
8 that. We have not been provided a contract, if there
9 is one, for JRP Consulting yet.

10 DELEGATE MILLER: Thank you. Thank
11 you, Mr. Chairman.

12 CHAIRMAN SHOTT: Other questions of
13 counsel? Thank you, Counsel.

14 Up next?

15 You should have Exhibit 43 in front of
16 you, and let me just explain briefly, sort of set this
17 up. As I'm sure you all are -- will recall, this week
18 -- I believe it was this week, yeah. All these days
19 are running together now.

20 I believe it was this week, the
21 Judicial Investigation Commission basically issued a
22 press release and one of the areas that they were
23 examining were these so-called working lunches, and
24 they basically concluded that these working lunches

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1 that occurred when the justices were discussing cases
2 and administrative matters in conference fell within an
3 exemption and were essentially not a violation of the
4 -- of the Code of Judicial Conduct.

5 That did not really address a second
6 issue as to whether the cost of these lunches might
7 have been excessive, and so in addition to anal --
8 doing an analysis of whether or not all of these
9 lunches occurred when the justices were in court or in
10 these administrative conferences, we asked counsel to
11 do an analysis. We were provided with copies of each
12 invoice.

13 And counsel will explain to you how he
14 came up with this chart and you can reach your own
15 conclusions. Counsel, please proceed.

16 MR. HARDISON: Thank you, Mr. Chairman.
17 As the Chairman stated, these -- this is a summary of
18 the meal invoices that we have copies of for the years
19 2013 through 2017, and if you'll look on the first page
20 there, each -- for each year, there will be four
21 columns, and the date is the date that the lunch --
22 that the justices ordered lunch out. And these were
23 take-out lunches, we believe, were eaten at the Court.
24 And the second column is attendees.

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1 That's how many people they had listed on the invoice
2 that would have been participating in the lunch. The
3 third column, going from left to right, is the
4 restaurant. That is where they ordered lunch out.
5 And the fourth column is the total.
6 There's not a dollar sign there, but that is in dollars
7 and cents in the amount that was on the invoice.

8 To your right, you'll see a
9 notation: "Yellow highlight means no official event
10 verified." We cross-checked the lunch receipts against
11 the Court calendar that is posted on the West Virginia
12 Supreme Court website and the copies of the
13 administrative minutes that we have.

14 So some of -- when you look at the
15 official Court website and the official administrative
16 minutes, there are some days where they had
17 administrative conferences that are not identified on
18 the Court website calendar, so some of the days that
19 were originally unaccounted for were taken up by that.

20 There are still, I think, a total of 23
21 - over the five years - unverified is what -- is what
22 we deemed them to be, lunches. And that means that we
23 cannot account for whether or not there was court that
24 day, a conference, a judicial conference or an

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1 administrative conference.

2 So for all of the other lunches that
3 are not highlighted in yellow, there was either court,
4 a conference where they discussed their pending
5 opinions, a judicial conference of some sort or their
6 administrative conference that would -- would have had
7 minutes supporting those.

8 At the bottom of the chart you'll have
9 a total cost for each year. You'll have a total cost
10 of the days where there was no event that could be
11 verified, and you'll have a list of the total - what we
12 called - official Court days, and that is where they
13 either had court, a conference, judicial conference or
14 administrative conference.

15 The total lunches that were purchased,
16 lunches on what we call official Court days and then
17 the percent of days lunch provided. That is a
18 percentage that is derived by taking the lunches on
19 official Court days and dividing those into the total
20 amount of official court days, so the percentages are
21 the percent of days that the Court had an official
22 event where the taxpayers paid for their lunch.

23 So if you go through, for 2013, the
24 total cost was \$7,816.95 for all of the lunches. For

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1 the days in which there was no event that could be
2 verified, the total cost was \$817.55. And that
3 accounted for 45 -- roughly 46 percent of lunches were
4 paid for by the taxpayers that year.
5 And 2014, the total amount is
6 \$6,937.63. The total cost of days with no event
7 verified was \$1,012.29, and the percentage of lunch --
8 lunches paid for on official Court days was thirty --
9 roughly 36 percent, rounding up to the nearest percent.
10 In 2015, the total amount of lunches
11 was \$8,310.54. Total cost on days with no event that
12 could be verified, nine thousand -- or \$976.14. And
13 lunches were purchased 58 percent of the time with
14 taxpayer money on days that there was an official Court
15 event.
16 In 2016, the total amount for lunches
17 was \$9,159.38. Total cost on days with no event
18 verified was \$852.68. And there were -- on 75 percent
19 of the official Court business days, the lunches were
20 paid with taxpayer money.
21 And in 2017, the total was nine hundred
22 -- \$9,996.21. Total cost on days with no event
23 verified was \$683.41, and the percentage of days lunch
24 was provided was roughly 67 percent.

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1 The total amount of all lunches over
2 the five-year period, which is not on your chart, but I
3 figured that -- totaled that out for you. That is
4 \$42,314.76. And again, that is the total for the five
5 years.
6 And the total amount for the lunches on
7 un -- for unverified Court events was \$4,342.67. And
8 the last thing I will note is that 2013, for some
9 reason, is a short year. We only got receipts
10 accounting for March to December of 2013.
11 Mr. Chairman, that's the chart.
12 CHAIRMAN SHOTT: Thank you, Counsel.
13 Are there questions of counsel regarding this exhibit?
14 Delegate Overington.
15 DELEGATE OVERINGTON: Thank you,
16 Mr. Chairman.
17 Would these have been considered a
18 taxable benefit?
19 MR. HARDISON: I am not an expert in
20 that, so I'm not -- I'm not -- I'm not gonna provide an
21 opinion one way or another. I think that's for other
22 agencies of government that may speak on it or may
23 already have spoken on it.
24 DELEGATE OVERINGTON: Thank you.

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1 CHAIRMAN SHOTT: Delegate Lane.
2 DELEGATE LANE: Thank you, Counsel. I
3 seem to remember that for justices to pay for their own
4 lunches is -- that there are ethics opinions that say
5 that that's not allowed, and that justices paying for
6 their own lunches on the P-card is against the P-card
7 rules.
8 Is it possible for you to do research
9 on those -- on my memory?
10 MR. HARDISON: I could. I think your
11 memory is correct, there are -- there are opinions out
12 there that -- that would suggest that this type of
13 behavior would be improper as an ethical standpoint.
14 But I can -- I can do more research on
15 that and provide that to the Committee.
16 DELEGATE LANE: Okay, thank you very
17 much.
18 CHAIRMAN SHOTT: Delegate Foster.
19 DELEGATE FOSTER: Where it starts in
20 2013, is that where -- is that where you decided to
21 start looking, or is that just where they started doing
22 these lunches?
23 MR. HARDISON: Those are -- the
24 receipts that we have were gathered as a result of a

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1 FOIA request by a member of the media, and those
2 receipts were provided by the Court to the media, and
3 then we believe that the media shared those with the
4 JIC as part of the JIC investigation, so the documents
5 we have came from the JIC.
6 DELEGATE FOSTER: Okay.
7 MR. HARDISON: And those are the only
8 -- we haven't requested any additional documents from
9 the Court or any other body.
10 DELEGATE FOSTER: And that FOIA request
11 just went back to '13?
12 MR. HARDISON: Correct.
13 DELEGATE FOSTER: Okay. I was just
14 curious because I know Canterbury -- Mr. Canterbury
15 suggested that it went back before that, so I was just
16 wondering if we knew when it started.
17 MR. HARDISON: We don't have any of
18 that information at this time.
19 DELEGATE FOSTER: Okay, thank you.
20 CHAIRMAN SHOTT: Delegate Miller.
21 DELEGATE MILLER: Thank you,
22 Mr. Chairman.
23 Counsel, do we have the details
24 somewhere in this documentation that gives us specifics

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1 as to who participated in these lunches, if some did,
2 some didn't, etc.?

3 MR. HARDISON: Yes, each -- I put the
4 total of attendees in the chart, but each -- I think
5 almost every individual invoice will have a listing of
6 who attended each lunch.

7 I think there's one -- one event where
8 they didn't put who was there, but I think the majority
9 -- not the majority. All of them except for one for
10 five years the attendees are listed on the receipts.

11 DELEGATE MILLER: Okay, thank you.

12 CHAIRMAN SHOTT: Further questions?
13 Delegate Fast. Delegate Fast.

14 DELEGATE FAST: Thank you. I just want
15 to make sure I understand, "Yellow highlight means no
16 official event." Are you saying there that there was
17 no court in session primarily?

18 MR. HARDISON: That we can readily
19 identify, that's correct. And we did that by -- the
20 Supreme Court posts their calendar on the -- on the
21 official Supreme Court website, and it's -- it's pretty
22 easy to find.

23 But that will list when they're in
24 court. I think that's generally Tuesdays and

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1 Wednesdays, and then they have a conference day where
2 they discuss the opinions that they're going to issue.

3 There are also blocked off dates for
4 judicial conferences that they may attend or that may
5 be held at the Court as well as periodic administrative
6 conferences that they hold throughout the year. And we
7 cross-checked the official Court calendar - at least
8 the one that's posted on their website - with the
9 copies of the administrative minutes that we have for
10 each of these years to make sure that there weren't
11 days that we did not -- that they may have met that
12 weren't accounted for on that calendar, and there
13 were -- I think originally, there was like 50 some
14 lunches, 55 lunches, that were unaccounted for, and
15 when we checked with the administrative minutes, that
16 reduced that by about half.

17 But there was still 23 where we - based
18 upon the administrative minutes and the calendar on the
19 Supreme Court website - we don't know that there was an
20 official event held.

21 DELEGATE FAST: So -- so we really just
22 don't know on those -- on those yellowed entries.

23 MR. HARDISON: It would appear that
24 there was no event held, but that doesn't mean that

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1 there's not a valid justification.

2 DELEGATE FAST: All right, thank you.

3 CHAIRMAN SHOTT: Delegate Fleischauer.

4 MINORITY CHAIR FLEISCHAUER: Thank you,
5 Mr. Chairman. Are we going to ask if there is -- if
6 they can check their records? I think that would be
7 appropriate.

8 MR. HARDISON: If that's something the
9 Committee would like, then I think we can do that.

10 MINORITY CHAIR FLEISCHAUER: Mr.
11 Chairman, could we ask --

12 CHAIRMAN SHOTT: Sure.

13 MINORITY CHAIR FLEISCHAUER: -- if
14 there's an explanation for those events?

15 CHAIRMAN SHOTT: Certainly.

16 MINORITY CHAIR FLEISCHAUER: Thank you.

17 MR. HARDISON: And the documents that
18 we -- that we may or should be receiving next week may
19 shed light on some of that, but not -- not all of it.

20 MINORITY CHAIR FLEISCHAUER: Okay.

21 CHAIRMAN SHOTT: Yes, just as a
22 reminder, we have subpoenaed the JIC documents with
23 respect to this investigation for which this release
24 was issued.

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1 So it is possible that that
2 documentation could shed -- shed light on whe -- these
3 unverified event dates. But we'll follow up if it
4 doesn't.

5 MINORITY CHAIR FLEISCHAUER: Thank you.

6 CHAIRMAN SHOTT: Delegate Sobonya,
7 followed by Delegate Zatezalo.

8 DELEGATE SOBONYA: Thank you,
9 Mr. Chairman. Counsel, did you look at the time stamp
10 on those? Are they for lunches, are they for dinners?
11 Because what pops out to me is December 6, The
12 Bluegrass, \$79.25. With tip, it might just be two
13 people.

14 I mean, did -- what did they do these
15 -- did they discuss cases? Would it be just two people
16 discussing a case? I'm just wondering, because most of
17 them are for \$200 and -- I think the most expensive was
18 Soho's for \$277.00 in September.

19 So I'm just wondering why there's such
20 a small charge and who would have --

21 MR. HARDISON: I'm --

22 DELEGATE SOBONYA: -- participated.

23 MR. HARDISON: The receipts don't show
24 exactly what was ordered; it just gives the total

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1 amount. I believe all of them do have a time stamp and
2 that's not something that I included, but I did look at
3 them as I was going through it, and most of them were
4 -- did occur around lunchtime, between, you know, 10:00
5 in the morning and 2:00 and 3:00 in the afternoon.
6 I don't -- so I don't -- I don't know
7 what they ordered, but based on Court representations,
8 I believe that they would -- that they would order out
9 and meet and discuss official Court business, and that
10 would include opinions that they were going to render
11 as well as administrative matters that the Court needed
12 to decide.
13 DELEGATE SOBONYA: Well, since that one
14 date is so low, I'd be interested to have more
15 information on December 6th, \$79.00. I mean, was that
16 -- was that for two people just to go out and have
17 dinner and drinks? Or was it -- I mean, why would two
18 people have to sit down and have a paid lunch to
19 discuss a case? I don't understand that.
20 CHAIRMAN SHOTT: It shows --
21 MR. HARDISON: I --
22 CHAIRMAN SHOTT: John, it shows 13 on
23 your chart.
24 MR. HARDISON: What date?

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1 CHAIRMAN SHOTT: December 6th.
2 MR. HARDISON: Right. You know, based
3 on my recollection, I believe that was purchased around
4 lunchtime, because it -- it kind of struck me as odd as
5 I was putting it together that it was a lower amount
6 than what the other amounts were.
7 And I can -- I can pull the receipt and
8 look at it, but I'm -- I'm fairly certain that that
9 occurred during lunchtime hours.
10 DELEGATE SOBONYA: Yeah, I'd like more
11 information on that. Thank you.
12 MR. HARDISON: Certainly.
13 CHAIRMAN SHOTT: Delegate Zatezalo.
14 DELEGATE ZATEZALO: I think -- I think
15 I answered my own question as far as -- these are --
16 these lunches were only on court days except for --
17 except for four that I can see. Is that --
18 For 2017, the first -- so these --
19 these lunches are primarily for court days; is that
20 correct?
21 MR. HARDISON: Correct.
22 DELEGATE ZATEZALO: Okay. And the
23 other days might be administrative?
24 MR. HARDISON: They could be. We have

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1 no way of knowing at this point.
2 DELEGATE ZATEZALO: But we -- we really
3 don't know. Okay, very good. Thank you. That's all.
4 CHAIRMAN SHOTT: I think counsel has
5 compared the dates with minutes from administrative
6 conferences and -- and cross-checks those, so we either
7 don't have -- they didn't take minutes on those days
8 that are in yellow or they didn't have a court date
9 that was on their calendar.
10 Is that fair to say, Counsel?
11 MR. HARDISON: That's fair to say.
12 CHAIRMAN SHOTT: Okay. Other questions
13 of counsel regarding this exhibit?
14 Thank you, Counsel.
15 Counsel, if you're ready for 44 and 45?
16 MR. CASTO: And 46, Mr. Chairman.
17 CHAIRMAN SHOTT: And 46, go ahead.
18 MR. CASTO: All right. Exhibit 44,
19 which you should have before you, is a compilation of
20 records relating to a case filed and heard in the
21 Magistrate Court of Tucker County: Master's Pest
22 Management, LLC versus Loughry.
23 This is a suit which was filed by the
24 owner of the Master's Pest Management for an

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1 approximately \$530.00 bill which he alleged was owed
2 and due him.
3 Mr. Neetz' Complaint, which you will
4 see on the third page of this exhibit, notes that he
5 performed a termite treatment at a property owned by a
6 defendant at 209 Center Street in Parsons, West
7 Virginia.
8 The defendant thereupon refused to pay
9 for the work, which was executed, which according to
10 Mr. Neetz, involved the removal of dead wood from
11 underneath the house, the installation of new wood
12 supporting structures and the administration of
13 termite-killing pesticides.
14 Why, you ask, is this material before
15 us and why are we concerned with this case? Well, if
16 you'll look at the defendant's name, you'll see why.
17 This is Allen Loughry, Sr., the father of Justice Allen
18 Loughry.
19 Again, ordinarily we would not be
20 concerned as a Committee with what Mr. Loughry did or
21 did not do with regard to a failure to pay his pest
22 management company which he had hired.
23 However, on the hearing date of this
24 Complaint which was filed in the Tucker County

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1 Magistrate Court, which was the 29th of Dec -- of
 2 January, 2014, apparently Justice Loughry - according
 3 to the vehicle logs which we have - noted that he took
 4 a State vehicle to Tucker County for a meeting with
 5 magistrates.
 6 Such a meeting may have been held. It
 7 appears it was held with one of the two magistrates on
 8 duty that day, after this case was heard. What we have
 9 with relation to this case specifically - if you'll
 10 look at the very last page - is the affidavit from the
 11 magistrate who heard the case in question, Ms. Carol D.
 12 Irons.
 13 She was previously a sheriff of Tucker
 14 County and then served as a magistrate in Tucker County
 15 at the date in question and then retired from her
 16 magistrate's position.
 17 On January 29th, 2014, she swears in
 18 her Affidavit that she presided over this case and
 19 notes in Clause 8 of that, that those attending and
 20 present in the courtroom were herself, the defendant,
 21 the plaintiff, Phil Neetz, and Allen Loughry, II.
 22 Now, according to Mr. Neetz - who we do
 23 not yet have an affidavit from but can obtain one,
 24 thanks to Delegate Miller's investigation - Mr. Neetz

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1 says that he presented the case before the magistrate
 2 and the case was then dismissed without any
 3 presentation by the defense or motion for dismissal
 4 from the defense.
 5 As you will note, Magistrate Irons does
 6 swear under oath in her Affidavit that she rendered a
 7 decision of dismissal on the case, and that she knew
 8 who Justice Loughry was and knew that he was indeed
 9 present in the courtroom.
 10 She had not had any contact with him
 11 prior to hearing that case, nor was approached,
 12 according to her, about any person -- about rendering a
 13 favorable decision for the defendant in the case, but
 14 nevertheless, the case was indeed dismissed, apparently
 15 without the presentation of any -- any evidence on the
 16 part of the defendant.
 17 CHAIRMAN SHOTT: All right. We'll
 18 start with Exhibit 44. Are there questions of counsel
 19 regarding any aspect of Exhibit 44?
 20 Delegate Fast.
 21 DELEGATE FAST: Thank you.
 22 Do we know if the plaintiff showed up
 23 for this hearing?
 24 MR. CASTO: Yes, sir. Magistrate Irons

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1 testifies - as will he, if necessary - Magistrate Irons
 2 in Clause A, notes that Phil Neetz, who filed the
 3 Complaint, was present on behalf of Master's Pest
 4 Management.
 5 According to a statement that he gave
 6 to Delegate Miller, Mr. Neetz presented evidence at
 7 that hearing.
 8 DELEGATE FAST: So they had a trial, a
 9 magistrate court trial?
 10 MR. CASTO: Yes, sir.
 11 DELEGATE FAST: And as a result of that
 12 trial, the magistrate - stating that she had no contact
 13 with Justice Loughry before that hearing - found in
 14 favor of the defendant, the justice's father.
 15 MR. CASTO: She did indeed.
 16 DELEGATE FAST: Okay. And are we -- or
 17 is there anything unevenhanded about the way this trial
 18 was conducted in relation to Justice Loughry?
 19 MR. CASTO: Well --
 20 DELEGATE FAST: I mean, other than
 21 someone could say, "Well, he was in the courtroom and
 22 that was undue influence."
 23 MR. CASTO: I think the Committee would
 24 have to weigh whether or not the mere presence -- the

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1 presence of a defendant's son, who is the Chief Justice
 2 of the Supreme Court of Appeals of West Virginia, who
 3 oversees the court system of West Virginia, who has -
 4 as we have learned throughout this process - complete
 5 budgetary authority over that magistrate's office,
 6 whether or not that is undue influence or not.
 7 I think that's an inference that this
 8 Committee would have to draw based upon the evidence
 9 presented.
 10 DELEGATE FAST: Okay. Now, Justice
 11 Loughry didn't become Chief Justice until January of
 12 2017, correct?
 13 MR. CASTO: I am not sure of that.
 14 DELEGATE FAST: Well, I think that's
 15 been clearly -- clearly established here, and she calls
 16 him "Chief Justice" and this was held January 29 of
 17 2014, which means he was only one year on the Supreme
 18 Court bench at that time --
 19 MR. CASTO: Then that would mean he was
 20 an associate justice, yes, sir.
 21 DELEGATE FAST: -- and was an associate
 22 -- okay. And he doesn't -- that's all I have. Thank
 23 you.
 24 CHAIRMAN SHOTT: Delegate Fluharty.

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1 MINORITY VICE CHAIR FLUHARTY: Counsel
2 -- do we know what evidence was presented by the
3 plaintiff?
4 MR. CASTO: According to the statement
5 that he gave to Delegate Miller, he presented evidence
6 and testimony concerning his agreement which he
7 concluded with Mr. Allen Loughry, Sr., that an
8 agreement was had to perform the work which was then
9 done, and that he stated that he had then done the
10 work.
11 No evidence, according to him, was
12 presented - nor does this Magistrate Irons opine that
13 any evidence was presented - by the defendant to the
14 contrary.
15 MINORITY VICE CHAIR FLUHARTY: But did
16 he produce any exhibits, invoices, receipts of some
17 sort, some -- a contract?
18 MR. CASTO: According to his testimony,
19 it was merely a handshake deal.
20 MINORITY VICE CHAIR FLUHARTY: Okay.
21 So it was just an oral agreement.
22 MR. CASTO: Yes, sir.
23 MINORITY VICE CHAIR FLUHARTY: So that
24 the judge weighed testimony by the plaintiff and we

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1 have no -- let me ask you this: Do we have any case
2 law, rulings, anything, that says mere presence
3 constitutes undue influence?
4 MR. CASTO: We do not, to my knowledge.
5 MINORITY VICE CHAIR FLUHARTY: And we
6 have no evidence that Justice Loughry provided anything
7 else other than mere presence.
8 MR. CASTO: That is what we have, sir.
9 MINORITY VICE CHAIR FLUHARTY: And this
10 involved his father.
11 MR. CASTO: Yes, sir.
12 MINORITY VICE CHAIR FLUHARTY: That's
13 all I have, thank you.
14 CHAIRMAN SHOTT: Further questions?
15 And I think counsel also indicated a State car was
16 used --
17 MR. CASTO: Yes, sir.
18 CHAIRMAN SHOTT: -- for this trip.
19 Delegate Pushkin.
20 DELEGATE PUSHKIN: You just asked my
21 question.
22 CHAIRMAN SHOTT: Okay.
23 VICE CHAIR HANSHAW: Delegate Summers.
24 CHAIRMAN SHOTT: Delegate Summers?

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1 DELEGATE SUMMERS: I have two
2 questions. First of all, I saw that the Affidavit that
3 she marked out and initialed that there were no
4 meetings with any other magistrates, is that because he
5 met with the other magistrate in the county and she
6 wasn't aware of that?
7 MR. CASTO: That is correct. She -- he
8 met apparently - according to her statement - with the
9 other magistrate subsequent to this hearing, so he did
10 not meet with her, which avoids the appearance of any
11 sort of impropriety and does provide him with a
12 legitimate reason - according to his own testimony -
13 that he took the car to Tucker County to meet with
14 magistrates, which was the rationale that he furnished
15 to the Court travel office.
16 DELEGATE SUMMERS: Okay. And my second
17 question is, if we're -- if we're examining this on
18 Justice Loughry, are we also looking at the other
19 justices when their family members were in court? Were
20 they present?
21 MR. CASTO: We are unaware of any sub
22 -- of any -- of any substantive court attendance by
23 other members of the Court which was done utilizing a
24 State vehicle.

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1 DELEGATE SUMMERS: Okay, thank you.
2 CHAIRMAN SHOTT: And to Delegate
3 Summers, if you are aware of any, please share them
4 with counsel. We'll certainly follow up on that.
5 Delegate Isner?
6 DELEGATE ISNER: Thank you,
7 Mr. Chairman.
8 Counsel, I don't know if you know this
9 or not, but isn't it true that the other magistrate in
10 Tucker County, Magistrate Barb, is the president of the
11 West Virginia Magisterial Association?
12 MR. CASTO: I don't know that
13 personally, sir.
14 DELEGATE ISNER: Okay. Can we follow
15 up on that and see if he was at the time that he had
16 this meeting with Justice Loughry on the date of this
17 hearing?
18 MR. CASTO: We certainly can, sir.
19 DELEGATE ISNER: Thank you.
20 CHAIRMAN SHOTT: Delegate Lane.
21 DELEGATE LANE: Did -- has anybody
22 determined why the magistrate dismissed this case?
23 MR. CASTO: The magistrate did not
24 furnish us with a reason other than that, I assume,

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1 that she concluded there was insufficient evidence on
2 behalf of the plaintiff.
3 DELEGATE LANE: Was she asked?
4 MR. CASTO: You would have to ask
5 Delegate Miller that. I'm unaware.
6 CHAIRMAN SHOTT: Will the gentleman
7 yield for the question?
8 DELEGATE MILLER: Yes, ma'am.
9 CHAIRMAN SHOTT: The gentleman yields.
10 Go ahead, Delegate Lane.
11 DELEGATE LANE: Did you ask the
12 magistrate why she dismissed the case?
13 DELEGATE MILLER: I asked her if she
14 had a finding of fact. She was not able to provide
15 that to me.
16 DELEGATE LANE: Okay, thank you.
17 CHAIRMAN SHOTT: Let me just clarify:
18 The fact that we're presenting this information - and
19 that's what it is - does not necessarily mean we are
20 suggesting to you that you weigh it any particular way.
21 It's for you to weigh. It was referred
22 to in some of the materials we had - and I frankly
23 can't remember whether it was the statement of charges
24 or the indictment - because it included a trip with a

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1 State car.
2 So we felt, in order to give a clear
3 picture of that, it was important to investigate it,
4 and that's what we've done with the assistance of our
5 -- one of our managers, Delegate Miller, and it's there
6 for you to decide whatever weight you want to give to
7 it.
8 MR. CASTO: And Delegate Lane, just to
9 clarify, if you'll look, we do have a copy of the Civil
10 Judgment Order, which is the next to the last item in
11 the packet, and the Court simply grants judgment
12 dismissing the case against Mr. Loughry, Sr.
13 There's no rationale given; it simply
14 states that the case is dismissed.
15 CHAIRMAN SHOTT: Other questions?
16 Delegate Pushkin.
17 DELEGATE PUSHKIN: Thank you,
18 Mr. Chairman. It says that the -- that the -- I'm
19 wanting -- I can't remember the name of the pest
20 control company, but they were represented by
21 Mr. Neetz?
22 MR. CASTO: Yes, sir, pro se.
23 DELEGATE PUSHKIN: Now, was he there
24 representing as -- was he -- was he like owner of the

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1 company or was he a rep --
2 MR. CASTO: Yes, sir.
3 DELEGATE PUSHKIN: Okay. Was there --
4 did we seek a statement from Mr. Neetz?
5 MR. CASTO: We can get a statement from
6 Mr. Neetz. I think he'd be happy to furnish one to us.
7 He's spoken to Delegate Miller, but I don't think that
8 will be difficult --
9 CHAIRMAN SHOTT: Will the gentleman
10 yield for that question?
11 DELEGATE MILLER: Yes. Yes,
12 Mr. Chairman.
13 CHAIRMAN SHOTT: Delegate Miller does
14 yield.
15 DELEGATE MILLER: I've spoken with him,
16 and the Affidavit is pending with him, but he gave a --
17 he gave some details and his personal thoughts as to
18 what took place in the courtroom.
19 DELEGATE PUSHKIN: I'm sorry, he gave a
20 -- he gave a report of what he felt took place in the
21 courtroom?
22 DELEGATE MILLER: Yes.
23 DELEGATE PUSHKIN: Okay. Did he -- do
24 we know if he filed any sort of complaint, if he felt

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1 that he didn't receive a fair judgment?
2 DELEGATE MILLER: He indicated that --
3 of course, he was ruled against, so he would have a
4 little bit of animosity toward having a negative
5 ruling, but he did not file anything.
6 And I can -- even to go on, that he
7 made no correlation between Justice Loughry and Justice
8 Loughry's father until I spoke to him. He didn't make
9 that connection between the two at the time.
10 DELEGATE PUSHKIN: Okay. He made that
11 connection, but he -- did he express that he felt that
12 he had received an unfair judgment because the --
13 DELEGATE MILLER: He didn't make that
14 correlation at the time --
15 DELEGATE PUSHKIN: He didn't?
16 DELEGATE MILLER: -- until I called to
17 ask him what took place in the magistrate court.
18 DELEGATE PUSHKIN: Okay, all right.
19 Well, thank you.
20 CHAIRMAN SHOTT: Delegate Miller.
21 DELEGATE MILLER: Is it fair to say
22 that regardless of the outcome of the magistrate court
23 hearing, this documents him being in Tucker County for
24 what appears to be a personal reason on the date that

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1 we have a correlated transportation logout of a State
2 vehicle?
3 MR. CASTO: Yes, sir, I think that is
4 fair.
5 DELEGATE MILLER: Thank you.
6 CHAIRMAN SHOTT: Delegate Kessinger.
7 DELEGATE KESSINGER: Thank you,
8 Mr. Chairman. What was the name of the magistrate that
9 Justice Loughry met with that day?
10 MR. CASTO: Mr. Barb.
11 DELEGATE KESSINGER: Mr. Barb? Do we
12 know what the subject of the meeting was? Was it --
13 was it an official meeting between judges, or was it
14 just a personal meeting? Did he have a personal
15 relationship with that judge previously? Or
16 magistrate, sorry.
17 MR. CASTO: We have no -- no record of
18 the meeting from Mr. Barb unless -- unless the
19 gentleman from Randolph has further information that I
20 don't know.
21 CHAIRMAN SHOTT: Yes, Delegate Isner,
22 if you can answer the -- will you yield for the lady's
23 question?
24 DELEGATE ISNER: I will yield.

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1 CHAIRMAN SHOTT: Go ahead.
2 DELEGATE ISNER: Thank you,
3 Mr. Chairman. Delegate Miller had the opportunity to
4 talk to some of these folks beforehand but due to my
5 proximity to Tucker County, I was able to go over and
6 secure Magistrate Irons' signature on the Affidavit.
7 At that time, she did not recall any
8 meeting that occurred with Chief Justice Loughry or
9 then maybe Associate Justice Loughry, but some of the
10 magistrates' assistants reminded her that he did meet
11 with Magistrate Barb while he was there that day.
12 And you know, with leave of the
13 Committee, I would like to go back over there and
14 follow up on what that meeting was about and maybe get
15 some more information from the magistrates' assistants
16 about what they recall about that day.
17 CHAIRMAN SHOTT: We'd appreciate your
18 continuing assistance on that, Delegate Isner, so --
19 DELEGATE ISNER: Thank you.
20 CHAIRMAN SHOTT: I guess you can
21 consider that you -- unless anybody objects, you
22 consider you have the authority of the Committee to
23 move forward on that.
24 DELEGATE KESSINGER: And my final

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1 question is: Do we know if Justice Loughry did this
2 frequently? Did he meet with other magistrates or any
3 other judge throughout the state on a frequent basis,
4 or was it very sporadic or --
5 MR. CASTO: It appears to be sporadic
6 from the vehicle records which we have.
7 DELEGATE KESSINGER: Okay, all right.
8 Thank you.
9 CHAIRMAN SHOTT: Other questions of
10 counsel before we go to the next exhibit? Other
11 questions?
12 Delegate Capito.
13 DELEGATE CAPITO: Thank you,
14 Mr. Chairman. Counsel, quickly, does -- do the -- does
15 a magistrate -- and this is a procedural que -- does a
16 magistrate -- or a structural question. Does a
17 magistrate work for or answer to the Supreme Court --
18 MR. CASTO: Yes, sir.
19 DELEGATE CAPITO: -- of Appeals? Are
20 they accountable in any way to the Supreme Court of
21 Appeals, as in can the justices remove a magistrate
22 from the bench? Or does that have to go through this
23 body?
24 MR. CASTO: It would have to go through

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1 the Judicial Investigation Commission, is my
2 understanding, for the same -- for cause. It would
3 have to be --
4 CHAIRMAN SHOTT: Are you talking about
5 remove or suspend? There may be a distinction there.
6 DELEGATE CAPITO: Well, let's -- okay.
7 Let's start with suspend and then go to remove.
8 MR. CASTO: They can suspend.
9 DELEGATE CAPITO: Okay. But removal
10 would have to come from this body?
11 MR. CASTO: No, I think it would have
12 to go through the Judicial Investigation Commission, is
13 my understanding. I think -- I'm not sure of that, but
14 I think there would have to be some finding that the
15 magistrate had done something -- something illegal or
16 something unethical before they could be removed.
17 DELEGATE CAPITO: Okay.
18 CHAIRMAN SHOTT: I think our vice chair
19 may have an answer to that.
20 VICE CHAIR HANSHAW: Just speculating,
21 Mr. Chairman. Other removal of county officials, as I
22 understand it, is done by consideration by a
23 three-judge panel. Counsel, am I remembering it
24 correctly?

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1 MR. CASTO: I think that's correct. I
2 mean, I know we've had magistrates who were removed,
3 but I don't have a clear knowledge of that process.
4 We've certainly had magistrates who were admonished and
5 suspended before, which is usually what I've seen done,
6 but I -- I'm just not familiar enough with magistrate
7 removal to give you a clear answer on that.
8 DELEGATE CAPITO: Thanks.
9 CHAIRMAN SHOTT: Delegate Miller?
10 Follow-up question?
11 DELEGATE MILLER: What -- to his
12 questioning, would a magistrate be considered a county
13 official since they receive compensation by the State
14 of West Virginia, not through the county?
15 MR. CASTO: They're elected on a county
16 ballot, but I'm not sure that they would be considered
17 a county official. I mean, the magistrate courts are
18 among the inferior courts which are overseen by the
19 Supreme Court.
20 For example, in testimony here earlier,
21 you heard Mr. Adkins testify to the installation of
22 electronic equipment as directed by the Supreme Court
23 in the magistrate courts to allow for virtual
24 arraignment and things of that nature. So I mean, the

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1 Supreme Court certainly oversees and supervises the
2 work of the magistrate courts.
3 CHAIRMAN SHOTT: Mr. Altizer, do you
4 have some assistance you might be able to give us?
5 MR. ALTIZER: I didn't want to butt in,
6 Mr. Chairman.
7 CHAIRMAN SHOTT: No, you're -- we need
8 your assistance.
9 MR. ALTIZER: The Constitutional
10 Provision 8 -- Article 8, Section 8 says that judges
11 are -- a judge can only be removed by impeachment;
12 however, a magistrate can be removed from office in the
13 manner provided by law for the removal of county
14 officials. So they're treated as a county official for
15 purposes of removal.
16 DELEGATE MILLER: Thank you, sir.
17 CHAIRMAN SHOTT: Thank you, we
18 appreciate your help on that.
19 Further questions of counsel?
20 Yes, Delegate Overington?
21 DELEGATE OVERINGTON: Thank you,
22 Mr. Chairman.
23 This is an interesting case. Have we
24 looked at other cases dealing with relationships

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1 between parent/child, husband/wife or close family
2 relations to see if there are potential conflicts?
3 MR. CASTO: There are certainly a wide
4 amount of press dealing with potential conflicts and
5 recusal and that sort of thing with Supreme Court
6 justices.
7 However, I don't think that we're aware
8 of very many active cases involving the justices this
9 Committee is charged with examining the conduct of in
10 the time frame that we're looking at.
11 DELEGATE OVERINGTON: Thank you.
12 CHAIRMAN SHOTT: Delegate Isner.
13 DELEGATE ISNER: Thank you,
14 Mr. Chairman.
15 Counsel, you may not know this, not
16 actively practicing, but I would ask if you know that
17 it is unusual that both magistrates would be present
18 and working on the same day in a very rural county like
19 Tucker?
20 MR. CASTO: Yes, sir, I do know that,
21 that that would be an unusual fact in a county the size
22 of Tucker County. I mean, if -- of course, in Kanawha
23 County or -- it's not unusual at all. But I imagine in
24 Tucker County, that would be an unusual fact.

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1 DELEGATE ISNER: Thank you, Counsel.
2 CHAIRMAN SHOTT: Other questions?
3 Other questions of counsel before we move on to the
4 next exhibit?
5 Counsel, how about going to Exhibit No.
6 45.
7 MR. CASTO: Yes, sir, Mr. Chairman.
8 Exhibit 45, which you have as a one-page exhibit, is
9 actually - and I will hold this up for the Committee's
10 examination - a voluminous stack of material which was
11 provided to us by the Greenbrier.
12 You have a summary sheet before you
13 which basically summarizes the documents which were
14 provided to Delegate Miller, and these all relate to
15 Justice Loughry's book signings which were conducted at
16 the Greenbrier resort property.
17 One thing which I will point out is you
18 will note that Mr. Brown, the general counsel at the
19 Greenbrier, noted that the book signings occurred on
20 five specific dates.
21 On the last four of those five dates,
22 if you will look at - I'm sorry - Figure 2 of the first
23 post audit report, you will see the list of dates on
24 which Justice Loughry had reserved a State vehicle and

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1 had furnished no rationale for the reservation of that
2 vehicle.

3 I will represent to you that December
4 14th, 2013; March 21, 2014; December 20, 2014; and
5 March 14, 2015 are all included on that list as dates
6 on which he had reserved a State vehicle and had
7 furnished no reason to the Court for the reservation of
8 the vehicle.

9 So we can infer, based upon that
10 information, that Justice Loughry probably took a State
11 vehicle to the Greenbrier for these book signings.

12 At these book signings, in the material
13 which we received from the Greenbrier, there are checks
14 which were tendered in compensation for the sales of
15 the book. The book sales were also promoted by the
16 Greenbrier with some promotional material.

17 The checks which were tendered for the
18 sales of the book were not in fact tendered to Justice
19 Loughry. They were tendered to Kelly D. Loughry, who
20 is Mr. Loughry's wife. The checks were tendered on
21 various dates at various times, corresponding with
22 dates shortly after these book signings.

23 There are also within this material W-9
24 forms, which are a request for a taxpayer ID number, to

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1 allow for the facilitation of the check to be issued,
2 which is another reason why we are not handing it out
3 to the Committee, but the Committee can, of course,
4 inspect these records upstairs. Because it does
5 contain personal information from Mrs. Loughry.

6 The W-9 form indicates that she is
7 employed by ReformWV. And the checks, of course,
8 however, are not tendered to ReformWV; they are
9 tendered to Mrs. Loughry personally.

10 That is essentially the information
11 contained within Exhibit 45.

12 CHAIRMAN SHOTT: And for the members of
13 the Committee, we will - after we redact Mrs. Loughry's
14 personal information in terms of like her Social
15 Security number and so forth - we'll scan these as
16 well, Bates stamp them and send it -- send them to you
17 so that you can inspect them for yourself.

18 And Counsel, I believe there are
19 e-mails contained in that volume of information as
20 well, is there --

21 MR. CASTO: There are, sir, numerous
22 e-mails back and forth between the Greenbrier and
23 Justice Loughry, concerning the dates of the
24 appearance, what -- what times and places would be good

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1 for this to take place.

2 I mean, it's -- it's a pretty
3 voluminous set of material, as I've shown the
4 Committee.

5 CHAIRMAN SHOTT: And just to be clear,
6 the e-mails are between Justice Loughry and the
7 Greenbrier, not Mrs. Loughry and the Greenbrier.

8 MR. CASTO: That is correct, sir.

9 CHAIRMAN SHOTT: Once again, we're
10 providing this information to you as a lead that we
11 have explored and developed based on -- I believe it
12 was the Legislative Auditor's report.

13 Once you analyze the information, you
14 can give it such weight as you wish.

15 Any questions of counsel regarding this
16 information?

17 Delegate Pushkin.

18 DELEGATE PUSHKIN: Thank you,
19 Mr. Chairman. So the only date that we see that was
20 not during a time that Justice Loughry had a State
21 vehicle checked out was December 16th, 2012 --

22 MR. CASTO: Yes, sir.

23 DELEGATE PUSHKIN: -- which would be
24 after he was elected but before he was actually sworn

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1 in?

2 MR. CASTO: Yes, sir.

3 DELEGATE PUSHKIN: So he wouldn't have
4 been able to take a State car out --

5 MR. CASTO: I'm sorry, sir, I can't
6 hear you.

7 DELEGATE PUSHKIN: He would not have
8 been able to take a -- he hadn't been sworn in yet at
9 that time.

10 MR. CASTO: I would presume that he
11 would not have, sir.

12 DELEGATE PUSHKIN: Okay. Now, is there
13 any -- do we have any way of finding out who attended
14 the book signings, and who were -- who was purchasing
15 these books?

16 MR. CASTO: I don't believe that we do,
17 sir. I think that the -- that would be very difficult
18 to find out, if indeed it were possible to find out,
19 because we're dealing with sales records that are now
20 over five years old from the Greenbrier's bookstore.

21 I'm not even sure if they have or keep
22 any of that material that long.

23 DELEGATE PUSHKIN: So the books are --
24 they go through the Greenbrier shop.

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1 MR. CASTO: Yes, sir.
 2 DELEGATE PUSHKIN: And so for all the
 3 sales, it's one check for each book signing that would
 4 go directly to Mrs. Loughry.
 5 MR. CASTO: That -- that's my
 6 understanding, sir.
 7 DELEGATE PUSHKIN: And we don't know if
 8 the Green -- the Greenbrier shop wouldn't have -- still
 9 have those records even from the one from -- the most
 10 recent one, March 14th, 2015 of --
 11 MR. CASTO: They basically handed us
 12 and -- what we received was the same material, under my
 13 understanding, which they provided to the federal
 14 government's subpoena of this material, and they gave
 15 us everything that they had.
 16 DELEGATE PUSHKIN: Okay. All right.
 17 Well, thank you.
 18 CHAIRMAN SHOTT: Delegate Fleischauer,
 19 followed by Delegate Fluharty, and then Delegate Byrd.
 20 MINORITY CHAIR FLEISCHAUER: I just
 21 wanted to clarify. I think you said the last four had
 22 -- when you were explaining, you said that the last
 23 four, a State vehicle was used with no rationale given?
 24 MR. CASTO: On those dates, a State

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1 vehicle had been reserved with no rationale given. I
 2 can't conclusively prove one way or another whether or
 3 not Justice Loughry actually drove the State vehicle to
 4 the Greenbrier on those dates in question, but he did
 5 have a State vehicle reserved for those dates.
 6 MINORITY CHAIR FLEISCHAUER: Okay, and
 7 what about the first one?
 8 MR. CASTO: We have nothing to indicate
 9 that.
 10 MINORITY CHAIR FLEISCHAUER: Okay.
 11 CHAIRMAN SHOTT: I believe that was
 12 before he was sworn in.
 13 MINORITY CHAIR FLEISCHAUER: Oh, okay.
 14 All right. Thank you.
 15 CHAIRMAN SHOTT: Delegate Byrd.
 16 Sorry, Delegate Fluharty. I thought
 17 your hand went up but it did not.
 18 DELEGATE BYRD: Thank you,
 19 Mr. Chairman.
 20 Counsel, what was the entity that you
 21 were talking about with regard to Mrs. Loughry? What
 22 was it called? I missed the name.
 23 MR. CASTO: ReformWV.
 24 DELEGATE BYRD: Okay. Can you tell the

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1 Committee as much as you can, if there is any
 2 information on that entity, whether it's a State --
 3 West Virginia-registered business, out of state? I
 4 don't know.
 5 MR. CASTO: Well, if the gentleman will
 6 be patient with me, I'll discuss a little bit more of
 7 that in Exhibit 46.
 8 DELEGATE BYRD: Okay. And then the
 9 other one is, do we have a record of actually how many
 10 books were sold?
 11 MR. CASTO: We do not have a record of
 12 how many books were sold; all we have is the record for
 13 how much compensation that Mrs. Loughry received from
 14 the sale.
 15 DELEGATE BYRD: Thank you, sir.
 16 CHAIRMAN SHOTT: Delegate Pushkin
 17 again.
 18 DELEGATE PUSHKIN: Thank you,
 19 Mr. Chairman.
 20 There was a request made - and I
 21 believe it was responded to - about subpoena to the
 22 publisher of the book --
 23 MR. CASTO: Yes, sir.
 24 DELEGATE PUSHKIN: We received that

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1 information, right, so we should have the book -- like
 2 information on total book sales, correct?
 3 MR. CASTO: We do have that
 4 information, but I think McClain would only be
 5 concerned once it had shipped to the Greenbrier. I'm
 6 not sure that they would have kept a track as to how
 7 the actual sales went because I think the sales would
 8 have been handled by the Greenbrier shop.
 9 I think if you understand what I'm
 10 saying, that the publisher is compensated once the
 11 books are purchased from them by a third party vendor,
 12 so I'm not sure -- I'm just not -- I'm not -- I've
 13 never handled royalties in the publishing field, so
 14 this is -- this is all new to me.
 15 DELEGATE PUSHKIN: Okay. A lot of
 16 times -- and I believe they're a local publisher,
 17 correct? They're a West Virginia --
 18 MR. CASTO: They are indeed. They're
 19 in Parsons.
 20 DELEGATE PUSHKIN: I know sometimes
 21 with locally-published books, they would give a certain
 22 amount to the author and they would be -- and that's
 23 how they were compensated, but they would have to sell.
 24 Do we know if that was the -- what type of deal that

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1 they -- that he had with the publisher?
 2 MR. CASTO: That appears to have been
 3 the case. I've looked over the material we received
 4 from McClain. But that appears to have been the case
 5 based on what little I can discern from the stack of
 6 material we have from them.
 7 DELEGATE PUSHKIN: So you said that
 8 appears to be the case, that that was the deal that he
 9 had with the publisher, that he received a certain
 10 amount of books and he was to sell them for his
 11 compensation --
 12 MR. CASTO: No, that he received a
 13 certain amount of compensation each time a book was
 14 sold, because obviously -- even McClain, even though
 15 they're a local publisher, still sells through online
 16 venues such as Amazon.
 17 DELEGATE PUSHKIN: Okay. So for a lot
 18 of that, we'd be relying on -- on records that were --
 19 been kept by either Justice Loughry or Mrs. Loughry as
 20 to book sales outside of a -- outside of anything at
 21 the Greenbrier. But --
 22 MR. CASTO: No, sir, we'd be relying on
 23 McClain Publishing for the records of the books sold.
 24 That's the only record that we have of books sold,

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1 other than what you have here before you in Exhibit 45,
 2 is the material upstairs from McClain.
 3 DELEGATE PUSHKIN: But if it was -- if
 4 it was like a lot of local publishing deals where he
 5 received a certain amount of books and he was to sell
 6 them for his own compensation.
 7 MR. CASTO: If that were the case.
 8 DELEGATE PUSHKIN: If that were --
 9 MR. CASTO: But I don't know that that
 10 was the case.
 11 DELEGATE PUSHKIN: All right. Okay. I
 12 misunderstood you. I thought you said that that was
 13 the case.
 14 MR. CASTO: No, I --
 15 DELEGATE PUSHKIN: Okay, I'm sorry.
 16 CHAIRMAN SHOTT: Delegate Fla -- Fast,
 17 followed by Delegate Fleischauer.
 18 DELEGATE FAST: Thank you. Do we know
 19 if there is any corporation involved with his books?
 20 Is the copyright in a corporate name or anything of
 21 that nature?
 22 MR. CASTO: I'm not sure how that the
 23 -- the copyright on the book is. I don't have a copy
 24 of the copyright filing on the book.

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1 DELEGATE FAST: Do you know if there's
 2 any corporation involved?
 3 MR. CASTO: We'll address that with
 4 Exhibit 46 if the gentleman will --
 5 DELEGATE FAST: I'm sorry?
 6 MR. CASTO: We'll address that with
 7 Exhibit 46, if the gentleman will just give me a
 8 minute.
 9 DELEGATE FAST: Okay. And do we know
 10 if there were any other speaking engagements beyond the
 11 Greenbrier, at -- or at the Greenbrier involving
 12 Justice Loughry during these time periods?
 13 MR. CASTO: I think it's very likely
 14 that he may have spoken at the Greenbrier. I imagine
 15 they've had judicial conferences and things of that
 16 nature down there, but to be able to say certainly that
 17 he was present there on any occasion, I cannot -- I
 18 cannot say that.
 19 DELEGATE FAST: Is there any way to
 20 determine whether he was there on official Court
 21 business or as a -- at a -- as a justice speaking
 22 engagement -- just like other justices speak at a
 23 civics class or a graduation ceremony, do we -- do we
 24 know, or is there a way to determine if anything like

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1 that was going on simultaneous on these four dates,
 2 five dates, that you just gave us?
 3 MR. CASTO: Yes, sir, I can -- I can
 4 attest to that with regard to the December dates. The
 5 Court is sine die at that time, so at least with the
 6 two December dates, there would be no official Court
 7 business which could be taken --
 8 DELEGATE FAST: No, I mean, even in
 9 sine die, there's been testimony that sometimes
 10 justices engage in speaking engagements, even sine die,
 11 and --
 12 MR. CASTO: Within the material which
 13 was provided to us by the Greenbrier, there's nothing
 14 to indicate that he was there for any purpose other
 15 than the book signings, which appear to be promoted
 16 through the Greenbrier's website and other Greenbrier
 17 media.
 18 There appears to be nothing within the
 19 Greenbrier's correspondence with Justice Loughry
 20 stating, for example, "As you are going to be here for
 21 this event, would you like to hold a book signing?"
 22 There is nothing within the
 23 Greenbrier's correspondence with him to indicate that,
 24 and the fact that there was no rationale furnished by

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1 him for the use of the State vehicle on those days
 2 would indicate that he did not in fact have a State
 3 purpose in going down there. That's all that I can
 4 say.
 5 We have no definitive way of answering
 6 that at this point.
 7 DELEGATE FAST: Was the Greenbrier
 8 asked?
 9 MR. CASTO: Yes, sir.
 10 DELEGATE FAST: If -- the Greenbrier
 11 was asked if there were other speaking engagement
 12 events during the same time?
 13 MR. CASTO: What they provided us is
 14 what they had.
 15 DELEGATE FAST: But were they asked?
 16 MR. CASTO: You'd have to ask Delegate
 17 Miller specifically if he specifically asked them that
 18 question. I did not ask the Greenbrier that question.
 19 DELEGATE FAST: Thank you.
 20 Mr. Chairman, may I ask the gentleman
 21 from the 23rd to yield?
 22 CHAIRMAN SHOTT: Will the gentleman
 23 yield, from the 23rd?
 24 DELEGATE MILLER: Yes, Mr. Chairman.

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1 DELEGATE FAST: Was the Greenbrier
 2 specifically asked if there were any other speaking
 3 engagement during these time periods that we're
 4 talking about?
 5 DELEGATE MILLER: In speaking with
 6 counsel for the Greenbrier, I specifically asked, "Were
 7 there any correlating dates that would indicate that he
 8 was there for an alternative purpose, and this -- this
 9 would be ancillary to that." They were not able to
 10 provide any kind of information that would indicate
 11 that there was another event.
 12 Also the chain of e-mails that they
 13 provided to us - which is rather lengthy - indicates
 14 that this -- there was no set pattern to the dates.
 15 You could see from the marketing folks
 16 at the shops, very evidently, that the dates changed
 17 because something else may have come up or there was an
 18 alternative book signing taking place.
 19 So it was rather random as to -- as to
 20 what the dates were and why --
 21 For example, "Could you come on a
 22 particular day?" "Well, something else came up. Could
 23 you change it to another day." It was -- there was a
 24 free flow of information back and forth like that in

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1 the e-mail chain.
 2 DELEGATE FAST: Thank you.
 3 CHAIRMAN SHOTT: Further questions?
 4 Delegate Lane.
 5 DELEGATE LANE: Thank you.
 6 Counsel, this may be in one of the
 7 other exhibits, but I can't remember. When the justice
 8 -- on these four dates, five dates, was a gas -- was a
 9 State gas card used?
 10 MR. CASTO: I can't answer that question
 11 right now. I -- I just can't. I don't have that in
 12 front of me and --
 13 DELEGATE LANE: And what about an
 14 E-Z -- a State E-Z Pass?
 15 MR. CASTO: I don't have that
 16 information at all, in front of me, so I don't know.
 17 DELEGATE LANE: Okay. Okay, thank you.
 18 CHAIRMAN SHOTT: Further questions?
 19 Counsel, you want to proceed to the
 20 next exhibit?
 21 MR. CASTO: Yes, sir, Mr. Chairman.
 22 This is Exhibit 46. These are copies of the Ethics
 23 Commission financial disclosures filed by Justice
 24 Loughry in 2013, 2014, 2015, and I believe for 2016.

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1 What I would like to direct the
 2 Committee's attention to - which has been asked - is
 3 under Business Names, which is on the back of the first
 4 page. You will see ReformWV which is listed as a
 5 spousal business. It's also on the second page of the
 6 2014 filing. It is also listed in the 2015 filing and
 7 the 2016 filing.
 8 ReformWV is listed as a business under
 9 which Justice Loughry's spouse, Kelly Loughry, does
 10 business. It is indeed, again, mentioned within the
 11 W-9 form that she provided to the Greenbrier.
 12 However, upon the best information we
 13 now have, there appears to be no business license for
 14 ReformWV.
 15 We are in the process and hope by the
 16 next time that this Committee meets to have definitive
 17 answer from the Secretary of State's office with regard
 18 to the business status or nonprofit status of ReformWV.
 19 Delegate Miller's engaged in running
 20 down that information for us. But we at this time have
 21 no information concerning the activities or even the
 22 business status of ReformWV.
 23 Indeed, we -- what we have is a
 24 complete lack thereof at the present time.

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1 CHAIRMAN SHOTT: Questions? Delegate
2 Miller.
3 DELEGATE MILLER: Mr. Chairman, as a
4 point of clarification -- and I literally just now
5 received this by e-mail, a certificate from the
6 Secretary of State's office that after conducting an
7 extensive search of the business organization database
8 within the office of the Secretary of State, they
9 verify that as of this date, their office finds no
10 record of ReformWV registered with the West Virginia
11 Secretary of State.
12 And that's -- that will be provided to
13 counsel for distribution to the Committee members as
14 well.
15 CHAIRMAN SHOTT: Questions? Delegate
16 Hollen.
17 DELEGATE HOLLEN: Thank you,
18 Mr. Chairman.
19 Counsel, did you state that the tax --
20 the tax department has any record of a tax ID number
21 for that?
22 MR. CASTO: I don't believe we've made
23 that inquiry yet, sir.
24 DELEGATE HOLLEN: All right, thank you,

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1 sir.
2 CHAIRMAN SHOTT: And I think that's a
3 good point. And we'll follow up on that, because I'm
4 not sure that d/b/a's, individual proprietorships, have
5 to register with the Secretary of State, but they
6 should have a business license and file returns.
7 So we'll follow up with the tax
8 department on that. It's a good point.
9 Other questions?
10 Delegate Fleischauer.
11 MINORITY CHAIR FLEISCHAUER: Thank you,
12 Mr. Chairman.
13 Counsel, remind -- I think you said who
14 -- to whom the checks were written.
15 MR. CASTO: Yes, ma'am, that was
16 written to Mrs. Loughry.
17 MINORITY CHAIR FLEISCHAUER: Directly
18 to her.
19 MR. CASTO: Yes, ma'am.
20 MINORITY CHAIR FLEISCHAUER: And in the
21 documentation that you have with respect to Reform West
22 Virginia, what -- how is it referenced or where does it
23 appear?
24 MR. CASTO: We have a W-9 form --

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1 MINORITY CHAIR FLEISCHAUER: Oh, a W-9
2 form.
3 MR. CASTO: -- within the Greenbrier
4 material, which is endorsed by Mrs. Loughry, and then
5 we have the references to it within Justice Loughry's
6 Ethics Commission financial disclosure statements.
7 That is the sum total of information on ReformWV that
8 we have at this point.
9 You know, it may be considered by some
10 premature to bring this to the Committee at this time,
11 but we're literally bringing it to you as we get it.
12 MINORITY CHAIR FLEISCHAUER: Right.
13 And I guess one of the things that I was wondering -
14 and maybe this is a question for our manager - is: Did
15 we -- and maybe this isn't an inquiry for us, but for
16 the U.S. Attorney, whether there was an overnight stay
17 at the Greenbrier, whether -- how long the car was
18 registered and whether that was reported as a business
19 trip.
20 Because we had some of that double
21 billing -- you know, whether it was a tax deductible
22 trip.
23 MR. CASTO: That's a -- that's a very
24 valid question.

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1 MINORITY CHAIR FLEISCHAUER: I'll speak
2 with our -- our manager/investigator. Thank you,
3 Counsel.
4 Thank you, Mr. Chairman.
5 CHAIRMAN SHOTT: Delegate Byrd.
6 DELEGATE BYRD: Thank you,
7 Mr. Chairman.
8 I was just following up with the --
9 with the request that the Chairman had made regarding
10 the tax department, and I was looking online, and I
11 noticed that there was a West Virginia Record article
12 in June of 2006 about Loughry's book, and they actually
13 list in the article www.reformwestvirginia.com, so if
14 you're going to make a request, I think you might have
15 to go to before 2006 just to be safe, because I go to
16 sign on and that website's gone.
17 MR. CASTO: I was about to say to the
18 gentleman, I have looked at -- I've done a "who is"
19 search and used Internet archive to look at that site.
20 That site is now, as you know, basically being
21 cyber-squatted.
22 It has been defunct, if my memory
23 serves me, since about 2014-2015. I can't be certain
24 as to the exact day, but if you look at the Internet

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1 archive and enter "ReformWV" and do the search, you
2 will find that at some point in 2014-2015, that website
3 went defunct.

4 DELEGATE BYRD: I'll just -- I just
5 wanted the request to the tax department to go around
6 2006, Mr. Chairman.

7 CHAIRMAN SHOTT: Thank you.
8 Other questions of counsel?
9 Delegate Summers.

10 DELEGATE SUMMERS: Not a question,
11 Mr. Chairman, but a statement that on the Ethics
12 Commission paperwork that you gave us on Exhibit 46, it
13 does not list in 2015 then a business name for Kelly
14 Loughry as it did in '14 and '13 where it said "doing
15 business as Reform West Virginia." So just a date to
16 point out.

17 CHAIRMAN SHOTT: Thank you. Other
18 questions for counsel?
19 Apparently not.
20 Counsel, is that the last exhibit
21 you're responsible for?
22 MR. CASTO: That's the last exhibit we
23 have, Mr. Chairman.
24 CHAIRMAN SHOTT: Okay. All right.

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1 That appears to be what we're going to cover today. I
2 want to just make a few comments and then we'll start
3 the weekend early, I guess.

4 Obviously we did not have some of the
5 witnesses we planned nor did we have the documents we
6 planned, but we are developing -- we will have
7 Ms. Loughry as well as Ms. Troy for further testimony
8 the next time we get together.

9 We will have had time, hopefully, to
10 review the documents from the JIC and determine what,
11 if any, we want to present and in what fashion and
12 through what witnesses.

13 We will also take the tour of the East
14 Wing. The date and time are not yet firm, so when we
15 finish today, we'll probably just adjourn until further
16 notice, because it's either going to be on Sunday -- is
17 that the 5th?
18 -- August 5th, or the 6th, Monday. All
19 right. The tour will definitely -- counsel advises me
20 the tour will definitely be on the Monday, the 6th.
21 The issue will just be if we have
22 enough to justify asking you all to come down on the
23 5th, and if that's the only day that our other
24 witnesses are available -- so we'll -- we'll follow up

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1 on that.

2 We will be sending you volumes of
3 information regarding construction, regarding the
4 lunches and so forth. So part of the -- part of our
5 task for you all is to -- when you go through that, if
6 you see the need for further development of any of this
7 evidence or for witnesses that you think would be
8 important for the Committee to hear, please reach out
9 to our counsel.

10 And the most effective way to do that
11 is to, if you either call or send an e-mail, send it to
12 all three counsel. That way we'll know that somebody's
13 gonna get -- get on it immediately.

14 Just a reminder -- I know sometimes
15 it's easy to lapse into the role of prosecutor in
16 something like this. Our job is basically
17 investigation. Once we determine we have enough
18 information, then we will, as a Committee, decide what
19 -- what to do with that information and whether we want
20 to convert that information into articles of
21 impeachment.

22 You can count on, at least sometime
23 during the next meeting, for us to have an executive
24 session to discuss where we are, what we still need to

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1 do, if anything, to review those standards that we have
2 to measure the information we have against.

3 I think there have been suggestions,
4 and they're -- and I think they're valid, to -- that we
5 probably adopt some definitions that we want to apply
6 to the information that we've developed so that we can
7 then examine that information in light of those
8 definitions. For instance, "maladministration,"
9 "neglect of duty," those type of things that are
10 spelled out in the -- in the Constitution.

11 So we should have at least two full
12 days when we get back together. Please pay attention
13 to our e-mails. Please plan on at least Monday and
14 Tuesday, perhaps Sunday.

15 Counsel, anything further we need to do
16 today? Any questions? If not --

17 MINORITY CHAIR FLEISCHAUER: Mr.
18 Chairman --

19 CHAIRMAN SHOTT: Yes, Delegate
20 Fleischauer.

21 MINORITY CHAIR FLEISCHAUER: I just
22 wanted to clarify, before you had been talking about
23 Sunday, the 12th. But we are talking about possibly
24 Sunday, the 5th, and we are talking about Monday, the

---oOo---

1 6th and Tuesday, the 7th.
 2 CHAIRMAN SHOTT: Correct.
 3 MINORITY CHAIR FLEISCHAUER: Okay,
 4 thanks.
 5 CHAIRMAN SHOTT: Hopefully that will
 6 give everybody time to digest this information and our
 7 staff time to get through the information we received
 8 from JIC and any other information we develop.
 9 So please, if you see need for
 10 developing other -- other information, please let us
 11 know so we don't let anything fall through the cracks.
 12 Chair recognizes our vice chair. Oh,
 13 Delegate Fast.
 14 DELEGATE FAST: Thank you,
 15 Mr. Chairman. Last week, I believe it was, I brought
 16 up -- after Ms. Ellis' affidavit, Exhibit 36 was
 17 submitted, I believed the need to bring her before this
 18 Committee. I understand there is a federal case
 19 involving Justice Loughry, but I'm gonna read this
 20 affidavit again, but just based upon the statements she
 21 said, I think it just opens up a lot of questions,
 22 things that were not addressed, and so I'm just
 23 bringing that to the chairman's attention.
 24 I'll look at that again. I mean, me,

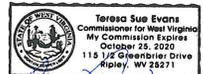
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1 for one, I still think we need to bring her before this
 2 Committee.
 3 CHAIRMAN SHOTT: We will be having a
 4 meeting following our adjournment today with our
 5 managers and our staff, and we'll get into that. I do
 6 want to correct something that I think I said before
 7 when we talked about Ms. Ellis, was that we were asked
 8 by JIC not to call her. I don't think that's accurate.
 9 I believe -- I believe that they preferred we not, but
 10 it wasn't a request.
 11 So we'll look at that situation, and if
 12 -- obviously she is -- and she's represented by
 13 counsel. We'll have to work through that situation,
 14 but you know, we'll certainly take your -- your request
 15 under advisement.
 16 Anything else? Vice chairman Hanshaw.
 17 VICE CHAIR HANSHAW: Mr. Chairman, I
 18 move that we adjourn until called by the Chair.
 19 CHAIRMAN SHOTT: You've heard the
 20 gentleman's motion. Is there discussion? If not, all
 21 in favor, say aye. Opposed, no.
 22 We are adjourned. We're adjourned
 23 until further call.
 24

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.
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Teresa Evans

TERESA EVANS, RMR, CRR



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