

**STATE OF NEW YORK
COMMISSION ON JUDICIAL CONDUCT**

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In the Matter of the Proceeding Pursuant :
to Section 44, subdivision 4, of the :
Judiciary Law in Relation to :

MICHAEL H. PLASS :

a Justice of the Hyde Park Town Court, :
Dutchess County. :

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NYC Commission Office
61 Broadway, Suite 1200
New York, New York 10006

March 24, 2025
10:35 a.m.

B e f o r e:

STEVEN E. NORTH, ESQ.
Referee

P r e s e n t:

For the Commission
ERIC M. ARNONE, ESQ.
Senior Attorney

ALAN W. FRIEDBERG, ESQ.
Special Counsel

For the Respondent
STEVEN G. LEVENTHAL, ESQ.
Attorney for Respondent
Leventhal, Mullaney & Blinkoff, LLP
15 Remsen Ave.
Roslyn, New York 11576

A l s o P r e s e n t:

HON. MICHAEL H. PLASS
Respondent

MIGUEL MAISONET
Senior Clerk, FTR Operator



HAMZA KHAN
Investigator

ANNIE HAGERTY
Investigator



(Matter of Michael H. Plass)

1 MR. NORTH: Okay. This is a hearing in the
2 matter of Judge Michael Plass, pursuant to Section 44,
3 subdivision 4 of the Judiciary law of the State of New
4 York. My name is Steven North, and I have been appointed
5 by the Commission on Judicial Conduct as Referee to hear
6 and report proposed findings of fact and conclusions of law.

7 I ask Counsel, please, to state their appearances.

8 MR. ARNONE: Eric Arnone, Commission
9 Counsel.

10 MR. FRIEDBERG: Alan Friedberg, Special
11 Counsel.

12 MR. LEVENTHAL: For the Respondent,
13 Steven Leventhal, Leventhal, Mullaney, & Blinkoff.

14 MR. NORTH: Also present in the room, I ask
15 each of you, as I note, to identify yourself, starting with
16 Judge Plass.

17 JUDGE PLASS: Judge Michael H. Plass.

18 MR. NORTH: Michael?

19 MR. MAISONET: Miguel Maisonet, Senior
20 Clerk and FTR Operator.

21 MR. NORTH: Annie?

22 MS. HAGERTY: Annie Hagerty, Investigator
23 for the Commission.

24 MR. NORTH: And Hamza?

25 MR. KHAN: Hamza Khan, Investigator for the

1 Commission.

2 MR. NORTH: Thank you. The Court Reporter
3 will transcribe the proceedings as present. In addition,
4 these proceedings are also being digitally recorded by
5 persons who identified themselves. Both the Court
6 Reporter and the person operating the digital recorder will
7 go on the record and off the record at my direction. The
8 recording will be transcribed.

9 In order to facilitate a clear and accurate record,
10 please speak slowly, clearly, and directly into the
11 microphone. Refrain from moving away from the
12 microphone and talking over the speakers. Please refrain
13 from creating excessive background noise as it becomes
14 amplified on the recording, the scratching and things on the
15 table.

16 No one may make any photographic images or
17 electronic recordings of any portion of this proceeding,
18 such as tape recordings, video recordings, or digital audio
19 or visual recordings. Please turn off all cell phones and
20 other electronic equipment now.

21 Hamza Khan will keep a running list of exhibits,
22 which will be provided to the transcriber for inclusion in
23 the appendix to the transcript. Commission Counsel will
24 use numbers. Respondent's exhibits will be marked with
25 letters. It is my function to indicate clearly, for the record,

1 whether or not each exhibit has been received into
2 evidence. The Investigator will mark the stickers on the
3 exhibits with a notation indicating that the exhibit was
4 received in evidence.

5 At the conclusion of the hearing, the original
6 exhibits will be forwarded to the Clerk of the Commission.
7 The Stenographer will provide a transcript to the
8 Commission staff. In addition, as a backup, the audio
9 recording will be available to the administrative staff.
10 When the transcripts are prepared, they will be distributed
11 with copies of the admitted exhibits to Counsel for
12 Respondent, Commission Counsel, and to me. At the end
13 of the hearing, we will discuss the schedule for submitting
14 briefs with proposed findings of fact and conclusions of
15 law.

16 So before we begin to take testimony and
17 introduce exhibits, is there any issue that Counsel wishes to
18 raise or present?

19 MR. LEVENTHAL: I have a question, if I may.

20 MR. NORTH: Yes, sir.

21 MR. LEVENTHAL: Am I correct in assuming
22 that neither of the Investigators that are in the room will be
23 called as witnesses at the hearing?

24 MR. ARNONE: In light of our stipulation, yes.
25 That's correct.

(Matter of Michael H. Plass)

1 MR. NORTH: Okay.

2 MR. LEVENTHAL: Thank you.

3 MR. NORTH: Okay. Then let's proceed with
4 the introduction of exhibits at this time.

5 MR. ARNONE: Thank you, Judge. And before
6 I do that, I would just note that everyone has been provided
7 with a courtesy copy of binders which contain pre-marked
8 exhibits both for Commission Counsel and Respondent's
9 exhibits. There is, for the record, Exhibits A, B, and C,
10 which contain the formal written complaint, the answer,
11 and the witness list, which are noted for the Referee's -- for
12 your reference, Mr. North.

13 Pursuant to our stipulation at this time, we
14 would offer Commission Exhibit 1 through 15 into
15 evidence, 15 being the stipulation that was signed by both
16 parties. I'm happy to move in Respondent's exhibits as
17 well, but for the record, I'd like to name each of the
18 exhibits.

19 Commission Exhibit 1 is Michael Plass for Hyde
20 Park Town Justice campaign mailer.

21 Commission Exhibit 2, New York State
22 Advisory Committee on Judicial Ethics opinion 23-158.

23 Exhibit 3, Respondent's January 15, 2024,
24 request to New York State Advisory Committee on Judicial
25 Ethics for reconsideration of advisory opinion 13-158.

(Matter of Michael H. Plass)

1 Commission Exhibit 4, Hyde Park Town Court
2 civil calendars for January through July of 2024.

3 Commission Exhibit 5, Hyde Park Town Court's
4 civil calendars for August through November 2024.

5 Commission Exhibit 6, Hyde Park Town Court's
6 criminal calendars for January through June 2024.

7 Commission Exhibit 7, Hyde Park Town Court's
8 criminal calendars for July through November 2024.

9 Commission Exhibit 8, Hyde Park Town Court's
10 vehicle and traffic calendars for January through October
11 2024.

12 Commission Exhibit 9, Hyde Park Town Court's
13 calendars for November through December 2024.

14 Commission Exhibit 10, portions of
15 Respondent's February 19, 2024 letter to the Commission.

16 Commission Exhibit 11, portions of
17 Respondent's March 26, 2024 testimony to the
18 Commission.

19 Commission Exhibit 12, portion of Respondent's
20 July 29, 2024 verified answer.

21 Commission Exhibit 13, 2024 Hyde Park Court
22 calendars stamped with daily civil and criminal/vehicle and
23 traffic law case counts.

24 Commission Exhibit 14, chart summarizing the
25 total number of 2024 Hyde Park Town Court civil and

1 criminal/vehicle and traffic law cases.

2 And Commission Exhibit 15, as I referenced, the
3 stipulation by which we're moving these exhibits into
4 evidence.

5 MR. NORTH: Just so it's clear, Mr. Leventhal,
6 you consent to the introduction of items A, B, and C and 1
7 through 15 into evidence in this proceeding. Is that correct?

8 MR. LEVENTHAL: Subject to a reservation on
9 relevance.

10 MR. NORTH: Of course. And they're so
11 received and will be so marked.
12 (Commission Exhibits 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13,
13 14, 15 were marked for evidence)

14 MR. NORTH: Let us proceed with opening
15 statements.

16 MR. LEVENTHAL: So Mr. North, for just
17 convenience, would you like to receive Respondent's
18 exhibits at this time as well?

19 MR. NORTH: Oh, I'm sorry. Of course. Yes.

20 MR. LEVENTHAL: Sure. Okay. All right.
21 These are subject to the same stipulation and the same
22 reservation by Commission's Counsel as to relevance.

23 MR. NORTH: Okay.

24 MR. LEVENTHAL: And if I may, I'll name
25 them.

(Matter of Michael H. Plass)

1 Exhibit A, February and March 2024 court
2 sign-in sheets.
3 Exhibit A-1, March and April 2024 court sign-in
4 sheets.
5 Exhibit A-2, June and July 2024 court sign-in
6 sheets.
7 Exhibit A-3, August and September 2024 court
8 sign-in sheets.
9 Exhibit A-4, October and November 2024 court
10 sign-in sheets.
11 Exhibit A-5, December 2024 court sign-in
12 sheets.
13 Exhibit A-6, May 2024 court sign-in sheet.
14 Exhibit A-7, certification letter from Pam Lucia.
15 Exhibit B, January, February, and March 2016
16 NYSLERS time records for former Judge Petito.
17 Exhibit B-1, recertification of time record by
18 Judge Petito.
19 Exhibit B-2, certification by Town Clerk.
20 Exhibit C, January, February and March 2016
21 NYSLERS time records and certification by Judge
22 McArthur.
23 Exhibit C-1, February, March, and April 2024
24 NYSLERS time records and summary by Judge McArthur.
25 Exhibit C-2, certification by Town Clerk.

(Matter of Michael H. Plass)

Exhibit D, January through August 2024 time records for Court Officers Cook, Ashworth (phonetic), and Robinson (phonetic).

4 Exhibit D-1, September through December 2024

5 time records for Court Officers Cook, Ashworth, and

6 Robinson.

Exhibit D-2, certification by Town Clerk.

8 Exhibit E, Town Board Resolution 1 of 2-29 --
9 1:2-29 of 2025, authorizing reappointment of a Special
10 Prosecutor.

11 MR. NORTH: Those exhibits are received in
12 evidence upon stipulation. No objection.
13 (Respondent's Exhibits A, A-1, A-2, A-3, A-4, A-5, A-6, A-
14 7, B, B-1, B-2, C, C-1, C-2, D, D-1, D-2, E were marked
15 for evidence)

16 MR. NORTH: Shall we proceed? Opening
17 statements, please.

18 MR. ARNONE: Thank you. May I proceed,
19 Mr. North?

20 MR. NORTH: Sure.

21 MR. ARNONE: Thank you. Good morning,
22 Mr. North, and all Counsel. The rules governing judicial
23 conduct prohibit judicial candidates from making pledges
24 or promises of conduct, for making commitments with
25 respect to cases, controversies, or issues that are impartial --

1 that are inconsistent with the impartial performance of their
2 duties in office. The rules may be wordy, but the principles
3 are simple and straightforward. Judges and candidates for
4 judicial office must be fair, and they must be impartial.
5 This case presents a straightforward and egregious violation
6 of these principles.

7 In 2023, Respondent Michael Plass ran for
8 Town Justice in Hyde Park, Dutchess County. Although
9 he's not a lawyer, he was no stranger to the law.
10 Respondent had years of experience working as a police
11 officer in more than one town, during which time he
12 enforced the laws and where he testified in front of Judges
13 in courts of law. And in 2023, in a push to secure votes,
14 Respondent created a campaign flier or mailer and had
15 3000 copies sent to his potential voters. The mailer
16 included his picture, and it provided voters with a basic
17 blueprint of how he would rule should they elect him to
18 office.

19 On the front of the mailer, the Respondent
20 identified himself as a Hyde Park police officer who, and I
21 quote, "had seen firsthand the problems that Hyde Park
22 faces", end quote. Respondent then, quote, "pledged to
23 keep drug dealers off of our streets and out of our hotels".
24 He pledged to incarcerate offenders and protect victims of
25 domestic violence, and he pledged to ensure that repeat

1 offenders would be sentenced to the full extent of the law.
2 The reverse side of the mailer contained endorsements from
3 electeds and a Sheriff highlighting his law enforcement
4 credentials, asserted that he would, quote, "protect and
5 serve", that he would, quote, "defend Hyde Park", and that
6 he would, I quote, "ensure that victims' rights would always
7 be a priority". It may have been a great ad for a Sheriff. It
8 was a terrible ad for a Judge.

9 The evidence will unequivocally show that
10 Respondent made these improper pledges and that by doing
11 so he committed himself to predetermined results in cases
12 that would come before him. He promised to operate as an
13 extension of law enforcement, to be biased in favor of cops,
14 biased in favor of law enforcement, and biased against the
15 very people who had the most to lose if they were to appear
16 in front of him in his courtroom.

17 The evidence, I submit, will show that he
18 conducted himself in a manner that was antithetical to
19 open-mindedness, fairness, and impartiality, the antithesis
20 of everything a Judge should stand for. Now, you'll also
21 learn that sometime after he was elected and before he took
22 the bench, Respondent submitted an inquiry to the Advisory
23 Committee on Judicial Ethics, asking whether his
24 disqualification from any matters was required. The
25 Committee responded by issuing opinion 13 -- I'm sorry,

(Matter of Michael H. Plass)

1 23-158, which advised the Respondent that because of his
2 unequivocal pledges, he should be disqualified for the
3 duration of his entire term from presiding over all criminal
4 cases, vehicle traffic matters, any matters involving
5 allegations of domestic violence, and/or matters which
6 involve purported drug dealers.

7 Judge Plass cannot preside over criminal and
8 vehicle traffic matters. He has not presided over a single
9 criminal or traffic matter since he was sworn in. The
10 evidence will show that, as a direct result of his
11 misconduct, Hyde Park Town Court is stuck for four years
12 with a Judge who is unable to perform the vast majority of
13 his judicial duties, thereby leaving his co-Judge, the
14 Honorable Jean McArthur, to handle the majority of the
15 court's caseload and to do all of the work that he can't do.

16 We will hear from Judge McArthur herself, who
17 will explain that her workload has essentially doubled since
18 Respondent was sworn in. And instead of splitting her
19 town's -- the town's work in half, as she did with her
20 previous co-Judge, she now handles all of the criminal
21 vehicle and traffic cases and all of the added work that
22 comes along with them. The evidence will show that Judge
23 McArthur essentially carries the court on her shoulders and
24 has done so since January of 2024, when the Respondent
25 was sworn in, Respondent only handling civil cases, which

1 is relegated to eviction and small claims.

2 And Mr. North, you'll see the numbers. Out of
3 2,272 cases that came through Hyde Park in 2024, only 181
4 of them were civil cases. That means the remaining 2,091
5 were criminal and vehicle traffic cases that Respondent
6 can't handle, a grossly unfair and wholly unaffordable
7 situation if only Respondent had complied with the law.

8 I submit to you that at the close of the evidence,
9 Commission Counsel will have proven, beyond the
10 preponderance of the evidence, that Respondent
11 disseminated this campaign literature that conveyed the
12 message that he committed himself to being biased and
13 unfair, that he engaged in misconduct and violated
14 numerous provisions of the rules that have rendered him
15 unable to perform the vast majority of his duties that are
16 required of a Hyde Park Town Justice. Thank you.

17 MR. NORTH: Thank you.

18 Mr. Leventhal?

19 MR. LEVENTHAL: Good morning, sir.

20 MR. NORTH: Good morning.

21 MR. LEVENTHAL: Judge Plass has dedicated
22 the past 20 years to public service. He served as a police
23 officer before taking the bench. Like more than half the
24 town and village Judges in the State of New York, he's not
25 a lawyer. All candidates for judicial office are required to

(Matter of Michael H. Plass)

1 take a course in campaign ethics before entering into their
2 campaign, except town and village Judges, the very Judges
3 that would benefit from that education the most.

4 In 2023, Judge Plass was unaware of the no
5 pledges or promises rule. As a first-time candidate, he
6 modeled his campaign flier after others that he saw. He
7 readily admits and deeply regrets the single violation of the
8 rule. It was never repeated in any written materials for
9 public statement. He discovered the rule when he attended
10 the Office of Court Administration's taking the bench class
11 for newly elected and appointed Judges. He self-reported
12 to the OCA instructor and asked the instructor what he
13 should do. He self-reported to the Advisory Committee on
14 Judicial Ethics and sought the Committee's advice. The
15 conclusion of the Committee was, during his term, he
16 should not preside on criminal, vehicle and traffic, or
17 domestic violence cases.

18 As a result, the caseload of the town's other
19 Judge is greater. But there is a difference between a
20 caseload and a workload. Not all cases require the same
21 amount of work. The Commission's Counsel will present
22 caseload statistics that distort some facts and omit others.
23 To be sure, we do not dispute that Judge McArthur handles
24 more cases than Judge Plass. But the credible evidence will
25 show that the workload is not as disparate as the

(Matter of Michael H. Plass)

1 Commission will contend.

2 Counsel will attempt to leverage the numerical
3 disparity into a basis for his argument that Judge Plass has
4 failed to discharge his judicial duties and should be
5 removed from office. But there is a difference between a
6 failure to perform one's duties and the performance of one's
7 duties consistent with the advice of the Advisory
8 Committee on Judicial Ethics. And you will hear that
9 Judge Plass has diligently pursued his judicial duties as
10 limited by the Committee's advice.

11 More importantly, Judge Plass is not charged
12 with a failure to perform his duties. There is only one count
13 in the written formal complaint. The sole charge of the
14 complaint is, and I quote, "During his 2023 campaign for
15 Judicial Office, Respondent designed, approved, and/or
16 distributed campaign literature that, inter alia, pledged to,
17 A, keep drug dealers off the street and out of our hotels, B,
18 incarcerate offenders and protect victims of domestic
19 violence, and C, assure repeat offenders are sentenced to
20 the full extent of the law". In so doing, Respondent
21 conveyed at least the appearance that he would be biased in
22 favor of law enforcement rather than decide each matter on
23 its own merits.

24 Sir, even Judges are entitled to due process. The
25 fundamental essence of due process is notice of the charge

(*Matter of Michael H. Plass*)

1 against you. As to the sole charge and regrettable fact that
2 Judge Petito (sic) innocently, but improperly, violated the
3 no pledges or promises rule, no Judge has ever been
4 removed from office for a standalone violation of the rule.
5 The Court of Appeals noted that 20 years ago in *In Re*
6 *Watson*, and it is still the case today.

7 There is no claim of any misconduct by Judge
8 Plass on the bench or during his term -- judicial term. The
9 testimony that you will hear will not show that the disparate
10 caseload has served to undermine public confidence in the
11 integrity of the judicial system or is likely to do so. There
12 is no rule of judicial conduct that requires co-ordinated Judges
13 to carry the same caseloads. There is, however, a statute,
14 Town Law Section 27, that provides, in pertinent part, that
15 in all towns, the salaries of all Town Justices shall be equal,
16 except that the Town Board may determine, by a majority
17 vote, to pay salaries in different amounts.

18 The town could, if it wished, compensate Judge
19 McArthur for her higher caseload. The town could, if it
20 wished, request a special bill authorizing a third Town
21 Justice. So the allocation of cases between the two Town
22 Judges is not a matter for the Commission. It is a matter for
23 the Town Board and ultimately the voters. Thank you.

24 MR. NORTH: So I would like to have a clear
25 understanding of our proceedings here today. Mr.

(Matter of Michael H. Plass)

1 Leventhal, is it your position that Judge Plass admits to
2 violating Section 100.584?

3 MR. LEVENTHAL: Yes, sir.

4 MR. NORTH: Okay. Is it your position that
5 our proceeding here today is pursuant to the preamble of
6 the rules of the Administrative Judge, that the effect of that
7 should be tempered or considered in connection with the
8 implications of that conduct as stated in the preamble? Is
9 that is the essence of what you're saying? We're really
10 talking about mitigation rather than violation?

11 MR. LEVENTHAL: We admit the violation.
12 We're talking about what a reasonable consequence to
13 Judge Plass would be. What sanction, if any, should be
14 imposed by the Commission is what we're talking about.
15 Yes, sir.

16 MR. NORTH: Okay. So as you understand,
17 just so it's clear, it is not my role to determine what the
18 sanction should be, but I am serving as a fact finder with
19 regard to the issues that will be presented to the
20 Commission itself on that -- in that realm.

21 MR. LEVENTHAL: Yes, sir.

22 MR. NORTH: We understanding that?

23 MR. LEVENTHAL: Yes, thank you, Mr.
24 North.

25 MR. NORTH: Okay. Okay. Let us proceed.

1 MR. ARNONE: Thank you. Mr. North, at this
2 time the Commission Counsel calls the Honorable Jean
3 McArthur.

4 MR. NORTH: Okay. And while we're still
5 here, so just so it's very clear, the sole focus of the claim by
6 the Commission is limited to the language in that flier that
7 is exhibited. Is that correct?

8 MR. ARNONE: Well, we did plead the effect
9 that it had on the court. So --

10 MR. NORTH: Of course.

11 MR. ARNONE: -- Mr. Leventhal --

12 MR. NORTH: It's that language and its effect.

13 MR. ARNONE: Correct.

14 MR. NORTH: The only misdeed -- or the
15 misdeed alleged is the transmission, publication of that
16 flier.

17 MR. ARNONE: That's correct.

18 MR. NORTH: Okay. You agree?

19 MR. LEVENTHAL: Yes.

20 MR. NORTH: Okay.

21 MR. KHAN: Witness entering.

22 JUDGE MCARTHUR: Hello.

23 MR. NORTH: Hello. Judge McArthur, would
24 you kindly stand up and please raise your right hand?

25 JUDGE MCARTHUR: Oh, sure.

(Jean McArthur - Direct)

1 MR. NORTH: Do you solemnly swear to give
2 the truth in this proceeding?

3 JUDGE MCARTHUR: I will.

4 MR. NORTH: Thank you. You may be seated.

5 THE WITNESS: Okay.

6 MR. ARNONE: May I proceed, Mr. North?

7 MR. NORTH: Yes.

8

9 JEAN MCARTHUR,

10 having been duly sworn, was examined and testified as follows:

11

12 DIRECT EXAMINATION BY

13 MR. ARNONE:

14 Q. Good morning, Judge.

15 A. Good morning.

16 Q. May you please state your name and spell it for the record, please?

17 A. Jean, J-E-A-N, last name McArthur, M-C-A-R-T-H-U-R.

18 Q. Are you currently employed?

19 A. Yes.

20 Q. By whom are you employed?

21 A. The Town of Hyde Park.

22 Q. And what is your title?

23 A. Town Justice.

24 Q. How long have you been Town Justice in Hyde Park?

25 A. Ten years, since the beginning of 2016.

(Jean McArthur - Direct)

1 Q. Were you elected?

2 A. Yes.

3 Q. What year were you first elected?

4 A. 2015. And then I took the bench the -- January of 2016.

5 Q. How long are your terms?

6 A. Four years.

7 Q. So are you -- how many terms have you been --

8 A. This is my third term.

9 Q. Okay. Judge, can you please walk us through your educational
10 background?

11 A. Okay. So I'm a graduate of Dutchess Community College and Marist
12 College. My background or degrees are in finance and law, although I'm
13 not an attorney and didn't go to law school. Also hold certifications with
14 the Dutchess County Mediation Center, trained in three levels of
15 mediation with them as well. And I'm a Notary licensed in the State of
16 New York.

17 Q. And when you say that you have a background in law, that pertains to
18 your educational background?

19 A. Yes.

20 Q. Okay.

21 A. So I did not go to law school. I want to make that clear.

22 Q. You're not a lawyer?

23 A. No.

24 Q. Judge, can you please walk us through your professional career since
25 graduating from college?

(Jean McArthur - Direct)

1 A. Most of my career, I've been self-employed, although when I first
2 graduated from Marist, I was -- worked in Manhattan briefly. IBM in
3 East Fishkill briefly. And then basically the rest of my career has been
4 self-employed, other than the Justice seat.

5 Q. Judge, I'd like to talk a little bit about Hyde Park Town Court. How
6 many Judges preside there?

7 A. Two.

8 Q. How many courtrooms are there?

9 A. One.

10 Q. Can you describe the staff for us?

11 A. We have three Clerks.

12 Q. What are their names?

13 A. We have Maura, Pam, and Shannon.

14 Q. Okay. Can you please spell Maura for us?

15 A. M-A-U-R-A.

16 Q. And do you recall her last name?

17 A. I don't.

18 Q. Okay.

19 A. She's fairly new.

20 Q. Okay. And there's --

21 A. So I do not. I'm sorry.

22 Q. And there's Pam. What's Pam's last name?

23 A. I'm not sure about that either.

24 Q. Okay. And what was the third Clerk that you mentioned?

25 A. Shannon.

(Jean McArthur - Direct)

1 Q. Okay. Are there Court Officers there?

2 A. Yes.

3 Q. And how many Court Officers are there employed?

4 A. Well, usually there's one by the bench and there's two or three maybe out
5 by the door to do the check-in.

6 Q. Okay. Does Hyde Park have jurisdiction over criminal cases?

7 A. Yes, we have jurisdiction over misdemeanor cases as far as for through
8 trial.

9 Q. And what about felonies?

10 A. Just felony hearing, which would be preliminary hearing to decide
11 whether the case could move forward to the higher courts.

12 Q. And if it's -- the case does not move forward, what happens to the case
13 then?

14 A. Then it would stay in our court.

15 Q. Does Hyde Park Town Court have jurisdiction over vehicle and traffic
16 matters?

17 A. Yes.

18 Q. What types of vehicle and traffic matters?

19 A. Well, it would be, you know, general traffic infractions. We also get
20 some for overweight vehicles. You know, just in general --

21 Q. DWIs fall within that ambit as well?

22 A. No, actually, DWIs fall under the criminal calendar because generally
23 they're misdemeanors. Even if they're an AI, they're usually put on our
24 criminal calendar.

25 Q. And by AI, what are you referring to?

(Jean McArthur - Direct)

1 A. Driving while ability impaired --

2 Q. Okay. So --

3 A. -- versus -- yeah.

4 Q. So these DWIs would fall under the ambit of Hyde Park Town Court's
5 jurisdiction?

6 A. Yes.

7 Q. And does Hyde Park have jurisdiction over civil matters?

8 A. Yes.

9 Q. What types of civil matters?

10 A. We do small claims proceedings, summary proceedings, dangerous dog
11 cases, as well as zoning violations.

12 Q. Can you explain what a summary proceeding is?

13 A. That would be an eviction.

14 Q. So is every summary proceeding an eviction case?

15 A. Yes.

16 Q. And can you describe what the small claims matters are?

17 A. Those are anything that if an individual is suing another individual, that
18 the max allowed is 3,000 in the local courts.

19 Q. Meaning if there's a controversy no more than 3,000 --

20 A. Yes.

21 Q. -- then your court would have jurisdiction over it?

22 A. Correct. And it would need to be located in the town of Hyde Park.

23 Q. And you mentioned zoning ordinances. Can you explain what that --
24 what they are?

25 A. Well, that would be if somebody had a zoning violation, then that's

(Jean McArthur - Direct)

1 brought into our court. Sometimes there's a trial, sometimes not. Usually
2 the Prosecuting Attorney handles those cases. And generally, there's a
3 recommendation to remedy the issue. I would say 90 percent of the time
4 they are remedied and there's no need for a trial, but you know, it varies.

5 Q. Judge, has Hyde Park had jurisdiction over these matters for as long as
6 you were a Judge there?

7 A. Yes.

8 Q. And of these types of cases that you described, are any more frequent or
9 common than the others?

10 A. Actually the criminal cases are -- you know, there's a bigger load of
11 criminal cases than any in our court, if that's -- I'm not sure if that's what
12 you're asking.

13 Q. Sure, sure. And is it -- how long has it been that way?

14 A. Pretty much since I've been there.

15 Q. I'd like to talk a little bit about -- draw your attention to 2016. You were
16 a Judge -- this is when you first took the bench?

17 A. Correct.

18 Q. Now, did you have a co-Judge back then?

19 A. Yes.

20 Q. Who was your co-Judge at the time?

21 A. Joseph Petito.

22 Q. And can you spell that for the record?

23 A. J-O-S-E-P-H P-E-T-I-T-O.

24 Q. How long were you in Judge Petito co-judges?

25 A. Eight years.

(Jean McArthur - Direct)

1 Q. Okay. Did Judge Petito preside over cases?

2 A. Yes.

3 Q. And did you?

4 A. Yes.

5 Q. What types of cases did you both preside over?

6 A. It was fairly split. Criminal cases, summary proceedings, small claims,
7 traffic, vehicle and traffic, dangerous dog cases, zoning violations.

8 Q. And what determined how the cases were divided between both you and
9 Judge Petito?

10 A. Well, the former Judges had -- already had pre-set that in place. So Judge
11 Petito would handle, for the most part, odd day cases, you know, when
12 the charges -- you know, if there were an odd day. And then I would
13 have the even day, unless there was a conflict, then it would get, you
14 know, maybe over to my calendar. If I had a conflict, it would go to his
15 calendar.

16 Q. And what do you mean by even day and odd day?

17 A. Well, whenever the arrest or the incident took place, you know, if it was
18 on an even day, then that case would go on my calendar, unless, like I
19 said, unless I had a conflict. And the same with Petito. So if he had a
20 conflict, then it would come over to me. But for the most part, he had
21 odd day cases.

22 Q. And I think you testified to this already, but can you give us an
23 approximate percentage of how those cases were divided between the two
24 of you?

25 A. Pretty 50/50, for the most part.

(Jean McArthur - Direct)

1 Q. And how long did you adhere to this odd/even system with Judge Petito?

2 A. Our whole term, you know, our whole eight years that we were serving
3 together.

4 Q. Did you think that arrangement was fair?

5 A. Absolutely. Yeah.

6 Q. So I'd like to draw your attention now to January 2024 when Judge Plass
7 was sworn in. Do you recall when he first actually took the bench?

8 A. January of '25.

9 Q. Okay.

10 A. Or no, '24. It was last year.

11 Q. Yeah. I'm actually drawing our attention to 2024. That's when he was
12 sworn in, correct?

13 A. Correct.

14 Q. Do you recall when he actually started presiding over matters?

15 A. I believe it was sometime in February for the civil matters.

16 Q. And can you tell us why not in January?

17 A. Well, it was my understanding that there was a violation pending. So you
18 know, it was recommended that he not preside over criminal or traffic or
19 any of those sorts other than the civil. That was my understanding.

20 Q. Who presided over the cases in January?

21 A. Myself.

22 Q. Did you preside over everything that month?

23 A. Yes.

24 Q. And you indicated he began to preside over cases in February of 2024?

25 A. Right, just summary proceedings and a lot of small claims.

(Jean McArthur - Direct)

1 Q. Okay. So you just were explaining to us how cases were divided between
2 you and Judge Petito. And for the record, how has that changed since
3 Judge Plass took the bench?

4 A. Well, I mean, I'm doing all of the criminal cases. He's doing all the civil
5 cases. And I'm doing the traffic cases and generally doing the -- also the
6 dangerous dog cases and the zoning violations.

7 Q. You are?

8 A. Yes.

9 Q. And how long has it been this way?

10 A. For about 15 or 16 months.

11 Q. Is it fair to say Judge Plass is presiding over all the civil cases?

12 A. Yes.

13 Q. I want to talk now about the criminal cases that you preside over. Can
14 you tell us what aspects of those cases you handle, what that entails?

15 A. Well, generally, it starts with an arraignment. So when an individual is
16 charged with a, you know, crime, I would do the arraignment, which, you
17 know, I'm still doing those. And then they would have a court date. If
18 it's a felony, a preliminary hearing would be scheduled. More times than
19 not, we don't have the preliminary hearing. It's usually waived. And then
20 either there's some kind disposition that's agreed to upon both sides that
21 would reduce it to keep it in our court to a misdemeanor. But I have had
22 several preliminary hearings, and then it's waived out to the County
23 Court. Sometimes it ends up coming back to our court. If there's no
24 indictment, it's reduced back to a misdemeanor because our court only
25 has jurisdiction over misdemeanor cases. As far as for trial matters, we

(Jean McArthur - Direct)

1 have hearings; motions are filed for hearings. We do have hearings, and I
2 have to write decisions on the motions or the hearings, depending on
3 what they're asking for. Some of our cases are sex offender cases. And
4 probably about four or five times in my career, I've had to rate a sex
5 offender. It's from one to ten. And there's various aspects that go into
6 that. Both sides argue why they think their -- the client should be
7 whatever number they're thinking about. There's a series of questions
8 that we ask them as well. We consider their criminal history. So there's a
9 variation that goes into that. There's also PSRs that we get, pre-
10 sentencing reports. If an individual --

11 Q. I'm just going to stop you there. I'll get to that in a moment.

12 A. Oh, okay.

13 Q. I appreciate that, Judge. Is it fair to say you're handling every aspect of
14 the criminal case from start to finish?

15 A. Yeah.

16 Q. Are you presiding over bench trials as well?

17 A. Yes.

18 Q. And what about jury trials?

19 A. Yes.

20 Q. And is your --

21 A. Misdemeanor only, though.

22 Q. Correct. Thank you.

23 A. Do you issue temporary orders of protection?

24 A. Yes.

25 Q. And you mentioned the types of cases you preside over. You mentioned

(Jean McArthur - Direct)

1 sex offenses. Are there domestic violence cases as well?

2 A. I would say the bigger portion of our criminal cases are domestic violent
3 (sic) related. A lot of OPs, we issue lots of them.

4 Q. For the record, OP, is that an order of protection?

5 A. Order of protection. Yes.

6 Q. Do you ever sentence people to jail?

7 A. Yes.

8 Q. And you had mentioned pre-sentence reports, or PSRs. Are those
9 prepared in cases?

10 A. Yes. And a lot of cases -- lately, more so than in the past, and also
11 assessments as far as for, like, drug evaluations. Sometimes there's a
12 recommendation in the assessment to have someone go into a drug
13 treatment program as part of their sentence. So you know, that's done
14 through an evaluation. 730 exams if, you know, we're not sure if the
15 individual is able to stand trial mentally. So you know, the --

16 Q. For the record, 730, is that CPL 730, mental competency?

17 A. Yes.

18 Q. Are the pre-sentence reports prepared in every case? Well, in what cases
19 are pre-sentence reports prepared?

20 A. Generally, if part of the offer is probation. But sometimes there's pre-
21 sentence reports as well. So sometimes before, you know, they want to
22 offer probation, they'll do, like, a general screening. It's similar to a pre-
23 sentencing report, but not quite. So they may or may not, you know, take
24 the -- there's a recommendation. So -- and the recommendation could be,
25 okay, probation or no jail time. So --

(Jean McArthur - Direct)

1 Q. Are those reports prepared where jail is a potential sentence as well?

2 A. Yes.

3 Q. And do you review those reports?

4 A. Yes.

5 Q. Now, Judge, with respect to vehicle and traffic cases, what types of
6 cases -- I think you touched on this, but what types -- what aspects of
7 those matters are you handling?

8 A. I'm not sure what you --

9 Q. You just sort of describe for us the criminal case protocol. What about
10 vehicle and traffic cases? What do those cases entail from your
11 perspective as a Judge?

12 A. So basically, we have a Town Prosecutor, which I believe most courts
13 have. And generally individuals are sent a notice. If they wish to plead
14 not guilty, then they can -- they have the option to come in and see our
15 Town Prosecutor. And generally, she will speak with them, and then
16 they get called to the bench. She'll make a recommendation, you know,
17 whatever it is, and then they'll come up before the bench. And then, you
18 know, I'll go through a series of questions or things, you know, to make
19 sure they understand what they're agreeing to. And then I assess a fine.
20 Or they can do the plea by mail, which, since the COVID, we kind of
21 carried that through. It kind of helps so we don't have as many people in
22 the courtroom. It seems to work well. A lot more people seem to
23 respond to the plea by mail versus actually coming to court. It's
24 convenient. And you know, it's basically the same offer. The Prosecutor
25 would mail them something and make an offer, and if they agree to it,

(Jean McArthur - Direct)

1 then it would come to my desk and I would assess a fine.

2 Q. Judge, you're talking about these mail-ins. Do these apply to vehicle and
3 traffic matters only?

4 A. Yes. It's not allowed for any misdemeanor cases.

5 Q. Okay. And how does that work? Who's eligible for a mail-in plea?

6 A. Anybody that has a traffic infraction.

7 Q. Okay. So is anybody who receives a ticket offered the opportunity to
8 mail in -- to plea by mail?

9 A. Yes, yes. Our Prosecutor sends them a letter, and if they don't respond,
10 then they get calendared to come in, you know, for the date. But
11 sometimes they respond. And then, you know, then we -- comes to me
12 and I assess the fine. If they say, "I'd like to accept your offer and the
13 plea by mail", and then -- you know.

14 Q. So with respect to the people that don't plea by mail, is it fair to say that
15 their cases are placed on a calendar?

16 A. Yes.

17 Q. So if we were to look at a Hyde Park Town Court vehicle and traffic
18 calendar, are these people who have, for whatever reason, not done a
19 mail-in plea?

20 A. Yes, or they didn't answer, because she sends everybody that offer if it's a
21 traffic infraction. And sometimes they just don't offer -- or they just don't
22 respond. They just show up to the Court.

23 Q. And does the case then proceed in court?

24 A. Yes.

25 Q. Before you.

(Jean McArthur - Direct)

1 A. Yes. Well, they do get the opportunity to speak to the Prosecutor first,
2 though.

3 Q. Now, just with respect to criminal cases, is it fair to say that you're
4 presiding over all the appearances in those cases?

5 A. Yes.

6 Q. And with respect to vehicle and traffic cases, you're presiding over all the
7 appearances?

8 A. Yes.

9 Q. Can you just tell us a little bit -- when the cases that end up pleaing by
10 mail, what, if anything, do you have to do with those cases?

11 A. Well, usually the stack, Shannon generally handles those, will be on my
12 desk. And then I, you know, look at their criminal history and assess a
13 fine, usually based on their criminal history is what -- I try to be fair.
14 And that's generally what I do. If they have a long history, that means
15 they'll probably be getting a bigger fine than someone that looks like they
16 have a fairly clean record. Maybe they just had a bad day.

17 Q. Do you do this with every mail-in plea, look at the file and assess?

18 A. Yes, yes. And it's done all the same, not based on anything in particular.
19 You know, that was one thing I took away from the prior Judges. What
20 they always did, they said, was look at -- look, you know, at their history.
21 And that's how they -- it was fair to do, base it on their driving history.

22 Q. Is there any accounting process that's associated with processing those
23 fines?

24 A. What do you mean by that?

25 Q. Do you or anybody in your court have to keep a record of the monetary

(Jean McArthur - Direct)

1 amount of fines that are imposed on --

2 A. Yes, because at the end of the month, then I sign the check to the town,
3 and there's a printout. So that way -- you know, they input it, the girls in
4 the front. And then at the end of the month, we send the whole check to
5 the town, and then the town divvies up what goes to the State, because a
6 portion of that goes to the State. And then there's a portion that goes to
7 the town.

8 Q. When you mentioned the girls, who are you referring to?

9 A. I'm referring to, like, Pam, Maura, or Shannon.

10 Q. The Clerks.

11 A. Yes.

12 Q. So it's fair to say that there's a record of -- that's kept of all the fines that
13 are imposed?

14 A. Yes.

15 Q. And who's responsible, if anybody, for reviewing those and making sure
16 that they're accurate?

17 A. That would be me.

18 Q. Do you have to review that, anything before it goes out?

19 A. Yeah, because there's a State report that we do at the end of the month.

20 And basically, the State report is only of who paid the fines. We have
21 record of, you know, who was assessed fines. But now the way the law
22 is -- in the past, we couldn't set up a payment plan. But now the way the
23 new law is, we can set up payment plans. So the computer keeps track of
24 it. So if there are -- you know, only if they made a payment, it would be
25 on that monthly report, and the bank statement would match. That report

(Jean McArthur - Direct)

1 goes to the -- off to the State. And then we also have a printout that goes
2 to the town, copy of the printout, as well as the full check. We don't do
3 any of the divvying up of the State gets this. You know, I believe
4 probably our Town Comptroller does that.

5 Q. Okay. And so you are reviewing these for accuracy. Is that fair to say?

6 A. Yes.

7 Q. And you said this is --

8 A. And to make sure it matches, like, the bank statement -- you know, the
9 funds match of what we should have and what the bank says because we
10 each, as Judges, have our own accounts, so you know.

11 Q. Do you have to sign off on that before it goes out?

12 A. Yes.

13 Q. And you said you have to do this every month?

14 A. Yes.

15 Q. Does Judge Plass help you with any of that?

16 A. Not with my stuff, no.

17 Q. Okay. As far as you know, does he have -- play any role with assessing
18 fines or handling these vehicle and traffic pleas?

19 A. Not that I'm aware of.

20 Q. This work that you're doing with respect to accounting and assessing
21 fines, are you doing that while you're on the bench?

22 A. No. No. You know, I usually try to do it whenever I'm up there to
23 because, you know, they kind of build up quickly. So whenever I'm up
24 there. And we get lots of cases of people that have fines and they're
25 looking to be set up on a payment plan. So I sign off on that.

(Jean McArthur - Direct)

1 Q. Is it fair to say this is work you're doing in addition to the work you're
2 doing in court on the bench?

3 A. Correct. Yeah. I mean, the amount of time on the bench is really a short
4 time considering what goes into, you know, the cases and whatnot.

5 Q. Judge, can you estimate what percentage of cases that come through
6 Hyde Park Town Court are criminal and traffic, if you could?

7 A. Probably 80 percent.

8 Q. And Judge, you mentioned the zoning ordinances. Can you just explain
9 what those cases entail from your perspective?

10 A. Well, basically, that's if someone violated the zoning code, like, you
11 know, maybe they put in a pool that they shouldn't have without an
12 engineer or, you know, those kinds of things. They have an apartment
13 that's illegal, so to speak, that they don't have COs so shouldn't be
14 collecting rent money -- that would be considered a zoning violation. So
15 generally, our Prosecutor handles them. And I would say 90 percent of
16 the time there's some kind of an agreement struck up. So you know, we
17 don't usually have to have a trial. I think I've had only maybe two zoning
18 trials in my whole time on the bench.

19 Q. Okay. As far as you know, does Judge Plass preside over any of the
20 zoning ordinance cases?

21 A. I don't think so, but I'm not positive.

22 Q. Judge, is there any system in place where you are required to be on call?

23 A. Yes.

24 Q. Can you please describe for the record what that is?

25 A. Well, that's basically if someone commits a crime in the town. Well, I

(Jean McArthur - Direct)

1 shouldn't say just in our town, because sometimes they get calls from
2 other municipalities if Judges do not answer. So basically, you're
3 required to come in and do an arraignment and set bail or not set bail,
4 depending on what the charges are. That's basically 24/7, you know, you
5 need to be available, as far as for the on-call.

6 Q. And when you say to go in for an arraignment, are you going to the
7 courthouse?

8 A. Yes.

9 Q. And 24 hours a day, 7 days a week?

10 A. Um-hum.

11 MR. NORTH: You have to answer verbally.

12 A. Yes.

13 BY MR. ARNONE:

14 Q. Yes, sorry.

15 A. I'm sorry.

16 Q. Yes. Well, is anyone else helping you with on-call at the moment?

17 A. No. On occasion, a couple times when I was sick, a couple of the other
18 municipalities did pick up on a call for me. But I mean, as far as for --
19 yeah, it's just me right now.

20 Q. How long have you been on call for 24 hours a day?

21 A. Oh, the last year and a half or year and a quarter, I guess.

22 Q. So this includes nights and weekends?

23 A. Yes. It's whenever they call.

24 Q. And approximately how often are you called to go in?

25 A. You know, it really varies. The warmer weather, it tends to be more

(Jean McArthur - Direct)

1 than -- for whatever reason. I have no idea why. But a few times a week.

2 Q. And when you were -- previously when Judge Petito was your co-Judge,
3 were you the only Judge who was handling the on-call?

4 A. No.

5 Q. How was it arranged with Judge Petito?

6 A. We picked up from the prior judges again. We did from a Wednesday to
7 a Wednesday. So you know, I started on a Wednesday, and then he
8 would pick up on a Wednesday night, like six o'clock at night, and same
9 thing. Other than vacations, it was pretty much one -- we did week by
10 week.

11 Q. But fair to say, one week on, one week off?

12 A. Correct.

13 Q. And Judge, what, if any, effect does being on call have on you at this
14 time?

15 MR. LEVENTHAL: Objection.

16 MR. NORTH: I will allow it.

17 A. Well, it is a little difficult. I know other counties have the centralized
18 arraignments. We do not. So basically, you know, I need to be available.
19 And sometimes it's difficult because it does take me away from family
20 functions. I can't really plan vacations or trips. I think I got away, like,
21 one weekend last year. Usually, I would plan that stuff on my time that I
22 knew I wasn't on call or had a prior agreement with Judge Petito, you
23 know, if one or the other wanted time off. So that was helpful.

24 BY MR. ARNONE:

25 Q. What happens if you're at a social gathering and you get a call?

(Jean McArthur - Direct)

1 A. I have to go, especially if they're, you know, looking for an order of
2 protection.

3 Q. What happens -- withdrawn. What agencies may require you to come in?

4 A. We deal with three agencies. We have our local Hyde Park Police. We
5 have the New York State Police and the Dutchess County Sheriff's
6 Office.

7 Q. So what may happen that would require you to assist any of those
8 agencies?

9 A. Well, if there -- somebody is under arrest and they need an order of
10 protection or -- depends on what the arrest is for. And sometimes they'll
11 call for a search warrant to be signed. So I may have to come in and sign
12 that as well. Or somebody's calling even for a bond. You know, they're
13 calling for that regularly as well --

14 Q. Is it fair to say the --

15 A. -- sign a bond.

16 Q. I'm sorry. Fair to say the criminal -- fair to say that the on-call duties are
17 associated for criminal cases?

18 A. Yes.

19 Q. Is that --

20 A. Yeah. It would only be for other than -- well, and a search warrant would
21 be a start of a criminal case as well, so yes.

22 Q. Does the Hyde Park Police Department have a holding cell in their
23 precinct?

24 A. We do. But you know, there's a lot of issues with holding them for too
25 many hours because then you've got to feed them. You're responsible,

(Jean McArthur - Direct)

1 you know. So we try to really get them in and out of there as quickly as
2 we can. As far as for the State troopers, they do not. So they have to
3 chain them to the bench.

4 Q. Okay. What, if any, effect does that have on you?

5 A. Well, that I generally try to get there within the hour, two hours.

6 Q. But why is that?

7 A. Just because, well, first of all, in our local police department, they're
8 required, the police officers, to be attentive to whoever is in custody. So
9 they have to watch them. It takes them off the road. So that is one issue.
10 The other issue is we're responsible if something happens. We have to
11 feed them. So --

12 Q. Them, you're referring to the person in custody?

13 A. Yes, yes. So you know, we try to process them as quickly. The other
14 issue is, is we have to call in the Public Defender because, you know,
15 they have a right to be represented at the arraignment. So we have to call
16 the Public Defender. And generally, that's about an hour leeway anyway,
17 so, because you have one Public Defender that covers the whole county.

18 Q. So you mentioned the State. Is this the New York State Police that
19 don't --

20 A. Yes.

21 Q. -- have a holding cell? And does any other agency -- what was the other
22 agency that does not have a holding cell that you have to assist?

23 A. That's just the only one. Hyde Park has one. And then the Sheriff's
24 Department, of course, does.

25 Q. Understood. For how long do you anticipate having to be on call?

(Jean McArthur - Direct)

1 A. What do you mean, how long?

2 Q. Well, you've been on call now for a year and a half. Is there any end in
3 sight at the moment?

4 A. I have no idea. I'm hoping there is, but I don't know.

5 Q. Are you able to take vacations?

6 A. Not really. I mean, I've, you know, put out a couple of times last year if
7 anyone could cover. And unfortunately, because, you know -- and I don't
8 blame them. They're not paid. The other townships, really, they're not
9 jumping up and volunteering to cover. You know, like I said, I don't
10 blame them. But you know, it is a little stressful because I really can't
11 plan to go anywhere.

12 Q. Is there a -- do you impose on yourself a distance to how far you can go
13 from the courthouse in traveling?

14 A. Well, usually not more than an hour, maybe two hours, but -- because
15 generally, the leeway is at least an hour when you're calling the Public
16 Defender anyway, because generally they give you an hour -- like, would
17 be there in an hour.

18 Q. Judge what, if any, effect has Judge Plass' inability to handle these cases
19 had on your workload?

20 A. Well, I mean, as far as for the criminal cases, I'm handling all those, the
21 vehicle and traffic. So it has increased my workload, of course.

22 Q. Can you tell us to what extent it's increased?

23 A. Well, I mean, percentage-wise?

24 Q. In your words.

25 A. Probably 70 to 80 percent, I would say, you know.

(Jean McArthur - Direct)

1 Q. And how many days a week would you say you go to the courthouse to
2 preside over the calendar?

3 A. Well, the calendars are Tuesdays and Thursdays. But I generally try to
4 go at least a few times a week to take care of anything that's on my
5 desk -- plea by mails, declaration of delinquencies, meaning that someone
6 that's on probation, you know, had a violation. So I need to direct how
7 Probation should handle that. Generally, we just bring them back into the
8 next court date. But they need to be answered. And I, you know, don't
9 like to wait any long periods of time to -- so any of that. Or I'm writing a
10 court decision, you know.

11 Q. Is this different in any way from when Judge Petito was your co-Judge,
12 the amount of time that you were going into court?

13 A. Yes. Well, when Petito was there, he -- his day on the bench or night on
14 the bench was Thursdays. And mine has been always Tuesdays. So now
15 I'm pretty much Tuesdays and Thursdays. There are occasions where
16 there's nothing on the calendar. Then I don't need to come in. But I
17 mean, for the most part, it would be Tuesday and Thursday. Sometimes
18 Judge Plass and I share. Like, if he has civil, I may have arraignments, so
19 we switch off. So I'd be on the bench, you know, for my proceedings.
20 And then he would be -- you know, whoever shows up first, as far as for,
21 you know, how we handle it.

22 Q. Would you say you're doing the same amount of work now that you did
23 when Judge Petito was your co-Judge?

24 A. No.

25 Q. And why not?

(Jean McArthur - Direct)

1 A. Well, because like I said, I'm -- for the most part, instead of one day of
2 court, I have, for the most part, two nights at court and then the additional
3 criminal calendar. The traffic calendar, we did combine that into one
4 because the plea by mails, we get more of those. So that does help that.
5 You know, generally Petito had his traffic calendar, and I -- you know,
6 we had the same calendars, but we did combine that, so that does help a
7 bit. And then like I said, Judge Plass does the civil stuff. So that does
8 help. The big real issue for me is the on-call and really, you know,
9 causes some issues for me personally sometimes, but it is what it is.

10 Q. I apologize.

11 A. Yeah.

12 Q. And is the time that you're going into court to do these -- I'm talking
13 about noncalendar work -- has that changed at all since Judge Plass took
14 the bench?

15 A. Yes --

16 Q. All right.

17 A. -- because I have double the criminal stuff. And you know, sometimes
18 those files -- I mean, I've been -- I've had one file that it's still not over.
19 It's not a trial, but conferences and, you know, trying to get this gal into
20 counseling, and there's been all kinds of issues. So we've spent a fair
21 amount of case -- they're all different. You know, that's the thing. That's
22 why I can't say, well, this -- they all take ten minutes or -- it really
23 depends on the individual, the case, the charges that surround it. So I
24 mean, like I said, we have one that's a little complicated now. And I
25 think I have another conference with that one this Thursday before we

(Jean McArthur - Direct)

1 start court, so.

2 Q. Judge, the summary proceedings that Judge Plass presides over, you've
3 previously presided over those; is that right?

4 A. For eight years, I did.

5 Q. What do these cases generally entail?

6 A. Most of the time they're pay and stay.

7 Q. Can you describe what that is?

8 A. Well, that would mean that they -- generally most of the landlords have
9 an attorney that represent them. And they come in and they make some
10 kind of an agreement with the tenant, or they just make an agreement to
11 not stay, to just have a judgment. And then they, you know, ask for a
12 warrant for possession. So occasionally, you do have habitability issues
13 and they want a trial, or discrepancies on how much is owed, so you may
14 have to have a trial or conference, whatever you want to call it, if there's
15 discrepancies there. But for me, I'm only speaking for me, I would say
16 90 percent of the cases I had were agreed-upon stipulations and the Court
17 just so ordered that stipulation on the record.

18 Q. In your experience, were those cases generally complicated?

19 A. No.

20 Q. And Judge, you indicated earlier that Judge Plass also testifies over small
21 claims.

22 A. Right.

23 Q. What do those usually -- fair to say you presided over those as well when
24 you were --

25 A. Yes, for the first eight years. But now going forward, he's handled those

(Jean McArthur - Direct)

1 as well.

2 Q. And when you were handling them, what did those cases generally entail
3 from your perspective as a Judge?

4 A. I've had some that have been very complicated to some that resolved
5 themselves, because generally -- I'm not sure how he handles it. I would
6 always ask them to -- sometimes we have a mediator in the court,
7 sometimes not, but if they feel like they could be civil, to try to come to
8 some kind of an agreement themselves. And you know, I would say
9 actually probably more do not come to an agreement. It seems like the
10 smaller amount of monies people have, you know, bigger -- you know, if
11 it's \$50, they're fighting over that, over they didn't get the oil change or
12 the type of oil that, you know, they should have got for their oil change.
13 Or sometimes it's contractors. You know, they've paid a contractor, and
14 then they collect the portion of the money and then they never show up
15 again. So you know, we don't get a lot of small claims, maybe a handful.

16 Q. Okay. And in your experience, the cases that you -- handful of cases that
17 you presided over, are those cases generally complicated?

18 A. No, I wouldn't say complicated, but sometimes, you know what I said,
19 they would want to trial probably more -- more so than not.

20 Q. Judge, I want to turn back now to criminal and vehicle and traffic cases.
21 Is it common for Defendants in criminal cases to not show up to court?

22 A. Yes.

23 Q. Is it common for Defendants in vehicle and traffic cases not to show up to
24 court?

25 A. Yes.

(Jean McArthur - Direct)

1 Q. What happens when a Defendant doesn't show up to court in those cases?

2 A. Well, their names are still called. In a criminal case, we still call their
3 name. And then, of course, we have -- on the criminal calendar, we have
4 the DA there, and then we have the Attorney there. And then so
5 generally we go through -- you know, I always ask their attorney, "Have
6 you spoke to your client? Heard anything?" And yes or no, or they're
7 hospitalized. So there's a little bit of a back and forth and -- excuse me --
8 if nobody's heard anything. I ask the DA, "What's your pleasure? Would
9 you like a warrant?" And then, of course, their side, listen to what they
10 say. "Judge, could you give my client one more time?" And then I kind
11 of base it on have they missed really much court. So there's a few
12 minutes of thought that go into. But each one is called because we have
13 to have some kind of record of, okay, they're not here, why are they not
14 here, and then sometimes their Lawyer will say, "Oh yes, we forgot to
15 send in the notice that one had a baby recently." So you know, for that,
16 I'm not going to put a warrant out, but we just calendar them for the next
17 one.

18 And with the traffic, basically every -- we get a lot that don't show up for
19 the traffic cases. And we had it the other night. And unfortunately, from
20 my training, we have to call their name for each one. And "Okay, so and
21 so is not here." I look at the history of how many times they did not
22 show. If it's three times or more -- I give them all -- more than the benefit
23 of the doubt, at least three times before I'll put a suspension in place.

24 And then generally that suspension grabs their attention. When they get
25 that letter, they still have, like, 60 days to respond, but have to call their

(Jean McArthur - Direct)

1 name and say, "Okay, Joe Smith," for instance, "this is his third
2 no-show." So I put the date down, my initials, and we're going to
3 suspend. Okay. "Joe Smith, this is his second no-show, so we're going to
4 send a letter." I make notations on all of those also so the office staff
5 knows -- once we're done on the bench, they're dealing with the
6 paperwork. So they know whether they're going to send them a letter to
7 come to the next court appearance or they're going to put a suspension in
8 place. So -- but each one is called. It's not like, okay, 10 showed and 50
9 didn't show, so we're done with that pile. No. So actually, sometimes I
10 feel like it takes me more time because of the ones that didn't show versus
11 the ones that come that come up and they're taking an offer or they're
12 asking for a trial, one of the two.

13 Q. What happens to the case if a Defendant warrants, the case itself?

14 A. What do you mean?

15 Q. Well, let's say you engage in a colloquy. Potential could be that you
16 order a warrant. Correct?

17 A. Well, not for traffic.

18 Q. Okay. With respect to criminal, let's say.

19 A. Yes.

20 Q. Let's say a warrant is ordered or even if a warrant is stayed, what happens
21 to the case file itself?

22 A. Well, the case file, once we put out -- if they hadn't been arraigned, it
23 would be an arrest warrant. So then that means that, you know, the -- our
24 people or one of the agencies would look for that individual to try to get
25 them in to get the arraignment. So we have a file for the arrest warrants.

(Jean McArthur - Direct)

1 Basically stays in the file until we catch up with the individual. And it's
2 the same way with the bench warrant. We seem to always catch up with
3 them. They get a traffic stop or something. And then, okay, they realize
4 there's a warrant out. So that warrant stays there until we catch up with
5 the individual --

6 Q. Is it --

7 A. -- one way or another. Either there's a new arrest or they were in a
8 vehicle that had a traffic stop, or they were stopped. So basically, we put
9 out the warrant and a 48-hour notice if it's a bench warrant. So they get
10 notice that, "Hey, there's a bench warrant out for you. You have 48 hours
11 to turn yourself in." So sometimes people do that, you know. Once they
12 realize there's a warrant out, they get nervous and they come to the Police
13 Station and say -- you know, they want to turn themselves in. And then,
14 you know, it just kind of continues the case if there was no disposition.
15 Well, obviously, there wouldn't be any if there was a warrant, so.

16 Q. Are there times when you're presiding, when a Defendant is voluntarily
17 or involuntarily brought in on a warrant?

18 A. Yes.

19 Q. So the case can suspend, but it can resume at a later time. Correct?

20 A. Correct. And then we also get, I wanted to mention, calls for, like,
21 fugitives of justice. There's not a lot we can do with those, but you have
22 to come in and remand them because we don't have jurisdiction over
23 those cases. And then they go to Family Court, if it's a Family Court
24 warrant, or if it's a fugitive of justice, then the County Court makes the
25 decision. We have no jurisdiction as to do anything with the case, other

(Jean McArthur - Direct)

1 than remand them and then set them down for the calendar for the, you
2 know, either Family Court or the County Court, depending on what type
3 of case.

4 Q. And as far as you know, is Judge Plass presiding over any fugitive
5 matters?

6 A. Not that I'm aware of.

7 Q. Judge, does Hyde Park generate calendars of some sort?

8 A. Yes.

9 Q. Okay. And is it -- do some of these calendars have Judge's initials next to
10 the Defendants' names?

11 A. Yes.

12 Q. And does the Judge's initial have any bearing on which Judge is actually
13 assigned to preside over the case?

14 A. Well, the initials would mean that that would be the person that would be
15 assigned. But the thing of it is, with those calendars, sometimes they're --
16 the gals do them, like, ahead of time or pre-do them. So they may have
17 initials next to them that might have my initials if it's a, you know, civil
18 case. But actually, Judge Plass would handle it. The same way with you
19 know, like cases if it was criminal -- they might have -- if they were pre,
20 you know, done ahead of time, because sometimes they do, then they
21 may have initials next to them that would be his initials, but doesn't mean
22 he's necessarily presiding over them. I mean, he would have been under
23 normal circumstances.

24 Q. So the initials don't have any bearing on which Judge actually presides
25 over the case.

(Jean McArthur - Direct)

1 A. Yes and no. You know what I mean? I don't want to say no, it doesn't.
2 For the most part, it does. But you know, this is just a unique situation.
3 There might be some calendars that would have his initials that he
4 wouldn't be presiding over, only because maybe the calendars were done
5 in advance.

6 Q. Judge, you mentioned earlier the Court Officers work at the courthouse.
7 Can you just tell us a little bit about the function that they serve there?

8 A. Basically, their function is to, of course, protect the Judge and to also,
9 when people come in, to make sure that they're not being -- bringing in
10 any weapons, contraband, anything that would disrupt or, you know,
11 cause any issues to anyone in the courtroom or the Judge. So basically,
12 there's one at the bench, and then there's -- I think there may be two that
13 bring them through, you know, the scanner in the front there so they don't
14 bring in. And also to be sure they don't bring in cell phones because, you
15 know, none of the proceedings are allowed to be video recorded on the
16 phone anyway.

17 Q. Is it the court's practice to have a Court Officer stationed -- at least one
18 Court Officer stationed when court is in session?

19 A. Yes.

20 Q. Are there times when you're working at the courthouse and no court
21 officer is stationed or accompanying you?

22 A. When I'm not on the bench, no, they would not be there.

23 Q. And so if you're working in chambers on motions, is there a Court Officer
24 necessarily stationed outside your door?

25 A. No, I wouldn't need to have that.

(Jean McArthur - Direct)

1 Q. When you're called out for an arraignment, are those Court Officers
2 necessarily called out with you?

3 A. No, because generally when I'm called out for an arraignment, whatever
4 agencies come in, they usually have a couple Police Officers, so we don't
5 need to have Court Officers come in for that. Really, their duty or
6 function is really for any times that we have court or sometimes if we --
7 you know, if we have a trial, then we would ask them to be there. Or if
8 we're doing any hearings, then we would ask them to be there.

9 Q. What about when you called in for a search warrant? Would a Court
10 Officer necessarily be asked to be there?

11 A. No, because generally an Investigator or Police Officer is bringing me
12 that warrant, and we sit in the back and kind of go over what's in there
13 and what they're looking for. And then I sign off or not, you know.

14 Q. What about all the times you're on call? Do you have a Court Officer
15 assigned to you at that point also?

16 A. No, no, because like I said, when they're -- when we're getting called in,
17 police are bringing them. One of the agencies are bringing them. So you
18 always have -- would have a couple of Officers.

19 Q. Is there a Court Officer present when you're assessing the fines that you
20 described earlier?

21 A. No, that's done in my office.

22 Q. Judge, as far as you know, do Court Officers punch a clock? Time
23 sheets?

24 A. I'm not sure, but I believe so.

25 Q. In your opinion, is there any correlation between the times that Court

(Jean McArthur - Direct)

1 Officers have on the clock and the time that you're working as a Judge?

2 A. It's my understanding, and I don't want to want to speak out of turn, that,
3 you know, at times, if I have one case on, of course they're required to
4 come in, that their contract reads that they get paid for a minimum
5 amount of hours. That's my understanding. I'm not positive about that.
6 But my understanding is, okay, whether you have one on or you have ten
7 on, if it's within that realm of two or three hours, whatever it is, and I'm
8 not sure, you get paid the same unless you go over that -- those hours.

9 Q. And considering the work that you described where these Court Officers
10 are not present, do you believe that their timesheets are reflective of the
11 amount of work you're doing as a Judge?

12 A. No. No, only, like I said -- well, I can't even say from the bench because
13 sometimes if I only have one case, they're getting paid for whatever, their
14 two or three hours. So you know, but if I had ten cases, they would still
15 get paid for that same amount, as long as it's within that time frame.
16 That's my understanding.

17 Q. Judge, just a few more questions. What effect, if any, has Judge Plass'
18 disqualification had on the operation of the Court?

19 A. Well, in the beginning, it was a little tough until we kind of, you know,
20 combined, like I said, the traffic into one court. And you know,
21 eventually, when he took over the civil and the -- that helped. But
22 initially, it was tough with me doing everything, you know. So you
23 know, like I said, there's -- as far as for anything being missed or -- I
24 believe the court is living up to its obligations. I mean, I put in the extra
25 time to do it, and I know he does what he can within his realm of what

(Jean McArthur - Direct)

1 he's allowed to do. So it works, but it has its moments, especially the on-
2 call is really, really my sticking point of -- you know.

3 A. And Judge what effect, if any, has this had on you personally?

4 A. Well, like I said, it's difficult for me to get away or, you know, make any
5 real plans to do anything because, you know, if I'm somewhere or to
6 dinner or want to go away, if I get a call and no one responds to cover,
7 you know, it's difficult, especially if you're getting a call for an order of
8 protection. Someone needs to respond to that.

9 Q. Judge, are you --

10 A. You can't ignore that, you know.

11 Q. I'm sorry. Yeah. Judge, are you working extra hours now? When I say
12 now, since Judge Plass took the bench?

13 A. Absolutely.

14 Q. Are you receiving any additional compensation for the extra hours that
15 you're working?

16 A. No.

17 Q. Judge, are you happy with how the workload is divided at the courthouse
18 at the moment?

19 MR. LEVENTHAL: Objection.

20 MR. NORTH: I'll allow it.

21 A. The main thing that I'm unhappy about is the on-call stuff. But no, if
22 you're asking me if it's divided fairly, no, obviously, it's not. But like I
23 said, again, I'll go back to the sticking point of being on call and, you
24 know, not being able to participate in some family things occasionally. I
25 just have to say no.

(Jean McArthur - Direct)

1 MR. ARNONE: Mr. North, may I just have one
2 moment?

3 MR. NORTH: Sure.

4 BY MR. ARNONE:

5 Q. Judge, I just want to go back to the beginning of your testimony. When I
6 asked you about your professional background, you indicated you were
7 self-employed. Do you just want to put on the record what it is you were
8 self-employed?

9 A. Okay. Well, for the last 35 years -- and I'm still involved with that
10 business. My husband owns an oil company. So basically, you know, I
11 do the management of that, of the employees. Basically, do all the State
12 mandates. I do everything on the management and -- other than the
13 yearend taxes. I'm not a tax expert. And then I also owned a liquor store,
14 which I sold over the last couple of months. That was for about 15 years.
15 And that was a packaging liquor store.

16 Q. Okay. Thank you, Judge.

17 A. Okay.

18 Q. I have nothing further. Thank you.

19 MR. NORTH: Okay. Do you want to
20 proceed --

21 MR. LEVENTHAL: Yes.

22 MR. NORTH: -- or do you want to take a break,
23 Mr. Leventhal? Your call.

24 MR. LEVENTHAL: I'll proceed. Thank you.

25 MR. NORTH: Go ahead.

(Jean McArthur - Cross)

1 MR. LEVENTHAL: Do you mind if I use that
2 corner of your table?

3 MR. FRIEDBERG: Sure.

4 MR. LEVENTHAL: Thank you.

5 MR. FRIEDBERG: I mean no, I don't mind.

6 MR. LEVENTHAL: Thank you.

7 MR. FRIEDBERG: Not sure, I mind.

8 CROSS-EXAMINATION BY

9 MR. LEVENTHAL:

10 Q. I can still say good morning, Judge.

11 A. Yeah, almost. Good morning.

12 Q. My name is Steve Leventhal. I'm the Attorney for Judge Plass.

13 A. Um-hum.

14 Q. Did you ever call the Administrative Judge of your jurisdiction and say,
15 "Judge, I need a vacation. Please find somebody to cover for me"?

16 A. Yes.

17 Q. And what did the Administrative Judge say to you?

18 A. Basically, that it's your obligation to find someone to cover for you. And
19 that's just not easy to do. Unfortunately, you know, like I said, if we were
20 a centralized arraignment, this wouldn't even be an issue. But
21 unfortunately, Dutchess County is the only one at this point, I understand,
22 that's not.

23 Q. When was the last time you made such a call to the Administrative
24 Judge?

25 A. Oh, probably a year ago. And I just -- and I'm sorry to say this, but I feel

(Jean McArthur - Cross)

1 like it fell on deaf ears. They said, "It's your responsibility. If the other
2 Judge can't serve, you need to find somebody to cover."

3 Q. And how about important family events? Have you made the same
4 request of the Administrative Judge regarding an important family event
5 that you wanted to attend uninterrupted?

6 A. I have not because of the initial -- greeting I got initially. I'm going to be
7 told the same thing. "You were elected. You're the only Judge there, so
8 it's your responsibility to find coverage." So there was no reason for me
9 to try and do that.

10 Q. Okay, okay. So did I understand your testimony to be that you shared
11 your duties with Judge Petito?

12 A. Yes.

13 Q. He was your co-Judge, and the work was divided --

14 A. Pretty evenly.

15 Q. -- pretty evenly.

16 A. Yeah.

17 Q. Okay. And how, again, has your workload during your time with Judge
18 Plass compare to your workload during the time with Judge Petito?

19 A. Well, again, and I'll go on to the -- and then you know it and Judge Plass
20 knows, the sticking point is that I'm doing all the on-call. I'm doing all
21 the criminal and the -- all the traffic.

22 Q. Right.

23 A. And the criminal is -- if you're a Judge, you know. I mean, that can be --
24 you know, there's a lot of steps that go into -- most of the cases are "okay,
25 this is what we're going to do." You know, they can get a little hairy

(Jean McArthur - Cross)

1 sometimes.

2 Q. Sure. But you said in your prior testimony that the change was
3 something like 75 to 80 percent. Is that right?

4 A. Right. Of the work that I'm doing now?

5 Q. Yeah. Does that mean an increase of 75 to 80 percent?

6 A. No. It means, in total, that's about what I'm doing is -- I didn't mean
7 that --

8 Q. I understand.

9 A. -- my workload increased 75 percent, no. It increased to the fact that I'm
10 doing all the criminal. So basically, I'm on the bench pretty much twice a
11 week. And I know that Judge Plass is on there. Sometimes we switch
12 off, you know.

13 Q. Right, right.

14 A. So all the criminal, the traffic, which we did combine that into one, so
15 that does help.

16 Q. Right.

17 A. And the on-call, which is -- that's ongoing 24/7.

18 Q. Sure. How would you quantify the increase in your workload?

19 A. Well, I'd probably say --

20 Q. By percentage?

21 A. -- 30 percent more.

22 Q. Okay. Do you --

23 A. 25 to 30 percent more.

24 Q. 25 to 30 percent?

25 A. Yeah. Excluding the on-call because I don't know --

1 Q. Sure.

2 A. -- that's just an ongoing thing.

3 Q. Sure. Do you remember being interviewed by Mr. Arnone on November
4 13th of last year?

5 A. I don't remember dates in specific, but I'm sure I'd spoken to him a few
6 times.

7 Q. Do you remember speaking to him on the telephone?

8 A. Yes.

9 Q. Do you remember telling him that your workload had doubled since
10 Judge Plass took office?

11 A. I may have said that, but I think in the realms of speaking, I meant, like, in
12 total. I have double the criminal calendar. You know, maybe it wasn't
13 clarified in what I said. I have basically double of the -- no matter how
14 you look at it, the traffic, even though it was combined into one. So
15 basically, the only thing I really didn't have was the civil stuff. But as far
16 as that workload, yeah, I did have double the work. And I'm on the bench
17 twice a week instead of -- versus once a week.

18 Q. Okay. Thank you.

19 MR. ARNONE: Mr. North, I'm sorry. I just
20 wanted if -- Mr. Leventhal, I believe that you posed the
21 question as a conversation between the Judge and myself.
22 Are you sure that that's -- if you're looking at a memo, are
23 you sure that I'm the person?

24 MR. LEVENTHAL: I'm sorry. I should have
25 said Mr. Levine, Mark Levine. Thank you, Counsel.

1 MR. ARNONE: Sure.

2 A. Okay. Yeah. Like I said, I might have not have clarified what I meant,
3 but you know, in certain aspects.

4 BY MR. LEVENTHAL:

5 Q. Okay, yeah.

6 A. Not meaning the whole thing was double.

7 Q. So --

8 MR. NORTH: And Mr. Leventhal, let me just
9 ask a question here, if you don't mind.

10 Judge McArthur, I must have missed it. When
11 you talk about criminal and traffic being combined --

12 THE WITNESS: No.

13 MR. NORTH: -- could you explain that, what
14 that means?

15 THE WITNESS: What I meant was there's no
16 way to combine the criminal because the calendars are
17 much too large. So that has to be -- like, I do criminal for
18 my regular calendar on a Tuesday morning.

19 MR. NORTH: Okay.

20 THE WITNESS: Then I have some minor
21 things on a Tuesday night once a month, the second
22 Tuesday of the month in the morning, and then the other
23 criminal calendar is the fourth Thursday of the month. But
24 when Judge Petito was there, you know, we each had our
25 criminal and we had our traffic.

(Jean McArthur - Cross)

1 MR. NORTH: Okay.

2 THE WITNESS: So what we did was the traffic
3 calendar, we combined one that potentially would have
4 been Judge Plass' --

5 MR. NORTH: Right.

6 THE WITNESS: -- whatever third --

7 MR. NORTH: Thursday.

8 THE WITNESS: -- I think it was the first
9 Thursday. So we combined that into just on the third
10 Tuesday --

11 MR. NORTH: Okay.

12 THE WITNESS: -- all together the traffic, not
13 the criminal.

14 MR. NORTH: Okay.

15 THE WITNESS: But just the traffic was
16 combined all together.

17 MR. NORTH: Used to be Tuesday and
18 Thursday, one for you, one for Petito.

19 THE WITNESS: Right.

20 MR. NORTH: Petito's have gone.

21 THE WITNESS: Right.

22 MR. NORTH: And now that's all on your
23 calendar on the same day --

24 THE WITNESS: Right, on --

25 MR. NORTH: -- it otherwise would be.

(Jean McArthur - Cross)

1 THE WITNESS: Yeah. We combined it into
2 one to kind of help --

3 MR. NORTH: Okay.

4 THE WITNESS: -- alleviate a little -- you
5 know.

6 MR. NORTH: Okay. Streamline.

7 THE WITNESS: Um-hum.

8 MR. LEVENTHAL: Thank you. May I ask that
9 the gentleman who is handling the screen please put my
10 table of contents up? Thank you. Thank you.

11 BY MR. LEVENTHAL:

12 Q. Judge, do you certify your hours to the New York State Retirement
13 System?

14 A. Yes.

15 Q. How often?

16 A. Yearly.

17 Q. Okay. I'd like you to take a look at an exhibit that has previously been
18 marked as Exhibit C. I guess we'll do C-1. Do you recognize that even
19 though --

20 A. Yeah, it's my handwriting, but --

21 Q. There are legibility problems.

22 A. Yes.

23 Q. Of course. But what do you recognize that to be?

24 A. That's the calendar that would be submitted to be sure that you're
25 reaching the threshold to qualify for the retirement system of the State.

(Jean McArthur - Cross)

1 Q. Right.

2 MR. LEVENTHAL: Would you put up C-2, C-3? Next
3 page, please. Okay. I guess it's C-3 that we want. All
4 right.

5 BY MR. LEVENTHAL:

6 Q. And what do you recognize this to be?

7 A. The same thing.

8 MR. ARNONE: No. Hold on. I'm sorry. Mr.
9 North, I just want the record to be clear. Mr. Leventhal said
10 C-3 is what we want, but we're looking at C.

11 MR. NORTH: Okay.

12 MR. ARNONE: I just want the record to be
13 clear that Exhibit 3 is --

14 A. That would also be a record for the New York State retirement, again, to
15 be sure that the threshold was met for the requirements of the retirement.

16 BY MR. LEVENTHAL:

17 Q. Right.

18 MR. NORTH: Exhibit C. Yes?

19 BY MR. LEVENTHAL:

20 Q. Okay. So we're on Exhibit C, so I'm going to ask that the pages be
21 scrolled through. And I'm going to -- just to simplify it, I'm going to ask,
22 are these your time records that you certified for the months of January,
23 February, and March 2016?

24 A. Yes.

25 Q. Okay.

(Jean McArthur - Cross)

1 MR. FRIEDBERG: What year?

2 THE WITNESS: 2016.

3 MR. FRIEDBERG: Right, so --

4 BY MR. LEVENTHAL:

5 Q. And if you take a look at the last page of that exhibit.

6 A. Okay.

7 Q. I'm going to ask you whether your signature appears on it.

8 A. Yes.

9 Q. There you go. Okay. Now, let's take a look at that. You see the date?

10 A. Yes.

11 Q. February of 2020. When did you assume office?

12 A. 2016 is when I began.

13 Q. So was February 2020 the second month of your second term?

14 A. Yes.

15 Q. And by this document, are you certifying to the New York State
16 Retirement System that your -- the hours that you devoted to your judicial
17 duties at that time were the same as they were for the period that you
18 certified in 2016?

19 A. I'm certifying that they were the same, as far as for meeting the threshold.
20 Doesn't necessarily mean that that were all the hours. My understanding
21 was you track this -- from what I was told from the personnel person, you
22 don't track everything. You just have to make sure that you're meeting
23 the threshold in order to qualify for the benefits.

24 Q. But you kept a daily record of your hours, right?

25 A. Well, up to the threshold.

(Jean McArthur - Cross)

1 Q. You stopped keeping track of your hours when you reached the
2 threshold?

3 A. Well, I was told that we did not need to keep track of -- as long as the
4 threshold was met, there was no need to track everything.

5 Q. And what is the threshold?

6 A. Well, at least that you were full time, 40 hours.

7 Q. 40 hours. So 40 hours a week.

8 A. Or no, I'm sorry, not 40 hours. I want to say it was 32 hours a week.

9 Q. So is it your testimony that you stopped keeping track of your hours
10 when you reached 32 hours per week?

11 A. For the most part.

12 Q. Okay. So let's go --

13 A. I mean, some weeks, no. You know, I put down extra. And you know,
14 like I said, I've never held a governmental job, so I did not know how this
15 worked. And the personnel person said, "Well, you just have to make
16 sure you meet the threshold."

17 Q. But you've held this governmental job since 2016. Is that right?

18 A. Right.

19 Q. Okay. I'm sorry. Let me just --

20 A. So basically, I would have continued to use or make sure that I had about
21 the same amount of hours. So you wouldn't really see any difference in
22 the hours if you're going forward, basically.

23 Q. Okay. So let's go --

24 A. And that's why.

25 Q. Thank you. I'm sorry. I didn't mean to interrupt you.

(Jean McArthur - Cross)

1 A. That's okay.

2 Q. So let's go to C-1, please. And let's go to the next page. And the next
3 page. Next page. Okay. Let's stop there. What is that? Well, let me
4 frame a better question. Do you recognize that document?

5 A. Yes.

6 Q. What do you recognize it to be?

7 A. That was what I sent over to the Personnel -- the new Personnel Assistant
8 that's there, I think because I couldn't read the document or something.
9 And yeah, I'm guessing that that's what that was.

10 MR. ARNONE: Mr. North, I apologize. I just
11 want to make sure, again, just for purposes of the record,
12 because we have Exhibit C-1 on the screen, but we scrolled
13 down and the question was, "what is this".

14 MR. NORTH: Sure.

15 MR. ARNONE: I just want to make sure our
16 record is as clear as to what portion of the exhibit the
17 witness is looking at.

18 MR. LEVENTHAL: This is page four of 11.

19 THE WITNESS: Okay.

20 BY MR. LEVENTHAL:

21 Q. So do I understand you to say that you prepared this record in this form
22 because the calendar that you submitted was not legible?

23 A. Correct.

24 Q. Is that right?

25 A. That's what they said. Yeah. That's what they said ,yeah. The personnel

1 assistant.

2 Q. So if you stopped recording when you reached a threshold, did you reach
3 that threshold prior to the end of the month? At some point during the
4 month, did you reach that threshold?

5 A. Oh, yeah.

6 Q. And so typically, when would you reach the threshold? At what point in
7 the month?

8 A. It's hard to say. It just really depends on what's going on. I mean, I could
9 reach that threshold in the first week considering the on-call.

10 Q. Okay. So let's go back to the previous page.

11 A. I mean, because the on-call is 24/7, so --

12 Q. Is there --

13 A. -- I could've met that within the first week.

14 Q. I'm sorry. So here's your calendar. It happens to be the month of April
15 2024.

16 A. Okay.

17 Q. Is there any day during this month in which you did not record time?

18 A. Probably almost every day. And the on-call isn't recorded on there.

19 Q. When you say almost every day, you're saying that you recorded time
20 almost every day. Is that right?

21 A. I recorded time almost every day, but not necessarily all the time that I
22 did put in the court.

23 Q. Well, on -- let's say, on April 1st, how did you know when you would
24 reach the threshold?

25 A. Well, I didn't. I mean, I -- as each day I, you know, would record stuff.

(Jean McArthur - Cross)

1 Q. So on January --

2 A. So I mean, I would have no way of knowing a month ahead. But
3 actually, I would know that I already reached the threshold only because
4 I've been doing the on-call 24/7, so --

5 Q. And yet you recorded time every day during the month of April.

6 A. Right.

7 Q. Right? So you recorded all of your time, didn't you?

8 A. Not all of my time, but the time to be sure that I met the threshold other
9 than the on-call. But no, there were times that I may have done some
10 arraignments that are not recorded on there. There might have signing of
11 bond, search warrants. No, I don't have every little specific thing on
12 there.

13 Q. Right. So it wasn't that you reached a threshold, it was that some of your
14 time you just didn't record. Is that right?

15 A. Yeah.

16 Q. Okay, okay. So now let's go back to the typed page, please, the page
17 where the entries are typed. Okay. Let's look at that for a moment.

18 MR. NORTH: If I may, who prepared those
19 typed pages? Was that you, Judge?

20 THE WITNESS: Me. Yes.

21 MR. NORTH: Okay.

22 BY MR. LEVENTHAL:

23 Q. All right. So --

24 MR. NORTH: Was that prepared in connection
25 with these proceedings or that was prepared in connection

(Jean McArthur - Cross)

1 with your submission to the State?

2 THE WITNESS: Yes, because I don't think they
3 could read them.

4 MR. NORTH: Okay.

5 THE WITNESS: So you know, the
6 Administrator, the one that took over, so she asked me to
7 send something over.

8 MR. NORTH: Okay.

9 BY MR. LEVENTHAL:

10 Q. Let's look at the entry for February 2nd.

11 A. Okay.

12 Q. You recorded two hours for court training; is that right?

13 A. Um-hum.

14 Q. And that's training that all judges are required to take, right?

15 A. Yes, but it's my understanding that that should be, you know, recorded as
16 well.

17 Q. Right. And Judge Plass was required to take the same training. Is that
18 right?

19 A. Right.

20 Q. Okay. So the next entry on that day is -- says "assessed fines, two hours".

21 A. Um-hum.

22 Q. Tell me what you do to assess fines.

23 A. Well, the plea by mails.

24 Q. Right.

25 A. So basically, the stack is on my desk, and whatever the -- if it's a not

1 guilty and there was -- you know, if they accepted an offer from our
2 Prosecutor, it comes to my desk, and then I assess the fines. So whatever
3 stack is there that day is what I assessed. And then I send them back to
4 the office, and they send out a notice of this is what the Judge assessed
5 and this is what the fine is.

6 Q. So please tell me exactly what you do to assess the fine.

7 A. So basically, I look at their abstract and what the reduction is. A lot of
8 times, it's -- the offer is a parked on pavement, so to speak. So there's a
9 range of what you can charge for parked on pavement. So I look at their
10 driving history and then what the charge is, and then I assess the fine
11 accordingly. So maybe this individual versus this individual has a better
12 driving history. So I probably would assess them a little less. The
13 surcharge is what it is. That's a State surcharge. So you don't have any
14 choice or flexibility with that. Or you know, somebody has a heavy
15 abstract, so to speak, meaning that they have a lot of stuff on their
16 abstract. Maybe they should be assessed a little more because they
17 continue to repeat, you know, things that probably should have learned
18 from. So that's generally, you know, how I assess the fines. But we have
19 the book, you know, with the ranges of the fines. So we take each one
20 and then look at their abstract and then consider for what the charge for
21 what the ranges are and then set the fine accordingly.

22 Q. Right. So in your prior testimony this morning, you said that you look at
23 the criminal history. That was a slip of the tongue, right?

24 A. It probably was, yeah. No, I didn't mean that.

25 Q. Right.

(Jean McArthur - Cross)

- 1 A. Yeah.
- 2 Q. You meant you looked at the driving history.
- 3 A. Right, right.
- 4 Q. Provided it to you on an abstract from the Department of Motor Vehicles.
- 5 A. Right, because that's attached with everything.
- 6 Q. Okay. And so let me see if I understand it. You have the paperwork
- 7 from a guilty plea before you.
- 8 A. Correct.
- 9 Q. You look at what the charge is. You look up in a book what the
- 10 sentencing range is.
- 11 A. Yep. Yeah.
- 12 Q. You look at how long the abstract is, and then you assess a fine.
- 13 A. Correct.
- 14 Q. And you're, I assume by this time, fairly experienced and familiar with
- 15 that process and it comes easily to you. Is that right?
- 16 A. It depends because they have changed some of the point systems and
- 17 some of the fines now and the surcharges, so.
- 18 Q. Do you use McGill's?
- 19 A. Yes.
- 20 Q. Yes. And McGill's is a pamphlet, right?
- 21 A. Yes.
- 22 Q. And you open it up and it's the --
- 23 A. These are the ranges for --
- 24 Q. -- and the vehicle and traffic law sections are listed numerically.
- 25 A. Right.

(Jean McArthur - Cross)

1 Q. And just look it up and you look across on a line --

2 A. Yep.

3 Q. -- and you say, "Okay, here is what the sentencing range is. Here is what
4 the points are." And that's it. That's the research that you do in order to
5 know what you're --

6 A. Right, right. There's no rocket science to it.

7 Q. Right.

8 A. I'm not saying that, but it's not like I have one or two. There's lots, you
9 know.

10 Q. Okay. And then the abstract from the Motor Vehicle Bureau is just
11 sometimes a single page, sometimes a couple of pages, and you just scan
12 it.

13 A. Sometimes ten pages.

14 Q. Okay.

15 A. But yeah.

16 Q. But a ten-pager is awfully easy to evaluate, right?

17 A. Yeah, correct.

18 Q. You see this is a person with a bad driving history.

19 A. Correct.

20 Q. And a one-pager means the person has a good driving history.

21 A. Correct.

22 Q. You don't need to get into the specific details of each prior violation,
23 right?

24 A. Correct.

25 Q. Okay. So that's a fairly simple process, right?

(Jean McArthur - Cross)

1 A. For the most part, yes, it is.

2 Q. And each one takes a very short amount of time, right?

3 A. It depends because sometimes they have five or six charges and there's
4 five or six offers for those reductions. I mean, everybody just doesn't
5 have one violation on their -- you know. They may have gotten several
6 tickets.

7 Q. Right.

8 A. And you know, generally there's an offer. Most of the time, one offer
9 doesn't cover the whole -- you know, if they have five or six tickets, the
10 offer, is this for this one? The offer, is this for this one? They also might
11 be required to take the defensive driving, you know. So I don't assess if
12 they have not because that's part of the agreement, you know. Then I
13 send it back to the gals and say -- in the front, "We need to copy this
14 certificate before I'm assessing the fines."

15 Q. Okay. How many fines do you think you're able to able to impose in a
16 period of two hours?

17 A. I have no idea. Maybe 25. I don't know. I never really, you know,
18 counted how many I did. It just depends, you know, what the charges are
19 or if it's just one -- if a person has one charge, I can get through them
20 fairly quickly. But like I said, most of the people who get tickets are not
21 getting just one traffic violation. Usually, there's more than one that are
22 attached to it.

23 Q. So if you're spending 120 minutes, two hours, to impose fines in 25
24 tickets --

25 A. Maybe it's more, you know. Like I said, I never sat and timed it. So you

(Jean McArthur - Cross)

1 know, I just look at the clock when I start and then looked at the clock
2 when I ended and -- but I didn't count that I had 25 or 40. You know, I'm
3 just estimating.

4 Q. Okay. So let's go to the next day, Saturday the 3rd. And the entry says
5 reviewed monthly report and signed each page.

6 A. Correct, yes.

7 Q. Two --

8 A. That's the monthly report that goes into the State.

9 Q. And you spent two hours doing that?

10 A. Yes, sometimes I do --

11 Q. And --

12 A. -- because I'm matching up to compare to make sure everything is
13 accurate because basically, you know, if you're a Judge, it's on you if
14 something's wrong with that report.

15 Q. And who prepares that report?

16 A. Generally, the Clerks do. And then it's given over to the Judges to review
17 and sign off on before it goes to the State and to the town.

18 Q. And what information is contained in that report?

19 A. I has down the individual's name, the assessed amount of the fine, and
20 what they paid, because some of them don't pay it in full, but if they paid
21 a partial payment, it still would be on the report because it would be part
22 of your monies that came in.

23 Q. When you preside in court or when you assess fines by mail, do you have
24 a calendar that you make notations on?

25 A. I'm not sure what you mean.

(Jean McArthur - Cross)

1 Q. For example, do you receive a court calendar from the Clerk in advance
2 of the court date?

3 A. Yes.

4 Q. And when you're presiding in court, you have that calendar in front of
5 you?

6 A. No. Usually the Court Clerks have it in front of them, and they make any
7 notes that they need to input in the computer. Generally, I would make a
8 note on, you know, whatever is in front of me, especially if they didn't
9 show up or if they did show up, what the -- you know, what it would be
10 as far as for the assessment of the fine.

11 Q. Sure.

12 A. And the assessment of the -- which is a standard, whatever the surcharge
13 is that's a standard.

14 Q. Right. So when you say you spent two hours comparing the report
15 prepared by the Clerk to something, what is that something that you're
16 comparing it to?

17 A. Well, basically, we have those sheets that are printed out, and then we
18 have the sheets that are either the plea by mails or that came in from if
19 they came to the bench.

20 Q. Those sheets that are printed out, what are they?

21 A. Those are what are computer generated from when they paid the fines.

22 Q. Okay.

23 A. So those numbers should match.

24 Q. Okay.

25 A. So that way there, your check should also match and the bank statement

(Jean McArthur - Cross)

1 should match. So it doesn't take five -- I mean, I don't know what you do,
2 but it doesn't take me five minutes to be sure that everything is accurate.

3 Q. Have you ever found an error?

4 A. Yes.

5 Q. When did that occur?

6 A. Probably in my first term, when there was one or two payments that were
7 duplicated. So the numbers were off because it was a duplication of
8 payments. It was, you know, just a clerical error, but I have to account
9 for that.

10 Q. Do you see on the date February 6th -- it's on the bottom of the screen --
11 it says "signed and reviewed bonds and assessed fines, five hours"?

12 A. Right.

13 Q. When you say "assessed fines", was that another two-hour period of
14 assessing fines?

15 A. It might have been. But there were probably other things in there that's --
16 you know, what I put in there. That time in particular, I might have also
17 been answering motions. Maybe I just didn't write that down on there. I
18 might have been doing that as well. Because usually, on the weekends is
19 when I try to do that kind of stuff, because there's generally nobody in the
20 office to interrupt you. So if I'm doing any legal research or anything,
21 then I may have not added that on there. I didn't realize that these were
22 going to be scrutinized, so if I did, I would have entered every little thing
23 in there. But I had no idea that any of this was going to happen and that
24 my stuff would be scrutinized like this.

25 Q. Well, didn't you prepare this for submission to the New York State

(Jean McArthur - Cross)

1 Retirement System?

2 A. Yes.

3 Q. And didn't you certify it to be true and accurate?

4 A. Yes.

5 Q. And didn't you do that with the intention that the Retirement System
6 would rely upon it in order to award you pension credits?

7 A. Correct.

8 Q. And you felt that it didn't -- would not warrant scrutiny?

9 A. Well, like I said, I mean, I didn't think that every little detail of what I did
10 that day -- for the most part, I put down what I did. But you know, like I
11 said, that day I might have been answering a motion or writing a court
12 decision on motions, you know.

13 Q. But you acknowledge that you advised the New York State Retirement
14 System that on February 6th, you spent five hours signing and reviewing
15 bonds and assessing fines?

16 A. And like I said, I'm sure there were other things that I did as well. Maybe
17 I just didn't write it down there. I mean, I could come back and pull out
18 the records if that needed to happen, you know.

19 Q. What's involved in signing and reviewing a bond?

20 A. Basically, the bond companies will call you from anywhere in the county
21 because we're allowed to sign for any of it. It doesn't necessarily have to
22 be from our court. So there's certain individuals that call certain Judges.
23 So I get regular calls from one of the bonds companies. They bring it in,
24 they explain it, tell you what it is, and then there's a few different spots
25 that you have to sign on the bond.

(Jean McArthur - Cross)

1 Q. And --

2 A. And sometimes, I mean, like last Saturday, I got four calls, sign bonds.

3 Q. Okay.

4 A. So you know, it might not just be one bond. Could be several bonds.

5 Q. Let's take a look at -- and well, before we move on, we're on -- February
6 7th is the bottom there. This section continues on top of the next page.

7 So let's please go to the next page and take -- there you are again two and
8 a half hours in court assessing fines and reviewing bonds, another two
9 and a half hours, five hours total.

10 A. Right.

11 Q. Right? Take a look at the bottom of that section just above the horizontal
12 line. You're certifying that you spent 28 hours in this particular week.
13 Right?

14 A. Right.

15 Q. Let's go to the page before, please. On the top -- bottom of the first box,
16 how much time did you state that you spent in that week, the first week of
17 February 2024?

18 A. 17.5.

19 Q. Okay. Next page, please. And the week beginning February 11th, how
20 much time?

21 A. 38.

22 Q. And the week of February 9th.

23 A. As you know. I mean, they vary. It's not going to be the same --

24 Q. Right. And the week -- sure.

25 A. -- every week.

(Jean McArthur - Cross)

1 Q. Sure. Understood. And let's go to the top of the next page, which is the
2 end of the following week. Yes. How many weeks -- how many hours
3 for that week?

4 A. 28.

5 Q. Well, no. I'm sorry. The one above that. You see above that?

6 A. Oh, 37?

7 Q. 37. And then the next week?

8 A. 28.

9 Q. For a total of how many hours for that month?

10 A. 148.

11 Q. 148.5, right?

12 A. Right.

13 Q. And the threshold that you mentioned -- what is the threshold again?

14 A. I believe it's either that 32 or 37 hours.

15 Q. Per week?

16 A. Yeah, something like that. I'm not positive of the hours. But I know
17 it's -- I'm pretty sure it's like 32.

18 Q. So you recorded more hours for this month than the threshold would
19 require you to record, right?

20 A. Right, right.

21 Q. Okay. And let's go to --

22 A. You know, like I said, some weeks and some months, you have a whole
23 bunch. Some weeks, some months, you don't, you know.

24 Q. Okay. So let's take a look at March. First week, how many hours?

25 A. Nine.

(Jean McArthur - Cross)

1 Q. Okay. And that was -- that looks like it was a short week. Is that right?

2 A. Yeah. I don't know what was going on there, but yeah.

3 Q. Okay. And the following week?

4 A. 39.

5 Q. Okay. Thank you. And --

6 A. And I think -- well, March was a long month, too, I think.

7 Q. Okay. So let's go the week starting March 10th, if you scroll to the next
8 page. How many hours is that?

9 A. 35.

10 Q. And the following week?

11 A. 33.

12 Q. Week after that?

13 A. That's --

14 Q. Oh, we've arrived at the end of the month, the March 31st.

15 A. Yes.

16 Q. And how many hours did you log for the week -- for the month of March
17 of 2024?

18 A. 160.

19 Q. 160 hours.

20 A. Right.

21 Q. Well, over the threshold, right?

22 A. Yeah.

23 Q. Okay.

24 A. But I mean, just because the threshold is 32 or 37 hours didn't mean
25 that -- you know, sometimes I would put extra in there anyway. You

(Jean McArthur - Cross)

1 know, it doesn't change anything with the retirement. It's just you have to
2 meet this threshold. It doesn't change it or get more or less.

3 Q. Right. We're just trying to assess the reliability of the information set
4 forth on these pages.

5 A. Right, right.

6 Q. So let's take a look at April. The first week of April --

7 A. Yeah.

8 Q. -- how many hours?

9 A. 34, I think.

10 Q. Okay. And the second week?

11 A. 39.

12 Q. And the fourth week?

13 A. 32.

14 Q. And week after that?

15 A. 15. So --

16 Q. Okay.

17 A. -- that was, for whatever reason, you know, another short week.

18 Q. Another short week. Okay.

19 A. And we have them, you know. Some Tuesdays or Thursdays, we have
20 nothing on or nobody shows up if it's just an arraignment. Like I said, it
21 really just depends. I can't really say there's this many for sure on each
22 night. It's really hard to say.

23 Q. Sure. Thank you. So just once again, for the month of March, you
24 recorded 180 hours. Is that correct?

25 A. That's right. Yes, I believe so.

(Jean McArthur - Cross)

1 Q. Okay.

2 A. That's what we have.

3 Q. And for 2016 -- I'm sorry. I'm sorry. Can --

4 MR. NORTH: I see 160 hours.

5 MR. ARNONE: So I see 160.

6 MR. LEVENTHAL: What did I say?

7 MR. ARNONE: 180.

8 MR. NORTH: 180.

9 MR. LEVENTHAL: I apologize. I misspoke.

10 MR. NORTH: Sure.

11 MR. LEVENTHAL: I meant to say 160.

12 THE WITNESS: And I went along with it

13 because I thought it was --

14 MR. LEVENTHAL: Sure, sure. Okay. So let's
15 go back to C, please. Actually, no, I apologize. That's not
16 the correct. Okay. Exhibit C, please go back to Exhibit C.

17 BY MR. LEVENTHAL:

18 Q. For the month of March 2016 -- let's look at March 2016.

19 MR. LEVENTHAL: Can we spin that?

20 MR. KHAN: I can give her the paper copies if
21 you want to --

22 MR. LEVENTHAL: Sure. Thank you. If you
23 give that to the Witness, please. Thank you.

24 MR. ARNONE: Can we just place on the record
25 what exhibit this is?

(Jean McArthur - Cross)

1 MR. LEVENTHAL: Yeah. We're on Exhibit C,
2 I believe. Well, no. Let me see where we are. Yeah,
3 Exhibit C. I don't have exhibit tabs in my book. So it
4 makes a little bit more difficult to use. Okay. Exhibit C,
5 and March is the third page.

6 THE WITNESS: Okay.

7 BY MR. LEVENTHAL:

8 Q. Did you indicate the total number of hours that you spent in March of
9 2016?

10 A. Yeah, but I don't see them on here.

11 Q. Well, you did say, did you not, on the last page of this exhibit, which we
12 can get on the screen, you said on February 19, 2020, that the hours for
13 the period that you were currently serving, the term that you were
14 currently serving, to that date, the hours were the same as the hours were
15 for the period that you reported in 2016. Is that right?

16 A. Right.

17 Q. Okay. So now let's look at the hours that you recorded for the month of
18 February 2020. I'm sorry, February -- bear with me, please, for a
19 moment. Let me approach this differently and ask you this. Would it
20 surprise you to learn that Judge Petito reported that he worked 33.4 hours
21 in March 2016?

22 A. It would not surprise me because, first of all, he was an attorney in
23 practice for at least 15 years before he took a bench -- or took the bench.
24 I was a nonattorney taking the bench, so naturally it would take me more
25 hours, you know.

(Jean McArthur - Cross)

1 Q. But -- yes. But by February 19, 2020, you had been a Judge for four
2 years. Is that right?

3 A. Correct.

4 Q. So you were experienced at that point?

5 A. Well, I don't know that I'd say experienced. I feel like I'm still learning
6 stuff and I'm there ten years. You know, I just got -- now I forget what it
7 was -- something on my desk that I'd never seen to seal somebody's case.

8 Q. Right.

9 A. I've never seen that before. So you know, no matter how long you're
10 there, in my opinion, if you're not an attorney, there's still always a
11 learning curve.

12 Q. Sure. Here and there, there'll be something that you encounter that you've
13 never seen before.

14 A. Correct.

15 Q. That's also true for attorneys, by the way.

16 A. But he was an experienced attorney taking the bench. So he did have a,
17 you know, upper advantage, I'll say.

18 Q. Right. But by February of 2020, you had four years of experience, yet it
19 was taking you the same amount of time to perform your work.

20 A. Right.

21 Q. No difference. No difference at all between the amount of time that it
22 took you when you were a brand new nonattorney, no experience,
23 learning the ropes.

24 A. Correct.

25 Q. Okay.

(Jean McArthur - Cross)

1 A. And that could be the case load too. There could be various reasons, and
2 I don't remember which time frame it was, but during that time, and I
3 don't know the exact dates, Judge Petito was sick for about a month, so I
4 did handle his stuff. And I don't know -- I know it was in that realm, but
5 I don't know specifically the month or the week. But he was out a good
6 month, and I handled his stuff during that time. So that could have
7 pertained to it as well.

8 Q. But you don't know.

9 A. I know I did that, but I don't know the specific dates, but it was -- you
10 know.

11 Q. But when you say -- when you speak in terms of what it could have been,
12 "it could have been this, it could have been that, I might have known this,
13 I might not have known that", you're not certain?

14 MR. ARNONE: Objection.

15 MR. NORTH: Yeah. Rephrase the question,
16 please, Mr. Leventhal.

17 MR. LEVENTHAL: Okay. Withdrawn.

18 BY MR. LEVENTHAL:

19 Q. When was the last time you presided at a jury trial?

20 A. Probably four years ago. I did a bench trial with two co-Defendants.

21 That was maybe two years ago. I've only had one or two jury trials in my
22 whole time there. But as far as for a bench trial, I've had more bench
23 trials, and a few coming up.

24 Q. So you've never had a jury trial while Judge Plass was serving?

25 A. No.

1 Q. Correct? And when --

2 A. I believe I had the -- I'm not sure, though, whether it was -- I believe it
3 might have been, but I'm not positive. With the two co-Defendants, that
4 was a bench trial. I think it may have been before his time.

5 Q. So the last bench trial that you had, you think, was also before Judge
6 Plass' time?

7 A. I'm pretty sure it was. No, matter of fact, it was. Yes.

8 Q. Okay. Have you ever written a decision that was published?

9 A. No. I've written decisions, but not that have been published.

10 Q. All right. Take us through the steps in presiding over an arraignment.

11 A. Well, as far as for an arraignment, that's, of course, the first step of a
12 criminal case. So I get the phone call. "Judge, we need you to come in."
13 So come in for the arraignment. Depending on the charges, given the
14 criminal history, the recommendation from the DA, if it's a nonqualifying
15 offense, then there's no bail, but they still may ask for release under
16 supervision. It depends on the case and the likelihood of them being a
17 flight risk. So that's a consideration. So basically, on the arraignment
18 end, you bring them in. Public Defender talks to them, of course. I'm
19 looking at the criminal history, the charges, and also if there's a DA
20 recommendation. And then I fill out the paperwork as much as I can, and
21 then we'll get out on the bench and verify with the Defendant their -- you
22 know, their date of birth, address, all of that information. And then either
23 I'm setting bail, I'm not setting bail, or I'm releasing them under the
24 supervision of probation. And then there's another form that you fill out
25 for that. Fill that out, if releasing them under the supervision. So that

(Jean McArthur - Cross)

1 way they take it down the next day or whatever we're requiring, and then
2 they're set on the calendar. If it's a felony, then we schedule in the
3 prelim -- or actually, no, we're not -- I'm sorry -- unless they're remanded.
4 So if they're not remanded and they're out on a felony, we're not doing the
5 prelim. So then they're just scheduled through the next court date.

6 Q. Is the Court Clerk present during an arraignment?

7 A. Only on the ones that are scheduled, meaning that if there is an
8 appearance ticket given. But for the off-hour ones, no --

9 Q. Okay.

10 A. -- they're not. And then if there's an order of protection, I'm doing all that
11 information and filling it in as well for a criminal arraignment.

12 Q. When was the last time you had an off-hours arraignment?

13 A. A couple of days ago.

14 Q. And before that?

15 A. A few days before that.

16 Q. How many of you had this year?

17 A. Oh. I don't know. I mean, you know, on the average of a couple a week.
18 I'll say, not as many as I had prior. Once the new laws were set into
19 place, I really don't get as many calls as I did in the past. If anything -- I
20 shouldn't say that. I do get the calls, but basically it's, "Judge" -- you
21 know -- "we think this is a nonqualifying offense" -- because some of
22 them know, some of them don't -- "what would you like to do with this
23 Defendant?" And then I'll say, "Yes, it's nonqualifying. Let's just put
24 them on for", you know, "the next court date."

25 Q. Right. So nonqualifying means under the new bail laws --

(Jean McArthur - Cross)

1 A. Correct. There's no bail.

2 Q. -- no bail may be set.

3 A. But sometimes, even if it's nonqualifying, if there's a victim asking for an
4 order of protection, then I have to come in and at least, you know, put the
5 order of protection in place --

6 Q. Right.

7 A. -- you know, for the victim.

8 Q. That happens sometimes, as you say, right?

9 A. Quite a lot of times, unfortunately, in Hyde Park.

10 Q. But not in most cases, right?

11 A. No, not in most cases.

12 Q. Okay. Okay. And is it -- it's fair to say, is it not, that most criminal cases
13 are disposed of by a plea?

14 A. Yes.

15 Q. And it's fair to say, is it not, that the overwhelming majority of vehicle
16 and traffic cases are disposed of by a plea?

17 A. Yes.

18 Q. Okay.

19 A. Most of them are as well, but we do have traffic trials occasionally.

20 Q. Right.

21 A. I haven't had one in a while.

22 Q. Sure.

23 A. But I wanted to go back to the --

24 Q. I'm sorry. I don't have a question --

25 A. -- acquittal stuff.

(Jean McArthur - Cross)

1 Q. -- I don't have a question pending.

2 A. Okay.

3 Q. Mr. Arnone will have an opportunity to do a redirect.

4 A. Okay. Because there's a lot more than just taking a plea on a criminal
5 case, and you know that.

6 Q. Well, why don't you tell me what that is?

7 A. Well, that would be a lot of times. I would say 90 percent of the time,
8 still, motions are filed and I have to write a decision on the motion.
9 Sometimes we have the hearings. Sometimes we have a jury ordered
10 before they end up taking a plea. So we go through all of these motions
11 lots of times and the trial does not happen -- is correct. But we still have
12 all that underlying work that gets done before they decide -- or the
13 Prosecutor decides, "Well, we're going to offer you this. Would you take
14 this instead?"

15 And generally they're not going to take their chances and have a trial.

16 But that doesn't negate that we did all this prior work.

17 Q. Okay. Judge, I'm a -- I'm a Defendant appearing before you.

18 A. Um-hum.

19 Q. I would like to withdraw my previously entered plea of not guilty --

20 A. Okay.

21 Q. -- and enter a plea of guilty.

22 MR. ARNONE: Objection. Is there a -- is that
23 a question?

24 MR. LEVENTHAL: There is a question.

25 MR. NORTH: It's a preliminary.

1 I'll allow it.

2 BY MR. LEVENTHAL:

3 Q. Yeah. And then what do you say?

4 A. What was it again? You said you wanted to --

5 Q. I would like to enter a guilty plea. Now, please tell me what -- your part
6 in taking the pleas.

7 A. Well, then I would go through a series of questions where you wouldn't
8 do that unless your attorney was present. Or occasionally, we get people
9 that want to represent themselves.

10 Q. Yeah. But I'm asking you to tell us what those questions are that you ask
11 in a plea colloquy.

12 A. So basically, I have a list. I don't have it memorized, but I have it in my
13 booklet there. And I ask everybody the same thing. "You know, have
14 you had your opportunity to speak to your attorney? Has anyone made
15 any threats or promises for you to accept the plea? You understand that
16 you are entitled to a trial if you so wish? You have any questions?" I
17 don't know. There's probably like 15 things I ask them before they, you
18 know, actually plead guilty. I want to make sure that they understand and
19 that their attorney has explained to them what, and if, the ramifications
20 are of the plea.

21 Q. And those 15 things, those 15 questions that you ask in a plea colloquy --

22 A. Um-hum.

23 Q. -- they're always the same, right?

24 A. Pretty much.

25 Q. And you read them off a sheet of paper; is that right?

(Jean McArthur - Cross)

1 A. Correct.

2 Q. Okay. And to be clear --

3 A. Um-hum.

4 Q. -- you testified earlier that the Court has discharged its judicial duties,
5 correct?

6 A. Correct.

7 Q. There's no backlog of cases?

8 A. Not now. No. We pretty well have it under control. But you know, like
9 I said, that doesn't negate additional hours --

10 Q. Please just --

11 A. But yes.

12 Q. -- please just answer my questions.

13 MR. ARNONE: Let the witness finish.

14 MR. LEVENTHAL: Judge, I would like to
15 strike the --

16 MR. ARNONE: Just because he doesn't like the
17 answer.

18 MR. LEVENTHAL -- nonresponsive portion of
19 the answer.

20 MR. NORTH: May I hear the question again?
21 Can you read the question? No? Okay.

22 Do you recall the question?

23 MR. LEVENTHAL: Essentially, it was there's
24 no backlog of cases. Right. The Court is discharging its
25 judicial duties.

(Jean McArthur - Cross)

1 MR. NORTH: Okay.

2 Your answer?

3 THE WITNESS: Yes.

4 MR. NORTH: Okay.

5 MR. LEVENTHAL: Okay. Thank you.

6 BY MR. LEVENTHAL:

7 Q. And. The after-hours arraignments that you do --

8 A. Um-hum.

9 Q. -- does the court maintain any documentation that it --

10 A. No, we do not.

11 Q. -- there's no record of it?

12 A. No.

13 Q. So you're testifying today that you perform these after-hour
14 arrangements, but there's no record of those?

15 A. Other than the paperwork from the arrest.

16 Q. There's no paperwork that would distinguish between an after-hours
17 arraignment and an arraignment that occurs during regular court hours,
18 right?

19 A. Not that I'm aware of. I mean, I don't know that I'm -- all I know is when
20 I get called, then I go in, or I say, no, just issue an appearance ticket. You
21 know, so I don't have any records of -- that there would be record of, you
22 know, how many.

23 Q. Did the Commission's counsel ask you to produce any documentation or
24 records of the after-hours arraignments that you've conducted?

25 A. No. I don't believe so.

(Jean McArthur - Cross)

1 Q. Did the Commission's attorneys ask you to produce any record of the
2 times that you were called in to deal with the search warrant?

3 A. No. I don't think so.

4 Q. Do you have any documentation that would indicate the number of times
5 that you've been called away from a family event and had to go to court
6 and preside?

7 A. I don't write that down. I know up in my mind and I know how my
8 relatives feel, that I can tell you I don't get invited to many things now
9 because of the -- it's caused a little bit of tension in the family. So it is
10 what it is. I signed up for the job. That's how it is. You know, if -- you
11 know. But I understand that. I mean, sometimes I just don't get invited
12 for those reasons. But you know what, that's how the job is, I guess.

13 Q. So let's go back, please, I think it's to C-1. Were the hours that you were
14 spending in February 2024 materially -- no. Withdrawn. Were the hours
15 that you reported to the New York State pension system --

16 A. Um-hum.

17 Q. -- for February 2024 materially unchanged from the hours that you
18 reported for February 2016?

19 MR. ARNONE: Objection to materially
20 unchanged.

21 A. I'm not sure what you mean.

22 MR. NORTH: Okay. She answered the
23 question. That's fine.

24 BY MR. LEVENTHAL:

25 Q. Well, let me ask it this way. You recall that in February of 2020 --

(Jean McArthur - Cross)

1 A. Right.

2 Q. -- you said that your hours were the same in that period as they were for
3 the same period in 2016; do you recall that?

4 A. Yes.

5 Q. Okay. So I'm asking you the same question for February 2024. Did you
6 report hours in February 2024 --

7 A. Um-hum.

8 Q. -- that were substantially the same as the hours that you reported for
9 February 2020?

10 A. Yes.

11 Q. Okay. Have you observed -- have you observed Judge Plass as he
12 discharged his official -- well, I'm sorry. Withdrawn. Before I go there,
13 McArthur's Liquors --

14 A. Um-hum.

15 Q. -- you said that you recently sold it?

16 A. Yes.

17 Q. Within the past few --

18 A. Months.

19 Q. -- was it weeks or -- within the past few months. Prior to selling it, what
20 month was the -- when did the closing take place?

21 MR. ARNONE: Objection.

22 A. February 24th.

23 MR. ARNONE: Objection. Relevance.

24 MR. NORTH: Let's see where he's going.

25 A. February 24th, I believe it was.

1 BY MR. LEVENTHAL:

2 Q. Okay.

3 A. It was a month ago.

4 Q. Prior to February 24th, what activities did you engage in in connection
5 with that business?

6 A. What --

7 Q. Did you work there?

8 A. Yes.

9 Q. What did you do?

10 A. Well, basically it did all the financial stuff, waited on customers. I had
11 my hours that I worked there, but I also had two and -- actually, three
12 employees. And their hours did increase because I was spending more
13 time at the court. But you know, I was there Sundays and then, like,
14 usually a couple of days a week in the mornings. But I did all the
15 financial stuff, all the ordering, and then in between waited on customers.
16 It was a small mom-and-pop store, so it wasn't like, you know, thousands
17 of square feet where we needed a whole bunch of employees.
18 So it was either me or one of the employees that was working.

19 Q. And what were your hours at McArthur's Liquors?

20 A. It varied. It depended on what I had going on in court. So if I had a
21 hearing, or a conference or something I needed to do at court, then I
22 would have an employee come in and cover the store. For the most part,
23 I generally was there in the morning. I tried to schedule most stuff in the
24 afternoon. But if there was an arraignment or there was -- sometimes the
25 attorneys couldn't agree on times and they could only do a morning, then

(Jean McArthur - Cross)

1 I always made the exception to be fair and come in in the morning if I
2 needed to and take care of what we needed to do.

3 Q. Between -- and you said that you did --

4 MR. NORTH: Just to clarify that, because
5 there's too many mornings and --

6 THE WITNESS: Oh.

7 MR. NORTH: -- it was in the morning that you
8 generally worked in the store --

9 THE WITNESS: Generally, I was at the store.
10 Yes.

11 MR. NORTH: -- let me finish, please. Morning
12 you worked at the store, afternoons were your court
13 hearings --

14 THE WITNESS: Generally.

15 MR. NORTH: -- but you would make
16 exceptions where appropriate?

17 THE WITNESS: Yeah.

18 MR. NORTH: Okay.

19 THE WITNESS: Yes. Yes. Generally, yeah.

20 MR. NORTH: Okay.

21 BY MR. LEVENTHAL:

22 Q. And the bookkeeping work that you did --

23 A. Um-hum.

24 Q. -- for that business, did you do that during those mornings at the store or
25 other hours?

(Jean McArthur - Cross)

1 A. It depends whether it was busy or not. I tried to, but there always seemed
2 to, you know, be orders to place, salesmen to come in. I tried to do that
3 when I could, but sometimes I would be there on Saturday night when
4 we're closed so there was no interruptions or, you know, Sunday.
5 Whenever I had time in between, you know, I would do. Plus, I was
6 responsible for my husband's business. I do all of the stuff there other
7 than, like I said, year-end taxes.

8 Q. I'll ask you about that in a moment.

9 A. Okay.

10 Q. When you were still working at or for McArthur's Liquors --

11 A. Um-hum.

12 Q. -- how much time did you spend on average? If you can do it per week,
13 fine. If you can do it per month, that's fine.

14 A. Well, I was there Sundays, generally four hours. Saturdays, no, I would
15 dedicate to courts or other things that I had going on unless somebody
16 was on vacation. That kind of was like my catch-up day, if I could. It
17 depended, so you know, just what was going on that week. Let's see. So
18 generally, maybe 15 hours a week.

19 Q. And now let's talk about PayLess -- or PayLess Oil.

20 A. Um-hum.

21 Q. What did you do for PayLess Oil?

22 A. Basically the financial. You know, all the bookkeeping, payroll, the tax
23 reports, any audits. So that varies too, because that's just a delivery of
24 home heating oil. We don't do -- so that knocks off in the summer time,
25 which kind of evened out because that's when the courts seem to have

(Jean McArthur - Cross)

1 been busier. And in the winter time, my husband sells home heating oil,
2 so it was busier. But sometimes, like in the summer, five or ten hours,
3 because he does have other staff there that I oversee. He has a dispatcher,
4 and then he has a gal that does some other -- you know, some of the
5 financial stuff.

6 I do like, really, the reports that go to the government like the 941s, the
7 New York State, the sales tax, and those kinds of forms because --

8 Q. Payroll tax forms --

9 A. Yeah, that kind of stuff.

10 Q. -- sales tax forms?

11 A. So I mean, it could be 5 hours to 10 or 15 hours. In the summer, you
12 know, not really that much because the quarterly reports are due
13 quarterly. And like I said, there's not -- in the summer they don't have a
14 lot going on. They don't do A/C or anything like that. They do furnace
15 cleanings. But most of those are under contract. So there's not really --
16 and that's not stuff that I record.

17 Q. So when you were busy at both places, combined, that could amount to
18 30 hours per month; is that right?

19 A. Maybe, maybe a little less. The holidays, maybe a little more, you know.

20 Q. Okay.

21 MR. LEVENTHAL: Can we go back to Exhibit
22 C, please? Next page, please. Do we have a legible
23 calendar? Maybe it's -- yeah. Okay.

24 BY MR. LEVENTHAL:

25 Q. So let's look at -- well, let's go back to February. Am I right that you

(Jean McArthur - Cross)

1 have time noted on every day during that week?

2 A. Um-hum.

3 MR. LEVENTHAL: Can we --

4 MR. NORTH: Yes.

5 MR. ARNONE: You have to answer verbally.

6 A. Yes. I'm sorry.

7 BY MR. LEVENTHAL:

8 Q. Did I say every day that week? I meant every day that month. I think I
9 said --

10 A. Yes.

11 Q. -- that week.

12 A. Yes.

13 Q. Okay. So --

14 A. And some months, yes.

15 Q. Okay. So let's go --

16 A. But as you can see, on some --

17 MR. NORTH: Right. There's no question --

18 A. -- some days there's not that many hours.

19 Q. Right.

20 MR. NORTH: -- Judge McArthur.

21 A. Depends on the day.

22 Q. So let's go --

23 MR. NORTH: Wait for the question.

24 Q. -- let's go to Sunday.

25 MR. LEVENTHAL: Let's go to Sunday. So

(Jean McArthur - Cross)

1 you need to scroll a little bit. Keep scrolling, please.

2 Friday, Saturday, one more. Oh. Sunday is the beginning

3 of the week. Of course. What am I saying?

4 Q. Okay. Sunday.

5 A. Um-hum.

6 BY MR. LEVENTHAL:

7 Q. So on Sunday the 7th, you recorded six hours of court time?

8 A. Right.

9 Q. And on the 14th, eight hours?

10 A. Right.

11 Q. And excuse me -- on the 21st, six hours, right?

12 A. Correct.

13 Q. And on the 28th, five hours?

14 A. Correct.

15 Q. And Sunday is the day that you generally spent in the morning at the
16 liquor store, right?

17 A. Yes, for the most part. But not every Sunday. It would depend. If
18 someone was on vacation and one of the other helpers worked, than they
19 would work the weekend because they had another job during the week.
20 So that was a time when Stephany would have been working and I was at
21 the Court.

22 MR. LEVENTHAL: Can we go to March,
23 please? Okay. Stop there, please.

24 BY MR. LEVENTHAL:

25 Q. So on March 6th, you recorded -- Sunday, March 6th, five hours, right?

(Jean McArthur - Cross)

1 A. Correct.

2 Q. Sunday, March 13th, six hours?

3 A. Correct.

4 Q. And Sunday, March 20th, two hours?

5 A. Correct.

6 Q. That was Palm Sunday?

7 A. Yes, that was an arraignment.

8 Q. And the 27th -- Sunday, the 27th, was Easter?

9 A. Yeah. Correct. I didn't have anything --

10 Q. Okay.

11 A. -- after that.

12 MR. LEVENTHAL: So let's go to April, please,
13 if we have that next. We don't? Okay. That's fine. That's
14 fine.

15 A. But generally, because I was at the store -- just so you know, and I don't
16 want to go way off guard. I'm working since I'm 14 years old. I'm used
17 to working two and three jobs. But now I'm 60 years old, so that's why I
18 sold the liquor store. It's getting too much with doing everything. But
19 generally, yes. My schedule is I go from one job to the next --

20 Q. Okay.

21 A. -- to the next to the next.

22 Q. All right. Thank you.

23 A. Just so you understand. I know normal people don't do that, but I do.

24 Q. You are to be admired. Thank you. So have you had an opportunity to
25 observe Judge Plass as he discharged his judicial duties?

(Jean McArthur - Cross)

1 A. Meaning?

2 Q. Did you see him presiding?

3 A. Yes, over summary proceedings and some small claims. Yes, I have.

4 Q. Okay. And what did you observe him to do?

5 MR. ARNONE: Objection.

6 A. Wait. I'm not sure what you mean, what did I observe him do?

7 MR. NORTH: Rephrase it.

8 MR. LEVENTHAL: I mean, it's plain English.

9 MR. NORTH: Okay. So you stated --

10 BY MR. LEVENTHAL:

11 Q. You know, you observed Judge Plass presiding.

12 A. Correct.

13 Q. What was he doing when you observed him?

14 A. I was presiding over -- well, like I said, summary proceedings.

15 Q. And how did he go about doing that?

16 A. Very well, I thought.

17 Q. But give me --

18 A. Very thorough.

19 Q. -- please give me more of a visual picture of what occurred.

20 A. Well, basically --

21 Q. Describe it to me.

22 A. -- he'd call the individuals up or the attorneys up, you know, asked if they
23 had an agreement. And I think I only maybe sat through one or two.

24 And I believe one, yes, they had an agreement. Okay. Put it on the

25 record. He asked them a few questions and that they understood, you

(Jean McArthur - Cross)

1 know, what was going on, that kind of type of thing, that, you know,
2 they've agreed to this and it was so ordered by the Court. And then
3 another one was set down for a trial, I think there was issues that the
4 People really shouldn't have been renting, but I didn't sit through -- that's
5 all I sat through was that portion, and then I believe that they would be
6 coming back --

7 Q. Sure.

8 A. -- because they had thought that the place was grandfathered in or
9 something. I don't know all the particulars. And I don't even know what
10 happened with the case. But I mean, it's rarely that I sit in on --

11 Q. Sure.

12 A. -- you know, I mean, like I said, maybe twice.

13 Q. Okay.

14 A. But I thought he did fine.

15 Q. Thank you. Thank you. So just to be clear, when you use the phrase
16 "summary proceeding", you're talking about a landlord-tenant matter; is
17 that correct?

18 A. Correct.

19 Q. Okay. And did you ever observe Judge Plass as he presided over a civil
20 small claims matter?

21 A. I don't believe I did.

22 Q. Okay. So --

23 A. We really don't get that many of them.

24 Q. On those occasions when you did observe Judge Plass presiding, how did
25 he treat the public?

(Jean McArthur - Cross)

1 A. Very well.

2 Q. How did he treat court personnel?

3 A. The same, very well.

4 Q. Have you formed an opinion of Judge Plass' character?

5 MR. ARNONE: Objection. This is not a
6 character witness.

7 MR. NORTH: I'll sustain the objection.

8 BY MR. LEVENTHAL:

9 Q. Have you ever observed Judge Plass to display bias or prejudice?

10 MR. ARNONE: Objection.

11 MR. NORTH: I'll allow it.

12 A. No. But like I said, I've only sat through maybe two or -- but no.

13 Q. It's a yes-or-no question. Thank you.

14 A. No.

15 Q. Thank you.

16 MR. LEVENTHAL: Can I have just a moment,
17 please? No further questions. Thank you.

18 MR. NORTH: How long will your redirect --

19 MR. ARNONE: Very briefly.

20 MR. NORTH: Let me just --

21 MR. ARNONE: Very briefly.

22 MR. NORTH: -- I have a few questions. I'll do
23 it before you.

24 First of all, Judge McArthur, I'm impressed with
25 the workload of a Town Justice. It's much more than I ever

1 understood or expected.

2 THE WITNESS: Thank you.

3 MR. NORTH: Would the Petito system of
4 division of work that you -- Judge Petito system division of
5 work be in place today, as best you know, were it not for
6 the restrictions on Judge Plass' ability to sit on cases?

7 THE WITNESS: Yes, there would be.

8 MR. NORTH: Okay.

9 THE WITNESS: Yes.

10 MR. NORTH: When you testified that you now
11 spend 25 to 30 percent more time performing your duties as
12 the Town Justice -- not counting the on-call --

13 THE WITNESS: Correct.

14 MR. NORTH: -- we're not talking about the on-
15 call --

16 THE WITNESS: Correct.

17 MR. NORTH: -- is it your opinion that that's the
18 result of the change in the system of the assignment of
19 matters that you handle? And if you don't understand the
20 question, say that.

21 THE WITNESS: Yeah. I don't understand that.

22 MR. NORTH: Okay. Okay.

23 THE WITNESS: Yeah.

24 MR. NORTH: That 25 to 30 percent more work
25 that you said you do now than you did before, is that as a

1 result of the change in the system of allocating the cases
2 between you and your co-Judge?

3 THE WITNESS: Correct. Yes.

4 MR. NORTH: And so I understand these time
5 sheets, the time sheets that you submitted were January and
6 February and March of 2016?

7 THE WITNESS: Correct.

8 MR. NORTH: And that was it between 2016
9 and 2020; is that correct?

10 THE WITNESS: Yes.

11 MR. NORTH: No other months, just those
12 months?

13 THE WITNESS: Yes, because I believe the --
14 from my understanding, the retirement only asked for three
15 months just to make sure you're meeting the threshold.

16 MR. NORTH: And then you verified that, over
17 the subsequent years, you followed the same pattern?

18 THE WITNESS: Correct.

19 MR. NORTH: And the same thing in 2024.
20 You did it for three months and then verified that that is the
21 pattern that you follow?

22 THE WITNESS: Correct.

23 MR. NORTH: And as you said, you don't put in
24 every hour; you just want to make sure you meet the
25 minimum threshold. Do you know -- you're not sure what

1 that minimum threshold is?

2 THE WITNESS: I'm not positive. You know,
3 the prior Personnel Assistant that was there was very
4 experienced and --

5 MR. NORTH: Okay. As long as you're not --
6 you're not sure, you're not sure.

7 THE WITNESS: Yeah. I really don't recall. I
8 know it was at least 32 hours.

9 MR. NORTH: Okay. Are you an employee of
10 the oil company?

11 THE WITNESS: Yes and no.

12 MR. NORTH: Well?

13 THE WITNESS: So in the winter months, when
14 I'm doing a fair amount of work, I'm on the payroll.

15 MR. NORTH: Right.

16 THE WITNESS: In the summer, I'm not on the
17 payroll.

18 MR. NORTH: Right.

19 THE WITNESS: So the help is able to get paid.

20 MR. NORTH: Okay. And are you an officer of
21 that company?

22 THE WITNESS: I'm not. It's my husband's 100
23 percent. I was an officer of the liquor store, though.

24 MR. NORTH: Okay. When you say there are
25 not that many small claims matters handled in the courts,

1 can you give an estimate about the number there are or a
2 year or a month, any parameter?

3 THE WITNESS: Generally, in my experience --
4 and I can't speak for the last year and a half because I
5 haven't handled them, I only handled one that there was a
6 conflict -- usually less than ten.

7 MR. NORTH: Okay. Per year?

8 THE WITNESS: Yes. But like I said -- you
9 know.

10 MR. NORTH: Do you have -- aside from the
11 time records that are submitted, that is the 2016 time
12 records and the 2024 time records, are there any other time
13 records that you maintain or have maintained?

14 THE WITNESS: No.

15 MR. NORTH: Do you keep --

16 THE WITNESS: I'm salary.

17 MR. NORTH: Okay. Are you able to give a
18 reasonable estimate of the number of hours per week,
19 generally, that you work now in 2024/2025 for the town?

20 THE WITNESS: You mean since the additional
21 duties?

22 MR. NORTH: Yes.

23 THE WITNESS: Probably on the average of
24 about 50 hours. But it's split up, you know.

25 MR. NORTH: Okay. And before the additional

(Jean McArthur - Redirect)

1 duties, about how many hours a week is your best estimate
2 that you worked?

3 THE WITNESS: Probably 35 to 38, somewhere
4 in there.

5 MR. NORTH: Okay. Okay. Thank you.

6 MR. ARNONE: Very briefly.

7 MR. NORTH: Sure.

8 MR. ARNONE: Mr. North, with your
9 permission, may we show Commissioner Exhibit 14 on the
10 screen?

11 MR. NORTH: Sure.

12 REDIRECT EXAMINATION BY

13 MR. ARNONE:

14 Q. Judge McArthur, I'm going to show you what's in evidence as
15 Commission Exhibit 14. This is in evidence. I'm reading from the top. It
16 says, "Total number of 2024, Hyde Park, Town Court, Civil, and
17 Criminal Vehicle and Traffic Law cases." The total's 2,091 Criminal and
18 Vehicle and Traffic Law cases, 181 Civil cases. Is it fair to say, Judge, in
19 2024 that you handled all 2,091 of those Criminal and Vehicle and
20 Traffic Law cases?

21 A. Correct.

22 Q. And that's because Judge Plass is unable to handle those, correct?

23 A. Correct.

24 Q. Do you think that's fair?

25 MR. LEVENTHAL: Objection.

(Jean McArthur - Recross)

1 MR. ARNONE: I'll withdraw.

2 MR. NORTH: I'll sustain the objection.

3 MR. ARNONE: I'll withdraw it.

4 BY MR. ARNONE:

5 Q. Was this different when Judge Petito was your co-Judge? Would you
6 have handled all 2,091 criminal vehicle and traffic law cases?

7 A. No.

8 Q. You would have split them up 50/50; isn't that correct?

9 A. Close to that. Yes.

10 Q. Okay.

11 MR. ARNONE: I have nothing further.

12 MR. NORTH: Okay.

13 MR. LEVENTHAL: Recross, please?

14 MR. NORTH: Yeah. Sure.

15 RE CROSS-EXAMINATION BY

16 MR. LEVENTHAL:

17 Q. Judge, this doesn't show the number of times that you had after-hours
18 arraignments, right?

19 A. It does not.

20 Q. It doesn't show the times that you were called in to deal with a search
21 warrant, right?

22 A. Correct.

23 Q. It doesn't show how many people actually showed up on any of these
24 cases, right?

25 A. What do you mean?

(Jean McArthur - Recross)

1 Q. How many Defendants appeared for their cases?

2 MR. NORTH: Personal appearance.

3 BY MR. LEVENTHAL:

4 Q. It doesn't indicate how many of those cases involved an appearance by
5 the Defendant?

6 A. No. But just --

7 Q. Okay. Excuse me.

8 A. Yeah.

9 Q. And it doesn't show how long it took to process each case, correct?

10 A. It does not.

11 Q. It doesn't indicate how many pled guilty at their first appearance in court,
12 right?

13 A. That doesn't happen. But no --

14 Q. It doesn't show --

15 A. -- on that, no.

16 Q. -- it doesn't show how many of these cases involve motion practice,
17 right?

18 A. No.

19 Q. It doesn't show how many of them involved a bench trial, right?

20 A. No, it does not.

21 Q. It doesn't even show how many of them were Criminal versus Vehicle
22 and Traffic; is that right?

23 A. It doesn't, but they should -- I thought they were broke down, but I guess
24 not.

25 Q. And it's also fair to say, is it not, that Vehicle and Traffic cases tend to

1 take significantly less time than Criminal cases?

2 A. That's correct.

3 Q. Okay.

4 A. I would definitely agree with that.

5 Q. All right.

6 MR. LEVENTHAL: No further questions.

7 MR. NORTH: Just a couple more. I'm sorry.

8 Back to the on-call responsibility.

9 THE WITNESS: Um-hum.

10 MR. NORTH: What is your best estimate of the
11 number of times a week that you have on-call responsibility
12 where you have to go to court?

13 THE WITNESS: Maybe two to five times. It
14 depends. You know, it's all different.

15 MR. NORTH: Of course.

16 THE WITNESS: Maybe there's some weeks
17 that maybe there's no calls.

18 MR. NORTH: Yeah. Of course.

19 THE WITNESS: I will say that it has cut down
20 substantially due to the new laws. So there are, you know,
21 more appearance tickets issued.

22 MR. FRIEDBERG: Mr. North?

23 MR. NORTH: Yes.

24 MR. FRIEDBERG: Can I ask that you break
25 down that question? Because you said on-call and going to

1 court. So they're --

2 MR. NORTH: Okay.

3 MR. FRIEDBERG: -- two different things.

4 MR. NORTH: Okay. So thank you.

5 So as far as going to the courthouse is

6 concerned.

7 THE WITNESS: So our off-hour arraignments?

8 MR. NORTH: Yes. How often per week would
9 you say you do that?

10 THE WITNESS: Couple of times a week.

11 MR. NORTH: Okay. And how about last
12 week, for example?

13 THE WITNESS: I think I had three or four.

14 MR. NORTH: And aside from that, you have to
15 be available to respond to matters that -- off-duty in the
16 evenings --

17 THE WITNESS: Correct.

18 MR. NORTH: -- that you end up resolving
19 without going to court?

20 THE WITNESS: Correct. And maybe say okay
21 in an appearance ticket.

22 MR. NORTH: Okay. And how often does that
23 happen?

24 THE WITNESS: Quite a lot, actually, since the
25 new laws. So I would say I get on the average of probably

1 five to six calls a week where I just say, okay, just put them
2 on for -- yeah, depending on what the case is.

3 MR. NORTH: And as far as that call system is
4 concerned, do they call the Clerk's Office, the Clerk's
5 Office calls you? Or how do those calls get filtered to
6 you?

7 THE WITNESS: No. If it's after hours or
8 nobody's at the court, they come to me directly, my cell
9 phone.

10 MR. NORTH: So the law enforcement agencies
11 have your cell phone number --

12 THE WITNESS: Yes.

13 MR. NORTH: -- and they'll call you directly?

14 THE WITNESS: Correct. As well as the bond
15 people.

16 MR. NORTH: And you indicated as well that
17 other jurisdictions call you as well from time to time?

18 THE WITNESS: I got a call 4:30 in the
19 morning Saturday for the City of Poughkeepsie.

20 MR. NORTH: Okay.

21 THE WITNESS: That I remember because they
22 woke me up.

23 MR. NORTH: And sometimes those require
24 you to appear in the courthouse?

25 THE WITNESS: Yes, if you can.

1 MR. NORTH: Would that be in your
2 courthouse?

3 THE WITNESS: Yes. They would bring them
4 to -- as long as it's a felony, we are allowed to preside over
5 any cases for any other municipality. If --

6 MR. NORTH: Necessary.

7 THE WITNESS: -- it's a misdemeanor case --

8 MR. NORTH: Yeah.

9 THE WITNESS: -- then we can only preside
10 over, like, adjoining towns.

11 MR. NORTH: Okay. Okay.

12 I'm sorry.

13 MR. ARNONE: I have nothing further.

14 MR. LEVENTHAL: I do.

15 MR. NORTH: Okay.

16 MR. LEVENTHAL: One or two.

17 MR. NORTH: Sure.

18 EXAMINATION BY

19 MR. LEVENTHAL:

20 Q. Judge, when you referred to the new law that resulted in fewer times --

21 A. Correct.

22 Q. -- fewer calls, you're talking about bail reform?

23 A. I am, yes.

24 Q. And when did bail reform become effective?

25 A. A couple of years ago.

(Jean McArthur - Recross)

1 Q. Prior to Judge Plass' --

2 A. Prior to Judge Plass.

3 Q. -- term, right?

4 A. Yes.

5 Q. Okay. And when you say that you are from time to time called by other
6 jurisdictions and asked to come in, that's the same as when you call
7 judges and ask them to cover for you, right?

8 A. Correct.

9 Q. And --

10 A. Well, not me but the police department. Like, if they have an
11 arraignment and they can't get in touch with -- like, that happened the
12 other night --

13 Q. Right.

14 A. -- City of Poughkeepsie. So they're calling -- you know, they call
15 whoever's on the list --

16 Q. Right.

17 A. -- to get somebody to take the arraignment.

18 Q. And when you called looking for coverage, the other judges said no?

19 A. Well, I was talking about for vacation time. I sent out an email --

20 Q. Um-hum.

21 A. -- basically, and nobody answered.

22 Q. Um-hum.

23 A. And then I spoke to -- was it Minihan -- or I forget her name, and she
24 said, "Well, you have to try to get your own coverage." I mean, it's --

25 Q. Did you follow the email up with any phone calls, "Please, I have" --

1 A. We just --

2 Q. -- "an important family event."

3 A. -- I just sent out a couple of emails at a couple of different times and got
4 no responses. I got one response one time when I was just going to be
5 away for the day. One of the judges from Red Hook's -- or Rhinebeck, I
6 think it was, said, "I'm available." And you know, "What time are you
7 coming back?" I said, "Well, I should be back by 8:00 p.m."

8 Q. Um-hum.

9 A. So you know, I did get coverage for a day on that.

10 Q. Right.

11 A. But other than that, they just don't answer.

12 Q. Do you know them -- do you know any of the other judges personally?

13 A. I know Barbara Seelbach personally, but -- and I say that to her and she
14 says, "Well, I don't respond. But if they call me and if" -- "and if I'm
15 around, I'll take it." But I think she has a lot of activities going on. I
16 don't know. But she's the only one I really know personally. I mean,
17 there's been a change recently of new judges. I don't know them in
18 Pleasant Valley, although the other night at the end of our calendar --
19 because the Public Defender was in our court -- I did four arraignments
20 for them.

21 But I don't really know -- other than Barbara Seelbach, I really don't
22 know too many of them.

23 Q. Are you a member of the New York State Magistrates Association?

24 A. I am.

25 Q. Do you attend meetings?

(Jean McArthur - Recross)

1 A. No. I go to the Dutchess County one, though.

2 Q. All right. There's a Dutchess County Magistrates Association?

3 A. Yes.

4 Q. Do you attend those meetings?

5 A. Once in a while. Usually maybe every couple of months, whenever I can.

6 They're a Monday night, generally.

7 Q. And you have an opportunity at those meetings to meet and talk with
8 other judges --

9 A. I have.

10 Q. -- in the county? All right.

11 A. And they understand my position. But nobody's saying, "Hey, I'll cover
12 for you."

13 Q. Well, nobody's volunteering.

14 A. Right.

15 Q. But perhaps do you think maybe if you made personal phone calls and
16 said, "Please, this is very important. I'm tired. I need a vacation."

17 MR. NORTH: Mr. Leventhal --

18 MR. ARNONE: Objection.

19 MR. NORTH: -- you're going a little beyond
20 the redirect --

21 MR. LEVENTHAL: Okay.

22 Thank you.

23 MR. NORTH: -- or recross.

24 A. I would love to say that if it would work.

25 MR. ARNONE: Nothing further from

(Colloquy)

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Commission Counsel.

MR. NORTH: So at this point, of course we
will --

Did you --

MR. ARNONE: Well, first, we'll discharge the
witness. And then we do have one more.

MR. NORTH: Yes. Okay.

Judge McArthur, thank you for being here
today.

JUDGE MCARTHUR: Okay. Thank you.
Okay.

MR. FRIEDBERG: Thank you.

JUDGE MCARTHUR: Thank you.

MR. ARNONE: Judge, at this time, we do have
a motion. The formal written complaint, if you note,
incorporates statistics from the court. At the time that the
formal written complaint was signed was roughly middle of
the year. So the court statistics range from January to, I
think, June of 2024. As you know, we've introduced
evidence -- both sides, both Commission Counsel and
Respondents, have introduced exhibits with which
reference case statistics for the entire year.

So at this time, Commission Counsel move for
the evidence to -- for the pleadings to conform to the
evidence. I believe CPLR 404 would allow that. As

(Colloquy)

1 everyone knows, the principle -- you know, the guiding
2 principle there is notice. In fact, Respondent has put
3 forward exhibits that conform to the entire year. So on that
4 basis, we would ask that the charging instrument be altered.

5 MR. NORTH: Any objection?

6 MR. LEVENTHAL: Yes. Conforming the
7 pleadings to the proof doesn't mean introducing an entirely
8 new claim. This is a -- there was a specific single count in
9 the accusatory instrument. We prepared to defend against
10 it. We did not prepare to defend against any other alleged
11 violation of the rules of professional conduct. And
12 furthermore, since there is no rule of professional conduct
13 that addresses the allocation of work between Judges, for
14 that reason as well, in my view, it would be an improper
15 amendment.

16 MR. ARNONE: Judge, if I may, maybe I
17 misspoke. We're not looking --

18 MR. NORTH: Before we get there, what
19 provision of the complaint is it that you're seeking to
20 amend?

21 MR. ARNONE: I believe it's paragraph 12, Mr.
22 North, "Beginning with Respondent's disqualification from
23 aforesaid matters."

24 MR. LEVENTHAL: I need to just get it out,
25 please. If I may have a chance to do that.

(Colloquy)

1 MR. ARNONE: It's going to be in here if you
2 can.

3 MR. LEVENTHAL: Okay. What exhibit?

4 MR. ARNONE: Referee Exhibit A.

5 MR. NORTH: And of course, what language
6 specifically? In what way would you like to change or
7 amend the language there?

8 MR. ARNONE: Specifically, so I guess this
9 would be sentence 2. It says, "Beginning specifically since
10 the beginning of his term on January 1st through the end
11 of" -- "2024 through the end of June of 2024, Respondent
12 presided over" --

13 MR. NORTH: Right.

14 MR. ARNONE: -- "approximately 59 cases
15 where his co-Judge presided over approximately 1,097."
16 Judge, if we can --

17 MR. NORTH: And you want to change it to
18 what, please?

19 MR. ARNONE: Well, we would -- the evidence
20 and -- you know, could we have -- could we have
21 Commission 14?

22 MR. KHAN: Oh, Commission.

23 MR. ARNONE: The entire year the cases that
24 Judge McArthur has presided over by her -- this exhibit,
25 subject to connection with her testimony --

(Colloquy)

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MR. NORTH: Right.

MR. ARNONE: -- is 2,091. So essentially, that the co-Justice presided over 2,091 cases as opposed to 1,097.

MR. NORTH: And Respondent presided over how many?

MR. ARNONE: Well, this indicates 181. I do believe that that's subject to, you know, some of the cases that Judge McArthur presided over in January. I would submit that that number should be 171. And the basis for me saying that is if we look -- at under January 2024, it indicates ten civil cases. We know from McArthur's testimony that she presided over everything from that month.

MR. NORTH: So again, your requested amendment is Respondent presided over 171 cases?

MR. ARNONE: Correct.

MR. NORTH: And his co-Judge presided over 2,091 cases?

MR. ARNONE: Correct. And I just want to point out this is not adding a new charge. Charge one remains the same. This is just expanding that provision of the complaint, really updating the empirical evidence.

MR. NORTH: And when you say from January 1, '24 to June '24, you want to change that --

(Colloquy)

1 MR. ARNONE: To December 31st.

2 MR. NORTH: Okay.

3 Mr. Leventhal, anything further?

4 MR. LEVENTHAL: I have nothing to add.

5 MR. NORTH: Okay. There was no objection to
6 the exhibit. There was examination, cross-examination
7 with regard to this. I --

8 MR. LEVENTHAL: Judge?

9 MR. NORTH: -- rule --

10 Yes, sir?

11 MR. LEVENTHAL: I'm sorry, Mr. North.

12 MR. NORTH: Yeah. That's all right.

13 MR. LEVENTHAL: There was an objection as
14 to relevance. We've reserved --

15 MR. NORTH: Oh. Sure.

16 MR. LEVENTHAL: -- on those.

17 MR. NORTH: Okay.

18 I will allow the amendment. I think it's
19 substantially the same issue is involved here. And I don't
20 even know if the percentage is more or more or less. I
21 haven't -- I haven't even figured that. I think the percentage
22 probably is more -- according to the complaint, is more
23 work on Judge McArthur if you compare 59 to 1,000,
24 compared to 171 to 2,000. But I will allow the amendment.

25 MR. ARNONE: Thank you, Mr. North.

(Colloquy)

1 MR. NORTH: Okay. Scheduling now. I guess
2 some people want lunch. Do we want --

3 Mr. Leventhal, do you want --

4 MR. LEVENTHAL: Do you want -- do you
5 want this on the record or off the record?

6 MR. NORTH: Well, we can go stay on the
7 record for the moment. Mr. Leventhal, do you plan to call a
8 witness? Let me back up.

9 Mr. Arnone?

10 MR. ARNONE: Yes?

11 MR. NORTH: Are you resting at this point?

12 MR. ARNONE: Yes. Commission Counsel
13 does rest at this time.

14 MR. NORTH: Okay.

15 MR. ARNONE: I was passed a note indicating
16 that Ms. Pamela Lucia and Sarah Jensen are here. I believe
17 these are Mr. Leventhal's witnesses. I just want to make
18 sure that's communicated to the Respondent.

19 MR. NORTH: Okay.

20 And is it your interest in calling them today?

21 MR. LEVENTHAL: Yes.

22 MR. NORTH: Okay. So you can really chart
23 your own fate. When would you like to be back to resume?

24 MR. LEVENTHAL: Well, it's now 1:15. So I
25 suggest 2:30.

(Colloquy)

1 MR. NORTH: And the Judge said two o'clock.
2 So we'll compromise. 2:15. Is that good?
3 JUDGE PLASS: Sure.
4 MR. ARNONE: Okay.
5 MR. LEVENTHAL: And I will reprimand my
6 client.
7 MR. NORTH: Okay. So see you back here at
8 2:15.
9 MR. FRIEDBERG: You have to say off the
10 record for him.
11 MR. NORTH: Off the record, Michael.
12 (Recess from 1:17 p.m. until 2:26 p.m.)
13 MR. MAISONET: On the record.
14 MR. NORTH: And Mr. Leventhal, please call
15 your first witness.
16 MR. LEVENTHAL: Thank you. I call Sarah
17 Jensen.
18 Hi. This the escort? Okay.
19 MR. KHAN: Witness entering.
20 MR. NORTH: Please remain standing. Raise
21 your right hand.
22 Do you swear to tell the truth?
23 MS. JENSEN: Yes.
24 MR. NORTH: Okay. Please be seated.
25 THE WITNESS: I'll make sure that the sounds

(Sarah Jensen - Direct)

1 are off. Sorry.

2 MR. NORTH: Okay.

3 THE WITNESS: Okay.

4 MR. NORTH: Good reminder.

5 THE WITNESS: Yes.

6 MR. NORTH: You may proceed, Mr.

7 Leventhal.

8 MR. LEVENTHAL: Thank you.

9

10 SARAH JENSEN,

11 having been duly sworn, was examined and testified as follows:

12

13 DIRECT EXAMINATION BY

14 MR. LEVENTHAL:

15 Q. Good afternoon, Ms. Jensen. I see that you're in the familiar posture of a
16 Clerk who's facing the Court.

17 A. Yes.

18 Q. But today you're a witness.

19 A. Correct.

20 Q. So you can face the podium. As you know, I'm Steve Leventhal. I'm
21 Judge Plass' attorney.

22 A. Yes.

23 Q. Are you employed?

24 A. Yes.

25 Q. By whom?

(Sarah Jensen - Direct)

1 A. Currently, the Town of Hyde Park Police Department.

2 Q. And what is your title?

3 A. Dispatcher.

4 Q. What do your duties include?

5 A. Full-time dispatch police agency to any given calls that may come in.

6 Q. Sure. And what is the location at which you work?

7 A. The town of Hyde Park Police Department.

8 Q. And what is the proximity or position of the police department relative to
9 the court?

10 A. We're in the same building, just opposite sides of the building.

11 Q. Are there security cameras in the police department?

12 A. Yes.

13 Q. And what do you -- what can you view on those security cameras?

14 A. There are several areas of the parking lot; there's our back area for the
15 police agency, internal cameras, holding cell area; there's cameras for the
16 court lobby and exterior cameras all the way around the building.

17 Q. So if someone entered the court after hours, that would be visible to you
18 on those security cameras?

19 A. Yes.

20 Q. What hours do you work?

21 A. 11:00 p.m. to 7:00 a.m., Monday through Friday, and often overtime
22 shifts on the weekends.

23 Q. Were you previously employed by the Town in a different capacity?

24 A. Yes.

25 Q. What capacity was that?

(Sarah Jensen - Direct)

1 A. I was Clerk to Justice -- to Judge McArthur.

2 Q. During what period?

3 A. 2019 until just this past November.

4 Q. That would be in November of 2024?

5 A. '24. Correct.

6 Q. What were your duties as Clerk to Justice?

7 A. There's many. Any day-to-day operations, phones, court window, court
8 sessions, preparation of calendars, financials, monthly reporting.

9 Anything that came through the court, really.

10 Q. Did you prepare the monthly report?

11 A. Yes.

12 Q. That's the monthly report for the State Comptroller's Office?

13 A. Correct.

14 Q. Okay. And what did that report contain?

15 A. Any funds that were collected for any type of case that came through the
16 court, anything down from a Town ordinance all the way up to a Criminal
17 matter, fines, surcharges, fees.

18 Q. How long would it take, typically, for you to prepare such a report?

19 A. At the end of the month -- I tracked it weekly and daily and weekly, so it
20 was pretty much on track. But at the end of the month, maybe 10 to 15
21 minutes to prepare a briefing for Judge.

22 Q. Did you ever have an opportunity to observe the length of time it took
23 Judge McArthur to review a monthly report?

24 A. Um-hum. Many times.

25 Q. How did that occur?

(Sarah Jensen - Direct)

1 A. I would print everything, prepare it, and leave it for her. Often, she
2 would come in on her court calendar nights, Tuesdays, and she would -- I
3 mean, 10, 15 minutes and hand it back to me.

4 Q. Would it surprise you to learn that in the record that Judge McArthur kept
5 of her hours, she recorded two --

6 MR. ARNONE: Objection.

7 MR. NORTH: Finish your question.

8 Q. -- she recorded two hours for reviewing a monthly report?

9 MR. ARNONE: Objection.

10 MR. NORTH: I'll allow it.

11 A. I have never witnessed it take that long on her -- for her part of it, I've
12 never witnessed it take that long.

13 Q. When you say that you described her as performing this function in 15
14 minutes --

15 A. Um-hum.

16 Q. -- would that be the typical length of time that it would take her?

17 A. Yeah. Generally. Um-hum. I mean, there was never any discrepancies,
18 really, that she would have to review. So it was pretty straightforward,
19 the report, the check signing. We did have a transmittal sheet that would
20 go between our department and the Town Hall to sign off that they
21 received the check. That was it.

22 Q. During the period of time that you clerked for Judge McArthur, how
23 often were there after-hour arraignments?

24 A. Well, after bail reform, it went drastically down. I can say prior to
25 November and me leaving there was minimal arraignments after hours. I

(Sarah Jensen - Direct)

1 don't even know if I could give you a number. Maybe -- they didn't even
2 happen weekly.

3 Q. In the six months -- in the last six months during which you -- well, let's
4 say in -- you clerked for Judge McArthur until November 2024?

5 A. Correct.

6 Q. So do you have a sense of how many of those occurred between January
7 1, 2024, and the date in November when you left?

8 A. 11 months? Less than ten.

9 Q. Okay.

10 A. That's for her physically coming in and leaving a file for us? Less than
11 ten.

12 Q. Okay.

13 MR. NORTH: During what period?

14 MR. LEVENTHAL: January 1, 2024, to
15 November 2024.

16 BY MR. LEVENTHAL:

17 Q. And did it ever come to pass, while you were clerking for Judge
18 McArthur, that a request was made for another Judge to cover for her?

19 A. Yes.

20 Q. How did that occur?

21 A. She wanted to possibly go on a short weekend vacation or something.
22 She would ask me to email her surrounding towns to see if they would
23 cover after hours.

24 Q. So the request was made by you through email?

25 A. Yes.

(Sarah Jensen - Direct)

1 Q. And how often --

2 A. On behalf of her, yes.

3 Q. Sure. How often did that occur?

4 A. Probably twice this year. Or I'm sorry, 2024, probably twice. Yeah.

5 Q. And what occurred? What, if any, response did you get from those
6 emails?

7 A. The first request we had a judge from -- I don't know if it was Rhinebeck
8 or Red Hook, which are adjoining towns, and he agreed. He gave us his
9 availability, too. And we made sure that the police agencies were aware
10 of who to call and, you know, what hours. And the second request, I
11 believe they just weren't available.

12 Q. Did they respond and tell you they weren't available?

13 A. Yes.

14 Q. Okay. So you actually -- each time you sent out --

15 A. Yes.

16 Q. -- an email on behalf of Judge McArthur requesting coverage, you got a
17 response?

18 A. Yes.

19 Q. And one of the two times someone was available and covered for her?

20 A. Yes.

21 Q. And the other, no one was available, but they responded?

22 A. Yes. And let me -- there may have -- one of those times may have been a
23 phone call request rather than an email. We were very close with the
24 Judges surrounding our towns. They often helped out, you know, even
25 prior to this. So one of those, I recall a conversation on the telephone

(Sarah Jensen - Direct)

1 with Judge Triebwasser. So an email --

2 Q. Was that call between Judge Triebwasser and you?

3 A. Yes.

4 Q. Okay. And you placed that call?

5 A. Yes.

6 Q. And how about plea colloquies? How long does that generally take?

7 A. Like, from the time of entering a plea to the time of, like, a fine being set?

8 Or a --

9 Q. No. I mean how long does it take to preside over a plea?

10 A. Oh.

11 MR. ARNONE: Objection.

12 MR. NORTH: No. Overruled.

13 MR. LEVENTHAL: You know what? I

14 withdraw.

15 BY MR. LEVENTHAL:

16 Q. And I'm going to break it down to make it simpler to answer. First, let's

17 start with -- let's start with Traffic cases.

18 A. Okay.

19 Q. Typically, how long does it take to preside over a plea?

20 A. During a court session?

21 Q. Yes.

22 A. Five minutes.

23 Q. Okay.

24 A. Everything else is already done, and it's just really the -- the sentencing

25 portion of it's very quick.

(Sarah Jensen - Direct)

1 Q. And is it fair to say that the vast majority of Traffic cases are disposed of
2 by plea?

3 A. Yes.

4 Q. Okay. I'm going to come back to pleas by mail.

5 A. Um-hum.

6 Q. But now let's go to Criminal pleas entered in court. Same question. Is
7 there a typical amount of time that that might take?

8 A. I would probably say between five and ten minutes with allocution, and
9 that it does take a little bit longer, but not exorbitantly.

10 Q. And do you have any sense of the relationship, the percentage of cases
11 that are disposed -- Criminal cases that are disposed of by plea?

12 A. In our court, I mean, we haven't had trials or anything. So 99 percent of
13 them.

14 Q. And when was the last time, to your knowledge, a bench trial occurred?

15 A. A very long time. I don't -- I wouldn't even -- a very, very long time.

16 Q. But not while Judge Plass has been presiding?

17 A. No.

18 Q. Okay. And motion practice --

19 A. Um-hum.

20 Q. -- a sense of the percentage of cases that involve motion practice, written
21 motions?

22 A. On Criminal?

23 Q. Yes.

24 MR. ARNONE: I'm just going to object based
25 on a foundation. Is this witness in a position to even

(Sarah Jensen - Direct)

1 answer that question?

2 MR. NORTH: Lay a foundation, please.

3 BY MR. LEVENTHAL:

4 Q. Are you in a position to know the percentage of cases that involve motion
5 practice in your court?

6 A. I mean, the motions are submitted to the Clerks --

7 Q. Right.

8 A. -- as the court -- you know, that's our -- we go between the Judges and
9 you know, the DA, the Public Defender. It's coming to us directly.

10 Q. And do you have a sense of how many -- what percentage of the Criminal
11 cases that are handled in the court involve motion practice?

12 A. I'm referring to 2024, just because I have more knowledge of the cases
13 that were pending. At that time, there was probably -- when I left, there
14 was probably maybe two or three cases that were pending motions,
15 whether that be an answer to a motion or a decision or -- you know.
16 There wasn't many.

17 Q. And do you have a sense, perhaps -- if I ask it this way -- perhaps per
18 month, typically, how many motions were filed?

19 A. Maybe one or less.

20 Q. Okay. And how about decisions written by Judge McArthur? How
21 frequently did Judge McArthur write written decisions?

22 A. On criminal matters?

23 Q. Yes.

24 A. Not very often. More recently not. I don't recall one even recently in this
25 year --

(Sarah Jensen - Direct)

1 Q. How about in 2024?

2 A. -- for 2024. I don't recall any in 2024.

3 Q. Okay. And arraignments, how long -- is there a typical amount of time
4 that an arraignment takes?

5 A. Yes. It does depend a lot on the Public Defender, because we always had
6 them present. Some of them took longer to speak with their clients
7 before beginning the arraignment. But anywhere from, say, 15 minutes
8 to an hour, at most. An hour is kind of a long stretch, but it had taken
9 that time with a particular Public Defender.

10 Q. Is there a typical amount of time that an arraignment would take?

11 A. I would say 15 to 30 minutes, somewhere in that threshold.

12 Q. Okay. And let's return to pleas by mail.

13 A. Um-hum.

14 Q. Did you have occasion to observe the length of time that it would take for
15 a judge to set a plea in a -- to process a plea by mail?

16 A. Minutes, a couple minutes. If the plea -- the offer is already there, and
17 you're -- they're just accepting that offer and assessing a fine and
18 surcharge based on the reduced charge. So a couple of minutes.

19 Q. And would it surprise you to hear that Judge McArthur testified that it
20 took her two hours to process 25 pleas by mail?

21 MR. ARNONE: Objection.

22 MR. NORTH: I'll allow it.

23 A. That seems a bit high to me.

24 BY MR. LEVENTHAL:

25 Q. What was your work schedule as Clerk to Justice?

(Sarah Jensen - Direct)

1 A. We were 37.5-hour employees. Daily it may have varied because of
2 court sessions or, you know, evening court calendars. We weren't often
3 allowed to go over that amount of hours, so we would adjust in the
4 morning, so to speak, and come in a little bit later if we had a court
5 session that evening. But it was 37.5 hours a week.

6 Q. And how often did you see Judge McArthur in court?

7 A. In court sessions? Well, prior to Judge Plass' election, it was once a
8 week. And after that, it was twice a week.

9 Q. And when I say how often did you observe Judge McArthur in court, was
10 your answer limited to sessions of the court?

11 A. Yes.

12 Q. Okay. Now let's talk about --

13 A. Scheduled sessions.

14 Q. Scheduled sessions. So now let's talk about times that you observed
15 Judge McArthur to be in the court when there was not a scheduled
16 session.

17 A. She would drop in the office maybe a couple times a week, two to three
18 times a week.

19 Q. And what would she do when she dropped by, if you know?

20 A. We may have called her to come and sign paperwork. We may have stuff
21 for her to handle; like, maybe her monthly report was there to do. It
22 could be the setting of some of the plea bargains by mail. Just basic
23 duties.

24 Q. And how long did it take Judge McCarthy to perform those duties when
25 she was at the courthouse?

(Sarah Jensen - Direct)

1 A. She was never there for more than maybe an hour or two at most. If it
2 was just coming in to sign something that we asked her to stop in for, it
3 was minutes.

4 Q. I want to return for a moment to arraignments.

5 A. Um-hum.

6 Q. You spoke about bail reform causing after-hour arraignments to
7 significantly decrease; is that right?

8 A. Um-hum.

9 Q. Let's talk about in-person arraignments at the courthouse.

10 A. Um-hum.

11 Q. How, if at all, did they change after bail reform?

12 A. Well, after bail reform, you know, the number of available offenses going
13 down so drastically, the need for an in-person arraignment went down.
14 So often, appearance tickets were okayed by her, or any judge, as
15 opposed to physically bringing a subject in to be arraigned.

16 Q. And what's involved in approving an appearance ticket?

17 A. It could be a phone call directly to the judge from the police agency, it
18 could be a phone call to the court if we were during open hours, or the
19 maybe the clerk communicated through the judge on how to handle it and
20 authorized an appearance ticket. I can't really attest to any after-hour
21 phone calls that may have taken place. But if we were open and
22 operating, a lot of times the agency would call the court office.

23 Q. So the Judge's role in approving an appearance ticket to is merely
24 receiving a telephone call and giving her approval?

25 A. Um-hum.

(Sarah Jensen - Direct)

1 Q. Okay. And did you ever work evening hours?

2 A. Yes.

3 Q. How frequent did that occur?

4 A. Twice a week.

5 Q. And was Judge McArthur at the courthouse on those occasions when you
6 were working evening hours?

7 A. Yes. It was always -- well, before Judge Plass, yes, she was -- it was her
8 scheduled Tuesday evening court session.

9 Q. Um-hum.

10 A. And after that, she was doing some of the Thursday evenings as well. So
11 for scheduled sessions, yes, I was there working with her.

12 Q. Okay. And during the time that you've been working for the Police
13 Department, did you ever observe Judge McArthur to arrive at the
14 courthouse after hours?

15 A. During my shift? Once.

16 Q. When was that?

17 A. It had to be about a month ago.

18 Q. Um-hum. And do you know what the reason for her attendance at court
19 was on that occasion?

20 A. The Sheriff's Department was seeking signature on a search warrant.

21 Q. Okay. Are you aware of any occasions when that occurred while you
22 were the Clerk to Justice -- for Judge McArthur?

23 A. Yes.

24 Q. How often?

25 A. Yeah. Again, after bail reform, it was minimal. Sometimes if there was a

(Sarah Jensen - Direct)

1 search warrant request, it happened during the day, and she would meet
2 with the agency outside of the court office. But it was always paperwork
3 that came back to the clerk. So we were aware that, you know,
4 something did occur.

5 Q. Do you have a sense of how many times it occurred from January 1,
6 2024, to November 2024?

7 A. Our drug task force has been very active, so as far as signing of search
8 warrants, I would say maybe five-ish, around that.

9 Q. And do you know what percentage of those occurred at the courthouse
10 versus how many occurred outside of the courthouse?

11 A. I would say the majority of them happened at the courthouse. There
12 might have been one or two that happened outside of the court office.

13 Q. And one or two outside of the court office, one after hours, and the rest
14 during regular court hours at the courthouse?

15 A. Yeah.

16 MR. LEVENTHAL: I'd like to put up an
17 exhibit, please. And let's start with Exhibit A.

18 MR. NORTH: This is Defendant's Exhibit A?

19 MR. LEVENTHAL: Yes, Respondent. Yes.

20 BY MR. LEVENTHAL:

21 Q. Do you recognize this --

22 MR. NORTH: A-1?

23 Q. -- this document?

24 A. Um-hum. That's a sign-in sheet for any given court session.

25 Q. Okay.

(Sarah Jensen - Direct)

1 MR. LEVENTHAL: Just if you would scroll
2 down a bit just to make sure that we're seeing the entire --
3 Good. Okay.

4 BY MR. LEVENTHAL:

5 Q. And what does this document indicate?

6 A. Those are people who physically appeared for their scheduled court
7 session.

8 Q. So any other case that was on the calendar on that date was a no-show?

9 A. Correct.

10 Q. Okay.

11 A. They're not signed in and they were a no-show. There was no way to
12 enter the courtroom without passing the sign-ins and the court officers.

13 Q. Okay.

14 MR. LEVENTHAL: And would you go to the
15 next page, please?

16 MR. NORTH: So it's clear, that's Exhibit A-1,
17 dated March 19, 2024?

18 MR. LEVENTHAL: It's actually March and
19 April 2024.

20 MR. NORTH: What's the date on the top of the
21 page?

22 MR. LEVENTHAL: Well, the first page -- the
23 first few pages are March 19th.

24 MR. NORTH: Okay. And which page are you
25 referring to now?

(Sarah Jensen - Direct)

1 MR. LEVENTHAL: Well, let's continue to
2 April. That's the third sheet.

3 MR. NORTH: April 9th?

4 MR. LEVENTHAL: Yes.

5 MR. NORTH: Okay.

6 BY MR. LEVENTHAL:

7 Q. What does this sheet -- oh. You know what? Withdrawn. Let's go to the
8 first page again. We'll use this as representative, then we won't have to
9 go through all of them. How many Defendants actually appeared in court
10 on March 19, 2024?

11 A. Well, on this first page --

12 Q. Yes.

13 A. -- it looks like eight.

14 Q. And the next page?

15 A. 15.

16 Q. So 15 in total --

17 A. Um-hum.

18 Q. -- for the two pages?

19 A. Yeah.

20 Q. Okay. That was March 19th.

21 MR. LEVENTHAL: Next page, please.

22 BY MR. LEVENTHAL:

23 Q. Okay. This is April 9th.

24 A. Um-hum.

25 Q. How many Defendants does it indicate appeared in court on April 9,

(Sarah Jensen - Direct)

1 2024?

2 A. That looks like one, because the handwriting on the second line appears
3 to be ours so that we knew what name to pull the file because it wasn't
4 legible.

5 Q. Sure.

6 MR. LEVENTHAL: Let's go to the next page.

7 BY MR. LEVENTHAL:

8 Q. And now we're still on April 9th. How many people appeared?

9 A. Um-hum. Seven.

10 Q. Seven. So that's now a total of eight --

11 A. Eight.

12 Q. -- for April 9th?

13 MR. LEVENTHAL: Next page, please.

14 BY MR. LEVENTHAL:

15 Q. And another seven?

16 A. 15 total there.

17 Q. Okay.

18 MR. LEVENTHAL: Next page.

19 BY MR. LEVENTHAL:

20 Q. Is that --

21 A. 16.

22 Q. And one more name, that makes 16 in total?

23 A. Correct.

24 MR. LEVENTHAL: Keep going, please.

25 BY MR. LEVENTHAL:

(Sarah Jensen - Direct)

1 Q. And another three.

2 A. 19.

3 Q. Okay.

4 A. 20.

5 Q. One more. 20.

6 MR. LEVENTHAL: Go ahead, please.

7 A. 23.

8 BY MR. LEVENTHAL:

9 Q. Okay.

10 A. 24. 25.

11 Q. Oh.

12 A. Jail list.

13 Q. Okay. So on April 9th, 25 defendants appeared in court?

14 A. Correct. Physically, yes.

15 Q. Do you know how long that court session was?

16 A. This is going to -- it's my birthday, so I know I was there. It wouldn't
17 have taken more than a an hour and a half --

18 Q. Happy birthday.

19 A. -- three hours, at most.

20 Q. I'm also an Aries. Okay. Okay. So what does the next page depict?

21 A. That is a list of inmates that are being transported. The ones that are
22 scratched off at the bottom were probably prior observance to the
23 calendar.

24 Q. So the number of -- so do inmates sign in?

25 A. No.

(Sarah Jensen - Direct)

1 Q. Okay. So if this occurred on April 9th, these are three more Defendants
2 that actually appeared in person? Okay.

3 MR. LEVENTHAL: Next page, please.

4 BY MR. LEVENTHAL:

5 Q. And April 9th.

6 A. That might have been a second updated. It looks like some of the names
7 are the same.

8 Q. Yes.

9 MR. LEVENTHAL: Can we compare this to
10 the previous page, please? V [REDACTED] (phonetic). Yeah.

11 That's written on the bottom. V [REDACTED] is there. Right.

12 BY MR. LEVENTHAL:

13 Q. So is the second of those two pages, in other words, page number -- or is
14 it -- page number --

15 A. No. They were probably sent at different times.

16 Q. So one Defendant could have been sent twice in a single day?

17 A. No. So sometimes the jail would fax a list, and sometimes probation
18 would send us a list. And in the time that the first one was sent, like, the
19 times might be different.

20 Q. Okay.

21 A. See the 4/9, Tuesday, seven o'clock fax?

22 Q. Yeah.

23 A. Those times might be different, or one of them may have come through
24 email. There could have been a couple that were adjourned prior to the
25 calendar starting, or a day or two before that. And they may have sent an

(Sarah Jensen - Direct)

1 updated list after those adjourned.

2 Q. So this this page, page number 13, is stamped seven o'clock.

3 A. Um-hum.

4 MR. LEVENTHAL: Can we look at the
5 previous one, please?

6 BY MR. LEVENTHAL:

7 Q. 10:22. So that would have been 10:22 in the morning?

8 A. I would think so. I don't think the fax machine was set up for military
9 time.

10 Q. Okay.

11 MR. LEVENTHAL: And then the next page.

12 BY MR. LEVENTHAL:

13 Q. So the next page is a corrected or updated --

14 A. Most likely.

15 Q. Okay. So it's not additional names; it's just --

16 A. Correct.

17 Q. -- before? Okay.

18 A. I mean, two could have been removed, and one could have been added.

19 Q. Okay.

20 A. This is the same court calendar. So oftentimes, the day or two leading up
21 to a criminal calendar, a lot of files or cases were adjourned or --

22 Q. Sure.

23 A. -- moved to -- you know, for whatever reason. There was a lot of
24 adjournment requests that took place.

25 Q. Sure. And I may have mistakenly referred to this as page 39. If I did, it's

(Sarah Jensen - Direct)

1 13 of 39. Okay.

2 MR. LEVENTHAL: Next page, please.

3 MR. NORTH: Where are you referring to?

4 Where is the page?

5 MR. LEVENTHAL: If you look at the -- yeah,
6 where the cursor is now.

7 Do you see that, Judge? I'll point to it. It's right
8 here.

9 MR. NORTH: I guess it's just missing -- I have
10 something on the far right?

11 MR. LEVENTHAL: No, what you are looking
12 at is not this computer screen.

13 MR. NORTH: Yeah.

14 MR. LEVENTHAL: You're looking at the
15 document itself.

16 MR. NORTH: Yes.

17 MR. LEVENTHAL: But the reason I refer to it
18 as page 13 of 39 is because the program that's being used --

19 MR. NORTH: I see.

20 MR. LEVENTHAL: -- to display it indicates
21 that.

22 MR. NORTH: So we're referring to the page
23 that begins -- and the typed entry is 8:30, and it refers to
24 V [REDACTED], C [REDACTED] (phonetic), yes?

25 MR. LEVENTHAL: Well, that was the

(Sarah Jensen - Direct)

1 previous one. That's the one that was superseded. This is
2 the time is 7:00, which I take to be 7:00 p.m.

3 MR. NORTH: Okay.

4 MR. LEVENTHAL: Okay. Next page.

5 Q. April 9th, all stricken.

6 MR. LEVENTHAL: Next page.

7 BY MR. LEVENTHAL:

8 Q. April 9th, all stricken; am I right?

9 A. You are correct.

10 Q. Okay.

11 A. I can explain why they were probably stricken.

12 Q. Well --

13 A. Probably.

14 Q. -- the point is they didn't --

15 A. If you want me to.

16 Q. -- well, the point is they didn't appear, right? That's the point that I'm --

17 A. Not --

18 MR. ARNONE: Objection. Leading.

19 A. -- necessarily.

20 MR. NORTH: So what does it mean, then --

21 THE WITNESS: It may have been --

22 MR. NORTH: -- Ms. Jensen?

23 THE WITNESS: -- one of the sheets that we
24 used for ourselves to pull files out, and we were crossing
25 them off as we were pulling files.

(Sarah Jensen - Direct)

1 MR. NORTH: Okay.

2 MR. LEVENTHAL: Okay. All right. Next

3 page.

4 BY MR. LEVENTHAL:

5 Q. And this is a new date?

6 A. April 16th.

7 Q. So let's see how many appear on April 16th.

8 A. 17 on this page.

9 MR. LEVENTHAL: Next page, please.

10 A. 28.

11 BY MR. LEVENTHAL:

12 Q. Okay. You're keeping running total, right?

13 A. Yes. Yes.

14 MR. LEVENTHAL: Okay. Next page, please.

15 A. 39.

16 BY MR. LEVENTHAL:

17 Q. And this is a new date?

18 A. Correct.

19 Q. So 39 people on April 16th.

20 A. Correct.

21 Q. And apparently no prisoners?

22 A. May not have been a need for transport or -- yeah. There just may not
23 have been any that were placed on that calendar.

24 Q. Sure. Okay.

25 MR. LEVENTHAL: Next page, please.

(Sarah Jensen - Direct)

1 BY MR. LEVENTHAL:

2 Q. Well, rather than go through endless examples, are those fairly
3 representative of the number of Defendants that would appear in court on
4 a court?

5 A. The sign-in sheets are the most accurate.

6 Q. Okay.

7 MR. LEVENTHAL: And all of the sign-in
8 sheets are on the record, Mr. North, so I'm not going to
9 waste time by walking the witness through every one just to
10 count them.

11 BY MR. LEVENTHAL:

12 Q. Okay. So who retrieved the files in preparation for court?

13 A. The clerks.

14 Q. Okay. And what is typically contained in a court file?

15 A. From start to finish? The original charges, the rap sheet that was
16 presented with the charges from the police agency. There's random
17 paperwork that we would print from the start, anything that would
18 possibly be needed through sentencing so that it was all ready. Any other
19 letters or facts that may come through from Defense or Prosecution.
20 Everything stayed in the file through the life. And then at the end, if
21 anything had to be destroyed, it would be destroyed at that point.

22 Q. Did the Judge typically review the court files in advance of court
23 sessions?

24 A. Occasionally.

25 Q. When you say occasionally, how frequently?

(Sarah Jensen - Direct)

1 A. Once a month, just a day or two before the actual calendar.

2 Q. Okay. Okay. And when a judge signs a bond, do you know what's
3 involved in performing that task?

4 Q. We were not often involved. Those appointments would be made
5 between the judge and the bondsmen, usually. But she did have them
6 often come to the office to meet and sign the paperwork, and it was very
7 quick.

8 Q. And a search warrant request, do you know how long they typically took?

9 A. Maybe ten minutes.

10 Q. Okay. How about a request for an order of protection?

11 A. That typically happened at either arraignment or in a court session.

12 Q. Okay. Which judge or judges handled zoning and town ordinance
13 violations?

14 A. Judge Plass -- well, for 2024, Judge Plass.

15 Q. Did you have occasion to observe Judge Plass in the discharge of his
16 duties?

17 A. Yes.

18 Q. And what hours did Judge Plass typically work?

19 MR. ARNONE: Just objection as to time
20 period. Just if we can narrow it down.

21 MR. NORTH: Okay.

22 MR. LEVENTHAL: We're talking about the
23 period in each case from January 1, 2024, to November
24 2024.

25 MR. NORTH: We're going to do from

(Sarah Jensen - Direct)

1 February, actually.

2 MR. LEVENTHAL: Oh. February. Sure. Yes.

3 Thank you.

4 MR. NORTH: All right.

5 A. I mean, he was there for all the civil calendars.

6 BY MR. LEVENTHAL:

7 Q. Um-hum.

8 A. He often came in for administrative reasons. Being a department head,
9 we had payroll. We had any issues with human resources or anything
10 that needed to be handled. He often came in when we were shorthanded.
11 He would sit and do sign-in sheets for us to alleviate having only one
12 clerk in the courtroom. So he was there multiple times a week.

13 Q. Okay. How would you characterize Judge Plass' work ethic?

14 MR. ARNONE: Objection. It's not character
15 witness.

16 MR. NORTH: I'll allow it, for whatever it's
17 worth.

18 A. I had the benefit of working with him briefly, you know, in small
19 capacity prior to his election. He's always been a kind -- in my opinion, a
20 kind, generous person.

21 Q. Well --

22 MR. ARNONE: Objection. Move to strike.
23 Not responsive to the question.

24 MR. NORTH: Yeah. Sustained. Strike.

25 BY MR. LEVENTHAL:

(Sarah Jensen - Direct)

1 Q. You answered about Judge Plass' demeanor --

2 A. Okay.

3 Q. -- which will be my next question.

4 A. Okay.

5 Q. But this question is about how hard did he work.

6 A. He worked hard.

7 Q. And --

8 A. He came in to fulfill duties that weren't even required of him that I've
9 never actually seen before in a judge.

10 Q. Can you give us some examples of that?

11 A. Just coming in to handle sign-in sheets to help out the clerks when, you
12 know, we've had a clerk out sick for a week and we have a criminal
13 calendar coming up. And he would often come in and help prepare and
14 help during the session.

15 Q. Sure. So now, did you have an opportunity to observe Judge Plass'
16 demeanor on the bench?

17 A. Yes.

18 Q. How did Judge Plass typically treat the public?

19 A. Professionally, fair.

20 Q. Was he courteous?

21 A. Yes.

22 Q. Did you observe him demonstrate any bias or prejudice?

23 A. No.

24 Q. And how did Judge Plass typically treat court personnel?

25 A. Great. I have no complaints.

(Sarah Jensen - Direct)

1 Q. Okay.

2 MR. LEVENTHAL: Would you please display
3 the Defendant's list of -- well, I have -- yeah. Easier to do it
4 this way. Thank you. Let's go to B-1, please. And scroll
5 down, please. So I guess -- so go back to the table of
6 contents, please.

7 BY MR. LEVENTHAL:

8 Q. Did you have occasion to clerk for Judge Petito?

9 A. Yes.

10 Q. Okay.

11 MR. LEVENTHAL: So let's try Exhibit B.

12 Yeah. That one.

13 BY MR. LEVENTHAL:

14 Q. Have -- do you recognize this document?

15 A. I don't think I've ever seen this.

16 Q. Okay. If I told you that Judge Petito reported 46.9 hours for the month of
17 January 2016, would you know if that was an accurate reflection of the
18 hours that he worked for the court?

19 MR. ARNONE: Judge, I'm going to object.

20 MR. NORTH: Basis?

21 MR. ARNONE: My basis is that it's irrelevant.

22 There's prior testimony that this document is not a time
23 sheet. I think it's misleading to show a witness and purport
24 for it to be a time sheet and ask her if it accurately reflects
25 the time they've worked when we have testimony that that's

(Sarah Jensen - Direct)

1 not the case.

2 MR. NORTH: So would you rephrase your
3 questions?

4 MR. LEVENTHAL: Well, this is a report by
5 Judge Petito.

6 MR. NORTH: Just rephrase your question.

7 BY MR. LEVENTHAL:

8 Q. If I were to tell you that --

9 MR. LEVENTHAL: Scroll down, please, a
10 little bit.

11 MR. ARNONE: Judge, I'm just going to
12 object -- this is a direct examination -- to the form of the
13 question before it's even been asked.

14 MR. NORTH: Present your question.

15 Ms. Jensen, do you have any knowledge of how
16 many hours per week Judge Petito worked in January of
17 2016?

18 THE WITNESS: Probably not 2016. But when
19 I --

20 MR. NORTH: Okay.

21 THE WITNESS: -- began in 2019 is when I
22 began working with him.

23 MR. NORTH: Okay. Thank you.

24 BY MR. LEVENTHAL:

25 Q. And in 2019, how many hours was Judge Petito working, if you know?

(Sarah Jensen - Direct)

1 MR. NORTH: I object to the foundation of that.

2 Ms. Jensen, do you have knowledge as to how
3 many hours per week Judge Johnson (sic) worked in 2019?

4 MR. LEVENTHAL: Judge Petito.

5 THE WITNESS: Judge Petito?

6 MR. NORTH: Petito. Sorry.

7 THE WITNESS: I mean, I can probably
8 roughly. Yeah. I was with him for all of my time until his
9 departure.

10 MR. NORTH: Did you work for him at that
11 time?

12 THE WITNESS: Not for him, but we -- the two
13 clerks that were appointed to each judge, we covered for
14 each other. So we were all there at the same time.

15 MR. NORTH: And do you know how many
16 hours a week he worked in January of 2019?

17 THE WITNESS: Probably 10 to 20.

18 MR. NORTH: And what do you --

19 THE WITNESS: Probably closer to 20.

20 MR. NORTH: -- what do you -- do you
21 remember January 2019?

22 THE WITNESS: It was my first year. Yeah.

23 MR. NORTH: Okay.

24 THE WITNESS: Yeah.

25 MR. NORTH: It was your first --

(Sarah Jensen - Cross)

1 THE WITNESS: That's when I started in Hyde
2 Park.

3 MR. NORTH: Okay. Okay.

4 MR. LEVENTHAL: Okay. All right.

5 Thank you.

6 No further questions.

7 MR. NORTH: Okay.

8 MR. LEVENTHAL: Thank you.

9 CROSS-EXAMINATION BY

10 MR. ARNONE:

11 Q. Good afternoon, Ms. Jensen.

12 A. Hi.

13 Q. How are you?

14 A. Good. How are you?

15 Q. This is not the first time we've spoken, right?

16 A. Do I --

17 Q. We spoke by phone. I'm Eric Arnone with the Commission.

18 A. You're correct.

19 Q. Yes.

20 A. I just didn't have a face to the name.

21 Q. I know, lucky you.

22 A. Yes. Yes.

23 Q. Just a few questions. What was the first year that you started at Hyde
24 Park again? Was it 2019?

25 A. 2019.

(Sarah Jensen - Cross)

1 Q. What hours were you working in 2019?

2 A. 37.5 hours a week.

3 Q. I'm bad at math. How many days a week did that --

4 A. Five days a week.

5 Q. Right.

6 A. The hours per day differed --

7 Q. Um-hum.

8 A. -- because of evening court sessions.

9 Q. Okay. And at the time that you started that job, what other jobs had you
10 held before that? Was that your first legal job? Did you work --

11 A. No. I was with the Town of Fishkill Justice Court for 11 years prior to --

12 Q. Oh.

13 A. -- being in Hyde Park.

14 Q. Okay. So you have plenty of experience working --

15 A. Yes.

16 Q. -- in a courtroom?

17 A. I'm hitting 17 very soon.

18 Q. And working with --

19 A. Yeah.

20 Q. Congratulations. What were some of your -- and I'm turning now to
21 Hyde Park. What were some of your duties and responsibilities in the
22 Hyde Park Town Court as a Court Clerk?

23 A. As a Court Clerk? Anything during normal office hours, phones, court
24 window, any communication between the DA's Office, the Public
25 Defenders, preparation for calendars, financials preparation of monthly

(Sarah Jensen - Cross)

1 reports. Every day was different. But that's a number of many more that
2 we were responsible for.

3 Q. And Ms. Jensen, you were stationed in the courtroom or did you have an
4 office outside of the courtroom as well?

5 A. All the clerks were in an office right off of the courtroom.

6 Q. Okay.

7 A. So we all sat together.

8 Q. So when a court is in session, would you also sit inside of the courtroom?

9 A. Yes.

10 Q. Is that separate from the station that you all had together?

11 A. Yes.

12 Q. Okay. So you have sort of where you can be in different places. You can
13 be in the courtroom with the judges or you can be in this room with the
14 other clerks, correct?

15 A. Generally speaking, during court sessions, there was two clerks next to
16 the judge in the courtroom. And majority of our sessions were after
17 hours, after office hours. So nobody was really in our desks in the office.
18 We were all in the courtroom.

19 Q. Okay. And would you punch a clock?

20 A. No.

21 Q. You just sort of --

22 A. We have an online -- Paylocity, it's an online time sheet tracker.

23 Q. Okay. So when it was time to leave, you would check out --

24 A. Yeah.

25 Q. -- in the app?

(Sarah Jensen - Cross)

1 A. You would fill out your time sheet. You come in in the morning, put
2 what time you came in, leave at the end of the day, put what time you
3 left.

4 Q. Okay. And what time would you usually leave?

5 A. On a normal day --

6 Q. Yeah.

7 A. -- or a court session day?

8 Q. Normal day -- well, let's say a court session day.

9 A. For me, I was there the earliest. I was usually there between 7:00 and
10 8:00.

11 Q. A.M.?

12 A. Yes. And typically, the office closed at 3:00, so I was there until, like,
13 4:00 or 5:00. On a court day, I'd try to come in a little bit later, and we
14 would be there until court ended.

15 Q. Um-hum.

16 A. So whatever time that session ended, we were leaving.

17 Q. And how many days a week would you be in the courthouse working?

18 A. Five.

19 Q. Five?

20 A. Um-hum.

21 Q. Now, that's five days in not necessarily the courtroom. You could have
22 been working --

23 A. It could have been in any capacity, yes.

24 Q. Right.

25 A. So we were five day -- yeah.

(Sarah Jensen - Cross)

1 Q. Okay.

2 A. Monday through Friday.

3 Q. You testified earlier on direct about omnibus motions, or about pre-trial
4 motions in Criminal cases?

5 A. Um-hum.

6 Q. And you said you received them as a Clerk, correct?

7 A. Um-hum.

8 MR. NORTH: You do have -- please answer
9 yes or no.

10 A. Yes. I'm sorry. Yes.

11 BY MR. LEVENTHAL:

12 Q. How many years -- how many years were you working as a Clerk in
13 Hyde Park where you were working with Criminal cases? The whole
14 time that you were there?

15 A. The whole time.

16 Q. Okay. And can you explain to us what an omnibus motion is?

17 A. It's a pre-trial motion. It could include, you know, motion to dismiss; it
18 could include a bunch of other requests for a judge to -- well, typically
19 there's an answer after that and then a judge's decision.

20 Q. And motion to dismiss. Motion to dismiss what?

21 A. Yes. Motion to dismiss the charges --

22 Q. Um-hum.

23 A. -- typically. There could be a lot of different reasons.

24 Q. Did you ever see a motion to dismiss for facial insufficiency?

25 A. Honestly, I've seen those more often during arraignment.

(Sarah Jensen - Cross)

1 Q. Okay. Did you see requests for pre-trial hearings?

2 A. Yes.

3 Q. Public hearings?

4 A. Yes.

5 Q. Wade hearings?

6 A. Yes.

7 Q. Dunaway hearings?

8 A. Um-hum. Yes.

9 Q. Payton hearings? And so you testified you sort of processed those when
10 they come in?

11 A. We would receive them --

12 Q. Um-hum.

13 A. -- stamp them, date stamp them --

14 Q. Okay.

15 A. -- possibly print out the body of an email if there was stuff that needed to
16 be printed, and pull the file and leave the file for the judge to review. But
17 oftentimes in that in that email -- there may have already been a motion
18 schedule set.

19 Q. Right.

20 A. So we're receiving that motion. We're waiting for the answer on
21 whatever scheduled date.

22 Q. Um-hum.

23 A. But as things come in, we were leaving them for the judge --

24 Q. Okay.

25 A. -- so that they're aware of that same time line.

(Sarah Jensen - Cross)

1 Q. Now I'm talking about Judge McArthur. In your experience, would she
2 decide these motions from the bench? Let me rephrase that. Would she
3 review the motions on the bench?

4 A. Not on the bench.

5 Q. Okay. So she was reviewing them maybe in chambers or somewhere --

6 A. Right.

7 Q. -- else, correct? Where are you when that's happening? Are you
8 maintaining order in the courtroom or the Clerk's room?

9 A. Well, that may have taken place at a time where she had stopped in the
10 office. She definitely hasn't -- didn't really review motions during a court
11 session.

12 Q. Okay. Was it your practice as a Clerk to -- did you assist her page by
13 page throughout the omnibus motion?

14 A. No.

15 Q. Okay. So can you agree that there were times when she's reviewing these
16 motions that you're -- she's just not in your presence, correct? She's
17 doing them somewhere else?

18 A. I mean, our office is where -- I could see that she was in her office.

19 Q. Okay.

20 A. Yeah.

21 Q. Well, it sounds like --

22 A. Yeah.

23 Q. -- it sounds like from your testimony about your duties and
24 responsibilities you have a lot of things on your plate. I mean --

25 A. Yes.

(Sarah Jensen - Cross)

1 Q. -- the Court Clerk --

2 A. Yes.

3 Q. -- is responsible for doing a lot of things that a courtroom --

4 A. Yes.

5 Q. -- isn't that true?

6 A. Yes.

7 Q. So throughout the day as you're taking all of these files and then you're
8 making sure the sign-in sheets are here, are you paying 100 percent
9 attention to what Judge McArthur is doing? Can we agree that that's not
10 the case?

11 A. No, I can't agree, because our office is very small.

12 Q. So it's your testimony --

13 A. I mean, there is so --

14 Q. -- it's your testimony that as you were discharging your duties full time,
15 that you were watching Judge McCarthy the entire time she was
16 reviewing motions? Is that your testimony today?

17 A. No.

18 Q. All right. It couldn't be possible, right? Now --

19 MR. LEVENTHAL: Objection.

20 Q. -- the motions that you discussed --

21 MR. LEVENTHAL: Wait, there's an objection.

22 MR. ARNONE: Oh. I apologize.

23 MR. NORTH: I move to --

24 MR. ARNONE: Want me to withdraw --

25 MR. LEVENTHAL: Motion to strike the

(Sarah Jensen - Cross)

1 remark at the end.

2 MR. ARNONE: Just final remark is fine.

3 MR. NORTH: Sustained.

4 BY MR. ARNONE:

5 Q. The motions that you discussed for facial insufficiency or motions to
6 dismiss, do you agree that whoever's reading them -- whether it's Judge
7 McArthur or someone else -- these are substantive motions, the person
8 has to review the case file and actually look into the merits of the case; is
9 that -- do you agree with that?

10 A. Yes.

11 Q. You talked about you talked about the DMV sort of assessing the fines --
12 Judge McArthur assessing these fines. And there's a report that goes out
13 every month. You indicated it just takes a few minutes, by your
14 testimony, for her to do. Is that -- is that your testimony?

15 A. Yes.

16 Q. Are you -- and what was the basis for you telling us that today?

17 A. Because I was asked.

18 Q. So you were asked what?

19 A. About how long it takes her to --

20 Q. No, no, I understand that --

21 A. Oh.

22 Q. -- that's what prompted you. But what's your basis --

23 A. Okay.

24 Q. -- for giving the answer that it only takes a few minutes?

25 A. Oh, because she was giving them back to us to process.

(Sarah Jensen - Cross)

1 Q. Okay, so --

2 A. So she could come in for maybe 30 minutes and hand us back five or ten
3 tickets that she assessed fines on.

4 Q. Okay. So are there -- would there be ever times when Judge McArthur is
5 outside of your presence assessing these fines?

6 A. I'm sure there was.

7 Q. And is it -- I'm just trying to understand because you're obviously
8 watching a lot of clocks here. You've come up with -- you've been
9 testified to a lot of times. Just trying to understand what your basis of
10 knowledge is. If you're watching a clock, is that something you were
11 paying attention to at the time, how long it was taking her to do this stuff?

12 A. Yeah. Well, yeah. I mean I can tell by the length of time that she was
13 there and how many she presented to us before she left.

14 Q. So you would give the reports to her, and then she would disappear, and
15 then she'd come back 25 minutes later with the results; is that --

16 A. The tickets, you mean? The --

17 Q. Well, so the reports I'm talking about.

18 A. Monthly reports?

19 Q. Yeah.

20 A. The financials?

21 Q. Yeah.

22 A. Yeah, they were put on -- placed on her desk after they were prepared.

23 She would come into the office and hand them back within 15 minutes,
24 maybe 30 minutes.

25 Q. And are you aware that she had to read the reports and match them up

(Sarah Jensen - Cross)

1 with the court records to make sure that the information that went to --
2 went to the Comptroller's Office was accurate?

3 MR. LEVENTHAL: Objection.

4 MR. ARNONE: If I -- well, I'll let it -- I'll let
5 you.

6 MR. NORTH: Ask it again, please.

7 BY MR. ARNONE:

8 Q. The reports that you would give to the Judge to -- for her to read --

9 A. Um-hum.

10 Q. -- are you aware that the final product would go to the Comptroller's
11 Office?

12 A. Yes.

13 Q. Okay. And how often did that happen?

14 A. Every month.

15 Q. So there was a month's worth of information in each report?

16 A. Correct.

17 Q. And that's how many cases per report?

18 A. A monthly report could be anywhere between 10 and 20 pages, so -- and I
19 believe I did them front and back. I don't even know how many are per
20 page.

21 Q. I was going to ask how many cases per page.

22 A. Yeah, I mean I can estimate. I don't know that I can give you a
23 completely accurate number.

24 Q. That's okay. Do we -- do you agree that there are a lot of vehicle and
25 traffic cases that come through Hyde Park?

(Sarah Jensen - Cross)

1 A. No.

2 Q. No?

3 A. No.

4 Q. Okay.

5 A. I mean, no. I've worked in courts where there was hundreds a week.

6 Q. Okay.

7 A. No, Hyde Park is --

8 Q. I guess it's all relative?

9 A. Yes, exactly. Hyde Park --

10 Q. But it's your testimony that --

11 MR. ARNONE: Withdrawn.

12 BY MR. ARNONE:

13 Q. So for each page that was front to back, are you aware that Judge
14 McArthur had to read and review and then sign each page?

15 MR. LEVENTHAL: Objection.

16 MR. NORTH: It's admissible, so go ahead.

17 You may answer.

18 MR. LEVENTHAL: I'm sorry. May I?

19 MR. NORTH: Yes, sure.

20 MR. LEVENTHAL: Are you aware that Judge
21 McArthur had to read them? That's assuming --

22 MR. NORTH: Okay, okay.

23 You rephrase the question.

24 BY MR. ARNONE:

25 Q. Are you aware that Judge McArthur had to review each page of the

(Sarah Jensen - Cross)

1 reports?

2 MR. LEVENTHAL: The same objection.

3 MR. NORTH: Okay. Had to is his objection.

4 What she -- it's her responsibility that she did or didn't.

5 Do you know, Ms. Jensen, whether the Judge
6 reviewed each of those pages?

7 THE WITNESS: I know that she signed all the
8 pages, but there was no reviewing of individual cases.

9 MR. NORTH: Now, was it required to be
10 signed front and back or the back of each page is signed?

11 THE WITNESS: Well, when the report is
12 printed, there is a signature line on a bottom -- the bottom
13 of each page.

14 MR. NORTH: Front and back?

15 THE WITNESS: And she did sign each page.

16 MR. NORTH: Front and back?

17 THE WITNESS: Correct.

18 MR. NORTH: And these are financial records?

19 THE WITNESS: Correct.

20 MR. NORTH: Funds that were received?

21 THE WITNESS: Any funds that were collected.
22 Funds or fees or fines, or surcharges that were collected for
23 that. Well, we had until the 10th of the following month to
24 report the funds. So the report that they were doing at the
25 first week of the month was for the prior month.

(Sarah Jensen - Cross)

1 MR. NORTH: And she has to attest to the --

2 THE WITNESS: Correct.

3 MR. NORTH: -- accuracy of that?

4 THE WITNESS: Correct.

5 MR. NORTH: And about how much funds were
6 involved on a monthly basis, generally speaking?

7 THE WITNESS: Up until my departure, I
8 believe they were anywhere between three and \$5,000.

9 MR. NORTH: Per month?

10 THE WITNESS: Per month.

11 MR. NORTH: Okay.

12 BY MR. ARNONE:

13 Q. But again, getting back to how many cases there were, you're unaware to
14 tell us how many cases there were per page, right? And we're talking --

15 A. Again, I can estimate, if you want me to, but --

16 Q. For each one of the cases on those pages, can you tell us what sort of
17 verification process -- what, if any, verification process Judge McArthur
18 had to go through to ensure that those records were accurate?

19 MR. LEVENTHAL: Objection again, Judge.
20 The phrase, "had to".

21 MR. NORTH: Well, went through.

22 MR. ARNONE: Or went through. I'm sorry.

23 MR. NORTH: Or if there was a requirement?

24 Do you know? Was there a requirement to your knowledge
25 that the Judge was responsible to verify the accuracy of that

(Sarah Jensen - Cross)

1 information?

2 THE WITNESS: There is a requirement for the
3 Judge to --

4 MR. ARNONE: I'm sorry. I didn't hear you.

5 THE WITNESS: -- attest. There is a
6 requirement for the Judge to attest to the accuracy.

7 BY MR. ARNONE:

8 Q. Okay. You don't know -- you don't know what she's doing. You just
9 know there's a requirement that she attest?

10 A. Yes.

11 MR. NORTH: Is there -- I'm sorry, one last
12 question. I'm sorry.

13 MR. ARNONE: No, help, please.

14 MR. NORTH: Is there some method that the
15 Judge uses to verify that data?

16 THE WITNESS: Not that I'm aware of.

17 MR. NORTH: Okay.

18 BY MR. ARNONE:

19 Q. So your testimony today, all of these records were returned to you within
20 15 minutes?

21 A. Yes.

22 Q. Judge -- I'm sorry, Ms. Jensen. We talked about -- on direct about these
23 pleas, the quickness of these pleas. Do you know what a pre-sentence
24 report is?

25 A. Yes.

(Sarah Jensen - Cross)

1 Q. Okay. Can you tell us what a pre-sentence report is?

2 A. It's an investigation and interview with the Probation Department to -- for
3 them to make a recommendation on sentencing.

4 Q. And when are those received by the Court?

5 A. Typically sometimes a day before the court session, the day of, maybe up
6 to a week prior.

7 Q. And those -- were they processed by you, the pre-sentence reports?

8 A. They were.

9 Q. Stamped by you?

10 A. Stamped in by us. They were typically received either through email or
11 fax. Sometimes through mail, if they were quite large.

12 Q. And would you put those in the court file?

13 A. Yes.

14 Q. And presumably, Judge McArthur would review those before.

15 A. Typically, yes.

16 Q. Okay. So there -- you acknowledge that there's work that's going into a
17 plea outside of what occurs on the record in the courtroom?

18 A. What -- I'm sorry. Can you --

19 Q. Sure. Well, you testified how sort of these pleas take place. And I'm just
20 asking you about -- that there are -- there's work that takes place outside
21 of the courtroom?

22 A. Absolutely, yeah.

23 Q. And Judge McArthur is doing that work; do you agree?

24 A. Yeah.

25 Q. You talked about sign-in sheets. Specifically, I think you said that Judge

(Sarah Jensen - Cross)

1 Plass was helping out with sign-in sheets?

2 A. Um-hum.

3 Q. Which sign-in sheets was he helping out with?

4 A. The ones that we were looking at.

5 MR. ARNONE: Well, can we see those again,
6 please? Was that exhibit --

7 THE WITNESS: I don't know if it was that
8 specific date, but he has come in to help with that portion of
9 a court session.

10 MR. ARNONE: Okay. So we're looking at
11 Exhibit A-1. This is -- okay. So at the very top of Exhibit
12 Respondent's A-1 -- this is Defendant's.

13 BY MR. ARNONE:

14 Q. Are these criminal cases?

15 A. Yes.

16 Q. Is this -- do you know which sign-in sheet Judge Plass helped out with?

17 A. I do not recall the date that he came in --

18 Q. Okay.

19 A. -- or dates that he came into do that.

20 Q. And when you say he was assisting with the sign-in sheets, can you
21 explain what that is?

22 A. We have a lobby where people are walking in, being screened by the
23 Court Officers for security, and then a table where a Clerk typically
24 would sit to have people sign in. We had three different types of sign-in
25 sheets, one for Defendants, one for Attorneys, and one for guests that

(Sarah Jensen - Cross)

1 weren't necessarily a person that was scheduled to be there. So after
2 being screened by the Court Officers, they would go sign in on these
3 sheets at the table before they entered the courtroom.

4 Q. When you say "they", you mean?

5 A. Defendants, yes.

6 Q. Okay. And how was Judge --

7 A. Or any guests or Attorneys, yes.

8 Q. Right. How was Judge Plass assisting with this? What role was he
9 playing?

10 A. Usually, a lot of times, people need to be directed on which sheet to sign
11 in. They would just pick up a pen and sign anywhere, but it -- the
12 Clerk -- these sheets would go into the Clerks to pull files out of our cart
13 to make sure they're called in order of sign in.

14 Q. Okay. So I'm sorry to keep asking the question.

15 A. That's okay.

16 Q. But what exactly was Judge Plass doing with respect to --

17 A. Directing people where to -- Defendants where to sign or guests where to
18 sign or Attorneys where to sign.

19 Q. So do you know how that would work? They would come in and he
20 would tell them where to go?

21 A. So he would tell them which sheet to -- sheet to sign. And we would
22 have a printed calendar next to us, and make sure that they were on the
23 calendar --

24 Q. Okay.

25 A. -- and that they needed to sign in.

(Sarah Jensen - Cross)

1 Q. And how do you know that that was happening?

2 A. Because as a Clerk during the court session, you're kind of up and doing a
3 lot of things. You know, whether you're going to make copies or, you
4 know, someone had a question in the lobby, or someone shows up that's
5 not scheduled and you want to go find out, you know, why they're here or
6 when they are actually scheduled -- so you were kind of shuffling around
7 a little bit.

8 Q. Okay. So when you say that Judge Plass was assisting them with the
9 sign-in sheets, he was really directing them where to go?

10 A. Where to sign.

11 Q. Where to go to --

12 A. Yes.

13 Q. -- sign?

14 A. He was sitting with these sheets and telling them which sheet to sign in
15 on and making sure that they were a scheduled person on the calendar.

16 Q. And that's Attorneys, members of the public, and criminal Defendants?

17 A. Correct.

18 Q. Was Judge Plass interacting with these criminal Defendants in the
19 courtroom -- in the courthouse?

20 A. No, it's a very quick process. I mean, a hello, you know, "What's your
21 name? Please sign here." And then they walk right into the courtroom.
22 It's a very small --

23 Q. Right.

24 A. -- area.

25 Q. But the Judge is talking with criminal Defendants? Judge Plass is talking

(Sarah Jensen - Cross)

1 with the criminal Defendants?

2 A. Yeah.

3 Q. Is it fair to say that you weren't present at every moment that he was
4 interacting with these people?

5 A. I mean, that's logical, yes.

6 Q. Right.

7 A. Um-hum.

8 Q. So during the times that you did make this observation, did you see Judge
9 Plass had any conversations with Defendants other than simple
10 ministerial where to sign?

11 A. No. There was no time or space, honestly.

12 Q. Okay. That's at least when you were there?

13 A. We can't even have the court office window open during a court session
14 because we don't have the space --

15 Q. Okay.

16 A. -- to house or stand people.

17 MR. ARNONE: Okay. Can I just have a
18 moment? Excuse us for one moment?

19 MR. NORTH: Sure.

20 (Counsel confer)

21 BY MR. ARNONE:

22 Q. Judge, you testified -- excuse me, give me a (unintelligible). Ms. Jensen,
23 you testified on direct that you've observed Judge McArthur coming in on
24 the cameras from the Dispatcher's Office?

25 A. Yes, once.

(Sarah Jensen - Cross)

1 Q. What hours do you work at the --

2 A. I am --

3 Q. -- the dispatch office?

4 A. -- 11:00 p.m. to 7:00 a.m.

5 Q. Okay. So you said you saw her once?

6 A. In my -- since November, when I started on -- in that position, yes.

7 Q. Okay. Did you work consistently the same hours?

8 A. Yes.

9 Q. Between 11:00 p.m. and 7:00 a.m.?

10 A. Um-hum, yes.

11 Q. Okay. And what are some of your duties and responsibilities as a
12 dispatcher?

13 A. I take calls as they come in, whether it be from -- direct calls from
14 residents, citizens, or 911 transfers. And I dispatch the police to any
15 given address that police assistance is needed.

16 Q. And how many screens do you have? Computer surveillance kind of
17 screens you have at work?

18 A. Well, I have three computer screens for the programs that we use. And
19 then there's a screen with, I believe, 12 video images and then a large
20 screen above that that we can single out the video images that we need to
21 focus on.

22 Q. So you can zoom in on any one of those?

23 A. Yes.

24 Q. But at any given moment, all of the cameras are available?

25 A. Absolutely.

(Sarah Jensen - Cross)

1 Q. But it's -- so you're there; you're answering phone calls. You work with
2 anyone else in the office? You're by yourself?

3 A. At that -- on my -- they call it A-line shift. I'm alone in the dispatch
4 office. The two officers that are on duty are on the road.

5 Q. Okay. And you're the only one there who's fielding these phone calls,
6 correct?

7 A. Correct.

8 Q. Okay. And of the time that you've been at the Dispatcher's Office, you
9 said you've only noticed Judge McArthur once?

10 A. Correct.

11 Q. And of course, this is during a time when you're the only person there.
12 You're answering all the phone calls?

13 A. Correct.

14 Q. Sort of running the office; is that fair to say?

15 A. Correct.

16 Q. Ms. Jensen, you testified that you worked in Hyde Park until, I think,
17 November 2024?

18 A. Correct.

19 Q. Why'd you leave?

20 A. The demeanor of the office and my relationship with her was -- it took a
21 downfall.

22 Q. When you say "her", you're talking about Judge McArthur?

23 A. Yes.

24 Q. Did you have an incident in the courtroom with Judge McArthur?

25 A. No, not in the courtroom.

(Sarah Jensen - Cross)

1 Q. Okay. Well, so you didn't -- did you -- is it fair to say you left because
2 you weren't happy?

3 A. It was a toxic work environment.

4 Q. Okay. And you singled out Judge McArthur. It sounds like you're not
5 happy with her. Is that fair to say?

6 A. I think our time together came to an end, and I moved on to seek better
7 opportunity for myself.

8 Q. Did you have an incident outside of the courtroom?

9 A. In the office, yeah.

10 Q. Okay.

11 A. I was asked to alter my timesheet, and I refused to do it.

12 Q. You were asked to alter your timesheet?

13 A. Correct.

14 Q. Did you have an incident where you corrected the Judge in a courtroom
15 in front of the open court and Judge McArthur was not happy with you?

16 A. Not that I recall.

17 Q. You don't recall that?

18 A. No, not that I recall. There was often times where I may have written
19 something on a Post-it and put it up there for her to read, if there was
20 something that was -- you know, needed to be -- but I don't recall any
21 incident where there was any discussion or reprimand.

22 Q. What's your relationship like now with Judge McArthur?

23 A. I have not spoken to her since November.

24 Q. Did she fire you?

25 A. No.

(Sarah Jensen - Cross)

1 MR. ARNONE: I have nothing further.

2 MR. NORTH: I just have a few questions first.

3 So would you say there was bad blood between
4 you and Judge McArthur?

5 THE WITNESS: Everything was civil, even to
6 the point when I told her that I had this opportunity come
7 up. She was very supportive. But I never brought my
8 toxicity -- my toxic experience to her attention. I chose to
9 leave.

10 MR. NORTH: How long was this discord
11 between you?

12 THE WITNESS: Probably the last four to six
13 months.

14 MR. NORTH: I believe you --

15 THE WITNESS: Before November.

16 MR. NORTH: I believe you testified that you
17 had worked with Judge Plass before the -- his election?

18 THE WITNESS: On a minimal basis, when he
19 was a part-time police officer with Hyde Park Police
20 Department.

21 MR. NORTH: In what context did you work
22 with him?

23 THE WITNESS: Just in passing. Not directly,
24 so to speak. He was a Police Officer. Oftentimes, the
25 Clerks have to communicate with them. I think he may

(Sarah Jensen - Cross)

1 have filled a couple of security court sessions as a Court
2 Officer, when a spot needed to be filled for a court session.

3 MR. NORTH: And that's the extent of your
4 relationship with him --

5 THE WITNESS: Correct.

6 MR. NORTH: -- before? Just so I understand,
7 you were employed by the Town of Hyde Park during the
8 time you worked with Judge McArthur?

9 THE WITNESS: Correct.

10 MR. NORTH: And now you're employed by the
11 Police Department?

12 THE WITNESS: I'm employed by the Town of
13 Hyde Park for the Police Department. So the Police
14 Department is --

15 MR. NORTH: But it's still the same?

16 THE WITNESS: -- a department in the town.
17 And the court is a department in the town. I'm still
18 employed by the Town of Hyde Park.

19 MR. NORTH: The same employer and
20 same --

21 THE WITNESS: Correct.

22 MR. NORTH: -- same paycheck?

23 THE WITNESS: Different position, correct.
24 Different departments.

25 MR. NORTH: Thank you.

(Sarah Jensen - Redirect)

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THE WITNESS: Sure.

MR. NORTH: Mr. Leventhal?

REDIRECT EXAMINATION BY

MR. LEVENTHAL:

Q. Ms. Jensen?

A. Um-hum.

Q. You said that you were asked to alter a timesheet?

A. Yes.

Q. When did that occur?

A. Probably around four to six months prior to November. That's when that downfall began because I didn't -- it was her and Human Resources that wanted to alter my timesheet.

Q. And how did -- how did they want you to alter it?

A. They wanted to adjust the hours on a given day to change them to flex. And it didn't reflect the actual hours that I was physically in the building, so I did not agree to it.

Q. So help me understand what you mean by the flex.

A. They -- they would attempt to get us to flex time. So if we went over one week, we would work less the next week in a given pay period. As long as that pay period reached 75 hours, you would flex between the two weeks.

Q. So they were asking you to increase the number of hours that you reported?

A. No, just adjust it. It wouldn't have been honest on my timesheet to change the time in and the time out for that given day --

(Sarah Jensen - Recross)

1 Q. Um-hum.

2 A. -- to fit what they wanted the timesheet to say. I don't even know why
3 they want it done, but I wouldn't allow them to do it because that's not the
4 hours that I was there on that day.

5 MR. LEVENTHAL: Okay, thank you.

6 No further questions. Thank you.

7 MR. ARNONE: Just one question.

8 MR. NORTH: Sure.

9 RECROSS-EXAMINATION BY

10 BY MR. ARNONE:

11 Q. The Department of Resources wanted you to alter the timesheet?

12 A. So the Human Resources or personnel person called Judge, and Judge
13 called me, and I said no. And Judge got upset that I said no and went
14 back to Human Resources. And they did not end up altering my
15 timesheet because they didn't have permission, but it started a problem.

16 MR. ARNONE: Thank you.

17 THE WITNESS: Sure.

18 MR. NORTH: Okay. You're excused. Thank
19 you.

20 THE WITNESS: Thank you.

21 MR. NORTH: Next witness, Mr. Leventhal?

22 MR. LEVENTHAL: The Respondent calls
23 Pamela Lucia.

24 MR. KHAN: Witness entering.

25 Please stand right here.

(Pamela Lucia - Direct)

1 MS. LUCIA: Thank you.

2 MR. NORTH: Please remain standing. Raise
3 your right hand.

4 Do you swear to tell the truth?

5 MS. LUCIA: Yes.

6
7 PAMELA LUCIA,
8 having been duly sworn, was examined and testified as follows:

9
10 MR. NORTH: Okay. Be seated, please.

11 MR. LEVENTHAL: I think you stole my book.

12 MR. FRIEDBERG: Oh.

13 MR. LEVENTHAL: This one belongs to you, I
14 think.

15 MR. FRIEDBERG: It's okay. I trust any copy
16 of mine.

17 THE WITNESS: Hello.

18 MR. NORTH: Spell your name for the
19 Reporter, please.

20 THE WITNESS: First name, Pamela,
21 P-A-M-E-L-A. Last name, Lucia, L-U-C-I-A.

22 MR. NORTH: Thank you.

23 DIRECT EXAMINATION BY

24 MR. LEVENTHAL:

25 Q. Ms. Lucia, as you know, I'm Steve Leventhal. I am Judge Plass'

(Pamela Lucia - Direct)

1 Attorney.

2 A. Yes.

3 Q. Are you employed?

4 A. Yes.

5 Q. By whom?

6 A. Hyde Park Town Court.

7 Q. In what capacity?

8 A. Clerk to the Justice.

9 Q. Is there a particular Justice that you were assigned to?

10 A. Judge Plass.

11 Q. Okay. And how long have you been in that position?

12 A. It will be -- that I have been a Clerk there, will be three years on April
13 5th.

14 Q. All right. So before being assigned to Judge Plass, were you assigned to
15 another Judge?

16 A. Yes.

17 Q. What Judge was that?

18 A. Judge Petito.

19 Q. And how long were you Judge Petito's Clerk?

20 A. I started in Hyde Park, April 5th of 2022.

21 Q. Do you know how many hours Judge Petito was spending on his judicial
22 duties during the period in 2022, when you were his Clerk?

23 MR. ARNONE: Objection, relevance.

24 MR. NORTH: You may answer. Overruled.

25 A. Judge Petito is mainly in just for court sessions. His sessions were

(Pamela Lucia - Direct)

1 definitely on Thursdays in the evening. He had a full-time job. He had a
2 law firm he was a part of, so he would come in prior to court,
3 approximately 4:30, and stay until court was over. That could vary. We
4 could be in court from an hour to three hours, tops.

5 BY MR. LEVENTHAL:

6 Q. Do you have any sense of how the hours that Judge Petito devoted to the
7 court differed, if at all, from the hours that Judge Plass devotes to the
8 court?

9 MR. LEVENTHAL: Objection.

10 MR. NORTH: Yeah, sustained. Rephrase it,
11 please.

12 BY MR. LEVENTHAL:

13 Q. Well, let me -- let me understand more clearly. How many hours -- can
14 you estimate -- do you have -- do you have knowledge that will permit
15 you to estimate the number of hours that Judge Petito spent per week on
16 his judicial duties?

17 A. That I was there for?

18 MR. ARNONE: Objection, Your Honor. I
19 just --

20 MR. NORTH: Rephrase your question.

21 Can you answer that question?

22 And please present the question again.

23 BY MR. LEVENTHAL:

24 Q. Do you have knowledge that will permit you to estimate the number of
25 hours per week that Judge Petito devoted to his judicial duties, while you

(Pamela Lucia - Direct)

1 were his Clerk?

2 A. Only the hours that I would have been present for at the court.

3 Q. And how many hours were those?

4 A. Three to four a week that I physically would be with him in the court.

5 Q. Okay. Now, how many hours per week does Judge Plass spend
6 physically at the court?

7 MR. NORTH: I object to the -- to the
8 absoluteness. There's no foundation to that.

9 MR. LEVENTHAL: Okay.

10 MR. NORTH: So please rephrase it.

11 BY MR. LEVENTHAL:

12 Q. Do you have knowledge that would permit you to state how many hours
13 per week Judge Plass typically spends on his judicial duties?

14 MR. NORTH: On his judicial duties as well?

15 MR. LEVENTHAL: Yes. That's the same
16 question I asked about Judge Petito.

17 THE WITNESS: May I ask -- judicial duties as
18 far as him hearing cases or as far as him being within the
19 court doing anything court related?

20 BY MR. LEVENTHAL:

21 Q. Well, I'd like you to limit your answer to your ability to answer. So
22 whatever you can state -- whichever way the question needs to be framed
23 for you to state what your knowledge is. Either in court, out of court, in
24 totality, whatever your knowledge is.

25 A. That I personally see him in the court, I would say it could range

(Pamela Lucia - Direct)

1 anywhere from 10 to 12 hours a week while I'm there.

2 Q. Okay. Have you ever clerked for Judge McArthur?

3 A. Not as an assigned Clerk. Judge McArthur's previous Clerk, Sarah, left

4 in November. Prior to that, we all worked together. Regardless who

5 were assigned to, we all worked together. So I've done for her.

6 When Sarah left in November, our Vehicle and Traffic Clerk took the

7 position of Clerk to the Justice. She was brand new, had never done it.

8 So I've been doing everything with her, and Judge McArthur will ask me

9 to -- to do things for her. She will leave things on my desk.

10 Q. Can you give me an example of some of the things that Judge McArthur

11 has asked you to do?

12 A. Enter in -- if she did an overnight arraignment and she leaves that, I

13 would be the one to enter that in. If there were email requests on her desk

14 from Attorneys with DA consent for adjournment that she agreed to, she

15 would ask me to respond. If there were -- I'm trying to think how to

16 phrase that -- any file that she may need to have me pull it for her.

17 Q. Okay. I don't want to interrupt you. Are you -- anything else you can

18 think of?

19 A. Reminders to make sure criminal files are in the back room for -- for

20 review.

21 Q. Okay. You mentioned overnight arraignments. Are those the same as

22 after-hours arraignments?

23 A. Correct. Yes, after-hours.

24 Q. And how often did -- to your knowledge, did Judge McArthur handle

25 after-hour arraignments?

(Pamela Lucia - Direct)

1 A. To have me remember for 2024, I -- I mean, I honestly couldn't tell you
2 the number in '24. It was -- it was low. This year, I can recall one after-
3 hours arraignment. Because when I came in, the file was there so it could
4 be entered into SEI.

5 Q. Okay. So --

6 MR. FRIEDBERG: Just for the record, entered
7 into what?

8 THE WITNESS: I'm sorry, SEI, the court
9 program.

10 MR. FRIEDBERG: Just say the letters again so
11 the Court Reporter gets it.

12 THE WITNESS: S-E-I.

13 BY MR. LEVENTHAL:

14 Q. Do you know what those letters stand for?

15 A. Oh.

16 Q. Is "E" electronic?

17 A. It's the program that --

18 Q. Is it a state --

19 A. -- all of the court goes into.

20 Q. Right, okay. So did you actually sit in the courtroom with Judge
21 McArthur and the other Clerk while Judge McArthur was presiding?

22 A. Previously, yes.

23 Q. Okay. And did you observe Judge McArthur preside over pleas?

24 A. Yes.

25 Q. Let's start with criminal cases.

(Pamela Lucia - Direct)

1 A. Um-hum.

2 Q. How long -- can you state how long it typically took for Judge McArthur
3 to preside over a plea?

4 A. Five to ten minutes.

5 Q. And that -- so then prior to the appearance, Judge McArthur would
6 review the probation report; is that right?

7 A. We would leave the files the night before. We have files in a rolling cart.
8 Everybody that was coming to court for that day on the docket, we would
9 have all of the files in the cart. We would leave them in the back room,
10 and she would come in at night. It would be after I was gone. And
11 anything with probation reports would be in there in each individual
12 Defendant's files.

13 Q. Right. How about traffic cases? Do you know how long it would take
14 Judge McArthur to preside over a plea in a traffic case?

15 A. Maybe five minutes.

16 Q. Okay. And how about -- how about an arraignment? How long did an
17 arraignment generally take, if you know?

18 A. From the time she sat at the bench until the person was arraigned and left,
19 approximately 10 minutes -- 15, maybe.

20 Q. And did you have occasion to observe how long it would take Judge
21 McArthur to handle a plea by mail?

22 A. Maybe two or three minutes per plea.

23 Q. Okay. And did you ever know Judge McArthur to issue a written
24 decision?

25 A. Yes.

(Pamela Lucia - Direct)

1 Q. I'm sorry. Go ahead.

2 A. Her decisions would have been done -- like, if she did a written decision,
3 it would have been given to her Clerk to send off.

4 Q. When was the last time you were aware of Judge McArthur issuing a
5 written decision?

6 A. Approximately a month ago.

7 Q. And do you have a sense of how many she's done during this year, 2025?

8 A. Honestly, maybe two or three.

9 Q. Okay. And are you aware of Judge McArthur being called in to perform
10 judicial services that were not scheduled?

11 A. Do you mean like an arraignment?

12 Q. Or other judicial duties that she might be asked to come to the courthouse
13 for?

14 A. Outside of when she would have been coming into court?

15 Q. Um-hum.

16 A. I can only -- there was the one overnight arraignment within the last two
17 weeks.

18 Q. And were you clerking for Judge -- for the Judge while she was also
19 working at the liquor store?

20 A. Yes.

21 Q. Did she come in in the morning on any occasion, that you can recall,
22 when she was still working at the liquor store?

23 MR. ARNONE: I just -- objection. It's the
24 foundation.

25 MR. NORTH: I'll allow it.

(Pamela Lucia - Direct)

1 THE WITNESS: She, on the second Tuesday of
2 the month, has a criminal calendar at 8:30 in the morning.

3 BY MR. LEVENTHAL:

4 Q. Okay.

5 A. Usually I don't see her in the morning.

6 Q. All right. Let's talk about Judge Plass. How long have you been clerking
7 for Judge Plass?

8 A. So since January 1st of 2024.

9 Q. Have you had occasion to observe him in the performance of his judicial
10 duties?

11 A. Yes.

12 Q. And what did you observe him to do?

13 A. He has handled his civil matters, his summary proceedings, his small
14 claims. He's had some very interesting cases that in my ten years of
15 being a Clerk had never come across.

16 Q. Can you give us an example of one of those?

17 A. I'm trying to think of the latest one. We had one case where the
18 Defendant brought in Hudson Valley Justice Center as their Attorney.
19 And there was a lot of back and forth on motion schedules because they
20 were filing motions for -- for their clients, talking about what could be
21 changed in the original filing, what couldn't be changed as far as --
22 I'm sorry. I'm nervous, so I forget the exact word of what it is. But
23 where there's an error -- it may be a simple error. They wrote a name
24 wrong or they switched numbers around -- what can be changed, what
25 can't.

(Pamela Lucia - Direct)

1 Q. Sure.

2 A. And he spends a lot of time researching that and speaking with people at
3 the Resource Center to make sure that he was doing everything correctly.
4 He never made a rash decision.

5 Q. Was that a summary proceeding or a small claims case?

6 A. It was a summary.

7 Q. Okay. And can you give us another example of a case that you thought
8 was out of the ordinary?

9 A. We recently had a order to show cause that came in right at the very end
10 of the day. By going along with the outline of an order to show cause,
11 the person didn't have a reason. They just didn't have a place to move to,
12 and Judge Plass didn't sign it. The person agreed to a stipulation; they
13 signed a stipulation. They had no legal ground to say, "This is why I'm
14 filing an order to show cause."

15 I sent it to the Appellate Term, as I was directed to do. And they came
16 back after court hours and said, "We are going to allow this matter to go
17 forward." They set it for a court date, a court time. And I called Judge
18 Plass to discuss this, and we spent a lot of time on the phone discussing
19 this. And you know, he looked into this new thing of how we now go
20 through the Appellate Term on orders to show cause that are rejected.

21 Q. So the -- so I see. So that was an appeal from Judge Plass' denial of the
22 order to show cause; is that right?

23 A. We have a notice at the court that was sent to us that says if an order to
24 show cause is not signed or denied and the Defendant says, "Well, can
25 somebody else look at it?" Basically, in so many words, we are required

(Pamela Lucia - Direct)

1 to send it to the Appellate Term.

2 When these orders to show cause come in, it states that they must be
3 answered within two hours. And we've had a few. So when they come
4 in, I reach out to him. He knows about it; he's aware; he deals with it.
5 He reads everything, looks it over, makes his decision, and we move
6 forward from there.

7 Q. Does Judge Plass handle ordinance and zoning matters?

8 A. Yes, he has had some of those. Yes.

9 Q. And would you describe what those involve?

10 A. Recently, there was one -- a property owner within the town had
11 numerous cars on her property, and she wasn't cleaning up her property.
12 He handled that. We have ones where it's snow and ice on sidewalks,
13 businesses that are not clearing sidewalks, zoning issues on their tickets.
14 They come in.

15 Q. I see. Do you have any sense of how hard Judge Plass works as a Town
16 Judge in the Town of Hyde Park?

17 A. I believe he works very hard. I've been a Clerk for ten years. He's my
18 fifth Judge.

19 Q. Um-hum.

20 A. He'll go above and beyond. And I mean, I don't just say it because I work
21 for him. But when Judge Petito was there, he only did Thursdays. It was
22 Thursday night. He would come in. Judge Plass comes in on Tuesdays,
23 Thursdays. Anytime we need him, he's there.

24 Q. Okay.

25 A. If we need bank runs, he does our bank runs. He signs off on timesheets.

(Pamela Lucia - Direct)

1 Anything administrative within the court itself, he'll take care of it,
2 whether it's discussing things that the court needs with the Town Hall,
3 whether it's discussing, if we need time off, how that should be handled.
4 He's the person that handles it for us. He's taken that role.

5 Q. And before Judge Plass assumed that role, who was discharging those
6 functions?

7 A. The bank. We used to have to -- I didn't personally do it. I do all the
8 Town Hall running for mail. As far as the bank, Sarah and whoever the
9 other Clerk was at the time would take the bank runs.

10 Q. Um-hum.

11 A. But the area that the bank was in was not a safe place.

12 Q. Um-hum.

13 A. So they were able to get the town to allow for one of the Court Officers to
14 escort Clerks to the bank. There's some days that they're not available.
15 They can't be there in time; the bank closes at 4:00. And the Court
16 Officer may not be able to be there on time.
17 Judge Plass will come in and do it. If it's the last day of the month and
18 it's not a Tuesday or Thursday -- because that's when we do our deposits.
19 If it's a Monday, Wednesday, Friday, last day of the month and we need
20 to get the deposit in to close out the month, Judge Plass is the one that
21 will.

22 Q. And the other administrative duties that you mentioned involving the
23 courthouse, could you describe them a little bit more fully?

24 A. Our timesheets?

25 Q. Um-hum.

(Pamela Lucia - Direct)

1 A. Our timesheets have to be printed. The town uses a computer program
2 for sign in and sign out. They have to be printed out. We have to sign,
3 and then the Judge has to sign.

4 Q. Um-hum.

5 A. And all three of us Clerks have our -- our time sheets go to Judge Plass
6 because he knows when timesheets are due. He comes in, he signs, and
7 he takes care of them. If we need orders done, we need approval by a
8 Judge, he will approve things that we need within the court, and he will
9 sign off on those. If we do have an issue with the timesheet, where the
10 town may question something on a timesheet or the type of hours we
11 use -- we have flex, we have comp time, we have regular time. And we
12 sit down and speak with Judge Plass; he'll be the one to go to the Town
13 Hall and talk to them. And --

14 Q. Thank you. Have you had occasion to observe Judge Plass' demeanor on
15 the bench?

16 A. Yes.

17 Q. What have you observed? What have you observed it to be?

18 A. He's very fair.

19 Q. Is he courteous to the public?

20 A. Extremely.

21 Q. And how did Judge -- how does Judge Plass typically treat court
22 personnel?

23 A. Very well.

24 Q. Okay. Have you ever observed Judge Plass to display any bias or
25 prejudice?

(Pamela Lucia - Cross)

1 A. No.

2 MR. LEVENTHAL: All right. Thank you.

3 No further questions.

4 CROSS-EXAMINATION BY

5 MR. ARNONE:

6 Q. Hi, Ms. Lucia. Good afternoon.

7 A. Hi.

8 Q. Hi. Is it fair to say you have no idea how much work any of the Judges
9 are doing outside of your presence?

10 A. Correct.

11 MR. LEVENTHAL: Objection, that's --

12 MR. ARNONE: I have nothing further. Thank
13 you.

14 MR. LEVENTHAL: -- outside of the scope of
15 the direct examination. I move to strike it.

16 MR. NORTH: Overruled. Okay, any further?
17 You may be excused. Thank you.

18 THE WITNESS: Thank you.

19 MR. NORTH: Mr. Leventhal, anything more
20 for today or any --

21 MR. LEVENTHAL: I think not for today, sir.

22 MR. NORTH: Okay.

23 Mr. Arnone, we're good?

24 MR. ARNONE: Nothing further.

25 MR. NORTH: Okay. Tomorrow at 10:30 --

(Matter of Michael H. Plass)

1 10:15. We did, 10 -- what did we say?
2 MR. ARNONE: No, 10:30.
3 MR. NORTH: 10:30?
4 MR. ARNONE: Yes.
5 MR. NORTH: 10:30 is the time.
6 MR. ARNONE: We returned at --
7 MR. NORTH: 2:15 was lunch. Right, right,
8 right. 10:30.
9 MR. LEVENTHAL: Thank you.
10 MR. NORTH: Okay.
11 MR. FRIEDBERG: Just say off the record.
12 MR. NORTH: Off the record.
13 (Proceedings concluded at 3:57 PM)

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INDEX OF WITNESSES

WITNESS	DIRECT	CROSS	REDIRECT	RECROSS
<i>For the Commission:</i>				
Jean McArthur	18	53	106	107
<i>For the Respondent:</i>				
Sarah Jensen	123	153	178	179
Pamela Lucia	180	193		

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EXHIBITS

COMMISSION

Description	Ident.	In Evid.
1 Michael Plass for Hyde Park Town Justice campaign mailer		6
2 New York state Advisory Committee on Judicial Ethics opinion 23-158.		6
3 Respondent's January 15, 2024, request to New York State Advisory Committee on Judicial Ethics for reconsideration of advisory opinion 13-158.		6
4 Hyde Park Town Court civil calendars for January through July of 2024.		6
5 Hyde Park Town Court's civil calendars for August through November 2024.		6
6 Hyde Park Town Court's criminal calendars for January through June 2024.		6

1	7	Hyde Park Town Court's criminal calendars	6
2		for July through November 2024.	
3			
4	8	Hyde Park Town Court's vehicle and traffic	6
5		calendars for January through October 2024.	
6			
7	9	Hyde Park Town Court's calendars for	6
8		November through December 2024.	
9			
10	10	Portions of Respondent's February 19, 2024	6
11		letter to the Commission.	
12			
13	11	Portions of Respondent's March 26, 2024	6
14		testimony to the Commission.	
15			
16	12	Portion of Respondent's July 29, 2024	6
17		verified answer.	
18			
19	13	2024 Hyde Park Court calendars stamped with	6
20		daily civil and criminal/vehicle and	
21		traffic law case counts.	
22			
23	14	Chart summarizing the total number 2024	6
24		Hyde Park Town Court civil and	
25		criminal/vehicle and traffic law cases.	

1	15	Stipulation	6
2			
3		<u>RESPONDENT</u>	
4			
5		Description	Ident. In Evid.
6			
7	A	February and March 2024 court sign-in sheets.	8
8			
9	A-1	March and April 2024 court sign-in sheets.	8
10			
11	A-2	June and July 2024 court sign-in sheets.	8
12			
13	A-3	August and September 2024 court sign-in sheets.	8
14			
15			
16	A-4	October and November 2024 court sign-in sheets.	8
17			
18			
19	A-5	December 2024 court sign-in sheets.	8
20			
21	A-6	May 2024 court sign-in sheet.	8
22			
23	A-7	Certification letter from Pam Lucia.	8
24			
25			

1	B	January, February, and March 2016 NYSLERS	8
2		time records for former Judge Petito	
3			
4	B-1	Recertification of time record by Judge	8
5		Petito.	
6			
7	B-2	Certification by Town Clerk.	8
8			
9	C	January, February, and March 2016 NYSLERS	8
10		time records and certification by Judge	
11		McArthur.	
12			
13	C-1	February, March, and April 2024 NYSLERS	8
14		time records and summary by Judge McArthur.	
15			
16	C-2	Certification by Town Clerk.	8
17			
18	D	January through August 2024 time records for Court	8
19		Officers Cook, Ashworth, and Robinson.	
20			
21	D-1	September through December 2024 time records for	8
22		Court Officers Cook, Ashworth, and Robinson.	
23			
24	D-2	Certification by Town Clerk.	8
25			

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E Town Board Resolution 1 of 1:2-29 of 2025,
authorizing reappointment of a Special Prosecutor.

8

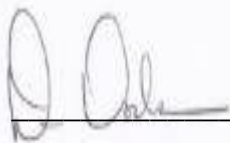


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CERTIFICATION

I, Diana Dodson, do hereby certify that the foregoing is a true and accurate transcript of the audio recording described herein to the best of my knowledge and belief.

Dated: April 1, 2025



Diana Dodson

**STATE OF NEW YORK
COMMISSION ON JUDICIAL CONDUCT**

- - - - -X

In the Matter of the Proceeding Pursuant :
to Section 44, subdivision 4, of the :
Judiciary Law in Relation to :

MICHAEL H. PLASS :

a Justice of the Hyde Park Town Court, :
Dutchess County. :

- - - - -X

NYC Commission Office
61 Broadway, Suite 1200
New York, New York 10006

March 25, 2025
10:23 a.m.

B e f o r e:
STEVEN E. NORTH, ESQ.
Referee

P r e s e n t:
For the Commission
ERIC M. ARNONE, ESQ.
Senior Attorney

ALAN W. FRIEDBERG, ESQ.
Special Counsel

For the Respondent
STEVEN G. LEVENTHAL, ESQ.
Attorney for Respondent
Leventhal, Mullaney & Blinkoff, LLP
15 Remsen Ave.
Roslyn, New York 11576

A l s o P r e s e n t:
HON. MICHAEL H. PLASS
Respondent

ANNIE HAGERTY
Investigator and FTR Operator



HAMZA KHAN
Investigator



(Judge Michael H. Plass - Direct)

1 MR. NORTH: Okay. Mr. Leventhal, both
2 counsel, any issues that you wish to raise before we
3 proceed?

4 MR. LEVENTHAL: None for me.

5 MR. NORTH: Mr. Arnone?

6 MR. ARNONE: None for the Commission.

7 MR. NORTH: Okay. Proceed, Mr. Leventhal.

8 MR. LEVENTHAL: Okay.

9 MR. NORTH: Call your next witness, please.

10 MR. LEVENTHAL: Respondent calls Judge
11 Plass.

12 MR. NORTH: Do you swear to tell the truth,
13 Judge?

14 MR. PLASS: I do, sir. Thank you.

15 MR. NORTH: Thank you. Please be seated.

16 MICHAEL H. PLASS,

17 having been duly sworn, was examined and testified as follows:

18 DIRECT EXAMINATION BY

19 MR. LEVENTHAL:

20 Q. Good morning.

21 A. Good morning.

22 Q. All right. Judge Plass, what is your educational background?

23 A. I'm a high school graduate from Franklin Delano Roosevelt, my
24 hometown of Hyde Park, New York.

25 Q. And what year did you graduate?

1.



(Judge Michael H. Plass - Direct)

1 A. 1985.

2 Q. Did you seek employment after graduation?

3 A. I -- yeah, I was employed as an electric technician apprentice while I was
4 in high school, as well as a factory worker from 4 to 12 in my senior year
5 as well. We also had a family business going, the third generation in the
6 family business. So I also started to work in the family business as well.

7 Q. And what was the nature of that business?

8 A. It's a transportation company, limousine company.

9 Q. All right. And have you had any other employment?

10 A. Oh, I was a police officer. I became a police officer in 2004 was my
11 graduation from the police academy, in 2004.

12 Q. And what training did you receive as a police officer?

13 A. Well, you go through -- for me, it was a part time academy, so it's longer.
14 It's one year, and you get your basic law. You actually get 13 college
15 credits for the law that they teach you, and then you get your defensive
16 tactics, your how to operate a patrol car, your firearms training, stuff like
17 that.

18 Q. Did your training as a police officer cover the rules of judicial conduct?

19 A. No.

20 Q. All right.

21 Q. There came a time when you decided to seek election as a town justice; is
22 that correct?

23 A. Yes, sir.

24 Q. When was that?

25 A. 2023 would have been the year, and I would say it was February, January

2.



(Judge Michael H. Plass - Direct)

1 or February of 2023. I requested to go to a local Republican committee
2 meeting to just listen to what was going on, to see if it was something I
3 could even do.

4 Q. And what else occurred in leading to your decision to seek election, if
5 anything?

6 A. So when you're a part-time police officer, there's no room for
7 advancement. You can never hold rank. You can never be promoted.
8 You can only ever be a foot soldier. At that point in time, I was late in
9 my 50s, 57 years old, chasing people, fighting with people. Your body
10 just does not recover in your 50s like it did when you were in your 30s,
11 right? So my other job is the limousine driver.
12 I can't show up limping or ask the client to put their bag in the trunk
13 because I can't, or imagine, even worse, a black eye or a scar or
14 something on my face, you know? So I thought at this point in time, it's
15 probably the best thing to do is to move on, and I enjoy my community
16 service job. You know, I liked working with the people, so I thought this
17 would be a good fit for me.

18 Q. And what steps did you take in the course of your campaign? How did
19 you campaign for office?

20 A. Well, I'd never done it before, so going into that meeting, you get a lot of
21 information in a very short period of time. It's hard to digest, but pretty
22 much I just tried to pick up and follow what everybody else was doing.
23 Looked like I knew what I was doing, you know, so I went in and they
24 were talking about submitting what was called a palm card, which is
25 basically information about yourself, so I created a palm card with

3.



(Judge Michael H. Plass - Direct)

1 information about myself, and once I made the announcement for running
2 for Judge, then I was able -- there's a window that you can campaign.
3 You can't engage in any other political activities. You only have a small
4 window, so.

5 Q. Sure. So let's start with that palm card. What did that palm card contain?

6 A. Not too much, unfortunately. My education, you know, graduate high
7 school, hometown boy, born and raised, family business operating in
8 town of Hyde Park for 30 plus years. Really, that was just -- oh, police
9 officer. My academy and the locations that I worked as a police officer.

10 Q. Did that palm card contain any pledges or promises?

11 A. No. The palm card? No.

12 Q. And how was it distributed?

13 A. Knocking on doors by me. Going out door to door on foot, shaking
14 hands, introducing myself, giving the literature, explaining a little bit
15 about who I was and what I'd like to do, run for Judge.

16 Q. How many doors did you knock on?

17 A. Close to 10,000.

18 Q. And did there come a time in the course of your campaign when you
19 prepared a flier?

20 A. Yeah, the mailer.

21 Q. The mailer?

22 A. Um-hum.

23 Q. And you've stated previously and we have admitted that it contained
24 certain pledges or promises?

25 A. Unfortunately, yes.

4.



(Judge Michael H. Plass - Direct)

1 Q. How did it come to contain those pledges and promises?

2 A. Well, I mean, I did it on a free program, this thing called Canva. It's a
3 computer web based program where you can design postcards, and I was
4 campaigning by myself, essentially, so I had to be able to afford to
5 distribute these things, and I thought 3,000 was just about as much as I
6 could afford, and -- well, let me just back up for a minute. So my
7 campaign was difficult. We've talked about that. It was very adversarial
8 with my incumbent Judges, so --

9 Q. Just be clear, you ran against an incumbent?

10 A. I ran against two incumbent Judges who had both been on the bench for
11 eight years, so when I --

12 Q. Was one of them Judge McArthur?

13 A. Yes, and the other would have been -- the Judge that got defeated was
14 Judge Petito. I was actually successful in defeating both, but there's two
15 elected Judges, so the second place Judge was Judge McArthur, but
16 because it was so tumultuous for me, I waited until the very last minute to
17 send out my flier. I've been getting things in the mail, and they come
18 from the county executive and the legislators and the board people, and I
19 just put all of those out on a table, and I said, oh, you know, that sounds
20 pretty good. Oh, I like that right there, too. Maybe I should do
21 something like that and just put it in the computer.

22 Q. Right.

23 A. And then they sent it out.

24 Q. Did you know at that time that there was a rule against pledges and
25 promises made in a judicial campaign?

5.



(Judge Michael H. Plass - Direct)

1 A. No, I had no idea of really any of the rules of the judicial campaign.

2 Q. At that time, did you know that there were rules of judicial conduct?

3 A. No. I mean, I think we talked about that in the first hearing was that I
4 pretty much just kind of followed everybody else. You know, I was left
5 to my own devices and I just kind of fit into the mainstream. I didn't
6 know, no.

7 Q. Did you know there was such a thing as a judicial campaign ethics
8 handbook?

9 A. No. The way I found out was as soon as the mailer went out, there was a
10 front page article. There's my picture in the newspaper. Local Judge
11 violates campaign ethics, and we were at a fundraiser and somebody
12 came up to me, I think it was a committee member came up and said,
13 you're in the newspaper, and I'm like, good news or bad news? And
14 they're like, oh, no, it's bad news, and I'm like, what's wrong, and they
15 told me I violated campaign ethics.

16 And I said, no, no, I swear I didn't. I didn't understand what ethics in the
17 campaign violation was, so I when I got home, of course I'm freaking out,
18 you know? I'm trying to run a campaign, and I'm being on the front page
19 of the newspaper with bad news. That's not going to get you elected,
20 right? So I immediately called. I called here, judicial conduct, and I
21 spoke to a guy named Mark Levine, and I said to him, I explained
22 everything. I said, hey, my name is Mike Plass. I'm a first time
23 candidate.

24 There's a newspaper article on me saying I violated ethics. Are there
25 charges against me? And he said he would do a little checking, that I call

6.



(Judge Michael H. Plass - Direct)

1 him back in a couple of days. I called him back in a couple of days and
2 he said, no, Mike, there's nothing against you. There's no charges against
3 you. So I said, okay, thank you very much, and I think I previously
4 stated that because the campaign was so volatile, that I actually had the
5 nerve to run against two incumbents, that I just thought it was another
6 one of their tactics to get me to quit.

7 You know, the fighting, the arguments, the name calling, all that. I had
8 almost quit one time during the campaign, and here, this thing comes up.
9 Now I'm on the front page of the newspaper for everybody to read that
10 I'm this horrible person and I'm just, like, ready to say, you know what?
11 I've had it with this.

12 Q. Did you ever repeat the pledges or promises that were contained in your
13 flier?

14 A. No. As a matter of fact, as soon as it came out and as soon as I spoke to
15 Mr. Levine, I immediately sent out another flier, like, as quick as I could,
16 I went in, I even took more money than I was supposed to. I said \$7,000
17 was as much as I could afford. I spent another 7,000 and sent out another
18 mailer to the same 3,000 people with all the pledges and promises taken
19 off. There were none because I didn't know what else to do.

20 Q. Did you ever make any pledges or promises other than the ones that were
21 in the first flier in any other written materials?

22 A. No, because the beginning of my campaign was foot patrol. You know, I
23 was out knocking doors, just introducing myself, giving them information
24 like who I am, what education level I have. You know, I don't look like
25 the typical political candidate. I'm just a local guy, you know? So

7.



(Judge Michael H. Plass - Direct)

1 basically my picture and the things I did, so that never even came up until
2 the very end. I put that flier out in October, in the end of October, and
3 the election was in November.

4 Q. Did you ever make any pledges or promises other than the ones in the
5 written flier that you've described in any verbal statements that you made
6 either publicly or privately?

7 A. No, because I didn't even really -- I didn't even think like that until I put
8 out the collage of mailers that I had received, you know, and I was
9 picking and choosing what I thought was pertinent for me and what I
10 thought I could use, and clearly, I mean, I used the word "pledge". I
11 mean, the rules say you cannot make a pledge or a promise, and my card
12 says, I pledge. I mean --

13 Q. And your point being that that demonstrates your ignorance of the rule; is
14 that --

15 A. Ridiculously ignorant on that fact. I mean, I just had no idea. I mean, if I
16 was trying to beat around the fact, I mean, I probably would have tried to
17 hide it a little bit, but I used the exact word you're not supposed to use,
18 "pledge".

19 Q. Okay. So you've described the fact that you contacted this commission
20 and informed Mr. -- who was it?

21 A. Levine. Mark Levine was his name.

22 Q. Mr. Levine?

23 A. I don't know what he does, but he's a pretty important guy.

24 Q. You informed Mr. Levine of the situation?

25 A. Um-hum.

8.



(Judge Michael H. Plass - Direct)

1 Q. And then did there come a time after you were elected, that you attended
2 a taking the bench course presented by the Office of Court
3 Administration?

4 A. Yeah. So that was, like, the -- I don't know, the tip of the iceberg, I
5 guess. So to say, when we were in class, the very first day of taking the
6 bench class is ethics, and her name is Laura -- oh, she's the head of it. I
7 know her first name is Laura. I can't remember her last name right now,
8 but I went up to her because she was the presenter, and it was -- we were
9 sitting in a line with everybody, and on the books, she went right down
10 through and she said, okay, let's skip this one. This never happens, and
11 what does it say? Pledges and promises.

12 And I'm like, ah, man, that really is something that's a real rule because
13 I -- Mr. Levine told me no charges. There were no people listed in the
14 newspaper to putting in the complaint, so I had nobody to contact, and I
15 didn't know that there was anything bad happening to me. But I told her,
16 I said, I kind of did this.

17 Q. You approached her after the lecture?

18 A. Right during, like, a break. I went up to her and I said, I think I did this
19 and what should I do?

20 Q. And what did the speaker recommend that you do?

21 A. Send in a picture of the card that I had the pledge on, and they will put
22 me in -- immediately in the meeting. They only meet so often.

23 Q. Who's they?

24 A. The Committee on Judicial Ethics.

25 Q. Is it the Advisory Committee on Judicial Ethics that you're speaking of?

9.



(Judge Michael H. Plass - Direct)

1 A. Correct, Advisory Committee.

2 Q. Okay. And what did you do?

3 A. I took a screenshot of my card that I sent out. I forwarded an email and
4 said, I just met you at the -- taking the bench course. I spoke with you
5 briefly. Here's the campaign mailer I sent out, and here's my name and
6 email. That's all I did. I sent her a picture and my name and email.

7 Q. Was she a member of that committee or the administrator of that
8 committee?

9 A. I think she's the -- yeah, I think she's one of the bosses of the committee.

10 Q. So by corresponding with her, you understood yourself to be
11 corresponding with the committee; is that the point?

12 A. Well, that she was going to put me in touch with whoever I needed with
13 the committee. You know, I had no idea where it was going.

14 Q. Okay.

15 A. One other thing I will say. When I was first elected, prior to going,
16 taking the bench, you get elected and say, like the first, and then you go
17 to taking the bench it's like the first couple weeks of January that you go
18 to this course. I had received a call from the 9th Judicial District special
19 representative. That's Ariel Bryant for us. She introduced herself. She
20 told me that she'd be my boss if. I needed any help, I could call her. I
21 could talk to her.

22 She asked me about what I did and how I was feeling, and I said, you
23 know, I'm feeling pretty good. I'm nervous, but I feel pretty good, and I
24 told her I was a police officer and she said, wait a minute. Hold on. You
25 were a police officer in the town of Hyde Park? And I said, yes, ma'am.

10.



(Judge Michael H. Plass - Direct)

1 How long did you resign for, and I told her, I resigned a year prior to
2 running. She said, I need you to draft a letter right away and send it to
3 this email address.

4 We have to get something in writing that says there's an opinion that a
5 police officer can preside over cases in his own jurisdiction that he may
6 either have influence on or have had some dealings with, and the
7 Commission sent back a previously published decision.

8 Q. I'm sorry to interrupt, but by Commission, do you mean the Advisory
9 Committee?

10 A. Right. I'm assuming it was the same. I didn't know that at the time, but it
11 was the same. So under the advice of Ariel, I sent this email to them.

12 They said, yeah, no, no, it's no problem. You have to recuse yourself if,
13 like, you and I had the arrest, and this guy is now standing in front of me,
14 and I have direct knowledge of what happened during the arrest, I have to
15 recuse myself. Otherwise, as long as you can remain fair and impartial,
16 you can hear all the cases. It's no problem.

17 So when this Laura lady said to me, you need to send an email, I was
18 like, oh yeah, yeah, yeah. I'm good with that. I know how that procedure
19 works. So I sent the email off and I just thought that was, like, normal
20 practice of what you should do, so I sent my second email off. It wasn't,
21 like, details and all the campaign violations and all the newspaper stuff. I
22 didn't send any of that stuff. I just sent her my card and said, please let
23 me know what I should do.

24 Q. And the Advisory Committee advise advised you to limit the types of
25 cases that you preside in, and that decision by the committee is in the

11.



(Judge Michael H. Plass - Direct)

1 record and has been discussed previously, so let's move to your duties in
2 court. What are your duties in the Hyde Park town court?

3 A. Well, first and foremost, myself and Judge McArthur are department
4 heads. We're the bosses of the town of Hyde Park Justice Court. It's a
5 part-time position for both of us. We're supposed to do everything, right?
6 We do civil summary, small claims, zoning ordinance, town tickets. You
7 know, just regular duties of every Judge for the bench, but then you're in
8 charge of the court. You've got financials, you've got payroll, you've got
9 the budget, you've got buying new furniture, making sure the vacation
10 schedules are correct, approaching human resources when there's an issue
11 at the court.

12 You know, it's just like the boss of anything. It's not that you're limited to
13 just you go in, you do your work on the bench. You have to run a court
14 efficiently.

15 Q. Well, are you now referring to what we just previously described as
16 administrative duties?

17 A. There are a number of administrative duties that are -- you're responsible
18 for, yeah. You have to do those as well. You can't just come in and say,
19 I'm doing vehicle and traffic night and I'm going home.

20 Q. Well, what specific administrative duties do you handle?

21 A. Well, since I got in trouble, I do all of them. I think that to try and be
22 fair, I should do more because Judge McArthur is doing more, so I try
23 and make up for everything. I do payroll. I do HR. I wrote the budget
24 this year. I go to the meetings. You know, we both did the hiring
25 process for the new clerk. She did come in for that. I felt that was really

12.



(Judge Michael H. Plass - Direct)

1 important. I work with vacation schedules, so all three clerks are not on
2 vacation at the same time.

3 You know, I assure them that if you want to take vacation, it's okay. I'll
4 come in and fill in for you when you're going on vacation. So just
5 everything that has to do with keeping the court running fluid, very nice,
6 very smooth.

7 Q. And there was testimony yesterday, I believe, about banking?

8 A. So there are a number of bank deposits that need to be made during the
9 month, and there's a time stamp on them, and you have to get them in
10 within a certain number of hours of the fines being collected. The bank
11 that the girls felt they were using, they didn't like the area, so we
12 requested that a police officer accompany them to go.
13 Now, a lot of times, just to get an officer to come in to do a bank deposit
14 is difficult, right? You're going to ride for half an hour one way, half an
15 hour back, and they're going to get paid for a three hour minimum. That's
16 usually what happens, so I say, don't call them. I'll come in and I take the
17 deposit. I go make the deposit and come back. It's not every bank
18 deposit, but there's quite a few that we can't meet, especially the end of
19 the month.

20 Q. And these various administrative duties that you've described.

21 A. Yep.

22 Q. Do you do them on days when you're not -- don't have regularly
23 scheduled court sessions for yourself?

24 A. Oh, yeah. There's no time frame for that. When it needs to be done, you
25 have to go to work.

13.



(Judge Michael H. Plass - Direct)

1 Q. You mentioned HR. What were you referring to when you mentioned
2 HR?

3 A. So Human Resources is the section of the town that governs all
4 employees, and if the employees at the court have a problem, it's mine
5 and Judge McArthur's ideology that you should approach us first. Don't
6 go directly to HR. Come to the Department head, voice your opinion, tell
7 us what the problem is. If we can't work it out together, then we'll go to
8 HR, and I always tell Jean, I said, I got it. I'll keep you in the loop. I'll
9 let you know what's happening. I got it. So I go to HR. One big one was
10 payroll. Payroll was a mess before I got there.

11 They were actually dictating to the girls. If they worked too much, the
12 next week, they had to take time off. You can't tell somebody that.

13 There are labor laws that protect the employee. If you worked at the
14 time, you can't tell the employee you have to go home next week so we
15 don't have to pay you. It doesn't work that way. So that was a big
16 argument from the town and myself.

17 We finally got it patched up and fixed, but that was a few days of
18 meetings, and you know, there are also part-time employees in the town
19 of Hyde Park. We're a town of 21,000 people. So the town supervisor,
20 the guy who runs the whole show, he's a part-time employee. He owns
21 his own business as well.

22 So to make your schedules meet and get the time and get down there,
23 sometimes it's a little difficult.

24 Q. Are you a part-time employee?

25 A. Yeah. We are.

14.



(Judge Michael H. Plass - Direct)

1 Q. Is Judge McArthur a part time employee?

2 A. Yes, sir.

3 Q. Okay. And what role does Judge McArthur play in discharging the
4 administrative duties?

5 A. Well, right now, only if I can't -- if I'm sick, if I just can't do it, you know,
6 but she also has stuff outside. She owned her own liquor store. She
7 works for her husband. She works in the court, and she has a life, too,
8 like we all do, so right now, I try and do everything so she doesn't have
9 to, because I realize there are times she has to come in and I don't.

10 Q. Well, during the time that you've been on the bench.

11 A. Um-hum.

12 Q. How many times have you been unable to perform the administrative
13 duties and therefore asked Judge McArthur to handle it?

14 A. None so far.

15 Q. Okay. So ordinance and zoning matters. What do you do in connection
16 with those?

17 A. Oh, those are on my list as well. Those can be scheduled for my calendar
18 days, ordinance and zoning. Those are tickets that are issued within the
19 town by a -- like, a building inspector, and he says, hey, you know, this
20 snow and ice shouldn't be on this sidewalk, and he gives you a ticket.

21 Q. We're talking about violations of the town code?

22 A. Yeah, violations in the town, and then the special prosecutor, she'll come
23 in and she'll meet with the zoning guy, and they'll discuss it, and then
24 usually, they make some kind of deal for whoever made the mistake, you
25 know?

15.



(Judge Michael H. Plass - Direct)

1 Q. Do those cases ever go to trial?

2 A. I've never had one go to trial. There are minimal fines on the ticket. You
3 know, snow and ice is, like, \$50, and when the prosecutor makes a deal,
4 it usually goes to 25, you know.

5 Q. Okay. So let's talk about summary proceedings. What are they?

6 A. Well, that's the majority of my cases. Those are evictions. My favorite,
7 making a big name for myself, throwing people out of their houses, so.

8 Q. Well, you're being -- I take it you're being sarcastic.

9 A. Of course, sir. So basically --

10 Q. The transcript doesn't distinguish sarcasm from --

11 A. Denote sarcasm?

12 Q. Yes.

13 A. Yeah. So a landlord can represent himself, but he also can have an
14 attorney. The majority of my cases are with attorneys, and the attorneys
15 will come and make a plea with the people that are there. They'll try and
16 have some stipulations set up that they can adhere to. You know, you
17 owe us \$5,000 in back rent. Can you pay 1,500 by now, and then you'll
18 set up a payment plan. We'll put the stipulation on the record. I'll make
19 the recordings down, and we do call that a pay and stay. As long as
20 you're paying, you get to stay.

21 If you don't pay, you can't stay. So what'll happen is it'll go out as a
22 stipulation, and the attorney typically will ask for the warrant and
23 judgment to be stayed until a date at which time the stipulation would
24 have been completed, or if there's a default from the prior -- from the
25 time that it begins to the time it's supposed to end, if there's a default,

16.



(Judge Michael H. Plass - Direct)

1 they will send in the warrant and judgment, at which time I have to make
2 sure that the number they talked about in arrears matches what they're
3 asking for on the warrant, and that the judgment is just, and it's asking for
4 that number, and then I'll sign them and send them back, which they can
5 submit to the sheriff's office for Civil Department for eviction.

6 Q. And do any of the summary proceedings go to trial?

7 A. Well, yes. So we have a couple of legal services. Hudson Valley Legal
8 Services, and I may -- it's something similar. One was just created from
9 what I understand. it's a New York City based company that now has
10 spread to Dutchess County. They received a grant from New York State
11 to offer defense for people who are in a bad place right now. They try
12 and work out a deal. They make arguments of why they should stay and
13 what the landlord may have violated.

14 Q. Are these services that you're describing free representation for indigent
15 clients?

16 A. As far as I know, there is no cost to any of the people who qualify. Now
17 that's only one of the -- one of the groups is really nice like that. The
18 other legal services, they send a letter and it says, to whom it may
19 concern at the court. We're asking for the file so we can consider what
20 legal advice we can give to the client, but make no mistake, we are not
21 representing them at this time.

22 So one service is great. They come out and defend you, and you don't
23 have to worry about if you're making a mistake. The other service, not so
24 good, but we do give both of those to the people and they can choose.
25 You're entitled to a two week adjournment. So we adjourn for two weeks

17.



(Judge Michael H. Plass - Direct)

1 for you to seek legal aid and legal counsel, and then we reschedule it
2 again for the calendar.

3 When we do adjourn, we make it perfectly clear that this two week
4 adjournment is for you to seek legal advice. When you come back, you
5 must be prepared to go to trial, so that's when the trial would trial would
6 happen. If I give you the adjournment for two weeks and you come back,
7 you got to be ready for trial. You can't tell me you didn't understand
8 what we were doing when we gave you the adjournment.

9 Q. And have any of those cases gone to trial while you've been on the
10 bench?

11 A. Yeah. Too many. Yeah. Too many have gone to trial. I was always --
12 I'm always in favor of a stipulation. Can't we just work it out between the
13 parties?

14 Q. And can you give the hearing officer -- the hearing officer an idea of
15 what you mean when you say, too many?

16 A. I would rather see you offer a deal to somebody so they keep their house.

17 Q. But what I'm -- I apologize, but what I'm really looking for is to have you
18 quantify this in some way, either by frequency or by numbers?

19 A. I can't quote numbers. It would be speculative, but I would say on a
20 normal night, if we had -- if we had seven summary proceedings, two or
21 three may ask for the right to go talk to a counsel. They're not
22 represented by anybody. They walk into the court. They're scared. They
23 don't know what they're doing, and we give them the time, so maybe two
24 or three in a busy night. In another night when we may only have four
25 cases, I might not get anybody really requesting. They may have worked

18.



(Judge Michael H. Plass - Direct)

1 it out. That's the ultimate goal, is to keep you in your house, not throw
2 you out, so.

3 Q. And the two or three that asked to speak to counsel, what percentage of
4 those actually go to trial?

5 A. All of them.

6 Q. Okay.

7 A. Once you ask for your adjournment, you're told that when you come
8 back, we're going to trial.

9 Q. Okay. So let's move on to small claims.

10 A. Sure.

11 Q. Describe what happens with the small claims case?

12 A. We're limited in our scope for \$3,000 or less. You come in and file a
13 small claims paperwork with the clerk's. I think it's a \$20 fee. It's a
14 simple paper that you just write down a little bit about what you think
15 happened and why you're asking someone to grant you money for
16 whatever reason. You're basically suing somebody, and we schedule it to
17 come in. Both parties come in.

18 We have, you know, raise your right hand, go under oath, and listen to
19 their testimony. Decide one way or the other. I usually reserve my right
20 to make a decision, and I will notify you by mail. Unless it's cut and dry
21 on the bench where one person has nothing to say and the person suing
22 has everything, which is very rare, I make a decision after the fact. I'll
23 think about it, and then I'll send out a written decision to both parties.

24 Q. And what does that written decision look like?

25 A. Well, it's a page or two. It talks about the gravamen of the case, you

19.



(Judge Michael H. Plass - Direct)

1 know, and that it's contained within my jurisdiction, and that, you know,
2 what they're asking for and the evidence that they presented to me. I'll
3 reference exhibits if I have, like, a bill or a contractor's letterhead or
4 something. I'll reference that. I'll put that in as an exhibit and I'll keep
5 that as evidence. I'll reference that in the letter, and then I'll let them
6 know that how the court feels in the matter and what the decision entails.

7 Q. Okay. And let's return for a second to the zoning and ordinance cases.

8 A. Um-hum.

9 Q. You said that there are small fines often imposed.

10 A. Yeah.

11 Q. Am I right about that?

12 A. Yeah.

13 Q. And as a result of the collection of those fines, are reports generated?

14 A. Oh, yeah.

15 Q. And who prepares those reports?

16 A. The clerks.

17 Q. And are those reports reviewed by somebody?

18 A. Yeah. I mean, they put them on your desk.

19 Q. When you say your desk, you mean --

20 A. Yes, yes. The clerks will prepare the report and put it on your desk for
21 you to review and sign.

22 Q. Well, you handle all of those, don't you?

23 A. No. Each Judge that collects a fine has to certify that that fine was
24 collected in your court at that time under your direction.

25 Q. Right.

20.



(Judge Michael H. Plass - Direct)

1 A. So if I have, you know, two or three ordinances and I get a \$50 or a 25 or
2 a 75, I know it's \$150 is going to be on my report. If Jean for -- say,
3 Judge McArthur does them the same, that would be on her report. I
4 would not get that report. I don't review what she does because she's on
5 the bench herself.

6 Q. Right. I apologize. I believe I've asked you this question already and that
7 you've answered it, but just to clarify, does Judge McArthur handle
8 ordinance and zoning cases?

9 A. Yes.

10 Q. Okay. Fine. Okay. And how do you go about reviewing the report that's
11 prepared?

12 A. I mean, you just basically add up the numbers and make sure the total is
13 correct, and there's not a mistake in the total. You sign the pages, you
14 give it back to the clerk, and she reports it to the New York State
15 Comptroller.

16 Q. Okay. How do you know if the individual fine that's indicated for each
17 particular disposition is correct?

18 A. Well, I mean, technically, you're supposed to pull every file and look at
19 every adjudicated result and make sure it matches, but you know, I trust
20 my clerk. She's an 11 year court clerk. She's worked for five Judges. I
21 trust that she's doing the right thing.

22 Q. How about Judge McArthur? Does she handle it in the same way?

23 A. I can't speak for Jean. I mean, I would assume. I mean, she's been doing
24 this for eight years.

25 MR. ARNONE: Objection to what he would

21.



(Judge Michael H. Plass - Direct)

1 assume.

2 A. This is my first year only, so.

3 MR. NORTH: I'll strike what he assumed.

4 MR. LEVENTHAL: Well, he didn't state what
5 he assumed. It was just a figure of speech.

6 MR. NORTH: Sure.

7 MR. LEVENTHAL: There was no testimony
8 about that assumption.

9 MR. NORTH: I agree.

10 A. Yeah, it would be speculative. I mean, at best, I can't say for that.

11 BY MR. LEVENTHAL:

12 Q. Okay. So we've already sort of ventured into the territory of the clerk's
13 duties.

14 A. Um-hum.

15 Q. Please describe the duties of the clerks in your court?

16 A. They're the workforce. They're the driving force that makes the court
17 work. They take in every one of the complaints. They create the files.
18 They schedule the cases. They schedule them on your calendar. After
19 you're done adjudicating a result, the folder goes to the clerk. The clerk
20 takes the folder in the office. She enters the adjudicated result. She files
21 the file.

22 If it's an adjournment, she reschedules it. If there's an -- I deal with
23 summary, so there could be an order to show cause, an order to show
24 cause now has a new rule that you have to answer in two hours. That's
25 the rule. You have two hours to get the answer in, so she'll often call me.

22.



(Judge Michael H. Plass - Direct)

1 Pam Lucia is my clerk to justice. She'll call me and she'll say, Judge, we
2 just got an order to show cause you got two hours to review it and get it
3 in.

4 If I can't physically get to the courtroom, she'll email it to me. I'll review
5 it. I'll give her my decision. She'll reply with the decision. They're
6 really the court. I'm the guy who puts the dress on and goes up on the
7 podium, you know, but those are the workhorses. They do everything
8 under the sun. Answering the phone, scheduling the cases, filing the
9 files, pulling the files, answering the people. Those are the girls that do
10 everything.

11 Q. Are they always present in the courtroom when a Judge is on the bench?

12 A. Always, yes. Two, if not three.

13 Q. Okay. And what hours do the clerks work?

14 A. Well, so that's interesting because the town limits them to 37.5 hours a
15 week, but we have a window where fines can be collected if you're the
16 general public and you can come in. As a rule, the window has to be
17 open at 9 a.m. and it closes at 3, so you have to be there from 9 to 3. You
18 could come in at 7:30 and you could leave at 1:30 if another clerk is there
19 that came in at 9 and is going to be there until 4. So their hours
20 technically are 37.5 per week, but it's not set, like, you're here Monday at
21 9 a.m. You can just -- you have to make 37.5 hours.

22 Q. Okay.

23 A. And one more thing.

24 Q. Go ahead.

25 A. The exception to that would be court nights because we hold court,

23.



(Judge Michael H. Plass - Direct)

1 typically at 5 p.m. That's normal. Judge McArthur has one daytime
2 criminal court, 8:30. The rest of the courts are all at 5 p.m., so the girls
3 have already been there all day long. Now, court starts at 5 and they stay.
4 Then once we adjudicate all the matters that we have and we give them
5 the files, they have to go back into the office and then input all the
6 information in the files.

7 So on a normal day, they might go home at 1:30, two o'clock, but after a
8 court night they don't go home till seven 7, 7:30 eight o'clock, sometimes.
9 That's where it became a big problem when the town was telling them,
10 well, if you work until eight o'clock, you got to go home early the next
11 day. We're not paying you.

12 And I'm like, look, guys, we can't ask them to stay and work court and
13 then put the information in and then tell them they have to go home. It
14 doesn't work that way. They can pick when they want to go home. Not
15 we tell them when they go home. That was where that all came from,
16 was after court nights, because some of the court nights are long, you
17 know? Some court nights are great. You get out in an hour and a half,
18 two hours. Other court hours are four hours, you know? Depends on if
19 you have trials. If you have trials, you could be -- one small claims can
20 take two hours.

21 Q. Okay. And please put Exhibit E on the screen. Judge Plass, do you
22 recognize this document?

23 A. Yes.

24 Q. What is it?

25 A. So everything that happens in the town has to be approved by the Board,

24.



(Judge Michael H. Plass - Direct)

1 and each month, there's an agenda, and they pass resolutions. This
2 resolution says that the town of Hyde Park Court will be appointed a
3 special prosecutor, Ms. Yamashita, and Ms. Yamashita will be granted
4 the right to bill the town at the rate of \$120 an hour, not to exceed \$350
5 an hour. I don't know what would change that, for a total yearly cap of
6 hours, 187.5 a year.

7 Q. Okay. And what cases does that represent?

8 A. Well, she's everything. So town ordinances, traffic tickets. All traffic
9 tickets that get issued go to her first. Typically, the way I understand it is
10 the ticket will come in. They will send a ticket out to the defendant with
11 a plea. She'll make a recommendation for a plea. If the ticket comes
12 back, it's labeled a plea by mail where they've agreed to whatever she
13 offered, at which time the Judge sets a fine.

14 If they don't send it back, they get a letter scheduling an in-person
15 appearance in front of the Judge, which again, she has to be present for,
16 so she's present on every vehicle and traffic calendar. She's present on
17 any night there's a town ordinance, and she handles every single ticket
18 that comes through. Whether they plea by mail or whether they actually
19 come in and appear, they will meet with her prior to going to the bench.

20 Q. And I don't think you mentioned criminal cases?

21 A. No, she's not a criminal --

22 Q. Prosecutor?

23 A. So that would be district attorneys and public defenders and defense
24 attorneys.

25 Q. Okay, okay. But in connection with the cases that she handles?

25.



(Judge Michael H. Plass - Direct)

1 A. Just vehicle and traffic and town zoning. She's allowed to bill the town
2 187 hours a year for all tickets.

3 Q. And that involves preparation for court, appearance in court, yes?

4 A. Yeah. So like, a couple of times I've come in and she's been there, and all
5 the tickets that were sent in, she has in front of her, and she's, you know,
6 going through, making the plea and looking at the driving abstract, and
7 then she'll give them back to the clerks, and the clerks will envelope
8 them, stamp them, address them, and send them out.

9 Q. And does that include conferencing cases with defendants?

10 A. On vehicle and traffic nights, if you appeared in person, you have a
11 special time to conference with her, yeah.

12 Q. Does it involve motion practice?

13 A. No, they're just people. I mean, sometimes, an attorney comes in for a
14 vehicle and traffic case. I've seen attorneys there. I mean, I haven't yet
15 got to sit there, so I've seen them come in, more often for DWIs and stuff
16 than traffic tickets, but they're -- I don't --

17 Q. Sure, but with traffic tickets, wouldn't there be from time to time a
18 motion to dismiss for facial insufficiency?

19 A. It's possible. I mean, like I said, I'm not --

20 Q. Okay.

21 A. I've only sat behind the bench for, like, if a clerk's been sick for a while
22 and we're going to be short. I've only sat behind the bench for a little bit
23 to help with copies, or if someone's not there, I'll work the lobby and say,
24 you know, good afternoon, are you here for court? Are you a guest? Are
25 you an attorney? Please sign here. Thank you. Have a seat in the

26.



(Judge Michael H. Plass - Direct)

1 courtroom. Someone will be with you. Those kind of things. I haven't
2 sat through an entire night of vehicle traffic to know that someone
3 specifically mentioned a motion to dismiss.

4 Q. All right. Would you please put up Exhibit D? Thank you. Do you
5 recognize this exhibit?

6 A. Um-hum. Yes.

7 Q. What do you recognize it to be?

8 A. These are the hours reported by our court officers when they're employed
9 in the courtroom.

10 Q. Well, this is a particular exhibit for a particular court officer, right?

11 A. Right. That's Ronald Cook's. So Ron Cook is one of our veterans. He's
12 a court officer, and you can see by Cook's days, Tuesdays and Thursdays,
13 those are the days we hold court.

14 Q. All right.

15 A. So you can see that Ron reported on Tuesday, he worked 2.25 hours.

16 Q. Okay.

17 A. Thursday, two hours. Thursday, 2.25. There's a Thursday in there for
18 5.5. Could have been a trial maybe in there. You don't know. I don't
19 recall exactly what it was, but you can see by the days he has listed, he's
20 employed as a court officer from Tuesdays to Thursdays, and these are
21 the hours he's reporting he works while the Judge is on the bench.

22 Q. All right. And I see on the upper right hand corner that this exhibit
23 covers the period of January 1st, 2024 through August 31st, 2024.

24 A. Yeah, that was a preliminary one. There should be more.

25 Q. Okay.

27.



(Judge Michael H. Plass - Direct)

1 A. There should be another card from August to December for him.

2 Q. Okay.

3 A. And then it'll give a grand total of how much he worked for the year.

4 Q. Okay. So then let's move in that case, to D1, please. Oh, this is a
5 different employee. I'm sorry. Please go back to D. Please go back to D.
6 Thank you. So please scroll down to the bottom of this exhibit because I
7 see it's more than one page.

8 A. I think it's --

9 Q. Does this page -- it's a little bit light.

10 A. Yeah, I can't read that one there. So I mean, this -- I don't think this is
11 Ron's, though. I think this is Jamie's (phonetic), and these are partial
12 totals because they --

13 MR. NORTH: All right.

14 MR. LEVENTHAL: Before -- excuse me,
15 Judge.

16 THE WITNESS: Yes, sir.

17 MR. NORTH: Let's just identify what we're
18 looking at.

19 MR. LEVENTHAL: Right. So we're looking
20 at --

21 THE WITNESS: Could you scroll back up to
22 the top, because I think this is two employees.

23 MR. LEVENTHAL: Well, what I'm going to
24 ask is that you actually take a look at the exhibit in our
25 binder.

28.



(Judge Michael H. Plass - Direct)

1 THE WITNESS: Okay.

2 MR. LEVENTHAL: Which you may find easier
3 to read. So I've opened the binder to Exhibit D.

4 MR. ARNONE: Excuse me, Mr. North. The
5 exhibits are with Mr. Khan. Those are courtesy copies, so.

6 MR. LEVENTHAL: Well, you want the
7 witness to look at Mr. Khan's exhibit? That's fine.

8 MR. NORTH: The same thing. It doesn't
9 matter which book is --

10 MR. LEVENTHAL: Okay. Thank you, thank
11 you.

12 Just for the record to be clear, I just handed the
13 witness the binder prepared by Commission's counsel.

14 THE WITNESS: So this first one, labeled D, is
15 for Court Officer Ronald Cook. It is a time summary sheet
16 of the hours he actually worked from January 1st to August
17 31st, 2024. What it depicts is that Mr. Cook was in court
18 for Tuesdays and Thursdays on every Tuesday and
19 Thursday, just about, from January until August. And the
20 running total down on the bottom is the total number of
21 hours he would have been in the courtroom working.

22 BY MR. LEVENTHAL:

23 Q. And what is that total number?

24 A. 127, because this is only a partial one.

25 Q. That's for eight months?

29.



(Judge Michael H. Plass - Direct)

1 A. This is for eight months, 127, correct.

2 Q. Okay --

3 MR. NORTH: And that's page 1 of 2. There's a
4 back side to that.

5 THE WITNESS: That's page 1 of 2. I think 2 is
6 the back of the copy, which is just the running total of the
7 hours, and it just -- it changes it from how much holiday
8 time he got and how much total hours, but there is another
9 one. I don't know what exhibit it is.

10 BY MR. LEVENTHAL:

11 Q. Try the next exhibit in the book, D1.

12 A. Well, the next exhibit in the book is James Ashworth. That's the second
13 page. He's also a court officer.

14 MR. NORTH: You said the second page, so a
15 new --

16 THE WITNESS: Yes, the the new 1 of 2, the
17 next employee time card. It's still under Exhibit D, but it's
18 the next employee time card.

19 MR. LEVENTHAL: Could you turn to that
20 screen, please?

21 THE WITNESS: That one also is the same.
22 The initial request that I made was from January to August.

23 MR. LEVENTHAL: No, D. It's still in D. No,
24 just D, Exhibit D.

25 THE WITNESS: That's it right there, yeah.

30.



(Judge Michael H. Plass - Direct)

1 MR. LEVENTHAL: Is this the page -- no, keep
2 going.

3 THE WITNESS: There's probably going to be
4 three contained in D. Cook, Ashward, and Robinson are
5 going to be the three initial timecards in D.

6 BY MR. LEVENTHAL:

7 Q. Okay. Is this the page that you are pointing at to the hearing officer?

8 A. Yes. January 1st through August 31st.

9 Q. So it's page 3 of 6?

10 MR. NORTH: IS this page -- you said, this the
11 page. Let's identify it, please. Is that the Ashward page,
12 the Ashward?

13 THE WITNESS: Yes, James Ashworth's hourly
14 summary from January to August, correct.

15 MR. NORTH: January 4th, 2024; is that
16 correct?

17 THE WITNESS: January 1st, 2024 to August
18 31st, 2024, James.

19 MR. NORTH: But the first entry is January 4th,
20 2024?

21 THE WITNESS: Oh, yeah, on the first entry,
22 yes. Correct.

23 MR. LEVENTHAL: And it's the third of six
24 pages.

25 MR. NORTH: Double sided.

31.



(Judge Michael H. Plass - Direct)

1 THE WITNESS: Now, Mr. Ashward, though,
2 he has a different set of responsibilities as the court officer.
3 He's the boss, so to say, if you could label one the boss.
4 He's the one that schedules who comes in for court. If
5 there's a hearing, you need to come in on a different day, he
6 schedules it. Mr. Ashward, more often than not, will make
7 himself available for the bank deposit, not just working
8 court.

9 So his hours may be just a little bit higher than
10 all the other court officers, right? So you'll see the
11 summary from Ron Cook, who doesn't do any of the
12 administrative duties, is 124, and Mr. Ashward's summary
13 is 150, so that would reflect the fact that he does
14 scheduling. He comes in and does some bank deposits. He
15 puts in additional time rather than just being on the bench,
16 and you can verify that by just, you know, going down the
17 days. You'll see.

18 BY MR. LEVENTHAL:

19 Q. And thank you. Would you go to the next employee, please?

20 A. Mr. Dean Robinson.

21 Q. And that is on the fifth page of six double sided pages?

22 A. Um-hum. Mr. Robinson is also a court officer, and you'll see most of his
23 days are Tuesdays and Thursdays. However, he also can work the desk.
24 So the entries you see on, say, Saturday and Sunday, obviously, we didn't
25 hold court on Saturday and Sunday. So you'll see it's a full eight hour

32.



(Judge Michael H. Plass - Direct)

1 shift.

2 He may have worked the desk in a different capacity as a police officer.

3 They're still police officers, but they are paid for by the court, so those
4 days and the total for him would be a little bit different. You'd have to go
5 back in and subtract each one of the eight hour days, because that's a
6 normal shift, eight hours, to come up with his complete total, but you can
7 see, obviously, by the Tuesdays and Thursdays, two hours, three hours,
8 two hours, three hours, three hours, four hours, four hours, three hours.

9 You can see it's consistent in the coordinates.

10 Q. Okay.

11 A. For each of the employees. Each of the employees is consistent in their
12 timing for while they're in court.

13 Q. Have we now covered all of the employees in Exhibit D?

14 A. For the partial from January to August, correct.

15 Q. Okay. So now please, let's look at Exhibit D1.

16 A. So D1, again is going to be the rest of the year for all three of the same.

17 The first page on D1 being Dean Robinson from 9/1 to 12/31, the second
18 page being for Ron Cook which is from August -- well, or I skipped
19 September. Sorry.

20 Q. On the screen, it appears to be James Ashworth.

21 A. In the book -- oh, yeah. It's a back page. Sorry. The back of the page is
22 James Ashworth. You're right. And that's dated 9/1 to 12/31, and then
23 again, as well Ron Cook, the third page, 9/1 to 12/31.

24 Q. Okay. Thank you.

25 A. Can I keep this book here; is that okay?

33.



(Judge Michael H. Plass - Direct)

1 Q. Yes.

2 A. Okay.

3 Q. Yes. Let's take a look at Exhibit A, please. Yeah. There it is. Thank
4 you. Okay. These were identified in testimony yesterday, but just to
5 refresh everyone's recollection, can you tell -- do you recognize this
6 exhibit?

7 A. Yeah. That's what the court uses to verify that you were there on your
8 date, that you were supposed to be there. So on February 1st, Thomas
9 Hart (phonetic) was in court, and he got there at 6:40 p.m., so court must
10 have started at 5. That's not 6:40 a.m., so court must have started at 5,
11 and he got there at 6:40 p.m. From that sheet. I cannot tell what type of
12 proceeding it is, but I can tell you on that day, he was there.

13 Q. Okay. And I'm not going to take everyone's time to go through all of
14 these sign-in sheets because we went through a sampling of them
15 yesterday.

16 A. Sure.

17 Q. So please return to the table of contents. I see that -- can you confirm --
18 you have the exhibit book in front of you, that Exhibit A through A7 are
19 all -- well, A7 I see is a certification letter, but Exhibit A through A6 are
20 all signup sheets?

21 A. Yes.

22 Q. Okay. Can you tell us what period those sheets cover, collectively?

23 A. The year of 2024, January -- or excuse me, February. I did not preside
24 over anything on January. So February 2024 through December 2024.
25 These sheets represent the true and actual number of people that appeared

34.



(Judge Michael H. Plass - Direct)

1 in court.

2 Q. Okay. Thank you. So I'd like you now to --

3 MR. NORTH: May I just interrupt on that?

4 MR. LEVENTHAL: Sure.

5 MR. NORTH: There are three different types of
6 sign in sheets, criminal, vehicle, and traffic law, and
7 something else?

8 THE WITNESS: No. So depending on the
9 night of court, you would have defendant, guest, and
10 attorney.

11 MR. NORTH: Okay.

12 THE WITNESS: They wouldn't be labeled --
13 like, if it was vehicle and traffic night, it wouldn't say
14 vehicle and traffic. It would just say defendant coming for
15 that night, but you know, like, some people, they don't see
16 real well at night, so they bring a guest.

17 MR. NORTH: Okay. I just wanted to
18 understand that.

19 THE WITNESS: Yep.

20 MR. NORTH: But they're not labeled on the
21 sheets themselves as to which is the defendant, which is the
22 guest, and which is the attorney?

23 THE WITNESS: So we have three different
24 sheets. These are only the sign in sheets for defendants.

25 MR. NORTH: Okay.

35.



(Judge Michael H. Plass - Direct)

1 THE WITNESS: The guest count was not
2 pulled, and the attorney count was not pulled. Just the
3 amount of people who were there because they were
4 summoned to the court for a particular case.

5 MR. LEVENTHAL: But I think what the
6 hearing officer is asking is what --

7 MR. NORTH: So I can ask. I can ask.

8 MR. LEVENTHAL: Go ahead.

9 MR. NORTH: I can ask. So on a particular day,
10 there are, like, more than one sign in sheet for a defendant.
11 They're not completed. Is there some reason why there are
12 multiple different sheets?

13 THE WITNESS: Sure. Sure, yeah.

14 MR. NORTH: Around the same time, too.

15 THE WITNESS: Yeah. So what happens is
16 when they come in and they sign in, so you walk in through
17 the metal detector and you're in a lobby, and you do the
18 sign in process in the lobby. You're then told to have a seat
19 in the courtroom, and your name will be called.

20 As the girls are ready, or if the Judge takes the
21 bench, they come out and grab a sheet right away. Now, all
22 the people aren't in the courtroom, but they grab that sheet
23 and they take it in to the bench and they start, and they say,
24 okay, Thomas Hart, you're up.

25 MR. NORTH: That explains it. Thank you.

36.



(Judge Michael H. Plass - Direct)

1 THE WITNESS: Okay.

2 MR. NORTH: Thank you.

3 BY MR. LEVENTHAL:

4 Q. And Judge Plass, there are nights when you and Judge McArthur both sit
5 at various times in the same court session, right?

6 A. Yes, kind of. She will typically schedule an arraignment for my night of
7 court, yes. She will do that.

8 Q. Okay.

9 A. So we will both be there. She's the Judge. She can say whatever she
10 wants, so I don't ever question the fact that she wants to come in on that
11 day, come on in.

12 Q. Right, and if that -- and -- all right, but there would not be a sign in sheet
13 that contained the signatures of both defendants appearing before you and
14 those appearing before Judge McArthur. That would not occur, would it?

15 A. No.

16 Q. Okay.

17 A. No.

18 Q. Okay. All right. You've run through these various exhibits. Did you
19 review them in anticipation of this hearing?

20 A. Yeah. Yes.

21 Q. Did you analyze the information that they contained?

22 A. To the best of my ability, I came up with some things that -- so my case
23 has gravitated towards a dereliction of my duties and not spending as
24 much time as my co-judge. The only way to prove time is through all
25 these evidentiary pieces. How many people come to court versus how

37.



(Judge Michael H. Plass - Direct)

1 many actually case -- how many actual cases there are. How many hours
2 do everybody work, and then coming up with, you know, a summation of
3 that, you know, and that's what I did.

4 Q. Okay. I'd like to -- I'd like to just walk you through the months of the
5 year 2024.

6 A. Okay.

7 Q. Did you determine for the month of January, a month that you did not --
8 in which you did not preside, how many cases were handled by Judge
9 McArthur?

10 A. No. I used Mr. Arnone's total that he submitted on his paperwork.

11 Q. Right. But you did determine that --

12 A. She did them all. I didn't do any in January, so I gave her credit for all of
13 them, yes.

14 Q. When I said -- when I say determined, I mean, did you gather that
15 information?

16 A. Oh, yeah. Yeah.

17 Q. Okay.

18 A. I did every -- I did every -- well, I didn't pull sign in sheets for January
19 because it was obvious. I don't need to say how many people were there.
20 I don't know. I mean, she did every case, so I gave her credit for all the
21 cases.

22 Q. Okay. Then let's start with -- but do you recall how many those were?

23 A. No, not off the top of my head. I would have to review it.

24 Q. Is there anything that would refresh your recollection?

25 A. Well, I have a sheet, a chart that shows everything that I did.

38.



(Judge Michael H. Plass - Direct)

1 MR. LEVENTHAL: Okay. I'm going to show
2 the witness the chart.

3 MR. NORTH: What's the number?

4 MR. LEVENTHAL: This is not in evidence.
5 This is not an exhibit that was stipulated into evidence. I
6 would be glad to present it as a demonstrative, but there
7 there was no agreement that this would come in.

8 MR. NORTH: Would you identify it first?
9 What is it?

10 MR. LEVENTHAL: This is a -- this is a
11 summary prepared by Judge Plass for the purposes of this
12 hearing.

13 MR. NORTH: And it's a summary of cases that
14 appear in court?

15 MR. LEVENTHAL: It's a summary of the
16 information -- it's a numerical summary of the information
17 contained in the exhibits that we've just been through.

18 MR. NORTH: Why don't you show it to Mr.
19 Arnone?

20 MR. LEVENTHAL: Mr. Arnone has a copy of
21 it. I'd be glad to --

22 MR. ARNONE: I was furnished with a copy. I
23 would -- first of all, I would suggest Mr. North, that you
24 take a look at it. We didn't stipulate to this because this
25 document contains what we would submit as inadmissible

39.



(Judge Michael H. Plass - Direct)

1 contents. Commission counsel was willing to stipulate to
2 just the -- let me let me back up.

3 My understanding of this document for each
4 month that they've prepared total tallies of how many cases
5 were signed in for each month.

6 MR. NORTH: Okay.

7 MR. ARNONE: We were willing to stipulate to
8 that portion for each month because we've stipulated to the
9 sign in sheets.

10 MR. NORTH: Sure.

11 MR. ARNONE: But what I -- what we had a
12 problem with was the other information. First of all, at the
13 end of the document, there's what Mr. Leventhal confirmed
14 for me was sort of editorializing by his client. There's also
15 a breakdown of the average of hours that each Judge
16 worked. We objected to that also. Presumably, that was
17 based on the NYSLRS time sheets, which, again, we submit
18 the testimony is that these are not time sheets.

19 They're pension documents, so I think the
20 majority of the document is inadmissible. We made an
21 attempt to stipulate to the portion that I believe is
22 demonstrative evidence, which would summarize the case
23 sign in sheets, but the rest I don't believe is admissible.

24 MR. LEVENTHAL: Mr. North, I would be
25 happy to exclude or redact whatever you prefer, the portion

40.



(Judge Michael H. Plass - Direct)

1 at the end that Mr. Arnone objects to, but insofar as the
2 summary of hours worked, for example, by each court
3 employee, that's no different than summarizing the number
4 of sign ins on a sign in sheet.

5 It's just a summary, a numerical summary of
6 what exhibits already in evidence show, and I would think
7 that that would save you the trouble, if you prefer not to do
8 so, of totaling these numbers yourself, which, of course,
9 you're welcome to do, and the documents are in evidence,
10 and we have the totals, and we intend to argue what those
11 totals are.

12 But this is for the ease of the Court, for the ease
13 of the witness, and I'm really -- I really don't care if that
14 document that's in your hand comes in or not. I think it
15 would be easier for everyone if it did. Again, I'm glad to
16 exclude the information at the end, but right now, I handed
17 it -- I'm seeking to hand it to the witness for the purpose of
18 refreshing his recollection, and my understanding of the
19 rules of evidence is that I can show him anything if it will,
20 in fact, refresh his recollection.

21 MR. NORTH: A ham sandwich?

22 MR. LEVENTHAL: Right.

23 MR. NORTH: Okay. Let me see. First of all, I
24 will leave it to you in the course of summation and/or your
25 brief to make any conclusionary remarks or deductions

41.



(Judge Michael H. Plass - Direct)

1 from that which is in evidence, so you can do that. You can
2 present this document to the witness to refresh his
3 recollection, but we'll be careful where we're going to go
4 with that, and that's going to be subject to rulings as to the
5 basis for which it's refreshing his recollection.

6 MR. LEVENTHAL: Right. Okay.

7 MR. NORTH: Mr. Arnone?

8 MR. ARNONE: No, I think that's fair. I just
9 want to be clear that we have no objection to assisting you
10 in tallying the cases.

11 MR. NORTH: Sure.

12 MR. ARNONE: There's the portions that relate
13 to the average hours worked by the by the Judges. To the
14 extent that there's an average work by the court officers, I'm
15 not even sure we object to that also, but the hours that the
16 Judges work, we don't even have timesheets for Judge
17 Plass.

18 MR. NORTH: Sure.

19 MR. ARNONE: So that portion -- again, it's not
20 just the end of the document, but for each month, so.

21 MR. NORTH: Okay.

22 MR. LEVENTHAL: Well, but when Mr.
23 Arnone says the average hours worked by the Judges, the
24 the document, for example, in February of 2024 says, Judge
25 McArthur's calendar reports 148.5 hours work for the

42.



(Judge Michael H. Plass - Direct)

1 month. There's no averaging. In the following month,
2 Judge McArthur's calendar reports, so it is --

3 MR. NORTH: You can say that whenever you
4 want. If that's evidence, that's evidence, and deal with it as
5 you like, as to what deductions you want to make from that.

6 MR. ARNONE: There's an average case -- isn't
7 there an average of the cases that they're doing? I don't
8 have the document in front of me, but my recollection is
9 that there's an average --thank you, sir, of the number of
10 cases, at some point. The portion with -- each month
11 indicates, for instance, I'm looking at March. Judge
12 McArthur's calendar report 153 hours worked per month.

13 MR. NORTH: That's a fact.

14 MR. ARNONE: Well, my problem is, I think
15 this is misleading because what calendars? I mean, we're
16 talking about the pension calendars, which are not
17 timesheets. I think that they're trying to make the point that
18 these are the number of hours she worked, but they're based
19 on calendars. I think if there was testimony --

20 MR. NORTH: No, there is testimony by Judge
21 McArthur that -- we were talking about that handwritten
22 calendar that she filled out?

23 MR. ARNONE: Correct.

24 MR. NORTH: Well, she indicated that that is
25 doesn't reflect her full time in court, that it's a minimum

43.



(Judge Michael H. Plass - Direct)

1 amount to meet the retirement benefits, and that's not a
2 reflection of the hours she spent in court.

3 MR. LEVENTHAL: And that testimony, of
4 course, is subject to your ruling on credibility.

5 MR. NORTH: Of course.

6 MR. LEVENTHAL: Okay.

7 MR. NORTH: So you can proceed with your
8 examination. You can show him -- do you have an extra
9 copy of this witness --

10 MR. LEVENTHAL: I do.

11 MR. NORTH: Okay. And why don't we mark
12 that as Court's Exhibit A?

13 MR. FRIEDBERG: I think we have an A, B,
14 and a C.

15 MR. ARNONE: It should be D.

16 MR. NORTH: D?

17 MR. ARNONE: Yeah. A was the formal
18 written complaint. B was the answer. C was the witness
19 list.

20 MR. NORTH: Okay. But this would be a court
21 exhibit, so that's different.

22 MR. ARNONE: Oh I apologize. Okay.

23 MR. NORTH: So we'll call it Court Exhibit A.
24 Do we want Mr. Hamza to mark it officially?

25 MR. ARNONE: We can do that.

44.



(Judge Michael H. Plass - Direct)

1 MR. NORTH: Okay. Let's do that.

2 MR. LEVENTHAL: And is this for
3 identification at the moment?

4 MR. NORTH: For identification.

5 (Court's Exhibit A was marked for identification)

6 MR. LEVENTHAL: Thank you.

7 MR. NORTH: Do you need this back?

8 MR. LEVENTHAL: No.

9 BY MR. LEVENTHAL:

10 Q. Judge Plass, let's start with January 2024.

11 A. Um-hum.

12 Q. Well, so --

13 MR. NORTH: Is there a question?

14 BY MR. LEVENTHAL:

15 Q. Why did you indicate Judge McArthur handled all of January's 77 cases?

16 MR. NORTH: Wait, wait, wait. It isn't, why
17 did you indicate, because now you're referring to the
18 docket. You want to ask an absolute question.

19 MR. LEVENTHAL: Right. Okay.

20 MR. NORTH: And if this refreshes his
21 recollection, fine.

22 MR. LEVENTHAL: Okay, okay.

23 MR. NORTH: If it doesn't, it doesn't.

24 BY MR. LEVENTHAL:

25 Q. Do you know how many cases Judge McArthur handled in January of

45.



(Judge Michael H. Plass - Direct)

1 2024?

2 A. 77.

3 Q. Okay.

4 MR. NORTH: And what is that based upon, sir?

5 THE WITNESS: Mr. Arnone's statement that
6 Judge McArthur handled all of January.

7 MR. NORTH: And how do you come to the
8 number 77?

9 THE WITNESS: Mr. Arnone provided that.

10 MR. NORTH: In what context?

11 THE WITNESS: It was a document that was
12 sent to, I believe, my lawyer, Mr. Leventhal.

13 MR. NORTH: Okay.

14 THE WITNESS: That he had read -- he had
15 written down all the cases that McArthur had handled.

16 MR. NORTH: Okay. And do you know where
17 that number was arrived from? Was it from the calendar
18 sheets? Was it from --

19 THE WITNESS: Yes. So he requested -- I
20 guess he requested of the Court clerks, the actual court
21 calendars. Yesterday, during testimony, there was an
22 exhibit that showed the caseload, and it showed Judge
23 McArthur assigned this many cases.

24 MR. NORTH: Okay.

25 THE WITNESS: Judge Plass assigned this

46.



(Judge Michael H. Plass - Direct)

1 many cases, and in January, I was still waiting for my legal
2 information.

3 MR. NORTH: I understand.

4 THE WITNESS: So I did not handle any case.
5 I just transferred Mr. Arnone's number over there.

6 MR. NORTH: Okay.

7 MR. LEVENTHAL: Mr. North, may I direct
8 your attention to Commission Exhibit 14?

9 THE WITNESS: Yeah, there you go. So 67
10 vehicle and traffic cases and ten civil cases.

11 MR. NORTH: Okay.

12 THE WITNESS: I did not sit at all that month,
13 so I gave her the credit for all of those days.

14 MR. NORTH: Okay.

15 BY MR. LEVENTHAL:

16 Q. Okay. Moving to February of 2024.

17 A. Um-hum.

18 Q. First, from your recollection, do you recall how many cases Judge
19 McArthur was assigned in February 2024?

20 A. 100 and --

21 MR. NORTH: Well, just let's stop there. When
22 you were in the courthouse, you weren't counting the cases
23 she was sitting, were you?

24 THE WITNESS: No.

25 MR. NORTH: So you have no recollection of

47.



(Judge Michael H. Plass - Direct)

1 the number of cases that she handled that day; is that
2 correct?

3 THE WITNESS: So --

4 MR. NORTH: AS far as your recollection --

5 THE WITNESS: No, I don't -- I can't say that
6 she sat that many cases that day.

7 MR. NORTH: You recall --

8 MR. LEVENTHAL: Well, Mr. North, he could
9 have knowledge based upon documents that he reviewed.

10 MR. NORTH: Well, it may be different, but it's
11 not his recollection. He doesn't recall that.

12 MR. LEVENTHAL: Well, okay.

13 MR. NORTH: So since I object to the form of
14 the question. I'll sustain an objection to that. Please
15 rephrase your question.

16 MR. LEVENTHAL: Okay.

17 BY MR. LEVENTHAL:

18 Q. Did you ever have occasion to investigate and determine the number of
19 cases that Judge McArthur was assigned in February of 2024?

20 MR. NORTH: You may answer.

21 A. Yes.

22 BY MR. LEVENTHAL:

23 Q. And what did you determine?

24 MR. NORTH: What did you base it on?

25 A. The sign in -- the court calendars and the sign in sheets were both -- the

48.



(Judge Michael H. Plass - Direct)

1 court calendars are the first part of court. That's what stipulates what
2 cases are to be heard on that night by which individual. Then the sign in
3 sheets are applicable that evening. That's actually who showed up for
4 court.

5 MR. NORTH: Okay.

6 A. So I took all of the court documents for cases and totaled them up for the
7 month and same as Mr. Arnone, and then I went back, pulled the sign in
8 sheets for each day of each court, and tallied up the number of people that
9 actually showed for court.

10 MR. NORTH: Okay.

11 BY MR. LEVENTHAL:

12 Q. And did you determine the number of people who actually showed for
13 court?

14 A. Yes.

15 Q. How many actually showed?

16 A. In a particular month or a total?

17 Q. February 2024.

18 A. February, the sign in sheets were 77.

19 Q. And are those sign in sheets a combination of Judge McArthur's cases
20 and yours or only Judge McArthur's cases?

21 A. Just Judge McArthur's cases.

22 Q. Okay. How many hours -- do you recall -- did you investigate and
23 determine how many hours the various court officers reported working
24 for the month of February, 2024?

25 A. Yes. From the document we just reviewed previous to this, I went

49.



(Judge Michael H. Plass - Direct)

1 through and took each of the days listed in the month of February and
2 totaled them up for each court officer that's contained. However, I did
3 not differentiate between Judge McArthur's and mine. I gave them credit
4 for all of the hours for the entire month of February.

5 Q. And what did you determine with respect to Court Officer Cook?

6 A. Court Officer Cook worked 14.25 hours for the month.

7 Q. What did you determine for Court Officer Robinson?

8 A. Dean Robinson worked 14 hours for the month.

9 Q. And what did you determine for Court Officer Ashward?

10 A. Mr. Ashward worked 26 hours per month.

11 Q. Is the --

12 A. For that month.

13 MR. NORTH: Now, if I may, does that reflect
14 when there were cases being heard in the courtroom?

15 THE WITNESS: Yes, sir. So the Court officers
16 are only present when the Judge is on the bench.

17 MR. NORTH: And are there some duplicity
18 that more than one court officer is serving at any one time?

19 THE WITNESS: We typically have two, and
20 then some nights, three.

21 MR. NORTH: So as far as these three
22 collections of hours are concerned, some may be duplicates,
23 some may not; is that correct?

24 THE WITNESS: Duplicates of?

25 MR. NORTH: Well, the two of them sitting at

50.



(Judge Michael H. Plass - Direct)

1 the same night, working at the same night?

2 THE WITNESS: Yeah. Well, all three of these
3 probably were working on the same night, correct.

4 MR. NORTH: Is it usually three are present?

5 THE WITNESS: Two on the metal detector and
6 one by the Judge.

7 MR. NORTH: Okay.

8 THE WITNESS: Unless we can't get a third. If
9 someone's sick or something, we have to make do with two,
10 we do two.

11 MR. NORTH: And just one matter I would like
12 to clarify. What days and nights is court in session?

13 THE WITNESS: Tuesdays and Thursdays.

14 MR. NORTH: Day and night?

15 THE WITNESS: Judge McArthur has one
16 Tuesday morning court and all the rest are Tuesday and
17 Thursday night court, 5 p.m.

18 MR. NORTH: So it's one Tuesday morning,
19 Judge McArthur, and then a Tuesday night and a Thursday
20 night as well?

21 THE WITNESS: Correct, correct.

22 MR. NORTH: And do you sit on both of those
23 evening schedules?

24 THE WITNESS: I'm available for all Tuesdays
25 and Thursdays. There's no -- we try and set a schedule, but

51.



(Judge Michael H. Plass - Direct)

1 if an attorney can't make it, he can only come on a certain
2 Tuesday, I make myself available for that Tuesday as well.

3 MR. NORTH: What is the general schedule?

4 THE WITNESS: Tuesdays and Thursdays.

5 MR. NORTH: And what's your general
6 schedule?

7 THE WITNESS: Tuesdays and Thursdays.

8 MR. NORTH: Both?

9 THE WITNESS: Yep.

10 MR. NORTH: Okay. So is it fair to say that on
11 most Tuesdays and Thursdays, you're present?

12 THE WITNESS: Yes. So after April, we
13 condensed Judge McArthur's calendar to three days a
14 month, and I take the other five days a month so that
15 cases --

16 MR. NORTH: We're talking about court?

17 THE WITNESS: For Tuesdays and Thursdays,
18 right. Tuesdays and Thursdays, we -- she has three out
19 of. -- well, there'd be eight in a month, and then she gets
20 three, and I get the other five.

21 MR. NORTH: So there are times that just she is
22 there and there are times that just you are there?

23 THE WITNESS: Yes, sir. But there also could
24 be -- like I said, there could be a time that I'm the civil
25 calendar, and for whatever reason, if it fit her schedule or

52.



(Judge Michael H. Plass - Direct)

1 whatever it was, she may have, on the phone, put an
2 arraignment on. You know, she gets these calls and says,
3 put them on for the next day or put them on for this day.

4 I don't have any say in that, but she may have
5 scheduled an arraignment for the same time that I'm on the
6 bench, so she would have to come in. I would excuse
7 myself. She would handle the arraignment, and I would
8 come back and handle the summary or the small claims or
9 whatever it is.

10 MR. NORTH: And the extent of the session
11 will depend on the number of people who appear? As you
12 said, there may be an hour in court. It could be four hours
13 in court?

14 THE WITNESS: Correct, and that would be
15 supportive of the court officer's hours, because they're only
16 there when the Judge is on the bench. That's it.

17 MR. NORTH: And those hours reflect what
18 they're being paid for as well?

19 THE WITNESS: They get paid for that
20 minimum number of hours, no matter what. Yeah.

21 MR. NORTH: Well, some of those hours are
22 more than minimum?

23 THE WITNESS: So that's what I was saying.
24 Only on the guys who take additional duties like Dean
25 Robinson, for example. I said there was a Saturday and a

53.



(Judge Michael H. Plass - Direct)

1 Sunday.

2 MR. NORTH: Eight hour shifts.

3 THE WITNESS: Those are regular shifts where
4 he sat at the dispatch desk.

5 MR. NORTH: I understand that.

6 THE WITNESS: But the three and four hours
7 would be representative of the amount of money they
8 would get in their paycheck, yes.

9 MR. NORTH: Okay. Thank you.

10 THE WITNESS: Thank you.

11 MR. NORTH: Thank you, Mr. Leventhal.

12 BY MR. LEVENTHAL:

13 Q. So you just testified that Judge McArthur can receive a telephone call and
14 put an arraignment on for a night when you're sitting. To what extent
15 does Judge McArthur have the ability to schedule arraignments for dates
16 that she selects, if you know?

17 A. Well, she's the Judge. She gets to pick. That's her choice. She's the boss.
18 If she wants to schedule an arraignment for Tuesday night, she schedules
19 it for Tuesday night.

20 Q. And do you know what percentage of the defendants who are arraigned
21 are in custody at the time of arraignment and how many are not?

22 A. Well, for arraignment purposes? The only time a person would be in
23 custody for an arraignment purpose is if the police actively had an arrest.
24 I mean, it wouldn't be --

25 Q. It wouldn't, for example, be for a desk appearance ticket, right?

54.



(Judge Michael H. Plass - Direct)

1 MR. ARNONE: Objection. Objection.

2 Leading.

3 MR. NORTH: I will allow it.

4 A. So it's difficult -- it's difficult to say -- so with bail reform -- if it's a
5 nonbailable offense, the Judge has the right on the phone to say, issue an
6 appearance ticket and let them go. So they were in custody. Whether it's
7 a field arrest, whether it's at a department arrest, they have been in
8 custody at some point in time. If it doesn't meet the criteria where they
9 need to come in front of the Judge, maybe they need an order of
10 protection. That's immediate.

11 They must be arraigned, and it must be in person. There may be police
12 officers that bring that person into the courtroom, but these arraignments
13 that I'm talking about, where she takes the phone call and reschedules
14 them, they're ROR'd on their own, released on their own recognizance
15 with a date to appear in front of the Judge, and they're verbally told by
16 whoever arrested them to come back to Hyde Park.

17 BY MR. LEVENTHAL:

18 Q. Right. And just to be clear, bail reform occurred before you took the
19 bench, right?

20 A. Yes, sir.

21 Q. Okay. Did you have occasion to investigate the number of hours that
22 Judge McArthur reported to the New York State Pension system for the
23 month of February, 2024?

24 A. Yeah. Yes. So --

25 MR. NORTH: Can you answer the question?

55.



(Judge Michael H. Plass - Direct)

1 BY MR. LEVENTHAL:

2 Q. What did you determine?

3 MR. NORTH: How did you investigate that?

4 MR. LEVENTHAL: How did you investigate?

5 Thank you.

6 A. So as elected officials, you are allowed to participate in the in the New
7 York State retirement system --

8 MR. NORTH: Judge Plass, please answer the
9 question. How did you investigate that number of hours
10 reported?

11 THE WITNESS: I FOIL requested the hours
12 she put on her calendar for the first three months of each
13 year of her term.

14 MR. NORTH: And is that an exhibit here in
15 court?

16 THE WITNESS: That is an exhibit.

17 MR. NORTH: Is that the handwritten
18 calendars?

19 THE WITNESS: Right. C and C1, and I
20 believe it is D and D1 exhibits, which are both Judge
21 McArthur's calendars and my predecessor, Joe Petito's
22 calendars.

23 MR. NORTH: So the 148.5 hours that you say
24 Judge McArthur's calendar reports, you're referring to that
25 monthly verification that is sent to the State; is that correct?

56.



(Judge Michael H. Plass - Direct)

1 THE WITNESS: Correct, correct.

2 MR. NORTH: And that's the basis for your
3 testimony about that?

4 THE WITNESS: And contained within this
5 summary that I investigated?

6 MR. NORTH: Yes.

7 THE WITNESS: Is these are contained within
8 those hours she reported. It's not all of her hours, but that's
9 this little bit here that we're saying, the bench time --

10 MR. NORTH: The 148.5 is what she --

11 THE WITNESS: Right.

12 MR. NORTH: -- notes for that calendar month?

13 THE WITNESS: Correct.

14 MR. NORTH: Okay.

15 MR. LEVENTHAL: What --

16 MR. NORTH: I just want to get to the bottom
17 line of this. Is it your testimony that based upon the hours
18 reported by the court officers, the total amount of court time
19 altogether in February, you and Judge McArthur, is 14
20 hours of courtroom time; is that the essence of your
21 testimony?

22 THE WITNESS: Bench time.

23 MR. NORTH: Bench time.

24 THE WITNESS: Bench time. The time the
25 Judge was actually on the bench. The court officers

57.



(Judge Michael H. Plass - Direct)

1 reported as the entire month. I didn't differentiate between
2 each one.

3 MR. NORTH: I understand.

4 THE WITNESS: So it just shows bench time.
5 That's all it shows.

6 MR. NORTH: Okay. And as far as her calendar
7 report of 148.5 hours, is it your understanding that that
8 includes only bench time, a minimum of her bench time, or
9 does that 148.5, as you understand it, include time she may
10 have come in and reviewed files afterward, did other
11 administrative things?

12 THE WITNESS: Yes, that is correct. So my
13 investigation was to show that if you subtracted the bench
14 time from the total amount of hours she said, it will actually
15 give you a number that she's saying she's doing outside of
16 the bench.

17 MR. NORTH: A minimum number?

18 MR. FRIEDBERG: Can I point out something,
19 Mr. North?

20 MR. NORTH: Of course.

21 MR. FRIEDBERG: You asked the question, or,
22 and he said yes. You said, did it reflect her time on the
23 bench or her whole time? He said yes.

24 MR. NORTH: Okay.

25 MR. FRIEDBERG: Just I'm not sure that's

58.



(Judge Michael H. Plass - Direct)

1 responsive.

2 MR. LEVENTHAL: How many adversaries am
3 I facing?

4 MR. NORTH: No, that's all right. I'm accepting
5 it. An occasional remark by Mr. Friedberg is -- I will
6 allow, and it's just clarifying the record which I appreciate.

7 MR. FRIEDBERG: That's what I was trying.

8 MR. LEVENTHAL: I have been waiting for an
9 opportunity to clarify the record also and I believe since
10 this is my witness, my clarification should go first. Judge
11 Plass spoke about Exhibits C, C1 and D, D1. He misspoke.
12 They're exhibits B, B1 and C, C1.

13 MR. NORTH: Okay. I think my understanding
14 and clarification of the record might be important as well.
15 So just to clarify that.

16 THE WITNESS: Yes, sir.

17 MR. NORTH: Is it your understanding that the
18 148.5 hours reflected on the monthly summary submitted
19 by Judge McArthur represents both her time in the
20 courtroom on the bench, as well as other administrative
21 action taken during those court days?

22 THE WITNESS: It's all of the hours she worked
23 for the month, bench time and her whatever, research time.

24 MR. NORTH: Administrative.

25 THE WITNESS: That number of 148.5.

59.



(Judge Michael H. Plass - Direct)

1 MR. NORTH: Okay.

2 THE WITNESS: My investigation, the way my
3 brain was detecting --

4 MR. NORTH: No, I'm not asking that further.

5 THE WITNESS: Okay.

6 BY MR. LEVENTHAL:

7 Q. Judge, you only were able to determine the number of hours that Judge
8 McArthur reported; is that correct?

9 A. For the month on her calendar?

10 Q. Yes.

11 A. YEs.

12 Q. You don't know what the number of hours that she actually spent on the
13 tasks that she reported in those records was; is that correct?

14 A. Correct, according to her testimony, but not correct.

15 Q. I don't understand the answer. I'm talking about her outside of the
16 courtroom activities?

17 A. Yes, I understand.

18 Q. You don't know how much time she actually spent on those; is that
19 correct?

20 A. No.

21 Q. You only know how much time she claims to have spent; is that right?

22 A. Yes.

23 Q. Okay. So we've looked at -- we've looked at February. Well, actually,
24 we're not quite finished. How many cases were you assigned in
25 February?

60.



(Judge Michael H. Plass - Direct)

1 A. Ten.

2 Q. Let's move on to March. Do you know how many cases, Judge --

3 MR. LEVENTHAL: You know, Mr. North, I'm
4 just going to renew a request.

5 MR. NORTH: Sure.

6 MR. LEVENTHAL: We're going to
7 unnecessarily elongate this hearing if I need to take Judge
8 Plass through every month of his analysis. I'm willing, as I
9 said earlier, to exclude the material on the last page that Mr.
10 Arnone objected to, and perhaps we can stipulate that if I
11 were to ask the same questions --

12 MR. NORTH: Of course.

13 MR. LEVENTHAL: -- of Judge Plass with
14 respect to the other months on this document, his answers
15 would track the answers that he's already given, and then I
16 would introduce this exhibit, rather than take your time and
17 counsel's time.

18 MR. NORTH: It makes a lot of sense, with
19 one -- just a couple of other qualifications. For example, in
20 February, Judge Plass, where you indicate you were
21 assigned ten cases. Do you know how many, if any of
22 those cases were actually in court on the calendar, heard in
23 court?

24 THE WITNESS: All of my cases. There are so
25 few that they're all in court.

61.



(Judge Michael H. Plass - Direct)

1 MR. NORTH: So all those ten cases that were
2 assigned to you did appear? You were in court to hear
3 those ten cases?

4 THE WITNESS: Yes.

5 MR. NORTH: Okay. Back to Mr. Arnone.

6 MR. ARNONE: Yes.

7 MR. NORTH: With the qualifications that
8 we've already established based upon the examination of
9 these reports and in order to expedite matters, are you
10 prepared to stipulate that these monthly tallies are agreeable
11 to submit in evidence as qualified by the testimony?

12 MR. LEVENTHAL: Yes.

13 MR. NORTH: Okay. All right. And we're
14 taking out the final -- what part do we omit?

15 MR. LEVENTHAL: Right. What I would
16 suggest is that at the appropriate time, perhaps Commission
17 staff can photocopy it and block out the material on the
18 last page that follows the the wide gap.

19 MR. NORTH: Okay. The one that begins with
20 Jam?

21 MR. LEVENTHAL: Yes. Jam is on call 24/7.

22 MR. NORTH: So from there on out?

23 MR. LEVENTHAL: From there down, yes.

24 MR. NORTH: Okay.

25 MR. LEVENTHAL: Okay, okay.

62.



(Judge Michael H. Plass - Direct)

1 MR. NORTH: Okay. And I will -- and it is
2 therefore stipulated that were Judge Plass -- Plass to testify,
3 he would testify with regard to the other months listed on
4 this Court Exhibit A in accordance in the same pattern as he
5 testified with regards to February 2024 entries.

6 MR. LEVENTHAL: Thank you.

7 MR. NORTH: Okay.

8 MR. ARNONE: So stipulated. Thank you.

9 MR. NORTH: So then I will accept that
10 document in evidence.

11 MR. LEVENTHAL: Would you like the --

12 MR. NORTH: I'll call it Court Exhibit A in
13 evidence, and it will be appropriately marked during
14 breaktime and redacted.

15 MR. LEVENTHAL: Thank you. All right.
16 Please put Exhibit B up on the screen. All right.

17 BY MR. LEVENTHAL:

18 Q. Do you recognize this document, Judge Plass?

19 A. Yes, sir.

20 Q. What do you recognize it to be?

21 A. This is the -- I FOIL requested my predecessor, Judge McArthur's co-
22 judge for the years 2016.

23 Q. And how many hours did Judge Petito report to the New York State
24 pension system for the month of January 2016?

25 A. 46.9 is his total.

63.



(Judge Michael H. Plass - Direct)

1 Q. Okay. And let's take a look at how many pages -- the next page, please.

2 Well, I'm going to turn my head. Right. If you would scroll up so that
3 we can see the marking of the lower right hand corner? That's great.

4 Okay. That's good. So what what do you -- do you recognize this
5 document?

6 A. Again, this is in the same FOIL request. At the beginning of the term of
7 each Judge's term, if they're opting to be in the retirement, they must fill
8 out a calendar for three months. They must fill out everything they do for
9 that month to give to New York State retirement to get credit.

10 Q. And this is page 2 of 4. And what month does -- what period does this --

11 A. This is February 2016. Judge Petito reported working a total of 36 hours.

12 Q. Okay. Please go to the next page, page 3 of 4. Do you recognize this
13 document?

14 A. Again, part of the same FOIL request. This is the month of March, and
15 he reported a total of 33.4 hours worked for the month.

16 Q. Thank you. All right. Next page, please. Do you recognize this
17 document?

18 A. Yeah. So this is an odd one because February is a short month. You
19 have to report X amount of weeks to New York State retirement, so he
20 had to conclude his report with one week in April which is April of 2016,
21 and if you just scroll down a little bit, it was for another total of 4.6 hours
22 for that first week in April.

23 Q. So that would be added to the previous total?

24 A. Correct.

25 Q. So for the first three months of 2016, were you able to determine how

64.



(Judge Michael H. Plass - Direct)

1 many hours in total Judge Petito reported to the New York State Pension
2 system?

3 A. I did have it added up, but you would have to add all three of those days,
4 right? So you have 4.6. Could you just go back up? I'll add them up real
5 quick. 4.6 plus 33 is 37, 38 hours. Go ahead to the next. 38, and is
6 that -- a little higher for me there. 36 would be 74, and then in January --
7 I'm going to scroll up a little bit. He has 46, so 120.9 hours would be his
8 total for the first three months plus one week.

9 Q. Okay.

10 A. So X amount of weeks needs to be submitted to them. Now, the most
11 important thing to remember is that's what you get credit for for the rest
12 of the year. It's not what you actually work or what you do or how you
13 do it. New York State, that's the credit you get for your pension for every
14 month. What you report is what you get.

15 Q. Do you know of a threshold requirement or any reason -- well, let's start
16 with that question. Do you know the threshold requirement?

17 A. There is no threshold requirement. That's not a thing.

18 Q. And do you know whether the reports to the pension system are only for
19 the purpose of meeting a threshold?

20 A. No, there is no threshold.

21 Q. Okay.

22 A. The pension reports are for you to obtain credit. Now, I can speak on that
23 on first hand. I just received my first pension check from being a retired
24 police officer. In 19 years of work, I accrued seven service credits, less
25 than half of the time I worked. The reason that is is because it's a

65.



(Judge Michael H. Plass - Direct)

1 cumulative total for part-time employees. To get to a credit, you need to
2 have 40 hours. To get to a year, you need to have 2,080 hours. At the
3 total of 2,080 hours, New York State will give you one pension credit.
4 So these calendars have to be filled out by the Judges in the beginning of
5 their term.

6 I'm in the private sector. I did not opt to be in this retirement section. I'm
7 only on for four years, so I'm not in that. I would never get the time to be
8 vested. I believe everybody now that is in this union or this retirement
9 group is in tier 6.

10 Q. Right.

11 A. Tier 6 is a mandatory five years to be vested, which means 5 times 2,080,
12 which would give you 10,400 hours to be vested.

13 Q. Right. Now, you said that you need a certain number of hours to reach
14 one pension credit; is that right?

15 A. 2080 would give you one pension credit.

16 Q. If you exceed that, you get more pension credits; is that right?

17 A. Correct.

18 Q. And if you get more pension credits, you get a higher pension; is that
19 right?

20 A. Correct.

21 Q. So the more hours you report, the --

22 A. The higher your pension.

23 Q. Okay. Now let's go, please, to -- is this B1? Let's go to B1. This is B.

24 Okay. Do you recognize this document?

25 A. Yes, sir.

(Judge Michael H. Plass - Direct)

1 Q. What do you do you recognize it to be?

2 A. This is the second part of a FOIL request for me for the hours Judge
3 Petito certified. He worked in his second term of as being a Judge. The
4 term began on 2020 and ends December 31st, 2023, and it says that he is
5 a certifying by his signature that his hours have not changed in any way,
6 shape, or form.

7 Q. Okay. So they would still be the same hours that he reported for the first
8 three months of 2016, 120.9 hours; is that right?

9 A. Correct.

10 Q. Okay. So let's go, please, to Exhibit C. Do you recognize this document?

11 A. Yes.

12 Q. What do you recognize it to be?

13 A. This is another FOIL request by me for Judge McArthur's initial
14 calendars for her first term, 2016.

15 Q. And does it indicate how many hours Judge McArthur reported to the
16 New York State Pension System for the month of January 2016?

17 A. 173.

18 Q. 173. Okay. Let's go to the next month, please. What do you recognize
19 this to be?

20 A. That's part of the same FOIL request. You'll get three months. The FOIL
21 request will ask for whatever they reported to the New York State
22 pension. I believe that's in a certification letter, but this is her February
23 calendar, and if you just scroll up a little bit, she's reporting that she
24 worked 176 hours for the month.

25 Q. And the following month, please. Do you recognize this page?

67.



(Judge Michael H. Plass - Direct)

1 A. This is the conclusion of her calendars, which is March 2016, and she's
2 reported 180 hours worked for the month.

3 Q. So would you total those numbers, please?

4 A. 180. Can you scroll back down? It was 176, 173, right?

5 Q. Yes.

6 A. So 349 and 180 is 449, 80. 529.

7 Q. You're much better in math than I am.

8 A. Thank you, sir.

9 Q. Okay. So then for the first three months of 2016, Judge Petito reported
10 120.9 hours and Judge McArthur reported 525 hours; is that correct?

11 A. That is correct.

12 Q. Okay.

13 A. According to what was FOILed.

14 Q. All right. So let's go to February. Do you have the exhibit for February
15 of 2024? It's in the book before you. Would you go to the table of table
16 of contents, please?

17 A. It would be in C1.

18 Q. So let's go to C1. Yes. Thank you. Exactly. Okay. Actually, we're not
19 quite -- yes, there we are. Okay. Did we miss a certification by Judge
20 McArthur for her second term? I think we did.

21 A. I think it's in this one. Hold on. No, C. The certification letter for -- is in
22 C.

23 Q. Okay. I'm sorry. Please go back to C. Scroll down, please. Again. Up.
24 Okay. All right. Thank you. Do you recognize this page, 4 of 4, in
25 Exhibit C?

68.



(Judge Michael H. Plass - Direct)

1 A. Yes. That's the same form that Judge Petito filed, and what it states is
2 that the Judge is saying for her second term beginning on 2020, her next
3 four years, nothing has changed at all in her hours that she represented in
4 2016, so she'll be claiming pension credit on 100. Well, it would be the
5 average, right? You have to -- you have to take the average hours.

6 Q. Right, but the question -- I -- the question is how many hours is she thus
7 reporting?

8 A. Well, that's what I was saying. This being the recertification letter, when
9 you submit your three calendars to New York State retirement, they add
10 them up, they average them out, and then they give you that credit
11 throughout the year, so we would need to take one 180, 176, 173, divide
12 them by 3, so it would be 529 divided by 3 would be 176 point something
13 would be the hours she would get credit for every month.

14 Q. And the same would be done with Judge Petito for his pension purposes
15 based --

16 A. For 129, correct. You would divide that by 3, so that would get you 40
17 some hours, 43 hours a month. He would get -- he would get pension
18 credit for 43 hours a month for the entire year. She would get pension
19 credit for 176 hours for the entire year.

20 Q. Okay. So now please, let's go to back to table of contents, and the 2024
21 exhibit was -- Judge Plass, which one was you -- of the book in front of
22 you?

23 A. C1.

24 Q. C1. Thank you. Okay. Do you recognize this document?

25 A. So the FOIL request from the town, they stated that her 2024 calendar

69.



(Judge Michael H. Plass - Direct)

1 was not legible. They couldn't read it, and they asked her to retype it and
2 resubmit it.

3 Q. Okay. Would you scroll down, please? And again, scroll down again,
4 please, and again. Okay. Do you recognize this page, 4 of 11?

5 A. Right. That's the one that I used because I could read it for my analysis.
6 That is Judge McArthur's 2024 calendar beginning in February, which is
7 interesting because I didn't preside in January, but February is the
8 beginning month. February, March, and April would be the three months
9 she submitted for 2024.

10 Q. And do you know how many hours she submitted in those months?

11 A. It's on there. If you scroll down, this is every day in February. She's
12 reporting a total of --

13 Q. Well, those are weekly totals so far.

14 A. February still.

15 Q. Oh, yeah.

16 A. 148.5 hours for February of 2024.

17 Q. That's fewer hours than any of the months for which she reported while
18 Judge Petito was her fellow Judge; is that right?

19 A. Correct. The FOIL request showed that she's actually working less hours
20 now since we've been co-judges.

21 Q. Including her second term, which was the term immediately following
22 2024; is that correct?

23 A. Yes. She attested that she was working the same number of hours, 176
24 average per month.

25 Q. And now this is her third term, right?

70.



(Judge Michael H. Plass - Direct)

1 A. This is her third term, right. So for her 9th through her 12th year, she's
2 reporting actually less time than her first through her eighth --

3 Q. Okay. Well, let's confirm that. This is February of 2024. Let's scroll
4 down to March.

5 A. Um-hum.

6 Q. Here's March. Please go to the end of March. Let's keep going. There
7 we go.

8 A. That was 160 hours for the whole month, and which again is less than her
9 eight years prior to this.

10 Q. That's less than the number of hours that she reported in any year prior to
11 the time that you served as her co-judge; is that right?

12 A. Correct.

13 Q. Okay. Let's go to April, please. Keep going. Okay. There we are. How
14 many hours did she report for April of 2024?

15 A. 154.

16 Q. And that's fewer than the hours that she reported for any month prior to
17 that month; is that correct, including the first term, the second term, and
18 now the previous two months of her third term?

19 MR. ARNONE: Mr. North, I'm going to object
20 to the form and everything. This really sounds like
21 summation. I have no problem with the point that he's
22 trying to make, but he's spoon feeding arguments to the
23 witness.

24 MR. LEVENTHAL: It --

25 MR. NORTH: He doesn't have to categorize

71.



(Judge Michael H. Plass - Direct)

1 what it is compared to the other. We know that, so I would
2 sustain the objection.

3 MR. LEVENTHAL: Okay. All right. Thank
4 you.

5 MR. NORTH: And just again, to be clear, just
6 to the extent that you characterize those reportings as the
7 hours she worked, it has to be coupled with her testimony
8 that she claims that it doesn't reflect the hours that she
9 worked, but the minimum hours that she felt necessary for
10 pension purposes.

11 MR. LEVENTHAL: Well, Judge McArthur and
12 I --

13 MR. NORTH: Subject to credibility, but
14 that's --

15 MR. LEVENTHAL: Judge --

16 ANNIE HAGERTY: I'm sorry. I'm just having
17 trouble hearing you very clearly. If you could please speak
18 directly into the mic, and if I still can't hear you, I might ask
19 Rich Keating to come in and turn your mic up.

20 MR. NORTH: Sure. Do you want me --do you
21 want me to repeat?

22 ANNIE HAGERTY: Yeah. If you speak
23 directly and I can hear you, we don't need to pause. But I
24 just -- please speak directly.

25 MR. NORTH: Okay.

72.



(Judge Michael H. Plass - Direct)

1 ANNIE HAGERTY: Thank you.

2 MR. LEVENTHAL: Okay. Just to be clear.

3 MR. NORTH: Yes.

4 MR. LEVENTHAL: I am not saying that these
5 calendars reflect the hours actually worked.

6 MR. NORTH: Okay.

7 MR. LEVENTHAL: In fact, that's the one thing
8 Judge McArthur and I agree upon.

9 MR. NORTH: Okay.

10 MR. LEVENTHAL: I'm saying that these are
11 the hours that she reported to the pension system and had a
12 duty to report truthfully. Okay.

13 BY MR. LEVENTHAL:

14 Q. So Judge Plass?

15 A. Yes, sir.

16 Q. In 2023, you've testified that you entered this experience of first running
17 for Judge and then being a Judge, unaware of certain rules that you were
18 required to follow. Let me ask you what, if any, lessons have you learned
19 from this ordeal?

20 A. So we want to go home sometime today, but mostly, the first thing I
21 learned was, don't follow everybody else. You got to do your own
22 research. You have to do your own research to make sure it's right.
23 That's the first thing. In light of the rules, I've also learned that just
24 because I think something says one thing, somebody else may view it in a
25 different way, so my thought process on whatever I'm writing is not

73.



(Judge Michael H. Plass - Direct)

1 necessarily right.

2 It could be construed as something completely different by someone else,
3 and I think most importantly is that I'm now learning what impartiality
4 and the appearance and how to protect the integrity of the judicial system
5 falls on the Judge. That's why there's a specific set of rules that only
6 applies to Judges, and in my previous testimony, I said, why would I
7 think one special set of rules applies to only one candidate? It's the only
8 candidate that has that rule.

9 So I've learned that that's your responsibility. You're the Judge. You
10 have to figure this out, which in itself is contradictory of the rule. Why
11 do I have to figure out something that I'm not required to figure out?

12 Q. When you say --

13 A. That's part of it.

14 Q. When you say not required to figure out, are you talking about the fact
15 that you weren't required to take the course prior to assuming the bench;
16 is that --

17 A. In my first meeting with Mr. Arnone, I think we talked about the fact that
18 I said I'm a little bit confused as to why you would elect me and then
19 educate me, but that's not the case, because those rules say a certain
20 bunch of Judges have to take a class, but a certain other bunch of Judges
21 don't have to take the take the class, but you get in trouble all the same.
22 Whether you take the class or you don't take the class, you get in trouble,
23 because that's where I faltered. I didn't do the research myself. I believed
24 that everybody else was doing the right thing, so if I just followed them,
25 I'd be doing the right thing, too.

74.



(Judge Michael H. Plass - Direct)

1 Q. I just want to be clear. What importance, if any, do you place on the
2 appearance of impartiality in the administration of justice?

3 A. Well, that's a high regard in this business. You're the last coin, that you're
4 going to pass a judgment on someone, you have to be able to make the
5 appearance and assure that you're going to listen. You're not picking a
6 side. You're going to be fair. You're going to be impartial, and if you do
7 find out they did something wrong, you're not going to be this really
8 abusive person to just take them to the cleaners.
9 You know, you have to make sure you're paying attention to everything
10 you do.

11 Q. And so far, you've been speaking about the appearance of objectivity or
12 fairness in impartiality in the administration of justice. How about the
13 reality of impartiality?

14 A. Well, the reality will be in the adjudicated result, right? I mean, if you
15 listened and you gave a fair decision, and you did everything according to
16 the rules, then you'll be the person upholding the integrity of the judicial
17 system. You will be a Judge in good standing.

18 Q. Have you ever been accused of any misconduct on the bench?

19 A. No, no.

20 Q. Have you ever been accused of any misconduct in the discharge of your
21 judicial duties?

22 A. No. Only in the complaints in my campaign. Nothing on the bench.

23 Q. Okay. And if not for the advice that you received from the Advisory
24 Committee on Judicial Ethics, would you be presiding in criminal cases?

25 A. Yes.

75.



(Judge Michael H. Plass - Direct)

1 Q. If not for that advice, would you be providing [sic] in domestic relations
2 cases?

3 A. Yes.

4 Q. If not for that advice, would you be presiding in vehicle and traffic cases?

5 A. Yes.

6 Q. Have you taken any training since that original taking the bench class?

7 A. Oh, yeah. You have to do 12 continuing education credits every year.

8 There are so many things that are mandatory to remain on the bench.

9 You have to take your continuing education classes, which I took ethics,
10 of course, for obvious reasons, but I also took update to domestic
11 violence.

12 A bunch of reliving the bench courses were offered online, so I took
13 those as well. You're constantly giving update training for, like,
14 cyberattacks, phishing attacks, protecting the integrity of the computer in
15 the court. Then you have your sexual harassment, your dangerous
16 workplace. It's endless online training. It's always something that comes
17 up in your email or whatever that you have to -- you have to complete
18 this.

19 Q. And have you fulfilled all of your training requirements while on the
20 bench?

21 A. Yes. Oh, and as a matter of fact, you have to tour the jail. Every first
22 election term for every Judge, you have to tour a jail so you can see how
23 the jail works, and it's my understanding if you don't comply with any of
24 these things, you can't be the Judge. So there, you have to do them.

25 Q. And you have done them?

76.



(Judge Michael H. Plass - Direct)

1 A. Yes, sir.

2 Q. And so Judge Plass, one last question. Would you describe the impact
3 that the charges, the preparation for this hearing, the hearing itself? What
4 impact has it had on you, personally?

5 A. Well. I guess I don't like the light that's cast upon me. I mean, in many
6 aspects, if you ask some people, they might agree with what you say, and
7 then in another aspect, someone may disagree with what you say, so it
8 casts a very negative light on someone in my opinion. What I've done
9 and what the Commission is describing as not supporting the integrity,
10 not being fair, being biased in favor of groups.

11 For me, it's morals. That's wrong. That's not how people treat people,
12 and I never meant to convey the image that I was a hang them Judge, or
13 lock them all up, or throw away the keys. It never was supposed to be
14 that. Morally, I cannot be that person. I just can't act like that. It's just
15 not in me.

16 I swear to -- it was just an honest mistake, and I did it, And I think I told
17 you that after holiday and reflecting, if you remember, Mr. Arnone, I
18 blamed a lot of people for this happening to me. I blamed the turmoil in
19 my campaign. I blamed the fact that they were all against me and
20 teaming up to run against -- I blamed everybody, but in actuality, when
21 you think about it, there's really only one person to blame. It's me. I
22 should have done more, right?

23 But I'm armchair quarterbacking. At that point in time, I'm working two
24 jobs. I'm running a campaign. I'm trying to have a family life. If you tell
25 me I don't have to do something when I got all that going on, I got to be

77.



(Judge Michael H. Plass - Direct)

1 honest, I'm not doing it. So when you asked me about mandatory things
2 and what happens to me, why isn't all that mandatory? Why does this
3 have to happen?
4 Why does someone have to sit here and you're not supposed to take it
5 take it personal. That's impossible. You take it personal. You're putting
6 a bad light on me. I'm a bad Judge. I want to be the best damn Judge. I
7 like my job, but the light that's cast on me and the mistakes I've made are
8 hindering that right now.

9 Q. Is there anything else that you would like to tell the hearing officer before
10 I finish?

11 A. No, just that I'm appreciative of everyone, Mr. Arnone, the hearing
12 officer, to listen.

13 MR. LEVENTHAL: Thank you, Judge Plass.

14 MR. NORTH: Thank you.

15 MR. ARNONE: May we take a brief recess?

16 Just a break.

17 MR. NORTH: Sure.

18 MR. ARNONE: Thanks.

19 THE WITNESS: Thank you.

20 MR. NORTH: Five, seven minutes?

21 MR. FRIEDBERG: How about ten?

22 MR. NORTH: Okay. Whatever Mr. Friedberg
23 wants. Judge, you can step down if you'd like.

24 THE WITNESS: Is it okay if I just stay here,
25 or?

78.



(Judge Michael H. Plass - Cross)

1 MR. NORTH: Sure.

2 THE WITNESS: Thank you.

3 (Recess from 12:17 p.m. until 12:29 p.m.)

4 MR. NORTH: I just want to note for the record,
5 we have the same personnel and people here in the hearing
6 room today as we did yesterday, except for Mr. Maisonet,
7 who is not here today. Ms. Hagerty is doing the recording.

8 Okay. Mr. Arnone, you may proceed with the --

9 MR. ARNONE: Thank you, Mr. North --

10 MR. NORTH: -- cross-examination.

11 MR. ARNONE: Thank you, sir.

12 CROSS-EXAMINATION BY

13 MR. ARNONE:

14 Q. Good afternoon, sir.

15 A. How are you?

16 Q. I'm good. How are you?

17 A. I'm well, thank you.

18 Q. I want to apologize in advance. I'm losing my voice. I don't know if that
19 benefits you or not, or -- but I apologize. I'm going to try the best I can.

20 A. I have a mint -- I have a mint.

21 Q. Yeah, that's --

22 A. Would you like a mint?

23 Q. I'm -- I'll pass.

24 A. Okay.

25 Q. Just in the interest of keeping it moving, but I appreciate it.

(Judge Michael H. Plass - Cross)

1 A. Sure.

2 Q. Judge, we've put on the television here, this is Commission Exhibit 1.

3 You've seen this before, correct?

4 A. Yes, sir.

5 Q. Did you design this?

6 A. Yes, sir.

7 Q. And do you admit that you designed this by this by yourself.

8 A. Yes, sir.

9 Q. You didn't consult an attorney before you designed this, did you?

10 A. No.

11 Q. And you told -- you described this application or computer program

12 called --

13 A. Canva.

14 Q. Canva. Did you design it on a desktop computer?

15 A. Yes, sir.

16 Q. Okay. Have you ever just used that app before?

17 A. No.

18 Q. Okay.

19 A. It was free.

20 Q. It's free. Those are the good ones.

21 A. Yeah, that's the good one.

22 Q. Okay. So you received no assistance in designing this, correct?

23 A. Except for the picture. I had a professional pictures taken because I'm not

24 a real photogenic guy, so --

25 Q. Okay. And then did they provide you with the photographs and then you

80.



(Judge Michael H. Plass - Cross)

1 inputted them into the flier?

2 A. They gave me a flash drive, and I could just, like, click an attachment and
3 put it on there.

4 Q. Okay. And then after you designed this, you took this to a print shop,
5 correct?

6 A. Yeah. You just forward it to them in an email form, and the local print
7 shop, they gave you a bulk mailing, and they print it up. They send you
8 out one so you can make sure it's what you like before you send it. But
9 yeah, you send it to a shop.

10 Q. Okay. And then you indicate how many copies you want to have sent
11 out.

12 A. Yeah. I asked them how much they cost, and they're not cheap.

13 Q. Okay. And you sent 3,000 -- you directed them to distribute 3,000
14 copies?

15 A. Yeah. That was roughly one seventh of the population of the town. I
16 thought that was sufficient. Plus my knocking on the door. So 3,000 was
17 what I sent out.

18 Q. And just looking -- and I'm going to direct your attention to the top
19 portion here, where it says, as a Hyde Park police officer, I have seen
20 firsthand the problems Hyde Park faces. Judge, when you wrote this, did
21 you believe that drugs, domestic violence, and repeat offenders hindered
22 your town?

23 A. Yeah, those are the three biggest things we face in town --

24 Q. And --

25 A. -- that we need help with.

81.



(Judge Michael H. Plass - Cross)

1 Q. Were those things that you had to focus on and -- as you drafted this
2 mailer?

3 A. Well, so like I told you, I put a collage out of all the other ones that I
4 received from different people, and the reference I was drawing from, it
5 was what they were going to do for everybody in community. What were
6 you going you going to do to help me? Why should I elect you if -- what
7 are you going to do to help the community? And there were things like
8 get the garbage trucks to come later, install streetlights, cut your taxes.
9 So I just put what I thought I was going to do to help the community, so.

10 Q. Did you look at any samples from Judges who had presided in criminal
11 court?

12 A. No. The -- so the weird thing about Hyde Park is both Judges run at the
13 same time. It's not one Judge runs against other people, and then a
14 second Judge runs later. You both run at the same time, so.

15 Q. Understood. So -- but the drugs, domestic violence, and repeat offenders,
16 do you agree that this is something that you had to focus on as you were
17 running of -- for judicial office?

18 A. It was meant so that the people that opened and read this -- if they did and
19 didn't throw it in the trash -- would understand that I know these are what
20 we need to focus on. These are the three things we need to help. That's
21 it. That's -- I wanted the people to know that I wasn't just coming in here
22 saying, oh God, I want that job. I knew that this was something the
23 community would relate to, that we have these problems.

24 Q. And Judge, everything that we see here on page one or the front of this
25 mailer, did you author everything here? Did you type it all?

82.



(Judge Michael H. Plass - Cross)

1 A. Yeah. Yeah. Yeah.

2 Q. And is the language here created by you?

3 A. Uh-huh.

4 Q. Does that include --

5 MR. NORTH: Yes?

6 MR. FRIEDBERG: You have to answer

7 verbally.

8 MR. ARNONE: I'm sorry.

9 THE WITNESS: Oh, I'm sorry.

10 A. Yes, sir.

11 BY MR. ARNONE:

12 Q. Does that include the lower left-hand corner, which says, "Every vote
13 counts? Together we can make change in the safety of our community."

14 A. Sure.

15 Q. What did you mean by make a change in the safety of our community?

16 A. Elect me.

17 Q. And what needed to change about the safety in your community?

18 A. Well, no, I mean, I -- so the way I thought was that, you know, Judges
19 protect people. That's -- you know, that's part of their job is to give a
20 order of protection. And the change was just me instead of the other
21 Judges. The safety of the community was just because that's what I think
22 Judges do; they help people.

23 Q. Do you think that that -- would you admit that take -- that section of the
24 of the mailer, taken in conjunction with your pledges, may convey the
25 appearance that you were going to change safety by incarcerating people.

83.



(Judge Michael H. Plass - Cross)

1 A. In my mind, no. But through the help of my lawyer, I have learned that it
2 can be interpreted in a different way. I mean, you have to be very careful
3 what you say. You're in a fishbowl. If you say you're going to
4 incarcerate offenders, and that statement does not mean that I'm locking
5 everybody up. And the safety of my community, it depends on me
6 locking up drug dealers and domestic violence and repeat -- it -- that's not
7 what it was meant.

8 Q. Well --

9 A. That's not what the intention was.

10 Q. -- let's look at the first pledge there. It says that as your -- as a Hyde Park
11 police officer, I have seen firsthand the problems Hyde Park faces. As
12 your town Judge -- town justice, I pledge to -- and the first is keep drug
13 dealers off of our streets and out of our hotels.

14 A. Uh-huh.

15 Q. Judge, as you sit here today, do you agree that that pledge created the
16 impression that you would incarcerate anyone who was charged with a
17 drug -- anyone charged with a drug sale?

18 A. No. Incarcerate? The drug dealer off the street and out of our hotels?
19 No, I do not agree with that statement. It does not say that I'm going to
20 incarcerate drug dealers. It says I'm going to get them off the streets, and
21 I'm not going to let them go back to our hotels.

22 Q. Judge, I'm asking you if that pledge creates the appearance that you were
23 pledging to incarcerate anyone charged with a drugs --

24 MR. NORTH: I'll allow it. Cross examine.

25 A. No. No, I don't believe that that gives that appearance. It's too vague.

84.



(Judge Michael H. Plass - Cross)

1 BY MR. ARNONE:

2 Q. Judge, you've testified here before, correct?

3 A. Yeah.

4 Q. And you testified here on March 26th, 2024?

5 A. Uh-huh.

6 Q. And do you --

7 MR. NORTH: Yes, sir?

8 MR. FRIEDBERG: Again, you have to answer
9 verbally.

10 A. Yes. I'm sorry.

11 MR. NORTH: Mr. Friedberg, if I forget to
12 admonish the witness, I invite you to pipe in, but otherwise,
13 let me do my job.

14 MR. FRIEDBERG: Okay. Sorry.

15 MR. NORTH: Thank you.

16 BY MR. ARNONE:

17 Q. Do you recall being asked this question and giving this answer? "Judge,
18 would you at least agree that the way that you wrote this created the
19 impression that you were pledging, if you were to win the election, to, by
20 keeping, quote, drug dealers off of our streets and out of our hotels, that
21 you would just want to incarcerate them." And you answered, "I will
22 acknowledge that, yes." Question: "Off our streets?" And you
23 answered, "I will acknowledge that people would have the impression, or
24 could have that impression, but that's not what I meant at all." Do you
25 recall giving those answers --

85.



(Judge Michael H. Plass - Cross)

1 A. Okay. So in the context, the way that you're describing it, I'm agreeing to
2 the fact that someone could manipulate that sentence to think that I was
3 going to lock up a drug dealer. I do agree with what you're -- those
4 sentences are March 24th. When we asked, you kept pressing me and
5 pressing me and pressing me to say, do you think this is what other
6 people would think? And I said, I can see where you could draw that
7 inference. I do see that, but only through the light of, you know, trying to
8 examine -- what could that mean?

9 Q. Well, Judge, I'm asking you that. The first pledge states keep drug
10 dealers off of our streets and out of our hotels.

11 A. Right. And I believe I testified to you that when I said keep drug dealers
12 off our streets, that I would use every available method in any other way,
13 rehabilitation, some kind of transition center, which we have in Dutchess
14 County. I believe I conveyed that to you, and your statement back to me
15 was, you don't say anything about that on your card. And I said, Mr.
16 Arnone, where would I put it?

17 Q. Okay. Judge, let's break it down for what you're just telling us. I just
18 want the record to be clear. For my first question, what I'm asking you,
19 do you -- and I've asked you as you sit here -- do you agree that this first
20 pledge conveys the impression that you would lock these people up? Are
21 you saying today that that's not -- that this statement does not convey that
22 message.

23 A. Well, obviously, I have to say someone could think that, and it would
24 be -- that'd be wrong --

25 Q. Judge, you don't have to say anything. We just want the truth here. As

86.



(Judge Michael H. Plass - Cross)

1 you sit --

2 A. Someone could think that from that statement, yes. So it could convey
3 the message that I would lock up drug dealers.

4 Q. Judge, would it be reasonable, given the language of that pledge, for the
5 reader to assume that's exactly what you meant?

6 A. No.

7 Q. Why not?

8 A. Because it doesn't say anything about a car -- incarcerate; the next
9 sentence does.

10 Q. Well , does it --

11 A. Keep drug dealers off our streets? What does that mean?

12 Q. Well, wouldn't it be reasonable for a reader to assume that by keeping
13 drug dealers off the streets, you meant to throw them in a jail, get them
14 off the street? Isn't that how --

15 A. Maybe a reader, but what about another reader? Maybe a reader that's
16 been to Transition Center? Maybe a reader who's been to Four Winds.
17 Those are not lockups. Those are to rehabilitate the drug offender
18 without, you know, putting them in jail.

19 Q. Judge, you mentioned nothing about rehabilitation in this flier. Is it your
20 testimony today that the reader would assume -- the people who you
21 wanted to vote for you would assume --

22 MR. NORTH: Wait. Wait. Wait. Judge, wait
23 until the question is finished --

24 BY MR. ARNONE:

25 Q. Is it your testimony that you intended for the readers to assume, even

87.



(Judge Michael H. Plass - Cross)

1 though you made no mention of anything related to rehabilitation, that
2 that's what you meant to say when you said you would keep drug dealers
3 off of our streets and out of our hotels.

4 A. Did I mean for the reader to assume I would incarcerate them? Is that the
5 question?

6 Q. My question -- well, we asked this yesterday. Can we have the question
7 read back, or is that still not a possibility?

8 MR. NORTH: No, I have no --

9 MR. ARNONE: It's not?

10 MR. NORTH: Rephrase it.

11 MR. ARNONE: Okay.

12 BY MR. ARNONE:

13 Q. You made no mention of rehabilitation anywhere in your flier, correct?

14 A. Correct. We established that.

15 Q. Right. How would a reader assume that you meant to consider
16 rehabilitative means when there's no mention on your flier?

17 A. How would they consider incarcerate if there's no mention of
18 incarcerating?

19 Q. Well, because you do state incarcerated right in your second pledge.

20 A. But that's not the sentence we're talking about.

21 Q. All right. Well, okay, so --

22 A. We did talk about this in original testimony too that each sentence was
23 made to be read by itself, keep drug dealers off the streets and out of our
24 hotels. And I explained that our drug dealers are typically low-level guys
25 who have a big habit, so they take a lot of drugs and they sell them off to

88.



(Judge Michael H. Plass - Cross)

1 support their own habit. And what I was saying was that I would try and
2 get them as much help as possible to get them, so they realize that this is
3 not acceptable in the community and get them the help they need. And
4 with reference to the hotels, our town is one of those that we only have
5 like five hotels. But there was a rule placed by New York State where
6 you can put social services people in your hotels.

7 Q. Judge, I appreciate the answer. I don't want to get too far afoul, because I
8 know that you do have to leave at a certain time.

9 A. Thank you.

10 Q. I want to just keep on topic. You've testified now that you've intended
11 for your pledges to be taken, not in conjunction with conjunction with
12 each other, to be considered separately of each other. And --

13 A. That's what I stated before --

14 Q. And you've also testified that you were assuming readers would know
15 that you intended to convey rehabilitation.

16 MR. LEVENTHAL: Objection.

17 MR. NORTH: It's cross-examination. Okay.

18 MR. LEVENTHAL: But I -- but he stated what
19 this witness testified to, and that's not what he testified to.

20 MR. ARNONE: Okay. I'll withdraw.

21 MR. NORTH: Okay.

22 BY MR. ARNONE:

23 Q. Judge, you -- we've established you don't mention anything about
24 rehabilitation here.

25 A. Yes, sir.

(Judge Michael H. Plass - Cross)

1 Q. Do you state here that my pledges should not be taken in conjunction
2 with one another?

3 A. Do I -- I'm sorry.

4 Q. Do you state anywhere in your flier that my pledges are not to be taken in
5 conjunction with each other, that they're to be read separately?

6 A. I mean --

7 Q. They don't. Right.

8 A. -- no. No.

9 Q. You don't. Right. But you just testified that your pledges were not meant
10 to be taken in conjunction. Your mailer didn't come with an instruction
11 manual, Judge.

12 A. None of them do.

13 Q. Right. So again, the reader is left to the reasonable inferences of what
14 they've read here. Isn't that correct, Judge?

15 A. Well, whatever your definition of reasonable may be.

16 Q. Judge, as you sit here today under oath, your testimony, it's not
17 reasonable for a reader to think that you meant that you would jail drug
18 dealers where you had said, keep them off our streets and out of our
19 hotels?

20 A. I --

21 MR. LEVENTHAL: Judge -- Mr. North this is
22 this is becoming badgering. He's asked the question. He's
23 had his answer.

24 MR. NORTH: Objection overruled. Proceed.

25 BY MR. ARNONE:

90.



(Judge Michael H. Plass - Cross)

1 Q. Is that your testimony, Judge? It's not reasonable --

2 A. It's the same as when we were here on last March. It's the same things

3 I'm telling you --

4 Q. Judge, forget when we were here last March --

5 MR. NORTH: Wait. Wait. Wait. You can't

6 both talk at the same time.

7 MR. ARNONE: I apologize.

8 A. I'm not going to change what I told you last March. Yes, these things that

9 are on here -- look, the word says pledge. That's the death of the thing

10 right there. You can't make pledges and promises. Now, I have

11 learned -- I have learn --

12 BY MR. ARNONE:

13 Q. Judge, hold on -- hold -- Judge --

14 MR. NORTH: Let him finish his answer.

15 A. -- I have learned through -- I have learned through my mistake that it can

16 give the appearance to an individual, individuals, groups -- however you

17 may want to say -- someone may view that as I would lock people up,

18 and I have stated that to you. Yes, I do convey that.

19 Q. Do you think it was -- it would be unreasonable for those readers to

20 conclude that?

21 A. I think it would be unreasonable for every reader to conclude that.

22 Q. And why is that?

23 A. Because I don't think -- I didn't write it to mean that. I'm the one person

24 then. If the whole world says this is what it is, I'm telling you, under

25 oath, truthfully, as a regular person, that's not what it meant.

(Judge Michael H. Plass - Cross)

1 Q. Judge, you talked about the last time, and I'm only going there because
2 you talked about it.

3 A. Sure.

4 Q. The last time you were here. The last time you were here -- and we can
5 look at the admissions that are already stipulated into evidence -- you
6 testified -- you agreed that this created the appearance that you were
7 pledging to put everybody in jail and lock them -- not let them go to a
8 hotel.

9 A. No --

10 Q. Is something different today?

11 A. No, I did not testify that.

12 Q. Well, okay, let's look at.

13 A. You can read that back from my statement. I never test -- what I said is
14 at the end of our interview last time you asked me, each statement, does it
15 convey the appearance -- you actually asked me if I was honorable -- not
16 honorable, and I quoted you and said, I am honorable person. What I
17 wrote is not good, but I'm an honorable person. And that was in our
18 statements.

19 Q. I asked you if you were honorable?

20 A. Yes, something along those lines. Was I honorable or was it --

21 Q. What page was that, Judge?

22 A. Look at the end of the -- end of the testimony.

23 Q. I disagree that I asked you that.

24 A. Oh, you definitely did. It's definitely in there.

25 Q. So -- okay. Judge, let's get back to these pledges.

(Judge Michael H. Plass - Cross)

1 A. Sure.

2 Q. So just -- I just want the record to be clear, and I'll move on.

3 A. I can save you. Every one of those --

4 Q. No. No. No. No. We -- I know you -- I --

5 A. -- will convey that message. Every one of those will convey the message
6 that you're saying that people could draw an inference from that that I
7 would incarcerate everyone.

8 Q. Well, let's stick with the first pledge, if you don't mind.

9 A. Sure.

10 Q. Do you also acknowledge that by that pledge -- because again, we just
11 have to keep our record, right -- that you created with this first pledge the
12 appearance that you were singling out for bias treatment defendants who
13 were convicted of drug offenses.

14 A. Yes.

15 Q. You do acknowledge that. Judge, do you acknowledge that the
16 appearance of this pledge -- again, we're still on that first pledge.
17 Keeping drug dealers off our streets -- was inconsistent with your judicial
18 obligation, even as a candidate for impartiality.

19 A. As I understand it now, yes. But when I published the mailer, no, I had
20 no idea that that was a rule. I never would have wrote, I pledge to, or
21 conveyed any bias towards any group of people.

22 MR. NORTH: Judge, if I -- if you don't mind,

23 Mr. Arnone --

24 MR. ARNONE: Sure.

25 MR. NORTH: -- one question.

(Judge Michael H. Plass - Cross)

1 Is it your position, Judge Plass, that if you had
2 written, I intend to, rather than I pledge to, this would be a
3 fair expression of your position as a town justice?

4 THE WITNESS: No, because the rule states
5 that even though you don't write the word pledge, that if it
6 can be construed as such or project the appearance of
7 impartiality, it's still a violation of the rule. So --

8 MR. NORTH: So regardless of the word
9 pledge --

10 THE WITNESS: Correct.

11 MR. NORTH: -- you do believe that your flier
12 does indeed create that impression of impartiality.

13 THE WITNESS: It -- and bias as well --

14 MR. NORTH: Yes.

15 THE WITNESS: -- in favor of others and not
16 everyone at once.

17 MR. NORTH: Okay.

18 BY MR. ARNONE:

19 Q. Judge, I'll move to the next pledge at this time. "As your town justice, I
20 pledge to incarcerate offenders and protect victims of domestic violence."
21 Would you agree that that pledge by -- where you stated that you would
22 incarcerate offenders, conveyed the appearance that you -- were pledging
23 to incarcerate all offenders?

24 A. Again, not all offenders, but yes, offenders. I would have put all in there
25 if it was incarcerate all offenders. It's not all -- it's its offenders.

94.



(Judge Michael H. Plass - Cross)

1 Q. Oh --

2 A. If you committed a crime that was serious enough that you were a threat
3 to the person, you needed to be put in jail, I would be a strong enough
4 person to be able to realize that and do that. That was what it was meant
5 to convey. And the protect victims of domestic violence was Judges,
6 order orders of protection for when they come in -- it's a form of
7 protection for the victim. That's exactly what I meant. Not to lock up
8 everyone. But again, yes, Mr. Arnone, it could convey the message to a
9 reasonable person that may read it in a different light to say I would
10 incarcerate all offenders. That is a possibility.

11 Q. Do you --

12 A. Which I deeply regret. I'm sorry.

13 Q. Do you think that it was appropriate for a judicial candidate to make that
14 impression?

15 A. It is not appropriate for a judicial candidate to make those impressions.

16 Q. Do you agree that that was inconsistent with your judicial obligation of
17 impartiality, even as a candidate to say this?

18 A. Now that I have learned that the rules apply to candidates specifically,
19 yes, that is inconsistent with your responsibility as a Judge.

20 Q. At the time that you created this Judge, you didn't -- your testimony --
21 you did not think that anyone would draw the conclusions that, for
22 example, the advisory committee has drawn --

23 A. Yeah, I didn't --

24 Q. -- from this mailer --

25 A. -- I didn't give it that much thought. It was pretty careless, to be honest.

95.



(Judge Michael H. Plass - Cross)

1 Q. Judge, we were -- I witnessed you doing math in your head at an
2 incredible rate today and was very impressed.

3 A. Thank you.

4 Q. And I think I test -- I told you at the -- when you testified that you --

5 A. Articulate well --

6 Q. -- articulate well and are in control of your words.

7 A. 19 years of law enforcement.

8 Q. Well, okay. Right. So is it your testimony that --

9 MR. ARNONE: Well, I'll withdraw that.

10 BY MR. ARNONE:

11 Q. When you sent this mailer out, wasn't your intent to win over voters?

12 A. Yeah. I mean, I guess that's the whole idea of all the mailers, right?

13 Q. That's --

14 A. Is to get a voter to say, well, look at this guy. He knows what's going on
15 in town. Let's give him a chance and see what he can do.

16 Q. And I think you testified you spent, what, \$7,000 on the distribution --

17 A. Oh, yeah, twice.

18 Q. Two times. Well, we'll talk about the first one. That's, you know, a
19 pretty penny --

20 A. Yeah.

21 Q. -- for an important cause.

22 A. Well, to me, it was important.

23 Q. Of course.

24 A. Maybe to others it's not, but to me, it was.

25 Q. You were trying to get elected, correct?

96.



(Judge Michael H. Plass - Cross)

1 A. I wanted to be a Judge.

2 Q. And you acknowledged that these were the problems that Hyde Park
3 faces, and you were going to offer a solution.

4 A. Yeah. I would hope that I could help find a solution. That's my -- that
5 would be my hope, yeah.

6 Q. Didn't you take care in what you wrote here so that you could win these
7 voters over?

8 A. Well, wait a minute. Are you asking me did I write that because these
9 people would vote for me if I put them in jail?

10 Q. Sure.

11 A. No. No. Then the answer to that is no. I wrote them because I'm a 19-
12 year police officer, because I know what the things are that are happening
13 in town, and I wanted the public to know that I'm not just some Joe
14 Schmo walking up here asking for your vote. I pay attention. I know
15 what's going on in my community, and I want to help. I want to do my
16 part of community service. That's what I've been testifying and
17 maintaining the same testimony over and over and over again. Yes, these
18 are wrong. They're a mistake. They're a mistake made by me because
19 there was no education for a Judge prior to being elected. There's only
20 some rule that you can Google if you know to Google it.

21 Q. Judge, do you -- have you ever heard of the Scales of Justice?

22 A. That little thing?

23 Q. Yeah.

24 A. The gold thing right -- yeah --

25 Q. Are they like this, indicating uneven, or you know -- I mean, I'm looking

97.



(Judge Michael H. Plass - Cross)

1 at one on the wall behind Mr. North.

2 A. Well, you would hope they're even.

3 Q. Well, isn't that the point of a Judge?

4 A. That is the point of a Judge now, yes.

5 Q. Okay.

6 A. I've learned my -- I've learned the error of my ways and how a Judge is
7 supposed to act. If I had this to do over again, Mr. Arnone, I would never
8 write that.

9 Q. Why wouldn't you write it?

10 A. Because it's not allowed. You've showed that you're not capable -- you
11 wait, that's -- I misspoke -- it could give the appearance that I'm not
12 capable of being fair to Judge you. You beat your wife up, and you come
13 in, and you stand in front of me as a Judge. If you got my mailer, would
14 you think that you were going to get a fair trial, or would you leverage
15 that against me and say that Judge doesn't like domestic violence people,
16 so it gives the impression that I wouldn't be who I am, for one; and two,
17 what you could misconstrue that to be.

18 Q. You don't have to like domestic violence people, but do you acknowledge
19 that everybody who appears before you deserves a fair hearing?

20 A. Everyone has the voice.

21 Q. Isn't this flier completely inconsistent with that Judge?

22 A. Not in my opinion, but in someone else's opinion, it may be.

23 Q. Was that someone else the Advisory Committee on Judicial Ethics?

24 A. Yeah. They didn't --

25 Q. Well, did --

(Judge Michael H. Plass - Cross)

1 A. -- they didn't like it.

2 Q. The -- Judge, we're looking at the third pledge now. Assure repeat
3 offend -- you pledged to assure repeat offenders are sentenced to the full
4 extent of the law. I think that you said this already, but do you
5 acknowledge that the appearance here is that you would send --
6 promising to sentence repeat offenders to the maximum?

7 A. I will acknowledge that the inference drawn from that is correct, that it
8 could be -- you could say -- because ethics changed it to maximum, and I
9 wrote another letter to them, and I said, wait a minute, I never said
10 maximum. What -- when I said full extent of the law, I was trying to
11 convey a range, you know, a range of the full extent, like what's allowed
12 within the law. If you look in the MAGILL's book, it says first offense,
13 second offense. You know parked on -- or parked with a violation or
14 driving with a violation, and you have a range of fines from 0 to 300, so
15 you could get anything in there.

16 Q. Had you seen MAGILL's before you wrote this mailer?

17 A. Oh, yeah.

18 Q. How?

19 A. Oh, I've been a police officer for 19 years.

20 Q. Okay. So you're familiar with the law?

21 A. Yeah.

22 Q. You've test --

23 A. I was familiar with the book. I'm not familiar with how you were
24 supposed to adjudicate the decisions or how you came to those, but I had
25 seen a MAGILL's book. Actually, when I worked in Red Hook, my co

(Judge Michael H. Plass - Cross)

1 Judge -- or the Judge that I stood in front of was Jonah Triebwasser, and
2 Jonah is the person who manages the MAGILL's book.

3 Q. And -- okay. Well, it -- you acknowledge that you were aware that there
4 at least is a range of possibilities that should be applied, correct?

5 A. And that was the message I meant to convey. But if you read it real
6 quickly and you say, oh my God, this guy, you can't have this guy. He's
7 going to give everybody the maximum sentence. I can't tell you what you
8 think is wrong, but I can tell you that's not what I meant.

9 Q. When you're in a position where you're sending this mailer out --

10 A. Uh-huh.

11 Q. -- and you're trying to win over voters, does it matter what you intended?

12 A. I think that's the most important thing, is what you intended.

13 Q. You talked, I think, on direct about going door to door and talking to
14 voters.

15 A. Yeah. Sure.

16 Q. But when you sent this mailer out, it was just sent through the U.S. mail,
17 correct?

18 A. Yes, sir.

19 Q. So the people that are reading it don't have the benefit of speaking with
20 you and understanding what your thought process is, correct?

21 A. Right.

22 Q. So if we --

23 A. It would only be inference like you said. It would be an inference you
24 drew from it when it was in your possession.

25 Q. Judge, do you think -- and again, based on your acknowledgment -- that

100.



(Judge Michael H. Plass - Cross)

1 the third pledge could create the appearance?

2 A. Yes, sir.

3 Q. Do you think that was appropriate for a judicial candidate to allow that
4 appearance?

5 A. That's not appropriate.

6 MR. ARNONE: Okay. Can we -- Mr. Khan,
7 can we just scroll down for the record?

8 And for the record, we're going to look at the
9 reverse side of the mailer.

10 THE WITNESS: Uh-huh.

11 BY MR. ARNONE:

12 Q. Judge, these are endorsements. Did you seek these people out for their
13 endorsements?

14 A. Yes, sir.

15 Q. Who wrote the endorsements? I don't mean who typed it into the mailer,
16 but who actually authored them?

17 A. The -- they were handwritten on a piece of paper by each individual,
18 Hyde Park supervisor; the ex-senator, Sue Serino, who is now our new
19 county executive; and the Dutchess County Sheriff, Kirk Imperati.

20 Q. Did you tell them what to write?

21 A. No.

22 Q. Okay. So they've submitted this to you. And did you receive any other
23 endorsements other than what we see here --

24 A. No.

25 Q. -- that you chose not to use?

101.



(Judge Michael H. Plass - Cross)

1 A. No.

2 Q. Okay. I'll look at the first endorsement here. "Michael Plass has
3 protected Hyde Park for ten years as a police officer. Now, we will send
4 Mike to the bench to defend Hyde Park."

5 A. Uh-huh.

6 Q. Again, who -- defend Hyde Park from whom?

7 A. Well, I can't speak from -- for the supervisor, what he meant to defend
8 Hyde Park. I don't know exactly what he meant, but --

9 Q. Well, when you included this, what message do you hope voters would
10 deduce from that?

11 A. The Hyde Park town supervisor thinks Mike Plass should be the Judge.

12 Q. Right.

13 A. This was pretty overwhelming. If you're a first time candidate, and the
14 three biggest people in your county choose to endorse you. That's my
15 supervisor of the town. That's a state senator who's now my county
16 executive. And that's number one in charge of my county.

17 Q. It's --

18 A. So for them to say, Mike, we want you to be Judge, I was over the moon,
19 man. I was like, all right, man, I got a shot at this.

20 Q. That's impressive. Did you read --

21 A. Yeah.

22 Q. -- did you read -- well, you did read them because you ended up typing
23 them in.

24 A. Yeah. And I -- but like I said in my previous testimony, I didn't really -- I
25 was so excited that these three people were backing me, I didn't -- I didn't

102.



(Judge Michael H. Plass - Cross)

1 even think about it. It was careless. It really -- really was, but only
2 because I see it in a different light now. I see it through your eyes, you
3 know.

4 Q. Do you -- well, don't worry about my eyes, but --

5 A. Got glasses.

6 Q. -- maybe -- maybe the advisory committee's. But what -- is it the job --
7 Judge's job to defend Hyde Park?

8 A. No. No.

9 Q. And looking at the second endorsement here, "Mike has protected our
10 community with dedication and honor." I'm paraphrasing. He will
11 continue to do just that, protect and serve. Protect and serve, that's a
12 common law enforcement slogan; isn't that correct?

13 A. Yeah. Yeah.

14 Q. And --

15 A. They all know me as a police officer, every one of them.

16 Q. The --

17 A. That's -- you know, I worked for the supervisor as my boss as a police
18 officer. Sue knows me as a police officer. She lives in the town of Hyde
19 Park. And that guy made me a police officer. When I was too old to be a
20 police officer, the sheriff invited me to come because he said we need
21 people with better, you know, decision making process, people who have
22 seen more of the world than kids with a -- you know, a beat them up
23 attitude and throw them in jail, you know. That was the idea behind --
24 they all know me as a police officer. They don't know me as a Judge.
25 And --

103.



(Judge Michael H. Plass - Cross)

1 Q. Well, you weren't a Judge yet. Sue Serino's endorsement goes on, Mike
2 will bring that same commitment to the bench to ensure victim's rights
3 are always a priority. Should victims right -- is it a Judge's obligation to
4 ensure that Judges -- I'm sorry -- that victim's rights be a priority?

5 A. Well, that's interesting because some of my research has -- you know, I've
6 done a lot of research as to what law means, and law is to ensure citizen's
7 rights against other citizens, government, and there was one other thing in
8 there that -- so rights in general should be protected for everyone, not
9 specifically singling out the victims, which could convey the image that
10 I'm biased in favor of victims and would not treat the person who's
11 accused of possibly harming the victim.

12 Q. So do you acknowledge that that's the import of this --

13 A. It --

14 Q. -- endorsement, that you would prioritize victim's rights over the others --

15 A. Yeah, I can draw that from that now. Yeah, I see that.

16 Q. And isn't the import of that that say, for instance, defendants would have
17 inferior rights to victims?

18 A. Well, I mean, obviously, if you say victim rights are always the priority, I
19 mean, that's pretty self-explanatory, right? Yes, the victim would receive
20 bias in favor rather than the person accused of hurting the victim.

21 Q. Judge, do you agree it was a mistake to use any of these endorsements as
22 they're written?

23 A. Oh, yeah. Yeah. Now that you read the rules and you read all the
24 specifics and you contemplate what someone else may think, and --
25 there's a lot of -- you need to do a lot more than I did to here in this one.

104.



(Judge Michael H. Plass - Cross)

1 Q. Judge, do you agree that your campaign flier or mailer created the
2 appearance that you might be biased in favor of the prosecution if you
3 were to be elected to the bench?

4 A. Do I -- I don't think that, but -- I mean, I guess if you're saying -- no, I
5 mean, nowhere on here does it prosecution. I don't favor one side over
6 the other. I mean, you could --

7 Q. My question was is does it create the appearance --

8 A. -- you could that inference from it because the victim is getting special
9 treatment, so the prosecution would be the person representing the victim,
10 so thus the prosecution would be getting favorable treatment. So yes, you
11 could draw that.

12 Q. But -- I appreciate that. Again, we're talking about the appearance here.

13 A. Yeah, the appearance. You -- yeah, the --

14 Q. Did you consider at the time that you drafted this that the flier creates the
15 appearance --

16 A. No.

17 Q. -- that you would be biased in favor of law enforcement?

18 A. No.

19 Q. Even with all of these credential -- noting your credentials as a police
20 officer?

21 A. I mean, I think that's the only reason you would do that. If I wasn't a
22 police officer, would you give me as much credit? I mean, I'm a 19-year
23 police officer. It officer says police officer, protect and serve, the sheriff,
24 you know, law enforcement officer. Every statement has police officer in
25 it.

105.



(Judge Michael H. Plass - Cross)

1 Q. Judge, did you consider at the time that you drafted this, that you would
2 create the impression that you would not judge cases on an individual
3 basis if you were to be elected?

4 A. Did I think that?

5 Q. Did you consider that at the time --

6 A. No.

7 Q. -- that you drafted it?

8 A. No.

9 Q. What about as you sit here today? Do you see that this mailer creates that
10 impression?

11 A. I see that the rules from the judicial system could give that -- the
12 appearance, yes, that someone could draft that from that, yeah.

13 Q. Well, apart from whatever rules may exist, just the factual inference of
14 this.

15 A. You could draw an inference from it. I mean, you could simply say, this
16 guy's a cop. All he wants to do is cop stuff. You could get a bad -- yeah.

17 Q. Do you agree that you created the appearance that you were committing
18 herself to certain facts or issues that may come before you as a Judge?

19 A. No.

20 Q. You don't agree with that?

21 A. No, I don't -- and nowhere in these endorsements does it say that I'm
22 committed to a certain set of facts?

23 Q. I'm not -- I apologize, I'm not just talking about the second page.

24 A. Oh --

25 Q. The mailer in its entirety.

(Judge Michael H. Plass - Cross)

1 A. Oh, yeah, I mean, I don't know what I think of the mailer anymore. I
2 mean, it's really been a -- it's really killing me. I don't know what the hell
3 to think of that damn --

4 Q. Well, you pledged -- the rules prohibit you from pledging --

5 A. Stupid --

6 Q. -- so you pledged -- do you agree that you pledged to take action in
7 certain cases?

8 A. I pledged to do an action, yes. What that action may be is what I say I
9 thought was different than what the appearance may convey to others.

10 Q. Well, let's for -- say, for example, you pledged to incarcerate offenders.
11 Assuming you were elected, you would be deciding the fate of offenders;
12 is that correct?

13 A. Again, I'm going to state that that sentence is made to be read together.

14 Q. Okay.

15 A. That's what the little asterisk is for.

16 Q. Understood. Let's take it as a modifier then. Or I'll just go to an --

17 A. Incarcerate offenders and protect victims of domestic violence. So an
18 offender --

19 Q. So hold on, I'll ask the --

20 MR. NORTH: Wait. Wait. Wait.

21 BY MR. ARNONE:

22 Q. -- I'll ask the question. Incarcerate domestic violence offenders?

23 A. Correct.

24 Q. Okay. So do you agree that you're pledging -- again the appear -- well,
25 literally -- you're literally telling voters that you're pledging to incarcerate

107.



(Judge Michael H. Plass - Cross)

1 domestic violence offenders.

2 A. Yes.

3 Q. Presumably, if elected, domestic violence offenders would appear before
4 you as defendants; isn't that correct?

5 A. Yes.

6 Q. Okay. So you're pledging to take an action well before you've considered
7 any of the facts of the case?

8 A. Well, that's the inference you're drawing, but what about the inference
9 that in domestic violence is one of the last bailable offenses?

10 Q. Well --

11 A. You can't bail anybody -- you can't bail a drug dealer -- you can't
12 incarcerate him -- on bail for a drug dealer, but a person that commits
13 domestic violence, if the level exists, the, you know, District Attorney's
14 Office can make a recommendation for bail, so those offenders could be
15 incarcerated. It doesn't say, you know, repeat offenders are incarcerated.
16 It says incarcerate offenders and protect victims of domestic violence,
17 meant to be read as a whole, so that the victim would get a order of
18 protection, and the offender, if the level met, that standard, would --
19 could be incarcerated.

20 Q. You've never presided over a criminal case, correct?

21 A. No, sir.

22 Q. Do you -- well, you were a police officer. In your experience --

23 A. Yes.

24 Q. -- either as a police officer or as a Judge who has made observations --

25 A. Uh-huh.

108.



(Judge Michael H. Plass - Cross)

1 Q. -- can you contemplate a case where someone or a party requests an order
2 of protection, and it's not granted?

3 A. No.

4 Q. You don't imagine that?

5 A. I've never seen that.

6 Q. Okay.

7 A. It's always been grant -- that's why we go for arraignments.

8 Q. Okay.

9 A. And they have to give them.

10 Q. Okay. But that -- putting that aside, you've pledged to take action in
11 every type of case with respect to domestic violence.

12 A. Yeah. Action to take drug dealers off the streets, an action to protect
13 victims of domestic violence, and an action to make sure repeat offenders
14 are sentenced to the full extent of the law. The one that's really bad is the
15 action to incarcerate the offender, because there's no caveat that says
16 offenders that are convicted of a serious enough violation to be put in jail
17 with -- or bail or whatever the reason, there are no caveats that support
18 what I'm saying.

19 Q. Did you consider that a reader may open this and say, oh, this is great,
20 he's going to keep drug dealers off our streets and throw him in jail. He's
21 going to incarcerate people. This is wonderful. This is what I want. Did
22 you consider that that may be the import of your mailer?

23 A. No.

24 Q. Judge, I want to talk about some of the rules. Now, you testified on
25 direct you had no idea that the rules were in place, correct?

109.



(Judge Michael H. Plass - Cross)

1 A. Yes.

2 Q. Did you dawn on you there may -- did --

3 MR. ARNONE: Withdrawn.

4 BY MR. ARNONE:

5 Q. Did you think that you could do anything you wanted?

6 A. No.

7 Q. Okay. So --

8 A. I already testified that there are rules for everything.

9 Q. Okay.

10 A. I just did not think -- let's put it in terms -- would a reasonable person
11 think that one set of specific rules would apply to one group of candidates
12 after having a collage of mailers on his desk? I've got the collage. I've
13 got one from a county executive. I've got one from a town board
14 member. I've got one from a county legislator. And I'm looking at them,
15 and they're all saying about the same thing. Why would I think they can
16 say it and I can't. But then again, in the same token, I didn't mean it to be
17 bad like that. I just didn't know I couldn't do the same thing.

18 Q. But Judge, you're coming to this -- you were coming to this election with
19 law enforcement experience. You have experience in the criminal justice
20 system in Hyde Park, correct?

21 A. Sure.

22 Q. In fact, not just Hyde Park, Rhinebeck.

23 A. Red Hook and --

24 Q. And Red Hook.

25 A. And the Dutchess County Sheriff's Office, the whole county.

110.



(Judge Michael H. Plass - Cross)

1 Q. So four agencies in total, or three?

2 A. Yes, sir. Yeah.

3 Q. You testified in court before?

4 A. Oh, yeah.

5 Q. You appeared before Judges?

6 A. Yep.

7 Q. Do you understand the role of the District Attorney's Office?

8 A. Uh-huh.

9 Q. Do you understand the role of the defense attorney and the public
10 defender?

11 A. Yes, sir.

12 Q. What was your understanding of what the Judge is doing there?

13 A. Listening to both sides and making a determination who's right and who's
14 wrong?

15 Q. Well, listening to both sides. That's really important for a Judge, isn't it?

16 A. Yeah. That's your most important role.

17 Q. Judge, do you agree that your conduct was not consistent with rule 100.1
18 of the rules governing judicial conduct, which requires you to maintain
19 high standards of conduct so that the integrity and independence of the
20 judiciary would be preserved?

21 A. Yeah, that's one of the rules I read, yeah. 100.1.

22 Q. Do you agree that your conduct was inconsistent with that?

23 A. Yeah. I think I testified to that previous that that is true.

24 Q. Do you agree that your conduct was not consistent with rule 100.2 of the
25 rules governing judicial conduct, which requires that a Judge avoid

111.



(Judge Michael H. Plass - Cross)

1 impropriety and the appearance of impropriety?

2 A. Yeah, that's another one, yes.

3 Q. Another one that you --

4 A. Agree --

5 Q. -- that you would --

6 A. -- with you that that's a violation of that rule.

7 Q. Do you agree that your conduct was not consistent with rule -- excuse

8 me -- 100.2, subsection A, which requires a Judge to act in a manner that

9 promotes public confidence in the judiciary's integrity and impartiality of

10 the judiciary?

11 A. Yes.

12 Q. Do you agree that your conduct was not consistent with rule 100.5,

13 subsection A(4)(a), which requires a Judge or nonjudge who is a

14 candidate for public election to office to maintain the dignity appropriate

15 judicial -- to judicial office and to act in a manner consistent with the

16 impartiality, integrity, and independence of the judiciary?

17 A. Yes.

18 Q. Do you agree that your conduct was not consistent with that?

19 A. Yeah.

20 Q. Do you agree that your conduct was not consistent with rule 100.5,

21 subsection A(4)(d)(i) of the rules, which requires that a Judge or

22 nonjudge Judge who is a candidate for public election must act in a

23 manner consistent with the impartiality, integrity, and independence of

24 the judiciary?

25 A. Yes.

112.



(Judge Michael H. Plass - Cross)

1 Q. Do you agree your conduct was not consistent with rule 100.5, subsection
2 A(4)(d)(ii), which requires that a Judge or nonjudge who is a candidate
3 for public election shall, with respect to cases, controversies, or issues
4 that are likely to come before the court, refrain from making
5 commitments that are inconsistent with the impartial performance of the
6 adjudicative office?

7 A. Yes.

8 Q. Judge, was ignorance of the law any defense for what you did here?

9 MR. LEVENTHAL: Objection.

10 MR. NORTH: I'll allow it.

11 A. Well, we all know ignorance is no defense for the law. That's why I said
12 previously, when I said -- you know, I -- in the beginning, I blamed a lot
13 of people. I blamed people for not telling me I needed to go to this class.
14 I blamed people for not telling me there are rules. I blamed a lot of
15 things. But when it comes right down to it, the guy in the picture is the
16 only person to person to blame. So I'm -- ignorance is no defense here.
17 But I'm telling you that this was published from ignorance and from my
18 lack of the willing to do more, because I never in a million years would
19 have thought one group of people has got a whole special set of rules
20 from everybody else. I just would never think that. Sorry.

21 Q. You never thought there were any rules that apply to Judges?

22 A. I've already answered that in the fact that there are rules for everything.
23 So whether you say there are rules for Judges, there are rules for
24 executives, there are rules for legislators. I just didn't think the rules were
25 so obscure. They're -- the -- no candidate has this. The president for the

113.



(Judge Michael H. Plass - Cross)

1 United States, the person -- the vice president running, they use pledge a
2 thousand times in their television conferences. You hear everybody on
3 TV pledging to do this for the people. I will stand up and do this. I --
4 Letitia James. I will lock Trump up if you elect me. And yet, I --

5 Q. But Judge, the people that your reference --

6 MR. LEVENTHAL: Objection --

7 MR. NORTH: Let him go -- let him finish his --

8 MR. ARNONE: I apologize.

9 A. But I would have thought, why did all them get to say it and not me?

10 And -- but when you think about it in broader terms, and it gets --
11 someone takes the time to explain it to you. If I had taken that class, I'd
12 had a lot of questions, and I would have gotten clarity on the things that
13 maybe I didn't understand. I've already told you I'm a high school
14 graduate. I'm not a law student. I'm not somebody who's been taught in
15 any way, shape, or form what this means. But I am -- but I'm a sensible
16 person. I am articulate, and you could explain it to me, and I will
17 understand your point of view, and I will admit that I'm wrong.

18 Q. Judge, is it such an obscure rule, as you describe it, for a candidate for
19 judicial office to think that they can commit themselves to issues that
20 would appear before them when they become a Judge? Is it -- is that -- is
21 it so obscure to think this notion that a Judge has to consider all the facts
22 before him or her before rendering a decision? Is that your testimony?

23 A. No. My testimony is that the rules affecting impartiality, affecting bias
24 don't apply to every candidate. They only apply to Judges.

25 Q. It --

114.



(Judge Michael H. Plass - Cross)

- 1 A. That's my obscure rule. And if I was know -- if I had known about the
2 class to take, I would have. And I've even admitted that I blamed
3 everybody else for not knowing about the class. That's the wrong thing to
4 do. You have to take responsibility for your own actions. You're only
5 one person. You can't -- I can't blame Mr. Leventhal for something I
6 don't know. I'm supposed to go do that. And I neglected that part of my
7 duty. That was careless. Okay. And if I had even read 100 -- if you
8 came up to me and said, hey, you're Mike Plass, here's your handbook.
9 Check this out, bro, and I read it, and I looked at it and I said, I'm
10 working two jobs. I'm running a campaign. And you tell me I don't have
11 to do something, I'm not going to go do it. I'm going to go home and see
12 my girlfriend. I'm going to go out to dinner. I'm going to do something
13 other than pound on people's doors, go drive in a police car and go drive
14 to JFK. I'm going to go have some fun. So I wouldn't take that course.
15 And that's the obscurity, in my opinion. Why would one set of Judges be
16 favored over another set of Judges? Why would one set of Judges be
17 required to take an ethics class and another set of Judges not be required.
18 Why would that be?
- 19 Q. Do you think that Judges -- the ones -- the two sets of Judges you talk
20 about need to take a course on how to be fair?
- 21 A. No --
- 22 Q. On the most basic principles of a Judge's function in the courtroom --
- 23 A. No, my flier says I'm one of the most fair people the sheriff knows. So
24 no, that's not it. The flier would have stopped me from pledging and
25 showing bias.

115.



(Judge Michael H. Plass - Cross)

1 Q. That's not my question my question. My questions is --

2 A. I know, so -- but what do you want me to tell you? I'm giving you the
3 answer.

4 Q. Well, I'm not sure it was responsive to my question. My question doesn't
5 have to do with your flier.

6 A. Okay.

7 Q. It's do these --

8 A. Do you think that the rules --

9 Q. No. No. No. I'll ask it.

10 A. Okay.

11 Q. You could probably ask it better than me, but let me try.

12 A. Okay.

13 Q. The two types of Judges -- I assume you're talking about the town and
14 village Judges who don't have to take the course --

15 A. Right.

16 Q. -- right? My question is, do you think that you have to take a course to be
17 informed on how to be fair?

18 A. No. I think I am fair.

19 Q. Okay. Judge, I want to move on to a different subject. You're the CEO
20 of a limousine company, correct?

21 A. Yeah.

22 Q. How many people are in this company?

23 A. Left with one.

24 Q. Okay. There's one left. Are you the -- you're the CEO and the driver --

25 A. You're looking at the guy who does everything.

116.



(Judge Michael H. Plass - Cross)

1 Q. What is this -- what are some of the duties and responsibilities of being a
2 CEO?

3 A. Uh-huh. Pay the bills, buy the cars, wash the cars, book the jobs, drive
4 the jobs, process the credit cards, you know.

5 Q. Do you have a website for your limousine company?

6 A. No. I am very fortunate in that aspect. I've been in business for 35 years.
7 I've modeled my business around corporate entity, which I focused on
8 colleges. And I was fortunate enough to land Vassar, Marist, and Bard. I
9 currently drive all three presidents. And once you're in the president's
10 office, the rest of the college follows suit. That's enough work for me to
11 not have to have to advertise in a phone book. I don't need a website. I
12 don't need anything. As a matter of fact, if either one of you called me
13 and you didn't say, I know Steve Leventhal, I would tell you I'm sorry,
14 I'm booked. I can't do the ride. You have to know someone to get a ride
15 from me.

16 Q. Do you -- are you -- is it incorporated? Is it --

17 A. Yes. It's under my last name, though. My father and I were the third gen,
18 my father is second generation. I'm third generation. And we
19 incorporated it under my grandfather's last name to Plass. Plass
20 Limousine Incorporated --

21 Q. Did --

22 A. -- DBA as Classic Coach.

23 Q. Did you participate in the incorporation process, or was that done before
24 you started working --

25 A. No, yeah, that was done through my father and his attorney, John Colter

117.



(Judge Michael H. Plass - Cross)

1 (phonetic), in the 80s.

2 Q. Do you do the accounting for the company?

3 A. QuickBooks program. Not really in accounting. I have an accountant
4 that I forward everything to, to do the work.

5 Q. Okay. So you have no staff working for --

6 A. Not anymore. COVID destroyed the transportation industry.

7 Q. And it's a successful business?

8 A. For the -- yeah. I mean, even still now, I'm very successful, yeah. I'm
9 very fortunate.

10 Q. How many days a week do you work in the limousine company?

11 A. Seven.

12 Q. Seven. Okay. So when you're not on the bench, fair to say you're
13 working in the limousine company?

14 A. Yeah. I mean, I drive on Tuesday at 11 in the morning. I come home
15 and then go to the bench.

16 Q. Do you drive a limousine to the courthouse?

17 A. Yeah. It's -- well, so when you say limousine, where it -- stretches are --
18 you know, they're phased out. There are no more stretch limousines.

19 Q. Oh --

20 A. Even -- maybe here in Manhattan there are -- but mine is a corporate
21 setting, so it's a black car. I am currently operating a Genesis G80, which
22 is a four door sedan.

23 Q. Okay. I take the train, so that's --

24 A. Sorry, man.

25 Q. That's all right.

118.



(Judge Michael H. Plass - Cross)

1 A. I rode it a couple of times.

2 Q. Yeah. I'm going to take a look at Commission Exhibit 2 if we can.

3 Judge, this is Advisory Opinion 23-158.

4 A. Uh-huh. Is her name on there? What's her last name? Laura --

5 Q. Let's just scroll down. Judge, did you seek this opinion?

6 A. Oh, yeah. Yeah, I went right to her.

7 Q. Okay. When did -- who's her?

8 A. This Laura lady.

9 UNIDENTIFIED SPEAKER: She's in this --

10 A. She's like one of the bosses or something.

11 BY MR. ARNONE:

12 Q. She might be in the column --

13 A. Laura Smith.

14 Q. Yeah.

15 A. Chief counsel, Laura Smith. She was the presenter at the Taking the
16 Bench course, and it was the very first day. It was so ironic that I opened
17 the book on the very first day, and we're reading the ethics things, and I
18 literally -- I'm telling you, she said, well, let's just skip this one because it
19 never happens.

20 Q. Yeah.

21 A. I never swallowed so hard in my life. It never happens, and I did it, so --

22 Q. How many people were in the course --

23 A. Oh --

24 Q. -- how many other people were in the course with you?

25 A. -- hundreds. Hundreds were there.

(Judge Michael H. Plass - Cross)

1 Q. Okay. And what -- and just the --

2 A. It was the largest taking the bench course so far, and the largest one with
3 nonlawyers.

4 Q. Did you speak to her, Laura, in private after the presentation was
5 concluded?

6 A. No. Before it even concluded, we took a break like in the first -- she --
7 we'd do, like, 20 pages, and they'd give us a break. As soon as that break
8 came, I went right to her.

9 Q. Did anyone else, as far as you could see or hear, speak to her about
10 having done the same thing?

11 A. Oh, I -- no.

12 Q. Okay.

13 A. It's -- you know, we were allowed -- if you were standing there, I
14 wouldn't listen to what you were saying. And then when I went up and
15 told her, you -- I -- no one would listen.

16 Q. Had you already -- you described on direct a conversation with Ms.
17 Bryant (phonetic).

18 A. Ariel (phonetic).

19 Q. And with Ariel. And she instructed you to in -- make an inquiry to them
20 also about potential disqualification from criminal cases; is that correct?

21 A. Yeah. Yep.

22 Q. Did you seek this opinion after you sought that opinion?

23 A. Yeah. The first one was, like, super quick. When I got elected, she
24 called me --

25 Q. Okay.

120.



1 A. -- and she just wanted to say, look, you need to be careful. You got to
2 make sure you can hear cases in Hyde Park, so --

3 Q. And that was purely on the basis of you having served as a police officer,
4 correct?

5 A. Yeah. And imagine if I couldn't, I mean, I just went all through this, and
6 I just find out from Ariel after I'm elected again that I can't hear cases.
7 That's the obscurity of it.

8 Q. When did you find out -- when were you first advised of this opinion?

9 A. This one came up fast because we were in the Taking the Bench, and they
10 only meet so often. And she said, get that to me right away, and we'll get
11 you on the calendar, because it's like only once every two or three months
12 they meet or once a month. I forget what it is. And if you miss it, you go
13 a whole nother month. Now, could you imagine if I missed it and went a
14 whole nother month and found out how severe it was, then I would really
15 be in trouble.

16 Q. And she --

17 MR. NORTH: What exhibit is that, Mr.

18 Arnone?

19 MR. ARNONE: We're still on Exhibit 2 --

20 MR. NORTH: All right.

21 MR. ARNONE: -- Commissioner Exhibit 2.

22 BY MR. ARNONE:

23 Q. The she that you're referring to, that's still --

24 A. That's the Laura lady.

25 Q. Laura. Okay.

(Judge Michael H. Plass - Cross)

1 A. I don't know who that lady is that signed it, or I don't know who that -- I
2 never spoke to either one of them.

3 Q. Okay. So --

4 A. And I only spoke to Laura Smith, and she advised me to hurry up and do
5 this. And that's what Ariel did, so I was like, oh, this must be the policy.
6 Okay.

7 Q. Do you recall when you submitted that inquiry to the to the committee?

8 A. Well, it was the first day of taking the bench, so I don't -- I think it was
9 December or something. 14th, maybe -- December 14th.

10 Q. Of 2024?

11 A. Yeah. Yep.

12 Q. And do you recall when, approximately --

13 UNIDENTIFIED SPEAKER: 2023.

14 A. 20 --

15 BY MR. ARNONE:

16 Q. I'm sorry. 2023. I apologize.

17 A. 2023. Sorry. Yes, you're right. Yep. Yep.

18 Q. I apologize. Do you recall approximately when you heard -- when you
19 first heard back from the committee?

20 A. Well, I still in taking the bench, so it was like a day or two. They called
21 me while I was in class --

22 Q. Oh, okay.

23 A. -- and she gave me the -- I did the decision.

24 Q. So you were orally informed before you were informed of the written
25 decision?

122.



(Judge Michael H. Plass - Cross)

1 A. Yeah. And I had, like, a hundred questions for her, but she -- the
2 common answer is we cannot advise you any further. We cannot advise
3 you any further. We cannot advise you. And it was just everything I
4 asked, I couldn't have an answer, so I just gave up and went home and
5 called as many people as I could, and one of them ended up being Mr.
6 Leventhal.

7 MR. ARNONE: Can we have Commission
8 Exhibit 3 on the screen, please?

9 BY MR. ARNONE:

10 Q. Judge, this is a letter of -- this is in evidence -- Commission Exhibit 3 is
11 your letter of reconsideration. Do you --

12 A. Yeah, that's mine. Yeah. I wrote --

13 Q. This is you --

14 A. -- I wrote that because, like I testified, I only gave Ms. Smith that mailer.
15 That's all she had. She had no idea of the -- you know, in totality how I
16 got to that, right? And at this point right here, I don't even know about
17 the rules yet. This is so early. I don't even know about 100 section yet.
18 All I know is that they just passed judgment on me. And I felt like, you
19 don't know anything, and you're making this decision, which at the time,
20 to me, seemed like, wow, that is harsh. How am I going to do my job?
21 You know, and that's -- that -- and I had no idea about the rules yet. I
22 didn't know -- she just wouldn't tell me anything, besides you can't do
23 these, and it's not subject to referral, I think, is what the wording -- they
24 put in there, which means you can't --

25 Q. Remittal.

123.



(Judge Michael H. Plass - Cross)

1 A. -- you can't you can't say, you did this. Are you okay with hearing my
2 testimony?

3 Q. Right.

4 A. I'm sure you know that, but I just learned all that stuff.

5 Q. Did you -- well, you were familiar, at the time that you wrote this, with
6 the pledges and promises, right, because --

7 A. Yeah, so --

8 Q. -- you were attending. It's in the class when you learned that your mailer
9 violated that.

10 A. So all the other ones, like the impartiality, the appearance, the judicial
11 integrity, all that -- I had no idea those existed. I knew about the pledges
12 and promises because, don't forget, in October, I was on the front page of
13 the newspaper saying I violated an ethics rule, so I knew I did something
14 with pledges and promises, but I had no idea about the rest of them.

15 Q. Judge, did you receive any assistance in drafting this letter? Again, we're
16 on Commission Exhibit 3.

17 A. No, I wrote that from the heart, and I just said, I don't understand how
18 you could -- these are the only inferences you can draw from them. This
19 is everything that everyone's drawing at inference or appearance of -- it's
20 all speculative. I never arrested anybody on speculation. I never arrested
21 somebody on the appearance of what they may do. I need facts. I can't
22 come to the court and -- with a person arrested and say, he might beat up
23 his wife tonight; we're going to put him in jail. I have to have factual
24 information.

25 And at this point, I've only sat in the class. You have no factual

124.



(Judge Michael H. Plass - Cross)

1 information that I will be biased, that I can't be fair, that I will lock up
2 everybody. It's just a speculative drawing or an inference that's applied to
3 that, and that's why I say some people might not think that.

4 Q. Can we just rule --

5 A. I was one of them.

6 Q. -- scroll? I'm sorry, Judge. I --

7 A. Yeah, sure. No worries.

8 Q. That's good.

9 A. There it is. First and foremost, I must take the time to express how upset
10 I am with myself and how truly sorry I am for making this mistake. As
11 we all know, ignorance is no defense. That's one of the first things they
12 teach you being a cop. You can arrest somebody because they can't tell
13 you they didn't know. I can't say that -- I can't use that.

14 Q. And just jumping down a couple of lines. This is upon my announcement
15 to pursue a run for town justice. I was met with severe opposition from
16 both incumbent Judges.

17 A. Uh-huh.

18 Q. I was subjected to reports of defamation, false threats of arrest for
19 purported harassment, and finally an actual fight which occurred at one of
20 our committee meetings where members that attempted to have me
21 arrested to diminish my chance of running. Can you explain what you
22 meant in this paragraph?

23 A. Yeah, this is what I -- this is how I went. I mean, the first committee
24 meeting I went to, it was my intention to sit there and listen, just see if
25 there's something I can even do. You know, I Judge myself probably

125.



(Judge Michael H. Plass - Cross)

1 more harshly than others Judge me, and I don't give myself time to think
2 about things and saying, you know, maybe I'm not smart enough to do
3 this job. I'm only a high school graduate, not a law student, so maybe I
4 don't belong here. But these people, they told me, how dare you run
5 against us, and you need to wait your turn. I need to finish my third term
6 for my pension and for my health benefits, and you need to wait your
7 turn. I'll retire, and then you can run. And all of these things you see
8 here, those are true facts. I got a call -- I called the District Attorney's
9 Office in Dutchess County, are you investigating me for threats of
10 violence to Judge Jean McArthur?

11 Q. What prompted you to make that fu --

12 MR. LEVENTHAL: Objection. Judge -- Mr.
13 North, we are so way beyond the scope of the directive.

14 MR. NORTH: You're interrupting an answer.
15 He's asking about an exhibit.

16 MR. LEVENTHAL: No. No. I'm not
17 interrupting an answer --

18 MR. NORTH: Objection is overruled.

19 MR. LEVENTHAL: -- I'm -- I'm objecting
20 between a question and answer.

21 MR. NORTH: What is the question?

22 MR. LEVENTHAL: That's when you have to
23 object. He's asking about this --

24 MR. LEVENTHAL: Right. I'm -- what I'm
25 saying is that this is entire --

126.



(Judge Michael H. Plass - Cross)

1 MR. NORTH: You're objecting when the
2 witness was answering something.

3 MR. LEVENTHAL: You -- in -- in the split
4 second between the question and the answer, that's when an
5 attorney has to object. If -- if when the witness' first words
6 leave his mouth, you no longer can object, there would be
7 no objections. What I'm saying to you, sir, is that this --
8 this topic is way beyond the scope of the direct. If it had
9 any relationship to the direct examination, I would not
10 object.

11 MR. NORTH: I'll give a little more latitude, but
12 keep that in mind.

13 MR. ARNONE: Thank you.

14 BY MR. ARNONE:

15 Q. Please continue.

16 A. Yeah, sure. So like I said, these were -- these were all the things that they
17 did to me. So a committee member had approached me and told me
18 verbatim, I don't know what you're doing, but you better stop. And I
19 said, what are you talking about? I don't know -- what do you -- I'm not
20 doing anything. And they told me that they heard running around town
21 that I was threatening Judge McArthur and her husband, Yancy
22 (phonetic), who coincidentally happened to be the head of the party. So
23 the head of the party and his wife are in the same party. She's the Judge.
24 He's the guy who has to endorse me. Now I'm facing threats of
25 harassment and saying to them that I'm going to hurt them. I called the

127.



(Judge Michael H. Plass - Cross)

1 District Attorney's Office and police officer. I speak to them all the time.
2 I said, can I speak to the investigation department? I spoke to the guy on
3 the phone, hey, it's Mike Plass, do I need to come in there? For what,
4 Mike? Well --

5 MR. NORTH: Okay. What -- we can interrupt.
6 This is going too far. I agree, so let's move on.

7 MR. ARNONE: Judge, I do think it goes to
8 credit -- witness's credibility.

9 MR. NORTH: Oh.

10 MR. ARNONE: And it is an exhibit in
11 evidence, so I think he has a right to --

12 MR. NORTH: I think we have heard enough
13 about it --

14 MR. ARNONE: Okay.

15 MR. NORTH: -- about that of it.

16 MR. ARNONE: About that specific topic --

17 MR. NORTH: Yes.

18 MR. ARNONE: -- topic? Can I ask him about
19 the fight which occurred at the committee meeting?

20 MR. NORTH: Limited.

21 BY MR. ARNONE:

22 Q. Were you involved in a fight at a committee meeting?

23 A. Yeah. Yes.

24 Q. Were you arrested for that?

25 A. No.

128.



(Judge Michael H. Plass - Cross)

1 Q. Did you strike anybody?

2 A. No -- oh, yes, I pushed the guy back away from the senator. The -- so the
3 fight --

4 MR. NORTH: You answered the question.

5 THE WITNESS: Okay.

6 MR. ARNONE: Judge -- Mr. North, I'm going
7 to move -- I'm going to move on.

8 MR. NORTH: Sure. Go ahead.

9 MR. ARNONE: I just wanted one summary.

10 BY MR. ARNONE:

11 Q. You talked about severe opposition. I just want to ask what that had to
12 do with your mailer.

13 A. I didn't have any help. I didn't have anybody to ask these things. I
14 thought -- so you have two Judges, and the current Judges incumbent, one
15 was a Democrat, one was a Republican. I ran on the Republican ticket. I
16 was under the impression that the two Republicans probably thought
17 along the same lines and could communicate with each other. I didn't
18 realize that the bond between those co-judges far exceeded my
19 expectations of being able to communicate with the Judge.

20 Wouldn't it have been nice for me to walk in and say, hey, Jean, this is
21 what I want to do? Do you -- is there anything I should know? Instead,
22 Jean wouldn't talk to me. Jean wouldn't do anything with me. Her
23 husband, the party leader for the Republican Party, is endorsing a
24 Democrat over the Republican. Now, he caused all this big angst in the
25 party. So it was just terrible. It was the worst thing I ever had to deal

129.



(Judge Michael H. Plass - Cross)

1 with in my life, what they put me through. And I feel like even today,
2 now, I'm still going through it, because you've now said that I'm not able
3 to discharge my duties, and I feel like that's -- it's half-truth. It's half-
4 truth that I can't do the job because I want to follow the rules. I believe in
5 the rules. The rule maker said, "Don't do this." And I'm not doing it,
6 right? So now, I'm being punished because I'm following the rules and
7 saying, "You can't do your job efficiently."

8 Which is not accurate. I'm doing my job. I'm doing as much -- so
9 much more. There's a small percentage more she's working than me. If
10 we do the math on all the numbers you have, you'll see in the case load
11 she's working five percent more than me. And you want to give her
12 credit for all those hours?

13 She's the only one person out of 12 years that has reported working that
14 much. Not her Co-Judge, not her Clerks, not her Prosecutor, not the
15 Court Officers, not me. She's five to ten times over her hours and stating
16 that, but I mean, how do you decide between me, Judge McArthur, and
17 the Clerks? How do you decide who's telling the truth here?

18 Q. Judge, she talks about you being punished --

19 A. That's what it feels like, Mr. Arnone.

20 Q. -- whose fault is that? Whose fault is that?

21 A. Ultimately, that's my fault.

22 MR. ARNONE: Can we just scroll up to the top
23 of Exhibit 3?

24 BY MR. ARNONE:

25 Q. Judge, this was written -- and I'm going to move on -- January 15, 2022.

130.



(Judge Michael H. Plass - Cross)

1 You had already been -- is it fair to say that you were abiding by the
2 advisory opinion when you wrote this letter?

3 A. Yeah. January 8th was the decision. In less than a week, I'd sent them a
4 letter saying, "Please read this and think about it."

5 Q. Wasn't at least a major part of you writing this letter the fact that a strain
6 was being put on Judge McArthur in the Court?

7	A. No.
---	--------

8	Q. All right.
---	---------------

9	A. No. It was because I wanted to do the job.
---	---

10 Q. Judge, I'll go back to your testimony in March. Do you recall being
11 asked this question and giving this answer?

12	Question: "So while Judge McArthur's criminal
13	caseload has increased, obviously." Your answer: "Um-
14	hum."

15 Question: "Is it fair to say she's not handling
16 any civil matters or summaries?" Answer: "Zero."

17	Question: "Because you're handling all that?"
18	Answer: "Correct."

19 Question: "Does that put a strain on the criminal
20 calendar at all? Were the arraignments being delayed?"
21 "No".

22 Question: "Appearances being pushed back?"
23 Answer: "The only thing it puts a strain on is her 24 hours
24 a day, 7 days a week being on call for arraignments,
25 after-hour arraignments. And that was really the basis for

(Judge Michael H. Plass - Cross)

1 my letter."

2 Judge, as you sit here today -- please?

3 A. Okay. So --

4 MR. NORTH: Is there a question?

5 Wait. Wait. Wait.

6 BY MR. ARNONE:

7 Q. Well, do you recall being asked those questions and giving that answer?

8 A. Yes. But --

9 MR. NORTH: No, no. No but. I think you
10 answered it.

11 THE WITNESS: Could you read it --

12 MR. NORTH: Next question.

13 MR. ARNONE: Okay.

14 BY MR. ARNONE:

15 Q. So I'll ask you again: Did you write the letter because of the strain that
16 was placed on Judge McArthur?

17 A. Well, by my own writing, I guess I felt bad that she had to come in all the
18 time and I couldn't help. So I did think that was bad for her. If you ask
19 me now, after a year and three months of working there and distributing
20 the duties equitably, in my opinion, it's not a strain on Judge McArthur.

21 But at this time, when I wrote this letter, in January, I wasn't even
22 on the bench. She was handling everything. And the worst part, in my
23 opinion, was that she had to do on-call arraignments. So at the time when
24 I wrote this letter, I probably was remorseful. Even though I was angry at
25 her, I still felt that it wasn't fair to her.

132.



(Judge Michael H. Plass - Cross)

1 Q. You're not remorseful anymore?

2 A. No. We get along. We talk and we bought each other Christmas
3 presents, Valentine's Day gifts. We've actually have started to repair all
4 the problems that happened.

5 Q. Was that before or after you FOIL'd all of her calendar time sheets?

6 A. Oh, that's before.

7 Q. Okay.

8 A. And now, once this thing's going to drive another wedge through the
9 whole department.

10 Q. Well, at least when you testified last year, your testimony was that you
11 wrote the letter because of the strain it had on Judge McArthur?

12 A. Yeah.

13 Q. Your testimony today is that there's no longer a strain?

14 A. No. There's not -- in my opinion, there's no strain. No.

15 Q. Okay. And she's still on call 24 hours a day, correct?

16 A. Yes.

17 Q. Judge, have you ever decided a criminal motion?

18 A. No, just a summary motion.

19 Q. Since taking the bench, have you presided over a criminal case?

20 A. No.

21 Q. Have you presided over a pretrial hearing in a criminal case?

22 A. No.

23 Q. Have you presided over a preliminary hearing?

24 A. No.

25 Q. Have you conducted a bench trial?

133.



(Judge Michael H. Plass - Cross)

1 A. No.

2 Q. A jury trial?

3 A. No.

4 Q. Have you presided over a --

5 MR. LEVENTHAL: Could we just clarify that
6 these questions will relate to criminal cases?

7 MR. ARNONE: I didn't say criminal bench
8 trial?

9 MR. NORTH: In the beginning.

10 MR. ARNONE: I apologize.

11 Thank you, Mr. Leventhal.

12 BY MR. ARNONE:

13 Q. Since taking the bench, have you presided over a criminal bench trial?

14 A. No.

15 Q. Have you presided over a criminal jury trial?

16 A. No.

17 Q. Have you presided over any vehicle and traffic matters?

18 A. No.

19 Q. Have you processed any fines in vehicle and traffic cases?

20 A. Yes.

21 Q. Can you please explain that?

22 A. So it was April. This is going to sound terrible. Judge McArthur was
23 repeatedly asking for a raise from the town of Hyde Park, stating that she
24 was doing all of the work. Her caseload was double. She was putting in
25 twice as many hours. She was on-call 24/7. And she was refusing to do

134.



(Judge Michael H. Plass - Cross)

1 vehicle and traffic plea by mails. Outright refusing.

2 It was causing a problem where people were calling up saying, "I
3 don't have my fine for my ticket; I need to get a job. I want to go into the
4 military; I need my tickets adjudicated so I can go into the military."

5 That was probably the first time I FOIL-requested her calendars because,
6 in her -- should I wait 'til you're ready?

7 Q. Well, I don't want to cut you off, Judge.

8 A. So it needed to be done. I'm the only other person who can do it. And it
9 needed to be done.

10 Q. Judge, your testimony today is that Judge McArthur refused to assess
11 fines --

12 A. Correct.

13 Q. -- in April of 2024?

14 A. April, May, June, July, and August.

15 Q. April, May, June, July, and August?

16 A. Correct.

17 Q. That's five months.

18 A. That's correct.

19 Q. She didn't testify that -- you've been present throughout this trial, correct?

20 A. Yes.

21 Q. She did not testify to that on direct.

22 A. That's correct.

23 Q. So for those five months, it's your testimony that you did the assessing
24 and processing of the fines?

25 A. No. In August, I took 180 tickets that she refused to do home. I

135.



(Judge Michael H. Plass - Cross)

1 processed 180 tickets in three hours.

2 Q. What did processing those matters entail, from your perspective?

3 A. So the special prosecutor offered a plea and the people accepted a plea.

4 And either she wrote in a recommended fine or the fine was to be
5 assessed by the judge.

6 Q. And that was 180 matters in August?

7 A. It was between July and August. I don't remember the exact day, but the
8 cumulative total was approximately 180 tickets for those four months.

9 Q. So what about -- so 180 tickets, approximately -- we're not going to hold
10 you to a number.

11 A. Right.

12 Q. For those four or five months?

13 A. Right.

14 Q. And am I correct, just so the record is clear, that you were reviewing --
15 was this only in connection with vehicle and traffic matters?

16 A. Only plea by mails. The tickets that came into the courtroom were given
17 to her. They just accumulated.

18 Q. So plea by mails only pertain to vehicle and traffic, right? You were not
19 doing --

20 A. Correct.

21 Q. There's no plea by mail for a criminal misdemeanor?

22 A. Oh, no. No.

23 Q. So what does it entail, from your perspective? Is there a ticket that comes
24 to you?

25 A. It's a bunch of papers stapled together with the cover letter being

136.



(Judge Michael H. Plass - Cross)

1 Ms. Yamashita's plea agreement and a signature on the bottom that says,
2 you know, you agree to plead guilty to parked on pavement.

3 Q. And then what was your role? What would you do after reviewing
4 Ms. Yamashita's --

5 A. I would assess the fine for the ticket for parked on pavement.

6 Q. And what does that entail?

7 A. Looking in the book of MAGILL's and putting the fine down. And for
8 parked on pavements, a New York State surcharge of \$25.

9 Q. Would you impose the surcharge?

10 A. Oh, you have to. In the bottom of the lefthand corner of the ticket, you
11 write what the original charge was, what it was adjudicated was at, the
12 date that it was adjudicated, and the fine assessed. Then you sign it and
13 you put your name on the bottom.

14 Q. And you would sign your name, Judge Plass?

15 A. Absolutely.

16 Q. Is there a Seal of the Court? Is there a stamp or something?

17 A. No. No, I don't think so.

18 Q. So you sign it and then is a copy of it -- is this a judgment?

19 A. Well, yeah, it's the fine that you have to pay, so it's a judgment, yeah.

20 Q. Okay. And then, would you give it to the Clerks?

21 A. Absolutely. The Clerks get all of it. And then they send the fines out to
22 the people who submitted it. And then, there's an instruction on how to
23 pay the fine, go online and then pay the fine.

24 Q. Okay. Is there anything else that you would do that McArthur --

25 MR. ARNONE: Withdrawn.

137.



(Judge Michael H. Plass - Cross)

1 BY MR. ARNONE:

2 Q. Is there anything else that you were doing in connection with vehicle and
3 traffic matters?

4 A. No.

5 Q. Judge, as you sit here today, do you acknowledge that your actions in
6 those cases was in violation of Advisory Opinion 13-158?

7 A. Well, they said not to do any vehicle and traffic matters, so yes.

8 Q. And assessing fines counts as doing vehicle and traffic matters, correct?

9 A. Yes. But I didn't -- I just want you to --

10 Q. There's no question.

11 A. Okay.

12 Q. Judge, have you ever been on call?

13 A. No.

14 Q. Judge, you were here when Judge McArthur testified the other day. She
15 talked about not being able to go on vacation. You're not on call, correct?

16 A. That's correct.

17 Q. Are you able to go on vacation?

18 A. Yeah.

19 Q. Have you taken any vacations?

20 A. Uh-huh. My first one in 16 years.

21 Q. When was that?

22 A. October.

23 Q. Where'd you go?

24 A. Greece.

25 Q. How long?

138.



(Judge Michael H. Plass - Cross)

1 A. Ten days.

2 Q. As far as you know, has Judge McArthur taken any vacations?

3 A. Yes.

4 Q. Any ten-day vacations?

5 A. Unknown. I mean, we're just starting to get along, so we communicate a
6 little better now. So I can't answer.

7 MR. NORTH: If I may?

8 If she is not available -- if she's sick, for
9 example, for a period of time in the hospital, who, if
10 anyone, takes over those responsibilities that you cannot
11 take over?

12 THE WITNESS: Well, that's the -- that's -- like,
13 she testified that she was handling arraignment for the City
14 of Poughkeepsie, Judge, so if --

15 MR. NORTH: Now, please, Judge Plass,
16 answer the question. If she's sick in the hospital and her
17 responsibilities are whatever they are and you cannot
18 handle them, who, if anybody -- or what is done with
19 respect to those responsibilities?

20 THE WITNESS: The surrounding judge.

21 MR. NORTH: But they have to volunteer to do
22 that?

23 THE WITNESS: No. Well, they just --

24 MR. NORTH: They just get assigned to do
25 that?

139.



(Judge Michael H. Plass - Cross)

1 THE WITNESS: They get a call from the police
2 officer for the arraignment time. So I mean, I'm assuming
3 we're talking about arraignments, right?

4 MR. NORTH: Yes.

5 THE WITNESS: So they would get a call from
6 the officer. And if they don't answer their phone, then they
7 go to the next judge. And they --

8 MR. NORTH: What about domestic violence or
9 the show cause? All of those responsibilities?

10 THE WITNESS: Order to show cause is mine.
11 I handle those.

12 MR. NORTH: Criminal?

13 THE WITNESS: Not criminal, no.

14 MR. NORTH: No. So who would do that?

15 THE WITNESS: The surrounding judges.

16 MR. NORTH: And are they paid judges? Are
17 they salaried judges?

18 THE WITNESS: Yeah. Yeah, some are full
19 time, like the City of Poughkeepsie are full-time
20 employees, lawyers. And then most of the county is lay
21 judges.

22 MR. NORTH: And if she were to take vacation,
23 what arrangements, if any, are made to do that?

24 THE WITNESS: For my vacation?

25 MR. NORTH: For her?

140.



(Judge Michael H. Plass - Cross)

1 THE WITNESS: Oh, you have to put it in in
2 January, your vacation time that you'd like to --

3 MR. NORTH: As far as coverage is concerned?

4 THE WITNESS: And then the Court will
5 schedule appearances accordingly. So if you're not going to
6 be here for May, they will --

7 MR. NORTH: For arraignments and other
8 things that are --

9 THE WITNESS: The arraignments would call
10 to another judge.

11 MR. NORTH: And they are available to do
12 that?

13 THE WITNESS: Yeah, much like Judge
14 McArthur just did the City of Poughkeepsie's one.

15 MR. NORTH: Okay. Thank you.
16 I'm sorry, Mr. Arnone.

17 MR. ARNONE: No, I appreciate it, Mr. North.

18 MR. NORTH: Sure.

19 MR. ARNONE: I only have a couple more
20 questions.

21 MR. NORTH: Sure.

22 BY MR. ARNONE:

23 Q. Judge, we don't need to call it on the screen, but there was discussion on
24 direct -- I think it was Exhibit C1 -- these NYSLRS time sheets.

25 A. Yeah.

141.



(Judge Michael H. Plass - Cross)

1 Q. And you've done some investigating, who files those calendars with
2 NYSLRS?

3 A. The Town of Hyde Park Human Resources Department.

4 Q. Okay. Who qualifies to --

5 MR. ARNONE: Withdrawn.

6 BY MR. ARNONE:

7 Q. Do you file those calendars?

8 A. No.

9 Q. Why not?

10 A. I don't participate in the retirement system?

11 Q. And that's because you're involved in a private pension system, correct?

12 A. I do my own investments.

13 Q. When you FOIL'd the records in connection with this case, did, you have
14 a discussion with anyone from NYSLRS about the import of those
15 records?

16 A. Did I have a discussion?

17 Q. Did you talk with anyone at NYSLRS?

18 A. No.

19 Q. So is the extent of your interaction with NYSLRS that you filed the FOIL
20 request and then you received a response?

21 A. The FOIL request comes from the Town of Hyde Park, not NYSLRS.

22 Q. Who did you file the FOIL request with?

23 A. Human resources.

24 Q. Okay. So you filed the FOIL request with Human Resources and for
25 Judge Petito and Judge McArthur's NYSLRS calendar time records?

142.



(Judge Michael H. Plass - Cross)

1 A. Yes.

2 Q. Okay. Did anyone oppose the FOIL request, as far as you know?

3 A. It can't be opposed. It's legal. We called the Town Attorney and made
4 sure it was legal, the FOIL. The Town Attorney said it's proper to FOIL
5 anything with payroll, pension, retirement, vacation. All those things
6 were listed in the Town Attorney's documents.

7 Q. Okay. So you did not communicate with anyone from NYSLRS about
8 what these timesheets mean, beyond what you see on them; is that
9 correct?

10 A. No.

11 Q. No? Am I wrong? Or is, no, you did not communicate with someone?

12 A. No. I don't want to -- no, I did not communicate with anyone from
13 NYSLRS.

14 Q. Okay. You started to say, "I don't want." You don't want to talk to
15 anyone from NYSLRS?

16 A. It will implicate my Co-Judge.

17 Q. Oh, okay.

18 A. It will implicate my Co-Judge in something she probably should not be
19 doing.

20 Q. Okay.

21 A. It's my opinion.

22 Q. It's your --

23 A. That's my answer. That's my opinion. I have not called NYSLRS
24 because it will implicate her --

25 Q. Okay.

143.



(Judge Michael H. Plass - Cross)

1 A. -- in something that is not good.

2 Q. Well, that's your opinion, correct?

3 A. Correct.

4 MR. ARNONE: Mr. North, may I just have one
5 moment, please?

6 MR. NORTH: Sure.

7 BY MR. ARNONE:

8 Q. Oh, Judge, I wanted to ask you: What's your salary?

9 A. 40 -- we just got a raise of six percent -- 44,000.

10 Q. Okay. Do you get health insurance through your job?

11 A. Yes, sir. Full.

12 Q. Do they deduct that from your salary?

13 A. Yeah. Like 70 bucks a pay period.

14 Q. Okay. You don't qualify -- there's no overtime in your position, correct?

15 A. No. It's a salary.

16 Q. It's a salary? And do you punch a clock?

17 A. No.

18 Q. Okay.

19 MR. ARNONE: I have nothing further.

20 MR. NORTH: I have a few questions --

21 MR. LEVENTHAL: Sure.

22 MR. NORTH: -- before redirect.

23 Judge Plass, as far as your collage of materials
24 that you reviewed in preparing your flyer, do you have any
25 of those?

144.



1 THE WITNESS: No. No.

2 MR. NORTH: Do any of them make pledges
3 about particular conduct, or use that word?

4 THE WITNESS: Yeah. The main one from the
5 Town Board said "pledge". That's where I copied that
6 from.

7 MR. NORTH: And was that with respect to the
8 management of criminals in any way?

9 THE WITNESS: No. It was a pledge to cut
10 taxes.

11 MR. NORTH: Okay. With regard to that article
12 in the paper, it did identify that it was improper to use the
13 term "pledge" from a judicial candidate?

14 THE WITNESS: Yeah. Yes.

15 MR. NORTH: Okay. And then, you called the
16 Commission?

17 THE WITNESS: Immediately.

18 MR. NORTH: And that was in October?

19 THE WITNESS: That was in October. Correct.

20 MR. NORTH: And then after you spoke to Mr.
21 Levine, that was the last you did about that until you sat in
22 that Court?

23 THE WITNESS: Correct. Because, like, I
24 thought --

25 MR. NORTH: Not because. I'm just asking the

1 question.

2 THE WITNESS: I just thought it would be
3 another -- yes, sir.

4 MR. NORTH: In that article -- and what's the
5 newspaper?

6 THE WITNESS: Mid Hudson News.

7 MR. NORTH: Okay. Did it identify the
8 specific statutory violation in that article?

9 THE WITNESS: No.

10 MR. NORTH: Okay. With regards to the
11 criminal matters that are heard at night by Judge McArthur,
12 again, if she's away, there's nobody handling them during
13 that time; is that correct?

14 THE WITNESS: No one from our Court.

15 MR. NORTH: Yes.

16 THE WITNESS: Yeah.

17 MR. NORTH: Well, does someone come into
18 your Court to handle those?

19 THE WITNESS: No. The officers take them to
20 whatever Court -- like, if I arrested someone in Hyde Park
21 and neither of the Hyde Park judges answered, I would go
22 to Rhinebeck.

23 MR. NORTH: I see.

24 THE WITNESS: Or I would go to
25 Poughkeepsie.

1 MR. NORTH: Was Ms. Yamashita hired as a
2 consequence of the disparity in staffing, judicial staffing, in
3 the Courts?

4 THE WITNESS: No. She's hired to handle the
5 vehicle and traffic as Special Prosecutor. Speculative, but I
6 believe it's to cut down on overtime for police officers
7 coming to court.

8 MR. NORTH: Was she hired before you
9 assumed the bench?

10 THE WITNESS: Yes, sir.

11 MR. NORTH: Is it your position, Judge Plass,
12 that the reasonable interpretation of the three principles that
13 you have on the face of your flyer fairly represents your
14 position today?

15 THE WITNESS: The way they're written? No.
16 In my head, what I think -- I mean, that's what I thought.
17 I'm not lying. I thought that what I thought was right, but I
18 know now.

19 MR. NORTH: No. I'm asking: Is that your
20 position?

21 THE WITNESS: No. I don't think they're right
22 now.

23 MR. NORTH: Thank you.

24 THE WITNESS: Thank you, sir.

25 MR. NORTH: Mr. Leventhal?

(Judge Michael H. Plass - Redirect)

1 REDIRECT EXAMINATION BY

2 MR. LEVENTHAL:

3 Q. Judge Plass, in the pleas by mail that you handled in vehicle and traffic
4 cases, did you adjudicate anybody's guilt?

5 A. No. Those were Ms. Yamashita.

6 Q. Well, they had already pled guilty; is that correct?

7 A. Correct.

8 Q. All right. Did any defendant appear before you?

9 A. No.

10 Q. Did you sentence the defendant -- or did you impose fines, in those cases,
11 within the limited range allowed by the law?

12 A. Yes.

13 Q. Okay. The opinion that you got from the Advisory Committee, you
14 understand that to be advice; is that correct?

15 A. Yes.

16 Q. Okay.

17 A. To be in good standing.

18 Q. It's not a ruling; is it?

19 A. It's an opinion, so I'm thinking, no. But the way the rules explain it, it's
20 as long as you're adhering to the ethics, you're found to be in good
21 standing. So if you get a complaint against you and there's an advisory
22 opinion that you're not following, that goes negatively against you when
23 you come here for your conduct hearing.

24 Q. Have you had occasion to look at prior decisions of the Commission of
25 Judicial Conduct involving campaign violations?

148.



(Judge Michael H. Plass - Redirect)

1 A. Yes.

2 Q. How many of those opinions have you read?

3 A. 10, 15, 20. A lot.

4 Q. Are you aware of any prior case in which a judge was removed from the
5 bench for a stand-alone campaign violation?

6 MR. ARNONE: Objection. Just relevance
7 beyond the scope of cross.

8 MR. NORTH: Sustained.

9 MR. LEVENTHAL: Well, actually, Judge, it is
10 relevant. And I'd be happy to --

11 MR. NORTH: Mr. Leventhal, but he is not a
12 person to testify about those.

13 MR. LEVENTHAL: But Judge --

14 MR. NORTH: And this is post-event, so I
15 sustained the objection. Please move on.

16 MR. LEVENTHAL: But to make an offer of
17 proof outside of the hearing of the witness?

18 MR. NORTH: Repeat your question, please.

19 MR. LEVENTHAL: Are you aware of any
20 prior decision by the Commission of Judicial Ethics in
21 which a judge was removed from the bench for a
22 stand-alone campaign violation?

23 MR. NORTH: Today?

24 MR. ARNONE: Do you mean --

25 MR. NORTH: Is he aware of it? Or was he

149.



(Judge Michael H. Plass - Redirect)

1 aware of it then?

2 MR. ARNONE: -- Judicial Misconduct?

3 MR. LEVENTHAL: No. Is he aware of it now?

4 MR. FRIEDBERG: You said, "Ethics."

5 MR. ARNONE: You said, "Ethics."

6 MR. LEVENTHAL: I'm sorry. I meant the

7 Judicial Conduct Commission.

8 MR. NORTH: I sustain the objection.

9 Move on.

10 BY MR. LEVENTHAL:

11 Q. All right. Have you seen the Commission's exhibits in this hearing?

12 A. Yes.

13 Q. Have you seen the exhibit in which the Commission submitted portions
14 of the transcript of the prior hearing in this case?

15 A. Yeah. Yes.

16 Q. You were questioned by Mr. Arnone about your prior testimony?

17 A. Yes.

18 Q. Is the exhibit submitted by the Commission the full transcript?

19 A. No.

20 Q. What is it?

21 A. It's redacted. In a bunch of answers, partial answers are given from
22 redacting. It's like they picked the parts they wanted everybody to see.
23 There's black lines through everything.

24 Q. Were the answers that they left unredacted complete answers?

25 A. No.

150.



(Judge Michael H. Plass - Redirect)

1 MR. ARNONE: Objection. Because this a
2 mischaracterization. These are admissions that both parties
3 agreed were admissible pursuant, to the rules of evidence.

4 MR. NORTH: Certainly, Mr. Leventhal, you
5 had an opportunity to counter-submit exhibits, if you
6 wished or if you wished that that wasn't a fair interpretation
7 of the evidence.

8 MR. LEVENTHAL: Nothing further.

9 MR. NORTH: Okay. Do you want to take a
10 break? We still have an hour to go. I don't expect we'll use
11 that.

12 MR. ARNONE: No recross.

13 MR. NORTH: Okay. Okay. You want to go
14 right into closing arguments? Or do you want to take a
15 break before that?

16 MR. ARNONE: A few minutes.

17 MR. FRIEDBERG: Ten minutes?

18 MR. NORTH: A ten-minute man. Why don't
19 we make it at 2:02? 2:03.

20 MR. LEVENTHAL: Can we make it 2:00?
21 Judge Plass has to get to court tonight.

22 MR. NORTH: Okay. Two o'clock, if that's all
23 right.

24 THE WITNESS: Can I be excused?

25 MR. NORTH: Yes, please.

151.



(Judge Michael H. Plass)

1 THE WITNESS: Thank you, sir.

2 MR. NORTH: Thank you.

3 Off the record.

4 (Recess from 1:54 p.m. until 2:03 p.m.)

5 ANNIE HAGERTY: We're on the record.

6 MR. NORTH: Okay. A few housekeeping
7 things.

8 Earlier, I granted a motion to the Commission to
9 amend the complaint to modify one of the sections with
10 regard to the number of cases in the period of time that was
11 applicable. I would entertain a similar motion by
12 Respondent, of course, subject to the objection raised in the
13 first place, to amend item 6 of the answer, which makes
14 reference to and admits that Respondent had presided over
15 59 civil cases. I think you might consider an amendment to
16 having that 171 civil cases to match the amendment to the
17 complaint.

18 MR. LEVENTHAL: So moved. Thank you.

19 MR. NORTH: Okay. Secondly, in the
20 complaint, there's reference in paragraph 12, which is the
21 accusatory -- paragraph 13, which is the accusatory
22 paragraph of violations of the rules of the Administrative
23 Judge, Section 100.1 and Section 100.2. I note that 100.1
24 refers to, "A judge shall not". Section 100.2 says, "A judge
25 shall not". Section 100.3, which was not pleaded as an

152.



(Judge Michael H. Plass)

1 offense here, although the Committee made reference to
2 that in its determination, is not mentioned in paragraph 13
3 of the complaint, but Section 100.5 is. Section 100.5 refers
4 to, "A judge or someone seeking judicial office".

5 So going back to Section 100.1 -- and by the
6 way, the admissions to Section 100.5 essentially, almost
7 virtually, incorporate the prescriptions in Section 100.1 and
8 100.2. I would recommend that either the Commission
9 withdraw the allegation of Section 100.1 and 100.2, which
10 refers to what a judge shall do and not do, because the
11 alleged incriminating conduct occurred prior to the judge
12 sitting as a judge. Or alternatively, brief that point and
13 present it as to whether that language, which prescribes a
14 judge from taking certain actions, applies to a person
15 seeking candidacy for judgeship.

16 Any decision on that, Mr. Arnone? Can we just
17 withdraw those two allegations?

18 MR. ARNONE: We would prefer to brief that
19 issue, Judge.

20 MR. NORTH: Okay. Okay. So we'll hold off
21 on that. And both counsels would be mindful of that
22 provision.

23 Again, as I said 100.5 essentially incorporates
24 100.1 and 2, so it's kind of moot.

25 MR. ARNONE: We're happy to address it.

153.



(Judge Michael H. Plass)

1 MR. NORTH: Okay. That being the case, Mr.
2 Leventhal?

3 MR. LEVENTHAL: I think the Commission
4 sums up first.

5 MR. FRIEDBERG: I don't know if that's a rule.

6 MR. NORTH: Okay.

7 MR. LEVENTHAL: I'm told that's how it's
8 done.

9 MR. NORTH: That's all right. We'll do it that
10 way.

11 MR. ARNONE: Good afternoon, everyone. I'm
12 mindful of the time so I'm not going to take that much time.
13 I don't want to belabor the point.

14 MR. NORTH: Let me just interrupt you one
15 time. I'm sorry.

16 MR. ARNONE: Please do.

17 MR. NORTH: So just so it's clear. And I did
18 mention in the beginning of these proceedings, the role of
19 this hearing is in view of the admissions that were made
20 with regard to the charge, is in effect, limited to part 100 of
21 the rules of the chief administrative judge and its preamble,
22 where it says the degree of discipline to be imposed -- and
23 I'm paraphrasing -- depends on such factors as the
24 seriousness of the transgression, the effect of the improper
25 activity on others, or on the judicial system. In my

154.



(Judge Michael H. Plass)

1 understanding of what we're doing, my role will be to make
2 findings of fact and interpretations of law to recommend to
3 the Commission on those issues.

4 Is that understood and agreed?

5 MR. ARNONE: Yes, sir.

6 MR. LEVENTHAL: Yes.

7 MR. NORTH: Okay. Fine.

8 MR. ARNONE: Thank you, Mr. North.

9 Good afternoon, everyone.

10 Good afternoon, Counsel.

11 I will try to be as brief as I can. As I said,
12 during my opening remarks, this case is simple and it's
13 straightforward. Respondent's conduct in this case was
14 flagrant and egregious.

15 He identified himself as a Hyde Park police
16 officer, who "pledged to keep drug dealers off our streets,
17 out of hotels, to incarcerate offenders, and protect victims
18 of domestic violence, and to assure repeat offenders would
19 be sentenced to the fullest extent of the law."

20 Notwithstanding Respondent's testimony as to
21 what he intended, there was only one conclusion that could
22 be drawn from this mailer, that he intended to clean up
23 Hyde Park streets by throwing drug dealers in jail, by
24 incarcerating domestic violence offenders, and by
25 sentencing repeat offenders to the fullest extent of the

155.



(Judge Michael H. Plass)

1 law. This was the only reasonable inference that one could
2 draw from his mailer. And it just so happens that that's the
3 same inference that the Advisory Committee on Judicial
4 Ethics reached.

5 In doing so, by sending Commission Exhibit 1,
6 Respondent committed himself to predetermine results in
7 cases that would come before him, and he promised to
8 operate as an extension of law enforcement.

9 Mr. North, this case I submit to you is proven
10 upon the admission of Commission Exhibit 1. The mailer
11 speaks for itself. It is there in plain English. It uses the
12 word "pledge," it is not subject, I would submit, to
13 interpretation as to what Respondent wanted voters to think
14 he would do.

15 We also know from Commission Exhibit 2,
16 which is Advisory Opinion 23-158, that Respondent is
17 disqualified for the duration of his entire judicial term from
18 presiding over all criminal cases, vehicle and traffic
19 matters, any matters involving allegations of domestic
20 violence, and or matters which involve purported drug
21 dealers. This is as a direct result of his pledge.

22 The evidence indeed showed that Judge Plass,
23 the Respondent, has not and cannot preside over these
24 matters, although, as we learned today, Respondent has
25 taken action in 180 vehicle and traffic matters. His

156.



(Judge Michael H. Plass)

1 testimony was that he merely received pleas, but as we all
2 know, I think we can take judicial notice, it is the Court's
3 function to enter those pleas.

4 We know from Commission Exhibits 4-9, which
5 are the town court calendars for 2024, as well as
6 Commission Exhibit 14, which is a chart that summarizes
7 all of the case statistics. What do we know from this? That
8 in 2024, 2091 criminal and traffic cases came through the
9 courthouse, and 181 civil cases came through the
10 courthouse. We know from both Judge McArthur's
11 testimony and Respondent's testimony that Respondent did
12 not preside over a single case in January of 2024, which
13 means that the absolute ceiling, the highest amount of cases
14 that he could have possibly done in the entire year is
15 171, and that's the ceiling.

16 That's less than ten percent of the cases that
17 come through the court in 2024. It's not to mention 2025,
18 of which the witnesses testify there is a similar
19 arrangement. The numbers speak for themselves, just like
20 the flyer.

21 We heard from Judge McArthur
22 herself. Unfortunately, the attacks that Judge McArthur
23 endured here -- I would submit she is a credible witness
24 with absolutely no motive to lie. This is a witness who is
25 not happy with the situation, who's single-handedly

157.



(Judge Michael H. Plass)

1 carrying the burden of the court on her shoulders and
2 handling all of the cases that Respondent can't.

3 It's not an enviable situation for her, but she
4 testified that she's doing it. She explained that her
5 workload has drastically increased as a direct result of
6 Respondent's misconduct. She testified that, instead of
7 splitting her workload with her Co-Judge, as she did,
8 she's now handling all of the criminal and vehicle traffic
9 matters that come through.

10 More importantly, since there was so much talk
11 about case calendars and timesheets, all the added work that
12 comes along with them. I think we all know when there's a
13 plea, there are pre-sentence reports. There are files to
14 review. The judge is not just a robot who takes action
15 without considering the facts of the case.

16 Of course, that's something that Judge McArthur
17 made clear on direct. This is what she does in every
18 case. More importantly, Judge McArthur testified that she
19 is perpetually on call. She's been so since January 1, 2024.
20 She continues to be so now. She's 24 hours out of the day,
21 7 days out of the week required to be from a sufficient
22 distance from the courthouse so that she can go there and
23 handle an arraignment in case it's necessary. And she also
24 testified that she's on call to receive legal questions from
25 various law enforcement entities.

158.



(Judge Michael H. Plass)

1 Notwithstanding cross examination as to the
2 number of arraignments that actually come through, the fact
3 remains she's still on call. She has to make herself
4 available. And I'm sure we can all deduce all of the things
5 that come along with that. She can't go far; she can't have
6 an extended vacation; her social gatherings are limited.
7 This is something that Respondent has no idea what it is to
8 deal with. And we know from her testimony that she said
9 it's imperative to get a defendant arraigned as soon as
10 possible. So she always has to be ready to go.

11 Of course, the majority of this trial has been
12 about the court statistics. The Commission counsel does
13 not dispute the case sign-in sheets. We stipulated to their
14 evidence. I submit, it does not matter that less people
15 showed up. Mr. Leventhal wants us to think that because
16 70 people showed up as opposed to 180, that means Judge
17 McArthur's not doing as much work. It does not matter.

18 As we know from Judge McArthur's testimony
19 from yesterday, every single case on a calendar is called
20 onto the record. I asked her, if there's X number of cases on
21 the calendar, does that mean that every case is called? And
22 she answered in the affirmative. With the respect to the
23 defendants who don't show up, McArthur testified there's a
24 colloquy that always takes place. She asked the parties
25 whether or not they requested a bench warrant, whether or

159.



(Judge Michael H. Plass)

1 not there are reasons for the defendant's absence. And she
2 also testified that quite often those colloquies can be
3 longer than if the defendant had been present.

4 So I submit this is smoke and mirrors. The
5 numbers are what they are. Judge McArthur is dealing with
6 these cases in some capacity, whether or not the defendant
7 shows up. And if we can just look at Commission Exhibit
8 14, I submit, in light of this, these numbers are intact, no
9 matter how much Respondent wants to chisel away at them.
10 2091 criminal and vehicle traffic law cases for 2024.

11 What I would also add, there was discussion of
12 mail-in pleas. Mr. North, please be aware that the mail-in
13 pleas do not detract from the vehicle and traffic numbers.
14 Because, as we know from McArthur's testimony, if a case
15 appears on the vehicle and traffic calendar, it means it was
16 not a plea by mail scenario. It means that they've either
17 refused or they were not availing themselves.

18 So I submit that the attempts to minimize these
19 statistics should fall on deaf ears. These are non-issues.

20 We can take this down.

21 Another non-issue, there's a great degree of
22 conversation about court officer timesheets. It does not
23 matter for a number of reasons. First of all, the court
24 officers, by Judge McArthur's testimony, by at least Judge
25 McArthur's testimony, there are a number of functions

160.



(Judge Michael H. Plass)

1 that the judges are performing -- both Respondent and
2 Judge McArthur -- that take place outside of the presence of
3 the court officers.

4 Court officers are punching a clock. That's
5 when they are in court. It could be when they're performing
6 other functions, but there is no court officer present when
7 Judge McArthur is on call. There's no officer present when
8 she's in on a non-calendar day deciding motions. So I
9 submit to you that Respondents' exhibits with respect to the
10 court officers are of no moment and should not detract from
11 McArthur's testimony about the work that she's doing.

12 The same with these NYSLRS sheets. Judge
13 McArthur stated from beginning of
14 cross-examination, these are not timesheets. She does not
15 punch a clock. She is not required to keep track of her
16 time. And she also testified to the extent that she has to
17 fully account for every hour that she works.

18 And I would invite you -- I know we're short on
19 time, but Mr. North and we'll brief this. I'll invite you to
20 please look at the calendars again and look at the narratives
21 that Judge McArthur attaches to the calendars, where she
22 says in bold letters -- Respondents' exhibit -- this does not
23 account for the time I'm doing on call.

24 Now, Respondent spent a great deal of time
25 attempting to impugn her character and unfortunately, at the

161.



(Judge Michael H. Plass)

1 last few moments of Respondent's testimony, and granted, I
2 asked the question, insinuated that there's something
3 nefarious going on. If McArthur needed to inflate her
4 numbers, why wouldn't she just add what she put for the on
5 call? She's got a built-in 24/7 every single day. I submit
6 it's a non-issue.

7 The testimony is what it is. She's doing the
8 extra work. The case statistics don't lie. It's less than ten
9 percent. And really, you don't have to preside over those
10 cases to know there's going to be an increase in her
11 caseload. If it's 25 to 30 percent court duties, that's a
12 significant increase from what she had with her Co-Judge.

13 If it's doubled in the sense of the on call, that's
14 just as egregious. Sarah Jensen testified. Of course, she
15 came in and she tried to impugn McArthur's testimony also.
16 This is a disgruntled court employee, clearly, who has an
17 axe to grind and we know that from the conclusion of my
18 cross-examination of her.

19 I would ask you to disregard her account
20 entirely. It's unsupported. She testified that she sees Judge
21 McArthur one time on the monitors. This is a 911
22 dispatcher with 15 monitors in front of you. Again, I
23 submit it's all smoke and mirrors.

24 The NYSLRS are smoke and mirrors. At the
25 core of this case, Commission Exhibit 1 and 2 are

162.



(Judge Michael H. Plass)

1 definitively the misconduct here. Unfortunately for Judge
2 McArthur, she's carrying the majority of the load on her
3 shoulders and the Respondent's attempts to impugn that, I
4 submit, failed.

5 I won't take too much more of your time, Mr.
6 North. I am highly confident you'll see this case for what it
7 is. The Respondent's misconduct was egregious and he
8 himself admits it was a discussion about admissions.

9 You have Exhibits 10, 11, and 12, which are
10 riddled with Respondent's admissions as to the nature of his
11 conduct. We look forward to submitting our post-hearing
12 briefs, Mr. North, and we anticipate you will issue a finding
13 of misconduct on the sole charge in the formal written
14 complaint.

15 Thank you.

16 MR. LEVENTHAL: The numerous admissions
17 made by Judge Plass are because he approached this matter
18 honestly with integrity and truthfulness. He never disputed
19 that those flyers were sent. He never disputed that he
20 authored them. And upon being educated about the rules of
21 professional conduct, he did not deny that they transgressed
22 the rule against pledges and promises.

23 So that's where we are. The length of this
24 hearing is not a function of the need for the Commission to
25 prove that the violation occurred.

163.



(Judge Michael H. Plass)

1 The length of this hearing is a result of the
2 Commission's attempt to show consequences from Judge
3 Plass's admitted violation. And you know, the rhetorical
4 flourish of Commission's counsel that our defense is smoke
5 and mirrors is telling, because I opened by saying that the
6 Commission would present caseload statistics that distorted
7 some facts and omitted others, and that is exactly what has
8 occurred. The use of smoke and mirrors is by the
9 Commission.

10 The Commission's own exhibit that they place
11 so much importance on, the absolute number of cases
12 assigned, using the Commission's number, the disparity
13 between the caseloads is 12 percent. If you use the sign-in
14 sheets to address defendants who actually appeared, the
15 disparity is five percent.

16 And as far as the work that's not reflected in the
17 caseload count, Justice McArthur herself said that of all the
18 facts that were testified to in this case on her behalf, as far
19 as the disparity in workload is concerned, her claim of the
20 disparity in the workload, the one that she places
21 importance on, the only one that she placed importance
22 upon was after-hour arraignments.

23 And you heard the testimony from everyone
24 with knowledge that the number of after-hour arraignments
25 plummeted after bail reform. And bail reform occurred

164.



(Judge Michael H. Plass)

1 before Judge Plass took office. In fact, the testimony was
2 that this year there has been only one after-hour
3 arraignments. Only one. And you also heard testimony
4 that if a judge in a municipality is unavailable, the
5 police officer can take that defendant,
6 soon-to-be-defendant, detainee, arrestee, to a different
7 municipality to be arraigned.

8 As far as the claim of inability to go on vacation
9 by Judge McArthur. You heard testimony that there were
10 two requests, two requests during 2004 for coverage. They
11 were implemented by the Clerk, not by the Judge herself.

12 And of those two requests, one resulted in a
13 judge covering and the other did not. So one incident only.
14 And that procedure of getting coverage and the availability
15 of other judges to cover is reinforced by the fact that Judge
16 McArthur, despite her claim of being overwhelmed with
17 work in Hyde Park, covered for the judge in Poughkeepsie,
18 while also holding down a job with her family's oil
19 company, and for most of the time, also with her liquor
20 store.

21 So as far as Judge Plass handling the mail-in
22 fines, the testimony -- you heard the testimony, you heard
23 what he did, you heard what he did not do with respect to
24 those matters. No defendant appeared before him. He did
25 not adjudicate anyone's guilt. He imposed fines within the

165.



(Judge Michael H. Plass)

1 narrow range that the vehicle and traffic law allows for
2 traffic infractions.

3 But I think it's telling that he testified that he
4 handled 180 pleas by mail in 180 minutes, one minute per
5 matter, while Judge McArthur said that she handled 25
6 such pleas in two hours, 120 minutes. And I will say that
7 with a backlog of pleas by mail having accumulated to the
8 number of 180, there is a rule of judicial conduct. I'm not
9 using rule of judicial conduct as a term of art to mean the
10 rules that are found in NYCRR, but there's a principle of
11 judicial conduct, I should say, called the rule of necessity.
12 And when something must be done, it can be done.

13 I will say also that there is no documentation of
14 Judge McArthur's hours off the bench, except her own
15 reports, reports that she was obliged to file truthfully with
16 the New York State pension system, reports which, if
17 reflecting higher hours, would result in her having a higher
18 pension.

19 And in those reports, Judge McArthur, herself,
20 reported fewer hours in all of the months that she reported
21 while sharing the bench with Judge Plass than she did at
22 any other time during her judicial service. I hate to say
23 this, but Judge McArthur was not worthy of belief. Judge
24 McArthur inflated the hours that she reported to the New
25 York pension system for gain, for monetary gain. She

166.



(Judge Michael H. Plass)

1 submitted false reports so that she could be paid more
2 money by the state of New York.

3 And Judge Plass, on the other hand, ignorantly,
4 innocently, but inappropriately, distributed a campaign
5 flyer. A campaign flyer that will quickly recede in the
6 memory of the residents of Hyde Park. A campaign flyer
7 that he now has learned, to his dismay, was violative of the
8 rules of professional conduct.

9 He does not seek to run away from that fact, but
10 he does emphatically believe that he has learned his lesson.
11 And this ordeal, this painful ordeal for Judge Plass, has
12 made him a better judge.

13 Thank you, that's all I have.

14 MR. NORTH: Thank you.

15 Do we want to have a schedule for briefs at all,
16 Counsel?

17 MR. LEVENTHAL: Yes, I have a question in
18 that regard.

19 MR. NORTH: Yes?

20 MR. LEVENTHAL: It's really a question for
21 the court reporter. I wonder how soon we're likely to have
22 transcripts.

23 MR. FRIEDBERG: We don't get them from
24 that court reporter.

25 MR. LEVENTHAL: Okay.

167.



(Judge Michael H. Plass)

1 MR. FRIEDBERG: We get them from this tape
2 that's being made.

3 MR. LEVENTHAL: Okay. So the same
4 question to you, then. When are we likely to have them?
5 Because that will influence the time that I request.

6 MR. FRIEDBERG: Well, first of all, the time
7 runs from the time we get the transcripts.

8 MR. LEVENTHAL: Okay.

9 MR. FRIEDBERG: That's the way we usually
10 do it.

11 MR. NORTH: Do you want it to be on the
12 record, or not?

13 MR. FRIEDBERG: Sure.

14 MR. NORTH: Okay.

15 MR. FRIEDBERG: Do you mind if I speak?

16 MR. NORTH: Go right ahead.

17 MR. FRIEDBERG: We generally ask for four
18 weeks to a month after the transcripts and then, maybe,
19 seven to ten days for replies.

20 MR. LEVENTHAL: I'm sorry. How many?
21 One more time?

22 MR. FRIEDBERG: Four weeks, 28 days to a
23 month. So around that period, from the time that we
24 receive the transcripts. And then seven to ten days for
25 replies.

168.



(Judge Michael H. Plass)

1 MR. LEVENTHAL: That's very similar to what
2 my request would have been. I was going to ask for 30
3 days to prepare brief, two weeks for reply briefs.

4 And then the next question I have is, will the
5 Commission first serve their brief and then there will be a
6 responsive one and a reply?

7 MR. ARNONE: No, we file our briefs
8 simultaneously, but there is a reply.

9 MR. LEVENTHAL: Well, I would request that
10 the Commission serve, that we oppose, and that they
11 reply. Particularly, in light of the question that you raised
12 earlier that counsel intends to address in his brief. It's a
13 new question that hasn't been presented before, and I think
14 we're entitled to respond to their arguments with respect to
15 that.

16 MR. NORTH: The question you're referring to
17 is the applicability of the 100.1 and 2?

18 MR. LEVENTHAL: The various rules, yes.

19 MR. NORTH: Mr. Arnone?

20 MR. ARNONE: There is a reply brief so that
21 everyone will have the opportunity to read it.

22 MR. NORTH: Okay. And has the practice
23 universally been that it's submitted simultaneously?

24 MR. ARNONE: Yes.

25 MR. NORTH: We'll follow that.

169.



(Judge Michael H. Plass)

1 MR. FRIEDBERG: Not universally, but --

2 MR. NORTH: Okay. We'll follow that practice,
3 then, that the submission will be simultaneous. I guess you
4 can coordinate when you push the button or whatever so it
5 is at the same time.

6 MR. FRIEDBERG: We'll work out, I guess,
7 through correspondence, that we agree that today is the day
8 the Respondent got it and the time starts running. Right?

9 And then do you want to make it 30 days and
10 two weeks?

11 MR. NORTH: 30 days and two weeks is fine.
12 And about how long is it before the transcript is available?
13 What's the general practice?

14 MR. FRIEDBERG: I don't really know.

15 MR. ARNONE: Last hearing I had, it took
16 about a month, but I really think it varies.

17 MR. NORTH: Okay.

18 MR. ARNONE: Because we may not have the
19 same company.

20 MR. LEVENTHAL: And actually, because
21 your microphone was malfunctioning, we may be told that
22 there's no transcript.

23 MR. NORTH: At least from my point of view.

24 MR. FRIEDBERG: She listens and she knows.

25 MR. NORTH: And we have backup here, too.

170.



(Judge Michael H. Plass)

1 So, okay, so it will be once the transcript is
2 available and disseminated to counsel. We'll have 30 days
3 from that time. It will be subject to a letter confirming the
4 date for briefs to be simultaneously submitted. And then
5 two weeks, 14 days for reply. And that should be it.

6 MR. FRIEDBERG: Mr. North, thank you very
7 much for your service.

8 MR. NORTH: You're welcome.

9 MR. FRIEDBERG: Thank you, Counsel.

10 MR. LEVENTHAL: Likewise.

11 MR. ARNONE: Thank you.

12 MR. LEVENTHAL: And I have to say that the
13 Commission staff has been absolutely courteous, very
14 helpful, and it's much appreciated.

15 MR. FRIEDBERG: Thank you.

16 MR. NORTH: All around.

17 MR. FRIEDBERG: Spoken by someone who's
18 not just a lawyer, but a judge.

19 MR. ARNONE: Okay. We're going to go off
20 the record.

21 MR. NORTH: Okay. Off the record.

22 (Proceedings concluded at 2:31 p.m.)
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INDEX OF WITNESSES

WITNESS	DIRECT	CROSS	REDIRECT	RECROSS
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For the Respondent:

Judge Michael H. Plass	1	79	148	
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COURT EXHIBITS

Description

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A Calendar report

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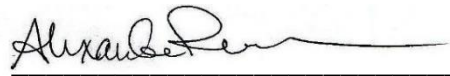


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CERTIFICATION

I, Alexander Reaves, do hereby certify that the foregoing is a true and accurate transcript of the audio recording described herein to the best of my knowledge and belief.

Dated: April 1, 2025



Alexander Reaves