

Exhibit

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McCALEB

vs.

LONG

MICHELLE LONG

October 25, 2023



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<div> 1 IN THE UNITED STATES DISTRICT FOR THE MIDDLE DISTRICT OF TENNESSEE 2 NASHVILLE DIVISION <hr/> 3 DAN MCCALED, Executive Editor of 4 THE CENTER SQUARE, 5 Plaintiff, 6 vs. Case No. 3:22-cv-00439 7 MICHELLE LONG, in her official capacity as DIRECTOR of the 8 TENNESSEE ADMINISTRATIVE OFFICE OF THE COURTS, 9 Defendant. <hr/> 10 11 12 13 14 15 Deposition of: 16 MICHELLE LONG 17 Taken on behalf of the Plaintiff 18 October 25, 2023 Commencing at 9:04 a.m. CST 19 20 21 22 <hr/> 23 Lexitas Legal 24 Jenny Checuga, LCR, RPR 555 Marriott Drive 25 Nashville, Tennessee 37214 (615)595-0073 </div>	<div> 1 I N D E X Page 3 2 Page 0Examination 3 By Mr. Dougherty 5 4 Examination By Mr. Stahl 154 5 Further Examination 6 By Mr. Dougherty 157 7 8 9 E X H I B I T S 10 (None marked.) 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 </div>
<div> 1 A P P E A R A N C E S Page 2 2 3 For the Plaintiff: 4 MR. M.E. BUCK DOUGHERTY III Attorney at Law 5 Liberty Justice Center 440 North Wells Street, Suite 200 6 Chicago, IL 60654 (423)326-7548 7 bdougherty@libertyjusticecenter.org 8 9 For the Defendant: 10 MR. MICHAEL M. STAHL Assistant Attorney General 11 Office of the Attorney General & Reporter PO Box 20207 12 Nashville, TN 37202-0207 (615)741-3491 13 michael.stahl@ag.tn.gov 14 15 For the Deponent, Rachel Harmon: 16 MR. JOHN COKE Attorney at Law 17 Administrative Office of the Courts 511 Union Street, Suite 100 18 Nashville, TN 37219 19 20 21 22 23 24 25 </div>	<div> 1 S T I P U L A T I O N S Page 4 2 3 4 The deposition of MICHELLE LONG was taken 5 by counsel for the Plaintiff, at the offices of 6 500 Charlotte Avenue, Nashville, Tennessee, on 7 October 25, 2023, by Notice for all purposes 8 under the Federal Rules of Civil Procedure. 9 All formalities as to caption, notice, 10 statement of appearance, et cetera, are waived. 11 All objections, except as to the form of the 12 questions, are reserved to the hearing, and 13 that said deposition may be read and used in 14 evidence in said cause of action in any trial 15 thereon or any proceeding herein. 16 It is agreed that JENNIFER CHECUGA, LCR, 17 RPR, and Court Reporter for the State of 18 Tennessee, may swear the witness, and that the 19 reading and signing of the completed deposition 20 by the witness are not waived. 21 22 23 24 25 </div>

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MICHELLE LONG,
was called as a witness, and having first been
duly sworn, testified as follows:

EXAMINATION

QUESTIONS BY MR. DOUGHERTY:

Q. Good morning.

A. Good morning.

Q. My name is Buck Dougherty, I'm an attorney with Liberty Justice Center and I represent the Plaintiff in this lawsuit, Dan McCaleb. He's the executive editor of the Center Square. And we'll go ahead and get started with some introduction and kind of ground rules and we'll talk a little bit about that.

Have you ever had your deposition taken before today?

A. Only once.

Q. And when was that?

A. Over ten years ago.

Q. Was that -- do you recall, was it a particular lawsuit that you were involved in or --

A. It was not -- I believe I was deposed as a fact witness in a lawsuit involving hospitals when I was working at the Tennessee Hospital Association.

Q. And was that lawsuit filed in a Tennessee state court?

A. I think it was federal.

Q. Tennessee federal court?

A. Yes.

Q. Would that have been Middle District of Tennessee?

A. Yes.

Q. Okay. So you perhaps may recall, you know, I'll ask a question, it's important -- I know when people communicate we nod our heads and give cues, it's important that you give audible verbal statements so our court reporter can pick that up on the transcript, and I'll try to be as clear as possible with my questions.

If you don't understand any question at any time, feel free to ask me to restate it, okay?

A. Yes.

Q. And also, we can take a break at any

point. If you want to go for an hour and take a break or two hours, that's up to you, the only stipulation is if I've got a question that I've asked and it's on the table, I would ask that you answer that question then before we take a break.

A. Yes, of course.

Q. Okay. So do you understand that you're under oath today?

A. I do.

Q. And are you prepared to answer the questions that I ask of you truthfully?

A. Yes.

Q. Are you represented by counsel?

A. Yes.

Q. And what is his name?

A. Michael Stahl.

Q. Michael Stahl.

MR. DOUGHERTY: And there's another person here, want go ahead and introduce yourself?

MR. COKE: John Coke, general counsel at the Tennessee Administrative Office.

MR. DOUGHERTY: I don't know if I asked you this, Mr. Coke, are you going to be

entering a notice of appearance in this lawsuit?

MR. COKE: No, I will not.

MR. DOUGHERTY: Okay.

BY MR. DOUGHERTY:

Q. Did you take any kind of medication or are you on any kind of treatment that would hinder your ability to give truthful and honest answers today?

A. No.

Q. Okay. So you kind of understand kind of our ground rules today?

A. Yes, sir.

Q. Okay. Please state your full name for the record.

A. Michelle Evette Jones long.

Q. And where have you lived during the last five years?

A. Nashville, Tennessee.

Q. Where do you work?

A. The Tennessee Administrative Office of the Courts.

Q. And what is your position?

A. I am the director.

Q. Do you go by director or is it

1 administrative director or executive director;
 2 which title is it?
 3 **A. In the statute it is director or I'm also**
 4 **referred to as the chief administrative officer**
 5 **in the statute.**
 6 Q. But you refer to yourself as director?
 7 **A. Correct.**
 8 Q. Okay. When did you start that position?
 9 **A. As director, February of 2022.**
 10 Q. Do you remember the specific day; would
 11 that have been February 1, 2022?
 12 **A. I believe that is correct.**
 13 Q. And explain that director position; did
 14 someone appoint you to that position?
 15 **A. I was appointed by the Tennessee Supreme**
 16 **Court, correct.**
 17 Q. And you worked there since February 1st
 18 of 2022?
 19 **A. Correct.**
 20 Q. What did you do prior to your appointment
 21 as director?
 22 **A. I was deputy director.**
 23 Q. And what was the time period in which you
 24 were deputy director?
 25 **A. I began in October of 2019 as deputy**

1 **director.**
 2 Q. Prior to that, where did you work?
 3 **A. Prior to that I worked for the Tennessee**
 4 **Department of Health.**
 5 Q. Do you recall the time period in which
 6 you were with the Tennessee Department of
 7 Health?
 8 **A. Seven to eight years. I think it's**
 9 **closer to seven years.**
 10 Q. Okay. And what was your position with
 11 the Tennessee Department of Health?
 12 **A. I was assistant commissioner for**
 13 **licensure and regulation.**
 14 Q. Is that for hospital licensure?
 15 **A. All hospitals, all healthcare facilities,**
 16 **healthcare practitioners, yes.**
 17 Q. Was the assistant commissioner, is that
 18 an elected or an appointed position?
 19 **A. Appointed.**
 20 Q. Who appointed you to that position?
 21 **A. The commissioner of the Department of**
 22 **Health.**
 23 Q. Do you recall that person's name?
 24 **A. John Dreyzehner.**
 25 Q. How do you spell the last name?

1 **A. D-R-E-Y-Z-E-H-N-E-R. I'll have to look**
 2 **at it.**
 3 Q. Is he still working in state government?
 4 **A. No, he's not.**
 5 Q. Okay. So that's a good window. Anything
 6 before -- I'm sure you had work before then,
 7 but what did you do prior to the Tennessee
 8 Department of Health?
 9 **A. Prior to the Tennessee Department of**
 10 **Health, I worked as senior vice president and**
 11 **legal counsel for the Tennessee Hospital**
 12 **Association.**
 13 Q. Is that a private or a state position?
 14 **A. Private.**
 15 Q. Is that a nonprofit?
 16 **A. Yes.**
 17 Q. Is that nonprofit still in existence?
 18 **A. Yes.**
 19 Q. And where are they located?
 20 **A. They are now located in Maryland Farms in**
 21 **Brentwood, Tennessee.**
 22 Q. Where were they located when you worked
 23 there?
 24 **A. Over -- near the fairgrounds. I can't**
 25 **recall the name of the street.**

1 Q. Is that here in Nashville?
 2 **A. Here in Nashville.**
 3 Q. Okay. All right, let's -- so you're a
 4 practicing attorney; is that correct?
 5 **A. That's correct.**
 6 Q. And where was your undergraduate degree,
 7 the school and the year?
 8 **A. Northwestern University in Evanston,**
 9 **Illinois, and I graduated in 1990.**
 10 Q. Chicago, our office is based in Chicago.
 11 And your law school?
 12 **A. University of Tennessee, Knoxville.**
 13 Q. And what year was your JD?
 14 **A. 1994.**
 15 Q. Do you have any other postsecondary
 16 graduate degrees or anything?
 17 **A. No, sir.**
 18 Q. Okay. What was the date of your first
 19 bar admission? The year, excuse me.
 20 **A. 1994.**
 21 Q. And was that Tennessee?
 22 **A. Yes.**
 23 Q. Are you admitted or barred in any other
 24 states?
 25 **A. Yes.**

1 Q. Where are those states?
 2 **A. Alabama and DC.**
 3 Q. And then do you have, I assume, federal
 4 court admissions?
 5 **A. I did. I don't maintain them, but yes.**
 6 Q. At one point?
 7 **A. Yes.**
 8 Q. Would that have been the United States
 9 Supreme Court; do you recall?
 10 **A. I believe it was when I was working in**
 11 **Alabama, so it would have been not the United**
 12 **States Supreme Court, but the 9th Circuit.**
 13 **Seems there was a case --**
 14 Q. The 9th Circuit Court of Appeals?
 15 **A. Yes. Yes.**
 16 Q. Okay.
 17 **A. Alabama's 9th Circuit.**
 18 Q. So you're not talking about the 9th
 19 Circuit Court of Appeals in federal court.
 20 **A. I am. I think I am.**
 21 Q. Okay. The 9th Circuit that sits in San
 22 Francisco, the federal court?
 23 **A. Then no, I'm not, I've got the circuit**
 24 **wrong, I apologize.**
 25 Q. Would it be the 11th Circuit Court of

1 Appeals?
 2 **A. The 11th.**
 3 Q. Would that be in Atlanta?
 4 **A. Yes.**
 5 Q. That's all right, we're not in federal
 6 law.
 7 So it looks like you had a very lengthy
 8 experience with your legal career, you've held
 9 a lot of state positions. Is it fair to say
 10 you were not in litigation?
 11 **A. I started off in litigation, but I did**
 12 **not stay in litigation. So most of my career**
 13 **is not litigation.**
 14 Q. At least the last ten years or so it's
 15 been primarily in state --
 16 **A. That's correct.**
 17 Q. -- organizations?
 18 **A. That's correct.**
 19 Q. I appreciate your responsiveness. Just
 20 to help her out, just let me finish the
 21 question and I'll try to do the same before you
 22 answer. I know -- even though you're
 23 anticipating your answer, we'll make sure we
 24 help our court reporter out.
 25 **A. Okay.**

1 Q. Have you ever been formally disciplined
 2 by any state bar, licensing authority?
 3 **A. No.**
 4 Q. Have you ever been convicted of a crime?
 5 **A. No.**
 6 Q. Other than this lawsuit, McCaleb versus
 7 Long, have you ever been a party to a lawsuit
 8 before?
 9 **A. No.**
 10 Q. So the deposition you gave, the Tennessee
 11 Hospital -- the one you mentioned about ten
 12 years ago, you weren't actually a party to that
 13 lawsuit?
 14 **A. That's correct.**
 15 Q. Do you recall who the parties were?
 16 **A. I do not.**
 17 Q. Okay. Do you recall how that lawsuit
 18 concluded?
 19 **A. I do not.**
 20 Q. All right. As director -- for purposes
 21 of this deposition, I'm going to refer to your
 22 office either as the AOC or the TAOC; is that
 23 okay? Do you understand what -- we can do that
 24 today?
 25 **A. Yes, sir.**

1 Q. And I know that you all refer to it as
 2 the AOC?
 3 **A. We do.**
 4 Q. And you're aware that there is a federal
 5 AOC as well, right?
 6 **A. Yes.**
 7 Q. So that's -- just for simplicity
 8 purposes, I'll refer to it today as either the
 9 AOC or the Tennessee AOC?
 10 **A. Okay.**
 11 Q. If I'm going to refer to the Federal AOC,
 12 I'll make a specific reference to it.
 13 **A. Okay.**
 14 Q. Okay. Who is your supervisor as director
 15 of the AOC?
 16 **A. Chief Justice Holly Kirby.**
 17 Q. And how long has Chief Justice Kirby been
 18 your supervisor?
 19 **A. Since September 1st.**
 20 Q. Of this year?
 21 **A. Of this year.**
 22 Q. And who was your supervisor prior to
 23 Chief Justice Kirby?
 24 **A. Chief Justice Roger Page.**
 25 Q. And is it your understanding that the

1 chief justice of the Tennessee Supreme Court is
 2 always the director's supervisor?
 3 **A. That is my understanding.**
 4 Q. And do you have periodic evaluations on
 5 your performance with the chief justice?
 6 **A. I would say I have weekly evaluations**
 7 **with the chief justice, but nothing formal.**
 8 Q. What -- explain those; tell me about
 9 those weekly evaluations.
 10 **A. So we have a standing meeting -- I have a**
 11 **standing meeting with the chief justice every**
 12 **Friday.**
 13 Q. And what do those standing meetings every
 14 Friday, what at the do they consist of?
 15 **A. Updates on activities at the AOC and then**
 16 **mostly awareness, I call it situational**
 17 **awareness.**
 18 Q. What kind of updates? Are you talking
 19 about court updates?
 20 **A. No, administrative.**
 21 Q. What are some of those administrative
 22 updates that come up in your discussions?
 23 **A. So -- okay, so particularly right now**
 24 **we're in the process of budget discussions and**
 25 **so we would talk about the budget priorities**

1 **for the -- for the Court, for the AOC, those**
 2 **become our priorities.**
 3 Q. And does that -- do you also in these
 4 weekly meetings and updates discuss any boards
 5 or commissions, any administrative issues that
 6 are coming up in any of those?
 7 **A. I cannot recall anything recently**
 8 **relative to a board -- I take that back.**
 9 **So we recently did salary increases at**
 10 **the AOC across the Judicial Department, and so**
 11 **yes, we talked about boards and commissions**
 12 **salary increases.**
 13 Q. Are boards and commissions, do they
 14 receive a state salary?
 15 **A. Some do.**
 16 Q. Which ones do you recall that receive a
 17 state salary?
 18 **A. So the CLE, the Continuing Legal**
 19 **Education Commission. The Board of**
 20 **Professional Responsibility has state**
 21 **employees. TLAP, Tennessee Lawyers Assistance**
 22 **Program has state employees. And I am -- did I**
 23 **say the Board of Professional Responsibility,**
 24 **Commission on Legal Education, I think those**
 25 **are the three --**

1 Q. And TLAP.
 2 **A. -- that have state employees.**
 3 Q. What does TLAP stand for?
 4 **A. Tennessee Lawyers Assistance Program.**
 5 Q. Okay. And the CLE, that's the group or
 6 the division that monitors attorneys' CLEs
 7 every year?
 8 **A. Continuing legal education, correct.**
 9 **Board of Law Examiners, that's the one I'm**
 10 **forgetting.**
 11 Q. So do you make recommendations in terms
 12 of salary increases for AOC employees or how
 13 does that process work?
 14 **A. For AOC employees, yes.**
 15 Q. But the CLE, does that come under the AOC
 16 Department?
 17 **A. No, it has its own director. Each of**
 18 **those boards have their own director.**
 19 Q. Well, help me, I'm just trying to
 20 understand.
 21 Why would you be involved in salary
 22 discussions in budget; does that come under
 23 your budget, the CLE?
 24 **A. It actually does not, but in order to**
 25 **implement salary increases, we have to**

1 **implement them at the AOC.**
 2 Q. Explain that.
 3 **A. So our fiscal director manages their**
 4 **budget as well.**
 5 Q. I see. Well, depending on what CLE or
 6 the Board of Professional Responsibility gets
 7 in terms of funding, does that affect your
 8 office, the AOC?
 9 **A. I'm sorry, I don't understand that**
 10 **question.**
 11 Q. Sure. I'm just trying to understand the
 12 interconnectedness.
 13 How does the salary increases or
 14 decreases, adjustments, let's say, in another
 15 -- either CLE -- the boards that you listed,
 16 CLE, the Board of Professional Responsibility,
 17 TLAP or the Law Examiners, how does budgetary
 18 issues with respect to those four entities
 19 affect the Administrative Office of the Courts
 20 and AOC employees?
 21 **A. So I would say that it doesn't impact AOC**
 22 **employees, except that our fiscal director and**
 23 **our HR director are the ones responsible for**
 24 **literally keying the salary adjustments.**
 25 Q. So your participation in those

1 discussions is more just kind of ancillary; is
 2 it fair to say?
 3 **A. I think that's fair.**
 4 Q. Does the -- is it the fiscal director?
 5 **A. Correct.**
 6 Q. What is that person's name?
 7 **A. Dalton Hensley.**
 8 Q. And does Dalton Hensley come under your
 9 supervision?
 10 **A. Yes.**
 11 Q. Does the AOC office, do you get involved
 12 in the salary adjustments with the judges,
 13 state court judges, appellate judges?
 14 **A. So their salary adjustments are pursuant**
 15 **to statute, so they get a COLA every year. In**
 16 **order for that to show up in their paychecks,**
 17 **we literally key the information into a system**
 18 **that pays them.**
 19 Q. So your office -- the AOC is just like
 20 the name says, your office provides
 21 administrative support?
 22 **A. That's correct.**
 23 Q. What is COLA; what does that stand for?
 24 **A. Cost of living adjustment.**
 25 Q. That's COLA?

1 **A. Yes.**
 2 Q. Is that a state of Tennessee term or is
 3 that a federal term or just a widely used term?
 4 **A. I think it's a widely used term.**
 5 Q. Okay. What is your understanding of the
 6 purpose, function and role of your position as
 7 director of AOC?
 8 **A. To provide support to the Tennessee**
 9 **Supreme Court for the administration of**
 10 **effective, efficient court processes for the**
 11 **administration of justice in Tennessee.**
 12 Q. So is it just support to the Tennessee
 13 Supreme Court?
 14 **A. Yes.**
 15 Q. You don't provide support to any other of
 16 the courts?
 17 **A. I would say we -- the AOC operates at the**
 18 **direction of the Tennessee Supreme Court and**
 19 **the Tennessee Supreme Court has authority for**
 20 **the entire court system. So all of those other**
 21 **courts are included.**
 22 Q. Any responsibility for efficient
 23 administration of courts regarding litigants
 24 who come into courts?
 25 **A. We do have programs that ensure access to**

1 **justice for litigants, you know, where English**
 2 **is not the first language. So we do court**
 3 **interpreter programs. We certify court**
 4 **interpreters so that courts have that -- a**
 5 **certification for legal interpretation**
 6 **available in the courts.**
 7 Q. And we'll talk about access to justice in
 8 a moment.
 9 Do you also -- as part of your duties,
 10 are you required to submit a budget each year?
 11 **A. Yes.**
 12 Q. And I think you just said something about
 13 the process. Is that -- when do you usually
 14 typically do that, submit a budget?
 15 **A. We have submitted our budget request. I**
 16 **don't recall the due date, but it has been**
 17 **submitted. We'll have our first hearing in**
 18 **November.**
 19 Q. Is that a public hearing or is that
 20 before the General Assembly? When you say
 21 hearing, what do you mean?
 22 **A. It's with the Department of Finance and**
 23 **Administration. So the statute requires us to**
 24 **present our budget to F&A first.**
 25 Q. What statute are you referring to?

1 **A. Couldn't tell you the you citation off**
 2 **the top of my head.**
 3 Q. Is it part of the statute that outlines
 4 the director's duties?
 5 **A. Yes.**
 6 Q. When do you typically start getting
 7 involved with that budgetary process that
 8 you're required by statute to submit?
 9 **A. It almost begins at the conclusion of a**
 10 **legislative session, but I would say formally**
 11 **some time in the fall. But we're gathering**
 12 **information the entire time.**
 13 Q. Were you responsible for submitting the
 14 budget to the governor in 2022?
 15 **A. No, my predecessor submitted the budget**
 16 **in 2022.**
 17 Q. And do you know when that would have been
 18 submitted -- and I'm referring to the AOC
 19 portion -- to the governor? And then as I
 20 understand it, the governor then submits it to
 21 the General Assembly; is that how it works?
 22 **A. So departments and agencies submit their**
 23 **budget to the Department of Finance and**
 24 **Administration and then the Department of**
 25 **Finance and Administration makes**

1 **recommendations to the governor for his budget.**
 2 Q. And who was your predecessor?
 3 **A. Deborah Tate.**
 4 Q. And do you know why she submitted the
 5 budget in 2022?
 6 **A. It would have been in the normal course**
 7 **of business. It would have been submitted in**
 8 **the fall of 2021 and then processed through the**
 9 **next steps in the legislature in 2022.**
 10 Q. And that was before you took your role as
 11 director in February of 2022; is that correct?
 12 **A. That's correct.**
 13 Q. So you were Ms. Tate's deputy director;
 14 is that right?
 15 **A. That's correct.**
 16 Q. Is the AOC office responsible for
 17 reimbursement payments to any individuals
 18 serving on boards and commissions?
 19 **A. Yes.**
 20 Q. And tell me about that.
 21 **A. So expense claims are submitted to our**
 22 **Division for Fiscal Services. They then review**
 23 **them for appropriateness and then they get**
 24 **submitted to F&A for processing or payment.**
 25 Q. And what is F&A?

1 **A. Finance and Administration, I apologize.**
 2 Q. What do you mean by -- I think I know
 3 what you mean, but I want you to explain it --
 4 by appropriateness when reimbursement expenses
 5 are submitted?
 6 **A. So we just check to make sure that it is**
 7 **an eligible expense.**
 8 Q. Is there some type of formal guideline
 9 that you have that you follow?
 10 **A. So we do have guidelines for travel**
 11 **reimbursement. For example, the day of travel**
 12 **for per diems would not be full day for the per**
 13 **diem, you get a percentage of the day. So we**
 14 **look for things like that to audit the**
 15 **expenses.**
 16 Q. Are those guidelines internal AOC
 17 policies or is that by statute?
 18 **A. We do have an internal policy, but it**
 19 **mimics the state policy.**
 20 Q. It's a state policy or a state statute?
 21 **A. I believe it is a policy.**
 22 Q. Okay. Who implements state policies?
 23 **A. For that purpose, it would be the**
 24 **Department of Finance and Administration.**
 25 Q. F&A?

1 **A. Correct.**
 2 Q. But that's not the AOC's F&A, correct?
 3 **A. Well, it's not our Division of Fiscal**
 4 **Services, correct.**
 5 Q. I just want to understand, the AOC's
 6 fiscal director is Dalton Hensley?
 7 **A. That's correct.**
 8 Q. When you say "F&A," you're referring to a
 9 centralized different Department of Finance and
 10 Administration?
 11 **A. Yes.**
 12 Q. Within the whole state?
 13 **A. Yes.**
 14 Q. Okay. Are you responsible or your
 15 office, the AOC, for overseeing reimbursement
 16 requests from members of the Advisory
 17 Commission on the rules of practice and
 18 procedure?
 19 **A. Could you repeat that? I am sorry.**
 20 Q. Yeah. Is the AOC responsible for
 21 overseeing reimbursement requests from the
 22 members of the Advisory Commission on the rules
 23 of practice and procedure?
 24 **A. To the extent that they are eligible for**
 25 **reimbursement for expenses, then yes.**

1 Q. It comes to your office, right?
 2 **A. That is correct.**
 3 Q. Do you keep records of those
 4 reimbursement requests?
 5 **A. I do not.**
 6 Q. Does your office keep records?
 7 **A. Yes.**
 8 Q. And how far back does that -- do those
 9 records go?
 10 **A. I do not know.**
 11 Q. But someone in your office would know?
 12 **A. Yes.**
 13 Q. As director of the AOC, do you survey and
 14 study the operation of the state court system?
 15 **A. Yes.**
 16 Q. Explain how you do that. What does that
 17 look like?
 18 **A. So I can give you a specific example**
 19 **relative to -- since I've been director.**
 20 **Technology and the processes relative to**
 21 **E-filing for state courts. So we have been in**
 22 **the process of surveying what each and every**
 23 **court offers in term of E-filing.**
 24 Q. How do you survey?
 25 **A. Well, we went out and met with court**

1 clerks and judges across the state in all three
 2 grand divisions, we kind of created teams that
 3 went east and west and we all kind of looked at
 4 middle to see what the state of E-filing was in
 5 as many courts as we could cover.
 6 Q. Does the AOC office keep records of these
 7 surveys?
 8 **A. I have my notes.**
 9 Q. Okay. What does that mean, your notes?
 10 **A. So in the process of meeting with court**
 11 **clerks to understand what their systems looked**
 12 **like, I took notes to make sure we could**
 13 **compare from county to county what was**
 14 **happening.**
 15 Q. Who do you share those notes within the
 16 AOC or the court system?
 17 **A. I have not shared my notes.**
 18 Q. You have not shared your notes?
 19 **A. No.**
 20 Q. You still have your notes?
 21 **A. Yes.**
 22 Q. Are those at your office?
 23 **A. Yes.**
 24 Q. Okay. Do they get inputted into the
 25 electronic system or computer system or

1 anything like that?
 2 **A. No.**
 3 Q. Do you share your notes with the justices
 4 on the Supreme Court?
 5 **A. Are you asking me if I shared the**
 6 **physical paper that my --**
 7 Q. Either. When I say "share your notes,"
 8 either discussed your notes with someone in the
 9 AOC or the court system or physically shared
 10 your notes with someone?
 11 **A. I have discussed.**
 12 Q. Okay. Let's do that then. Who have you
 13 discussed -- within the AOC, let's start with
 14 the AOC first. What individuals have you
 15 discussed based on your survey and based on
 16 your notes?
 17 **A. I have discussed what I learned with our**
 18 **director for information technology services.**
 19 **I have --**
 20 Q. What's the person's name?
 21 **A. Brandon Bowers.**
 22 Q. Okay.
 23 **A. Members of his team, Amanda Hughes. I**
 24 **have discussed the takeaways from that physical**
 25 **survey of courts with our appellate court**

1 clerk, Jim Hivner. I discussed the takeaways
 2 with Chief Justice Roger Page. Maybe that's --
 3 maybe that's all.
 4 Q. And what was -- if you can summarize,
 5 what was the takeaway?
 6 **A. The takeaway was that there was no**
 7 **uniformity across our courts. There were some**
 8 **impediments to E-filing that we needed to**
 9 **overcome. Those were the major takeaways.**
 10 Q. And has there been a process of next
 11 steps to -- strike that question.
 12 From the takeaways, did you make a
 13 recommendation to anyone based on your survey?
 14 **A. Yes.**
 15 Q. Who did you make recommendations to?
 16 **A. Chief Justice Roger Page.**
 17 Q. Were those discussed verbally with him or
 18 did you make your recommendations in writing?
 19 **A. Verbally.**
 20 Q. Do you recall when that was?
 21 **A. Probably the end of the calendar year in**
 22 **2022.**
 23 Q. The end of 2022?
 24 **A. Correct.**
 25 Q. December of 2022, approximately?

1 **A. Yes.**
 2 Q. So what were your verbal recommendations?
 3 **A. Recommendations were that our case -- the**
 4 **state's case management system was inhibiting**
 5 **courts from being able to as rapidly deploy**
 6 **E-filing as we may have desired and that we**
 7 **needed to work with our vendor to make sure**
 8 **they were actively improving their system such**
 9 **that it was not limiting courts from being able**
 10 **to E-file.**
 11 Q. When you say "vendor," are you talking
 12 about some outside technology vendor?
 13 **A. That's correct.**
 14 Q. What's the name of the vendor?
 15 **A. Local Government.**
 16 Q. That's the name of the vendor?
 17 **A. That is the name of the vendor, Local**
 18 **Government Corporation located in Columbia,**
 19 **Tennessee.**
 20 Q. Okay. Is that a vendor that the AOC
 21 office has contracted with previously?
 22 **A. Yes.**
 23 Q. Did Chief Justice Paige implement your
 24 verbal recommendations?
 25 MR. COKE: Object --

1 MR. STAHL: Object to the form.
 2 **THE WITNESS: Did he implement --**
 3 **I'm sorry, say it again.**
 4 BY MR. DOUGHERTY:
 5 Q. Yeah, I want to make sure I understand.
 6 You said you gave verbal recommendation
 7 to see Chief Justice Paige in the end of 2022
 8 in December; is that right?
 9 **A. That's right.**
 10 Q. And it was regarding the vendor, the
 11 Local Government Corporation, regarding the
 12 technology in your survey; is that accurate?
 13 **A. That's right, that is accurate.**
 14 Q. So what were your verbal recommendations
 15 to Chief Justice Page?
 16 **A. So first and foremost was to address our**
 17 **case management system, which is that vendor.**
 18 Q. Right.
 19 **A. And so yes, that was accepted.**
 20 Q. What do you mean by "accepted"?
 21 **A. We are in the process currently of**
 22 **expanding -- okay, so from that recommendation,**
 23 **what we learned -- the court has engaged in a**
 24 **technology oversight review for the court. Out**
 25 **of that, we expect to do competitive bids for**

1 **an overall system to provide uniform case**
 2 **management, E-filing across the state. So it's**
 3 **broadened our view of what is needed to move**
 4 **the state forward.**
 5 Q. Previously I used the word "implement,"
 6 you said "accepted," so does that mean that
 7 Chief Justice Page with respect to this first
 8 verbal recommendation, the vendor, that he
 9 accepted your recommendations?
 10 MR. STAHL: Object to the form.
 11 **THE WITNESS: So yes, he accepted the**
 12 **recommendations and takeaway from our survey,**
 13 **yes.**
 14 BY MR. DOUGHERTY:
 15 Q. How does he display that he's accepting
 16 one of your recommendations?
 17 **A. By first creating a Technology Oversight**
 18 **Committee and designating one of the chief**
 19 **justices to head up that work.**
 20 Q. And when was that --
 21 **A. One of the justices.**
 22 Q. When was that technology committee
 23 created, if you can recall?
 24 **A. I would say the spring of this year, of**
 25 **2023.**

1 Q. Okay.
 2 **A. I think that's right.**
 3 Q. So were there any other verbal
 4 recommendations, other than the vendor, that
 5 you made to Chief Justice Page?
 6 **A. No, because most everything hinges on the**
 7 **case management system.**
 8 Q. Now, is the case management system that
 9 you're talking about, is that different from
 10 like the YouTube channels and livestreaming?
 11 **A. Yes.**
 12 Q. Okay. Let's talk a little bit about the
 13 YouTube channels and livestreaming, okay?
 14 **A. (Nodding head.)**
 15 Q. Did that issue come up in your survey
 16 that you've talked about where you went to each
 17 grand division?
 18 **A. No.**
 19 Q. What is your understanding of the two
 20 YouTube channels and the livestreaming that the
 21 AOC does?
 22 **A. What is my understanding?**
 23 Q. Explain what your office -- or let me
 24 start real quick.
 25 Does your office involve providing

1 livestream services to court proceedings?
 2 **A. Yes.**
 3 Q. Does your office provide livestreaming to
 4 various meetings of boards and commissions to
 5 the public?
 6 **A. I don't know about boards and**
 7 **commissions.**
 8 Q. Well, do you -- is it your
 9 responsibility -- or whose responsibility is it
 10 on the AOC website to kind of oversee that
 11 website?
 12 **A. Our communications director, Barbara**
 13 **Peck.**
 14 Q. Are you aware that of a preliminary
 15 injunction that was entered in this case?
 16 **A. Am I aware of it?**
 17 Q. Yes.
 18 **A. Yes.**
 19 Q. And what is your understanding of that
 20 preliminary injunction with respect to what the
 21 AOC office was required to do?
 22 **A. We were required to offer in person or**
 23 **virtual access to the rules -- Advisory**
 24 **Commission on rules.**
 25 Q. And so when was the first time you saw

1 that preliminary injunction?

2 **A. Sometime in March of this year.**

3 Q. And who provided that preliminary
4 injunction to you?

5 **A. Probably our legal counsel, John Coke.**

6 Q. Who did you speak with within the AOC or
7 the court system about the preliminary
8 injunction?

9 **A. I would have only had conversation with
10 John Coke to make me aware of the order and I
11 don't recall having any other conversations
12 about it.**

13 Q. Did -- as part of the preliminary
14 injunction -- so you just said the virtual.
15 When you say "virtual," does that mean
16 livestreaming?

17 **A. Yes.**

18 Q. Is that something that you made sure took
19 place after the preliminary injunction in terms
20 of livestreaming or virtual so the public could
21 view the meeting virtually?

22 **A. So I have to say March was a difficult
23 month for me, I had a significant loss of a
24 family member that month. So I do know that
25 the intention was certainly to comply with the**

1 **order, but I took no steps myself. I relied on
2 my team to make sure we were in compliance with
3 the court order.**

4 Q. Sorry to hear about that, but -- I just
5 want to make sure, we're talking about March of
6 2023, this year, right?

7 **A. Yes.**

8 Q. Okay. Were you out of the office on
9 leave a period of that time?

10 **A. Yes.**

11 Q. How long were you out?

12 **A. So I know -- probably two weeks. I think
13 two weeks.**

14 Q. Do you recall when that might have been
15 in March?

16 **A. So March 9th -- a week following
17 March 9th, I returned to work the next week,
18 and then I think maybe a week after March 26th.**

19 Q. And if we need to take a break, we've
20 been going --

21 **A. No, I'm fine.**

22 Q. Okay, that's fine if we need to, we've
23 been going about 45 minutes.

24 So you were out for a couple weeks there
25 in March and so you said you relied on your

1 team to assist with compliance with the
2 preliminary injunction; is that right?

3 **A. That's right.**

4 Q. Who was part of your team then?

5 **A. So Deputy Director Rachel Harmon was
6 serving in my absence, and then basically every
7 division director at the AOC was making sure
8 that things continued seamlessly during my
9 absence.**

10 Q. Just how many different divisions are
11 there within the AOC?

12 **A. Six.**

13 Q. And can you name those six divisions?

14 **A. Yes. So there's our Fiscal Services
15 Division; Communications and Judicial Resources
16 Division; Access, Innovation and Collaboration;
17 Information Technology Services Division; Legal
18 Services and Judicial Development. And I'm
19 forgetting one. Executive. I'm forgetting
20 somebody.**

21 Q. And it's not a quiz, I'm just -- is
22 that -- let me ask you this: Are those
23 divisions required by statute?

24 **A. No.**

25 Q. So who makes the determination on

1 creating or disbanding divisions; is that the
2 AOC director?

3 **A. Yes.**

4 Q. Have you ever created or implemented one
5 of these divisions or were they already in
6 place when you got there?

7 **A. They were in place when I got there.**

8 Q. Okay. Do you appoint the directors of
9 the various divisions?

10 **A. Yes.**

11 Q. So you did -- when you took over in
12 February of 2022 you appointed new division
13 directors?

14 **A. Yes.**

15 Q. How did you do that? Do you -- do you
16 hire from within the AOC or do you put out bids
17 or how does that process work?

18 **A. Well, so the only director I have hired
19 was director for legal services and we did
20 publish notice and did about three rounds of
21 interviews for that. We had an internal
22 candidate who was John Coke for that position,
23 and he was the successful candidate.**

24 Q. So you hired Mr. Coke?

25 **A. Yes, I did.**

1 Q. Okay.
 2 **A. He was already employed at the AOC, but**
 3 **yes, elevated him.**
 4 Q. I see. And you mentioned Deputy Director
 5 Harmon, we'll talk a little bit about her.
 6 You're aware that she gave a deposition in this
 7 case?
 8 **A. Yes.**
 9 Q. Kind of skipped over -- when we were
 10 talking about technology, I kind of want to
 11 circle back do that, the livestreaming and the
 12 virtual what you were talking about.
 13 When I say what is your understanding of
 14 the livestreaming and the virtual YouTube
 15 channels, number one, is that something that
 16 your office oversees?
 17 **A. Yes.**
 18 Q. And so when the preliminary injunction,
 19 and I appreciate you sharing that information,
 20 you were out, your team is helping you, who
 21 made the decision -- because as you said, I
 22 think the preliminary injunction said you
 23 either have to have in-person public observing
 24 or observing by livestreaming.
 25 Who made the decision to go livestreaming

1 to comply with the injunction?
 2 **A. I don't know.**
 3 Q. Well, was that you or did you delegate
 4 that to someone?
 5 **A. I would have only directed compliance**
 6 **with the order, the how would have been someone**
 7 **else on the team. I did not.**
 8 Q. How did you delegate or direct
 9 compliance? Did you do that through an e-mail
 10 or verbal communication?
 11 **A. It would have been verbal and understood**
 12 **that we had a court order. And so when that**
 13 **was communicated to me, of course we're going**
 14 **to comply with that court order.**
 15 Q. Do you know if you sent an e-mail?
 16 **A. I did not send an e-mail.**
 17 Q. Do you know if anyone sent an e-mail
 18 internally?
 19 **A. I do not know.**
 20 Q. Did you communicate with the justices
 21 about this preliminary injunction?
 22 **A. I think it came up in communication,**
 23 **again, situational awareness that we had**
 24 **received the order, but that would have been**
 25 **the extent of it, just to update them.**

1 Q. When did you first become aware of this
 2 lawsuit?
 3 **A. Soon after I became director.**
 4 Q. Would that have been around the time it
 5 was filed in June of 2022?
 6 **A. Well, I thought June of 2022 was -- let**
 7 **me...**
 8 **I thought June of 2022 was the amended**
 9 **complaint in this matter.**
 10 Q. They were filed in the same month, I
 11 believe.
 12 **A. Okay.**
 13 Q. And that's -- I'm not so much worried
 14 about dates, I assume you became aware of it
 15 when it was filed?
 16 **A. Yes.**
 17 Q. Okay. Or shortly thereafter.
 18 When you got it, did you issue any type
 19 of litigation hold notice to your AOC
 20 Department and your team?
 21 **A. That was done by our legal counsel at the**
 22 **time.**
 23 Q. So there was a litigation hold sent out,
 24 as far as you're aware?
 25 **A. Yes.**

1 Q. Did you see that litigation hold?
 2 **A. I don't recall.**
 3 Q. Who would have been the counsel that
 4 would have --
 5 **A. Rachel Harmon.**
 6 Q. Was she serving in a dual role?
 7 **A. Yes.**
 8 Q. She was your director and then she was
 9 transitioning out of her role as general
 10 counsel; is that right?
 11 **A. Yes, we were in the process of hiring at**
 12 **that time.**
 13 Q. Was that litigation hold letter shared
 14 with the justices?
 15 **A. I don't know.**
 16 Q. Did you discuss with the justices holding
 17 any kind of information that they may have that
 18 might be relevant to this lawsuit?
 19 **A. I did not.**
 20 Q. Do you know if Deputy Director Harmon
 21 did?
 22 **A. I do not know.**
 23 Q. As part of your role as director at the
 24 AOC, do you provide legal advice to any of the
 25 justices on the Supreme Court?

1 **A. I do not.**

2 Q. Have you ever delegated to any of your
3 employees that they provide legal advice to the
4 justices?

5 **A. No, I would not be in that position of**
6 **delegating that. I'm not hired for legal**
7 **advice.**

8 Q. Right. Explain that. What do you mean
9 by that?

10 **A. Well, my role is not one of legal advice**
11 **and counsel to the courts.**

12 Q. Is Deputy Director Harmon's role legal
13 advice to the courts?

14 **A. I think she does provide legal advice and**
15 **support to the courts, yes.**

16 Q. And in what --

17 **A. Or did as general counsel.**

18 Q. I'm sorry, I didn't mean to interrupt.
19 Does she provide legal advice to the
20 courts in her role as deputy director?

21 MR. STAHL: Object to the form.

22 **THE WITNESS: No, I don't believe so.**

23 BY MR. DOUGHERTY:

24 Q. Did she provide legal advice to any of
25 the justices in her role as deputy director?

1 MR. STAHL: Object to the form.

2 **THE WITNESS: Can you repeat that?**

3 BY MR. DOUGHERTY:

4 Q. Yeah. Does Deputy Director Harmon
5 provide legal advice to any of the Tennessee
6 Supreme Court justices in her role as deputy
7 director?

8 **A. I don't believe so.**

9 Q. Okay. As -- you kind of referenced the
10 statute a moment ago that you would agree that
11 there -- a lot of your duties and
12 responsibilities are created by statute; you
13 would agree with that?

14 **A. I agree.**

15 Q. And it's a very long list?

16 **A. It is.**

17 Q. How do you go about when you took over
18 the position, fulfilling your obligation as
19 director to make sure all those things that are
20 listed in the statute that you take care of;
21 how do you do that?

22 **A. Well, through the organizational**
23 **structure that we have, and the division**
24 **directors are responsible for various parts of**
25 **what's listed there in the statute, and then**

1 **those other duties are as assigned by the**
2 **Court.**

3 Q. And you were serving as deputy, so you
4 had some experience and you kind of knew what
5 you were getting into, I guess, right?

6 **A. Yes.**

7 Q. I was just wondering if there's any --
8 for lack of a better word, is there any kind of
9 handbook or any kind of training that you went
10 to or continuously go through as director to be
11 able to fulfill your obligation?

12 **A. The training is on the job and it is**
13 **every day. So no, there's no handbook.**

14 Q. There's no handbook, okay. I was just
15 wondering. So there's no way to take what's in
16 that statute and put it into practice when
17 you're starting your position?

18 **A. So I will say as deputy director, I was**
19 **tasked to review all of the statutes pertaining**
20 **to the Court and the AOC for the duties and**
21 **responsibilities. So yes, we did engage in an**
22 **effort to inventory everything that the statute**
23 **required us to do to make sure that it was**
24 **being handled somewhere in the AOC.**

25 Q. And is that in your electronic system

1 somewhere or your hand -- I mean is it
2 somewhere that would be available?

3 **A. I do have that, yes.**

4 Q. Okay. And what do you call that?

5 **A. Just called it AOC duties and**
6 **responsibilities.**

7 Q. Okay. Do you still -- are you active
8 with your legal status in Tennessee?

9 **A. I maintain active status, yes.**

10 Q. So you have to take 15 hours of CLE
11 credits every year; is that right?

12 **A. Yes.**

13 Q. And do you take any additional type of
14 training or education for your role as director
15 of the AOC?

16 **A. It doesn't qualify for continuing legal**
17 **education, but I participate with my**
18 **counterparts in other states in what is the**
19 **State Court Administrator Conference.**

20 Q. Yeah, that's kind of what I'm talking
21 about. So what do you call that other
22 organization?

23 **A. I think it's COSCA, and I think it stands**
24 **for Center -- Council on State Court**
25 **Administrators, I think. COSCA, yeah, COSCA.**

1 Q. COSCA, okay.

2 Where is that organization; does it have
3 a headquarters?

4 **A. No, the head -- it's an arm of the**
5 **National Center of State Courts.**

6 Q. How frequently do you go to conferences
7 or training or however you refer to it; is that
8 an annual or is it monthly?

9 **A. As I can. So I try to attend the annual**
10 **meeting and the mid-year meeting. So far, I've**
11 **only been in the job a year and a half, almost,**
12 **I have attended two conferences.**

13 Q. And where were they held; do you recall?

14 **A. One was in Chicago and one was in**
15 **Alabama.**

16 Q. Where in Alabama?

17 **A. Point Clear.**

18 Q. Good place.

19 **A. Beautiful place.**

20 Q. That hotel right there on the water?

21 **A. Yes.**

22 Q. All right. What types of topics do you
23 all discuss at the COSCA meetings that you've
24 been to so far?

25 **A. Whatever the challenges are facing state**

1 **courts. And so we've had topics on judicial**
2 **security, definitely topics on E-filing and**
3 **modernizing court systems. I guess I entered**
4 **kind of post pandemic, so there was lots of**
5 **education and learning around things that had**
6 **been developed during the pandemic to ensure**
7 **access to courts, and so there was a lot of**
8 **discussion in some of those first meetings**
9 **around what we learned could be done to ensure**
10 **open courts.**

11 Q. And did -- to ensure open courts, is that
12 also -- did other topics come into play about
13 open meetings that the AOC offices oversee?

14 **A. So, no, it was more about the quick**
15 **deployment of resources, like Zoom and the soft**
16 **video conferencing ability for judges to**
17 **conduct business remotely from the court house.**

18 Q. So would you say in your estimation that
19 since the pandemic, there's -- most AOC offices
20 around the country are doing a lot more with
21 technology and Zoom and livestreaming?

22 **A. Yes.**

23 Q. And do you feel that the Tennessee AOC
24 office is keeping up with the technological
25 advances with respect to livestreaming and Zoom

1 and all the technology that's out there?

2 **A. Yes.**

3 Q. Have you -- in your role as director of
4 AOC, have you ever studied any of the federal
5 AOC practices with respect to having open
6 meetings?

7 **A. I have not.**

8 Q. Were you aware that there is a Federal
9 Advisory Committee that's very similar to the
10 Tennessee Advisory Commission on rules and
11 practice?

12 **A. Only from reviewing the pleadings in this**
13 **matter.**

14 Q. Were you aware of that federal analog
15 before this lawsuit?

16 **A. No.**

17 Q. Since this lawsuit was failed, have you
18 ever viewed any of the federal analog meetings
19 on YouTube or wherever they have them that's
20 open to the public?

21 **A. No.**

22 Q. Okay. Have you ever talked with anyone
23 in the Federal AOC office about how they do
24 that in terms of having their meetings open to
25 the public?

1 **A. No.**

2 Q. Have you ever spoken to any of the
3 justices on the Supreme Court about the federal
4 meetings that are open to the public?

5 **A. No.**

6 Q. Have you ever spoken to anyone in the AOC
7 office about the federal meetings like the
8 Advisory Commission that are open to the
9 public?

10 **A. No.**

11 Q. Do you know of any other -- in your COSCA
12 group meetings, has that discussion ever come
13 up where they've got like an equivalent
14 Advisory Commission like Tennessee, any
15 discussion about having their meetings open to
16 the public?

17 **A. No.**

18 Q. Are there certain states -- well, strike
19 that.

20 This COSCA group, do you have -- are you
21 like on an e-mail list or how do you get
22 informed? Is it an annual registration? What
23 does that look like?

24 **A. So there is an annual registration to**
25 **participate. There's a Listserv and an e-mail**

1 **group among us.**

2 Q. Have you ever had any -- are there any of
3 the other states that you reach out to that are
4 part of that COSCA group that you've
5 established a relationship with?

6 **A. Do you mind repeating?**

7 Q. Yeah. So as I understand it, this COSCA
8 group, they have other similar Michelle Longs
9 in like Arkansas or Florida, Michigan,
10 wherever. Do you have a special relationship
11 with any of your counterparts in any of these
12 other states?

13 **A. I have formed relationships with other
14 AOC directors, yes.**

15 Q. Do you recall who those are? And I don't
16 mean everybody, I just mean people that -- if
17 you had to pick up the phone and call someone
18 who is -- let's see what they're doing, is
19 there anybody that sticks out to you that you
20 would reach out to?

21 **A. So David Slayton is one person I have
22 reached out to. He's no longer there. But
23 E-filing and vendors that other states have
24 used for E-filing, I have had conversation with
25 other state court administrators on that topic,**

1 **yes.**

2 Q. Mr. Slate [sic], what state was he in or
3 with the AOC?

4 **A. Well, he was at the National Center for
5 State Courts, but I think he's now in
6 California.**

7 Q. Okay.

8 **A. And then I cannot remember her name, it's
9 escaping me right now, but I did have the
10 opportunity to speak with another state that
11 was engaging in an RFP for court system case
12 management and E-filing, and her name escapes
13 me right now.**

14 Q. So the National Center for State Courts
15 and COSCA, have they ever reached out to the
16 Feds about the PACER system? Why can Tennessee
17 courts not use the PACER system?

18 **A. Why can we not use the PACER system?**

19 Q. Maybe I'm assuming something.

20 Can the Tennessee courts use the PACER
21 system?

22 **A. Well, first of all, the PACER system is
23 being revamped right now, so they're in no
24 better shape than we are, but PACER was not
25 designed for the reporting and the data**

1 **collection that we ultimately want, it was
2 purely an E-filing system.**

3 Q. Let's talk about that. What is it that
4 you as Tennessee AOC director want? You don't
5 just want a place where attorneys can file
6 lawsuits online, what do you mean by collecting
7 and reporting; what do you mean?

8 **A. So it's a continuum in my view. It
9 starts with E-filing, that's where cases enter
10 the door.**

11 Q. Right.

12 **A. We want to capture that information in a
13 robust uniform way in our case management
14 system and then have all of that information
15 report to a data repository or warehouse where
16 we can then produce reliable reports.**

17 Q. And so is it -- what do you call that?
18 It's not just E-filing, what do you call that
19 what you're explaining?

20 **A. We have been calling it an enterprise
21 court information system.**

22 Q. And if you had this court information
23 system as you explained it, would that better
24 assist you in fulfilling your statutory duties
25 as AOC director?

1 **A. Yes.**

2 Q. Who have you shared this information with
3 on this enterprise system within the AOC or the
4 justices?

5 **A. So definitely with the Technology
6 Oversight Committee, which is headed by Justice
7 Sarah Campbell; our appellate court clerk, Jim
8 Hivner; my IT director, Brandon Bowers.**

9 Q. Now, Mr. Hivner is on the Advisory
10 Commission for the rules of practice and
11 procedure; is that right?

12 **A. Yes.**

13 Q. Has he ever expressed any or shared
14 information with you about how technology could
15 help the Advisory Commission?

16 **A. No.**

17 Q. Have you ever discussed with him how
18 technology could better assist the Advisory
19 Commission?

20 **A. No.**

21 Q. Do you know if anyone in your office
22 spoke with Mr. Hivner on technology and after
23 the preliminary injunction was entered?

24 **A. I don't know.**

25 Q. Did your team, when the preliminary

1 injunction was entered, also communicate with
 2 anyone on the Advisory Commission about the
 3 injunction?
 4 **A. I don't know.**
 5 Q. Does the Advisory Commission on the rules
 6 of practice and procedure provide meeting dates
 7 to the AOC office?
 8 **A. I don't -- I don't know.**
 9 Q. Do any boards and commissions, other than
 10 the Advisory Commission, provide meeting dates
 11 to the AOC office?
 12 **A. So I -- I know the Access to Justice**
 13 **Commission does. I don't know other than that.**
 14 Q. I'm about to get into the Access to
 15 Justice. It's like ten after, I've got a
 16 fairly long line of questioning on it. It's
 17 whatever you all want to do.
 18 MR. STAHL: Do you want to stretch
 19 your legs before we go for another hour?
 20 **THE WITNESS: Sure.**
 21 MR. STAHL: Why don't we come back at
 22 10:20.
 23 (Short break.)
 24 BY MR. DOUGHERTY:
 25 Q. So we're back on the record, Ms. Long.

1 We talked a little bit about the Advisory
 2 Commission on the rules of practice and
 3 procedure this morning, haven't we?
 4 **A. Yes.**
 5 Q. Okay. And that body was created by
 6 TCA 16-3-601. So I want to talk some more
 7 about it and I'll just refer to it as the
 8 Advisory Commission if that's okay?
 9 **A. Yes.**
 10 Q. I know in the pleadings in the briefing
 11 there are -- lots of different names were used,
 12 but we'll refer to it as the Advisory
 13 Commission.
 14 When did you first become aware of the
 15 Advisory Commission either in your role as
 16 deputy director or director or were you aware
 17 of it before then?
 18 **A. I first became aware of it with a Supreme**
 19 **Court order assigning court liaisons to the**
 20 **various boards and commissions.**
 21 Q. Was that when you were deputy director or
 22 as director?
 23 **A. I think it's deputy director.**
 24 Q. And do you recall that particular order,
 25 when that might have been?

1 **A. I do not.**
 2 Q. And who was the signed, of the order that
 3 you're referencing, who was that individual
 4 that was in the order -- named in the order?
 5 **A. Justice Sharon Lee for the Advisory**
 6 **Commission.**
 7 Q. Did you work with Justice Lee at some
 8 point?
 9 **A. Yes, she was a member of the Supreme**
 10 **Court.**
 11 Q. Right. Okay, I just -- she was chief
 12 justice at one point, too, was she not?
 13 **A. She was.**
 14 Q. Was she chief justice when you were
 15 deputy director?
 16 **A. No.**
 17 Q. Okay. Who was the chief justice when you
 18 were deputy director?
 19 **A. Justice Bivins, Jeff Bivins.**
 20 Q. And then when you were director first,
 21 the chief justice was Roger Page; is that
 22 right?
 23 **A. Yes.**
 24 Q. And in September Chief Justice Kirby took
 25 that position?

1 **A. Yes.**
 2 Q. Okay. Justice Lee retired I think end of
 3 August; is that right?
 4 **A. Yes.**
 5 Q. But she was also -- Justice Lee was on
 6 the Advisory Commission, correct?
 7 **A. Yes.**
 8 Q. Was she on the Advisory Commission when
 9 you were deputy director?
 10 **A. Yes.**
 11 Q. Was she on the Advisory Commission when
 12 you were director?
 13 **A. Yes.**
 14 Q. Tell me about your conversations with
 15 Justice Lee regarding the Advisory Commission.
 16 **A. I never had any.**
 17 Q. Okay. So you just saw that order and it
 18 referenced her that she was the liaison for the
 19 Advisory Commission?
 20 **A. Yes.**
 21 Q. All right. What is your understanding of
 22 the function of the Advisory Commission?
 23 **A. To recommend rule changes for practice**
 24 **and procedure for the various courts, criminal,**
 25 **civil, juvenile, appellate court, and rules of**

1 **evidence.**

2 Q. And the AOC provides administrative
3 support to the Advisory Commission; is that
4 right?

5 **A. Yes.**

6 Q. Does the AOC have one of its employees
7 that serves as a liaison to the Advisory
8 Commission?

9 **A. Yes.**

10 Q. And who is that?

11 **A. Michelle Consiglio-Young.**

12 Q. Was Michelle Consiglio-Young the liaison
13 to the Advisory Commission when you were deputy
14 director?

15 **A. Yes.**

16 Q. Is Michelle Consiglio-Young still the
17 liaison since you've been the director of the
18 AOC?

19 **A. Yes.**

20 Q. Do you communicate with Michelle
21 Consiglio-Young with respect to her role as
22 liaison to the Advisory Commission?

23 **A. No, I've not had any -- no.**

24 Q. When would you have a need to communicate
25 with her about her role on the Advisory

1 **kept.**

2 Q. Well, how do you know that double-booking
3 presents itself; how do you become aware of
4 that?

5 **A. So it would be the liaison saying we need
6 to -- or the commission, the board, whatever
7 wants -- needs to meet at a particular time and
8 the conference room is booked. So we have an
9 electronic system that schedules the conference
10 rooms, and so if there was a need to move
11 someone or rearrange such that we could utilize
12 another area, that might come to me.**

13 Q. What's the electronic system that
14 schedules the conference room; what is that
15 called? Does it have a name?

16 **A. I think it's in our GroupWise calendaring
17 system.**

18 Q. When you say "GroupWise," are you talking
19 about the group, the AOC itself in general?

20 **A. No, that would be the name of our e-mail
21 system.**

22 Q. Okay. What's the Group Wide calendar
23 system?

24 **A. GroupWise. GroupWise.**

25 Q. GroupWise, I'm sorry.

1 Commission?

2 **A. If there was a conflict for scheduling a
3 meeting in a particular location. Like
4 sometimes we'll get double-booked at the AOC,
5 so she might come to me to resolve a conflict
6 for meeting location. Beyond that, I can't
7 really think of a need.**

8 Q. What do you mean by getting double-booked
9 at the AOC for meeting locations?

10 **A. So we only have a few conference rooms.
11 So if there was a need to use the conference
12 room for a meeting and there was something else
13 scheduled at the same time --**

14 Q. So you mean --

15 **A. -- she might engage me to resolve a
16 conflict.**

17 Q. So you mean if the Advisory Commission
18 had a meeting scheduled at the AOC and it
19 conflicted with another meeting, you would
20 communicate with Ms. Michelle Consiglio-Young?

21 **A. Yes.**

22 Q. Okay. Where is records -- where are
23 records kept of these meetings where this
24 double booking might come to your attention?

25 **A. Oh, I don't know that there are records**

1 **A. It's a product.**

2 Q. How many individuals within the AOC have
3 the GroupWise calendar system?

4 **A. We all do.**

5 Q. How many employees do you have, just
6 under your supervision?

7 **A. 87 at the AOC.**

8 Q. 87?

9 **A. Yes.**

10 Q. So the only way you would know about
11 potential double-booking of conference rooms
12 would be if one of the liaisons came to you and
13 said we've got a problem?

14 **A. Yes.**

15 Q. And so does that mean that the liaison is
16 kind of keeping track of the dates when
17 meetings are going to be held for whatever
18 commission they serve?

19 **A. Yes.**

20 Q. Do you have periodic meetings with the
21 liaisons that are assigned to specific boards
22 and commissions?

23 **A. No.**

24 Q. So you don't have any kind of
25 communication with your liaisons?

1 **A. So I do meet with -- the liaisons are the**
 2 **same people, so it's the same as our directors**
 3 **in the division or other -- so I meet with the**
 4 **directors regularly, I meet with them every**
 5 **Monday.**

6 Q. Right, I understand. When I say
 7 "liaison," I am not saying -- I think -- and
 8 you correct me if I'm wrong, my understanding
 9 is a liaison is not someone -- that's not like
 10 an official position, they're going to have
 11 another role and then they are -- they are
 12 going to also serve as a liaison; is that how
 13 that works?

14 **A. Yes.**

15 Q. Okay. So when I say "do you meet with
 16 your liaisons," let me rephrase it.

17 When you're meeting with your team, do
 18 you ever discuss with them their role as
 19 liaisons on their boards and commissions that
 20 they serve?

21 **A. I've never had occasion to discuss their**
 22 **role.**

23 Q. What about situational things that come
 24 up?

25 **A. So it would necessarily come up if there**

1 **was a meeting coming up, yes, that would be**
 2 **discussed at one of our Monday meetings.**

3 Q. So a meeting would be brought to your
 4 attention about one of the boards and
 5 commissions; is that right?

6 **A. Yes.**

7 Q. What other types of topics would come up?
 8 I'm talking about liaisons on commissions.

9 **A. Oh. Just situational awareness, if a**
 10 **meeting is scheduled. I cannot think of an**
 11 **example of anything else that's come up.**

12 Q. Did you ever -- Justice Lee, was she ever
 13 involved in these Monday meetings regarding her
 14 role as the liaison to the Advisory Commission?

15 **A. No.**

16 Q. Is there a reason for that?

17 **A. Those Monday meetings are just for me and**
 18 **my division directors.**

19 Q. Is Michelle Consiglio-Young a division
 20 director?

21 **A. Yes.**

22 Q. What does she direct, what division?

23 **A. I think that's the division I neglected**
 24 **to list, it's intergovernmental affairs, she's**
 25 **the director for that division.**

1 Q. Is that one of the six?

2 **A. Yes.**

3 Q. Did she have a different title at some
 4 point prior to becoming the director of
 5 intergovernmental affairs, another role at the
 6 AOC, I should say?

7 **A. I don't know.**

8 Q. Okay. Was she there at the AOC as an
 9 employee when you started working as the deputy
 10 director?

11 **A. Yes.**

12 Q. Was she the director of intergovernmental
 13 affairs when you started as deputy director?

14 **A. Yes.**

15 Q. Okay. Do you recall any specific
 16 communication with Michelle Consiglio-Young
 17 about double-booking of Advisory Commission
 18 meetings?

19 **A. No.**

20 Q. Let me ask you another question about
 21 this GroupWise calendar system.

22 You're aware that there is a calendar
 23 facing the public on the AOC website?

24 **A. Yes.**

25 Q. Is that a different -- is that calendar

1 that the public can view, is that different
 2 than the GroupWise calendar system?

3 **A. I don't know what feeds the public facing**
 4 **calendar, so I don't know if I know the answer**
 5 **to your question.**

6 Q. You know what I'm talking about, though,
 7 right?

8 **A. I do know what you're talking about.**

9 Q. Who would know about the public facing
 10 calendar system within the AOC?

11 **A. I think it's our communications director,**
 12 **Barbara Peck.**

13 Q. Who would know about the GroupWise
 14 calendar system? Would Ms. Peck also have that
 15 information or would that be someone else?

16 **A. I think Barbara Peck is a good place to**
 17 **gather information with regard to what's on the**
 18 **group calendar, because I do think she's**
 19 **responsible for posting information to that**
 20 **group calendar in GroupWise.**

21 Q. Who comes up with the dates, the meeting
 22 dates for the Advisory Commission?

23 **A. I do not know.**

24 Q. Did you know that they meet quarterly
 25 typically?

1 **A. I didn't -- I'm not aware of the cadence**
 2 **of their meetings. I know the statute just**
 3 **says from time to time, but I don't know what**
 4 **that cadence has been.**
 5 Q. At all, even after the pleadings have
 6 been filed in this case?
 7 **A. I know what the pleadings say and it says**
 8 **quarterly.**
 9 Q. Do you know if Deputy Director Harmon
 10 testified under oath in a declaration that they
 11 meet quarterly?
 12 **A. I don't recall.**
 13 Q. Did you review her declarations before
 14 they were filed?
 15 **A. Before they were filed, yes.**
 16 Q. You reviewed both of those declarations
 17 that she filed in this case?
 18 **A. Yes. Yes.**
 19 Q. How did you review those? Did you review
 20 those with her in the same room with General
 21 Kleinfelter?
 22 **A. No.**
 23 Q. Did Deputy Director Harmon send you a
 24 draft? I'm just curious as to how you reviewed
 25 those before they were filed?

1 **A. I believe I saw drafts.**
 2 Q. So assuming that the cadence is quarterly
 3 for the Advisory Commission, were you aware
 4 that they've typically been meeting on the
 5 second Friday of March, June, September and
 6 December?
 7 **A. I was not aware.**
 8 Q. Okay. Now, you talked about
 9 double-booking, and that's double-booking with
 10 respect to in-person meetings that use a
 11 conference room at the AOC; is that right?
 12 **A. That's right.**
 13 Q. Is there ever any double-booking when any
 14 various commissions are livestreamed to the
 15 public?
 16 **A. So we have limited resources for the**
 17 **livestreaming functions of the Court.**
 18 **That's -- if there have been conflicts, they**
 19 **would be resolved by Barbara Peck, she's**
 20 **responsible for the livestreaming.**
 21 Q. Is there a budgetary item within your
 22 budget for livestreaming?
 23 **A. Not as a line item, no.**
 24 Q. Is there a budgetary item for
 25 administrative support to the Advisory

1 Commission on the rules of practice and
 2 procedure?
 3 **A. No.**
 4 Q. Is there a budgetary item for
 5 administrative support for any board or
 6 commission?
 7 **A. No, it's just part of our job and so it's**
 8 **part of the AOC budget.**
 9 Q. Okay. So there's no designation in any
 10 of the budget from -- I'm speaking of the AOC,
 11 the court portion, with respect to boards and
 12 commissions?
 13 **A. Not the advisory board for rules or any**
 14 **other advisory boards. There are those four**
 15 **that are revenue generating and have their own**
 16 **budget, so BLE, CLE, TLAP and BPR.**
 17 Q. So those four are considered boards or
 18 commissions?
 19 **A. They are.**
 20 Q. Is there a heading on your website at the
 21 AOC where it has boards and commissions?
 22 **A. Yes.**
 23 Q. Would it be fair to say that there's
 24 probably approximately 15 that are listed there
 25 on your AOC website?

1 **A. I know there's several.**
 2 Q. When's the last time that you've reviewed
 3 the AOC website from a public facing
 4 standpoint?
 5 **A. Yesterday.**
 6 Q. And what did you review when you went on
 7 the website?
 8 **A. I was looking at our calendar and then**
 9 **the current -- well, we're in the process of**
 10 **changing our website, and so I was comparing**
 11 **what's there now to what we plan to have on our**
 12 **new website. So I was in the process of**
 13 **communicating with Barbara Peck about some**
 14 **changes.**
 15 Q. Was that -- you reviewed the website
 16 yesterday in your role as director or was any
 17 of that review also because you were about to
 18 give a deposition today?
 19 **A. It was in my role as director, but I**
 20 **certainly was cognizant of what I saw there**
 21 **related to the Advisory Commission rules.**
 22 Q. How else did you prepare for this
 23 deposition?
 24 **A. I reviewed the pleadings and the most**
 25 **recent package of rules from June.**

1 Q. Now, when -- we'll talk about that in a
2 second.

3 The package of rules, is that the
4 complete package that's submitted to the
5 General Assembly?

6 **A. So what I saw was what was posted by the
7 appellate court clerk for comment.**

8 Q. Would that be like on Lexis or Westlaw?

9 **A. Yes.**

10 Q. That's also on the AOC website, is it
11 not?

12 **A. I haven't seen it on the website.**

13 Q. If the Supreme Court says -- issues an
14 order that something should be posted publicly,
15 would the -- would that be posted on the AOC
16 website?

17 **A. Yes.**

18 Q. Is that one of the functions that your
19 office does is to post orders on the AOC
20 website?

21 **A. Yes.**

22 Q. Is the Tennessee Supreme Court website
23 part of the AOC website?

24 **A. The Tennessee Supreme Court website?**

25 Q. Let me rephrase it. If I wanted to go

1 **it's just not easy to navigate.**

2 Q. Is it user friendly to the public?

3 **A. If the public knows no different, then
4 yes, it's user friendly, they can access the
5 information. I just believe we can improve and
6 make it easier to access and navigate our
7 website.**

8 Q. Easier for whom, the public or for AOC
9 employees?

10 **A. Both.**

11 Q. So then improvement to the AOC website
12 would also assist the public?

13 **A. Yes.**

14 Q. Did you review on that public facing part
15 of the website any public meeting notices?

16 **A. I saw some listed, I did not review them.**

17 Q. Did you see any public meeting notices
18 for the Advisory Commission?

19 **A. I did not.**

20 Q. Have you ever seen any public meeting
21 notices on the AOC website for the Advisory
22 Commission?

23 **A. I saw the June notice on the calendar.**

24 Q. Was that the June 2023?

25 **A. Yes.**

1 look at the Tennessee Supreme Court, would that
2 be on the AOC website?

3 **A. Yes.**

4 Q. Does the Tennessee Supreme Court have a
5 separate website apart from the AOC website?

6 **A. Not that I'm aware of.**

7 Q. Okay. So when you looked at the calendar
8 yesterday -- was there a reason that you -- the
9 AOC is changing its website?

10 **A. It's just time to update.**

11 Q. And why is that?

12 **A. It's not as user friendly as we would
13 like.**

14 Q. Is it user friendly with respect to
15 public meeting notices?

16 **A. There's a calendar and you can see what's
17 posted on the calendar, so yes.**

18 Q. What part of the website is not user
19 friendly?

20 **A. So it's not user friendly from our
21 standpoint in terms of how it captures content.
22 When you search for things -- for example, when
23 you look at the public calendar, you cannot
24 search -- you have to go month by month by
25 month, you can't skip to a different year, so**

1 Q. Do you know when that June 2023 public
2 meeting notice was placed on the AOC website
3 calendar?

4 **A. I do not.**

5 Q. Does the AOC have an -- either a formal
6 or an informal way as to when it puts up public
7 meeting notices so many days in advance of an
8 actual meeting?

9 **A. I don't know.**

10 Q. So let's say at the beginning of -- what
11 is the fiscal year for the AOC?

12 **A. July 1st to June 30th.**

13 Q. So let's say July 1st, is there ever a
14 situation where the AOC has the indication that
15 for the next meetings over the next 12 months
16 will take place on a certain month by any of
17 the boards or commissions, does that process
18 ever happen?

19 **A. I haven't seen that. I have not seen
20 that.**

21 Q. You have not seen that, but you don't
22 know if that happens or not?

23 **A. Right, I don't know if it happens or not.**

24 Q. Well, let's say a board or a commission
25 like the Advisory Commission was going to have

1 a public meeting, how many days of advance
2 notice would the AOC put out to the public to
3 let them know?

4 **A. I think I answered that, I don't know if**
5 **we have a policy.**

6 Q. What do you think is a fair amount of
7 notice to the public?

8 **A. I would say 30 days is pretty standard**
9 **notice.**

10 Q. Are you aware that the -- do you know who
11 the ADR Commission is?

12 **A. Yes.**

13 Q. What's your involvement with the ADR
14 Commission?

15 **A. I'm not involved.**

16 Q. Do you know if they have their meetings
17 that are livestreamed to the public; do you
18 know if they have any meetings like that?

19 **A. I don't know.**

20 Q. Have you ever seen any public meeting
21 notices on the AOC website involving the ADR
22 Commission, public meetings?

23 **A. I believe I did when I was looking**
24 **yesterday.**

25 Q. How many of those notices did you see?

1 **A. I recall one.**

2 Q. And when was the meeting supposed to take
3 place, or had it already taken place?

4 **A. I believe it had already taken place.**

5 Q. Do you know if the AOC has ever hosted
6 meetings for the Advisory Commission in its
7 Nashville office?

8 **A. I do not know.**

9 Q. Have you ever seen any public meeting
10 notices on the AOC website showing that there
11 had been a public meeting?

12 **A. So I saw the June notice, but that's the**
13 **only one I've seen.**

14 Q. Okay, let's talk about the June notice.

15 What do you recall -- what do you
16 remember about the June notice that you saw?
17 Was it in person or was it livestreamed?

18 **A. Oh, I didn't -- I didn't review it for**
19 **the details.**

20 Q. Who put that notice out?

21 **A. I don't know.**

22 Q. Who do you think would be the AOC
23 employee that would be responsible? Would that
24 be the liaison, Michelle Consiglio-Young?

25 **A. In terms of putting it on the calendar on**

1 **our website, it's probably our communications**
2 **director.**

3 Q. Who would be the point person to give
4 that information to the communications
5 director, would that be the liaison like
6 Michelle Consiglio-Young?

7 **A. Quite possibly.**

8 Q. Could there be anybody else but the
9 liaison that would have that information?

10 **A. I suppose the chairman could provide that**
11 **information or the court liaison could provide**
12 **that information.**

13 Q. Yeah, and could the justices themselves
14 provide that information?

15 MR. STAHL: Object to the form.

16 **THE WITNESS: Well, there would just**
17 **be one justice who's the court liaison.**

18 BY MR. DOUGHERTY:

19 Q. But is it your understanding that the
20 Advisory Commission serves the Tennessee
21 Supreme Court?

22 **A. Serves the...**

23 **So it serves a function to support the**
24 **Tennessee Supreme Court for recommendations for**
25 **rules, rule changes relative to procedure and**

1 **practice.**

2 Q. I would agree with that, court rules --
3 they make rule recommendations to the Tennessee
4 Supreme Court; you agree with that?

5 **A. Yes.**

6 Q. They don't make rule recommendations to
7 the Tennessee General Sessions Court, right?

8 **A. Right.**

9 Q. They don't make rule recommendations to
10 the Tennessee Chancery Court; is that correct?

11 **A. That's correct.**

12 Q. They don't make rule recommendations to
13 the Tennessee Circuit Courts, right?

14 **A. That's correct.**

15 Q. And they don't make rule recommendations
16 to the Tennessee Court of Criminal Appeals,
17 right?

18 **A. That's correct.**

19 Q. They don't make rule recommendations to
20 the Tennessee Court of Appeals, correct?

21 **A. That's correct.**

22 Q. They make rule recommendations to the
23 Tennessee Supreme Court, right?

24 **A. That's correct.**

25 Q. So would the justices on the Tennessee

1 Supreme Court who are receiving these
2 recommendations, would they have any
3 information about when meetings happen?

4 MR. STAHL: Object to the form.

5 **THE WITNESS: I don't know.**

6 BY MR. DOUGHERTY:

7 Q. Do you know if they've ever issued orders
8 when meetings have taken place, I'm talking
9 about the Tennessee Supreme Court?

10 **A. Not that I've seen.**

11 Q. Have you ever seen an order where the
12 Tennessee Supreme Court set a meeting that the
13 Advisory Commission took place, similar to the
14 one you referenced about Justice Lee being the
15 liaison, have you ever seen any kind of order
16 from the Tennessee Supreme Court about past
17 meetings, when they took place?

18 **A. I have not.**

19 Q. Are you aware that those are on the AOC
20 website?

21 **A. I was not.**

22 Q. Who -- or what individuals would be in
23 the best position to know when past meetings
24 took place?

25 **A. Michelle Consiglio-Young.**

1 Q. And who would have given the information
2 to the Tennessee Supreme Court justices,
3 assuming they did put out an order as to when
4 past meetings took place? Who would be that
5 person?

6 MR. STAHL: Object to the form.

7 BY MR. DOUGHERTY:

8 Q. Would it be the Tennessee Supreme Court
9 justice liaison?

10 **A. I don't know. I don't know the answer to**
11 **that.**

12 Q. Is it your understanding that Michelle
13 Consiglio-Young attends as a liaison Advisory
14 Commission meetings?

15 **A. She should.**

16 Q. And -- okay, and why should she?

17 **A. Just as I serve on, you know, boards and**
18 **commissions as a staff liaison, it's to support**
19 **the needs of that board or commission.**

20 Q. Because that's your duty and
21 responsibility, right?

22 **A. That's right.**

23 Q. Do you ever get -- when you're evaluating
24 Michelle Consiglio-Young -- do you evaluate
25 Michelle Consiglio-Young for job performance?

1 **A. Yes.**

2 Q. How often do you do that?

3 **A. Three times a year.**

4 Q. And when do those evaluations take place?

5 **A. So there are two interims, interim**
6 **reviews, I want to say every three months, and**
7 **then a final evaluation.**

8 Q. Do you evaluate Michelle Consiglio-Young
9 on her role as liaison to the Advisory
10 Commission?

11 **A. No.**

12 Q. And why is that?

13 **A. Because those things -- we set our goals**
14 **and objectives based on stretch goals, it's not**
15 **those things that are part of your duties and**
16 **responsibilities in the job. So those are**
17 **expected to occur. The evaluation's based on**
18 **the additional things that you do that move the**
19 **needle for the AOC and the courts.**

20 Q. What does that mean, move the needle for
21 the AOC and the courts; what moves the needle?

22 **A. So any new innovation, new ideas that are**
23 **consistent with the goals that we have listed**
24 **in our strategic plan, those are the things**
25 **that move the needle. For example, E-filing,**

1 **that would move the needle for the courts.**

2 Q. So fulfilling one's duties and
3 obligations doesn't move the needle?

4 **A. That's the expectation of the job.**

5 Q. How do you evaluate for that?

6 **A. If you were not performing the duties and**
7 **responsibilities of the job, you would not**
8 **likely continue in the job.**

9 Q. And that's what I'm asking, how do you
10 make those determinations if someone, Michelle
11 Consiglio-Young, for example, I'm not
12 suggesting she's not, how would you evaluate
13 Michelle Consiglio-Young if she's not
14 fulfilling her duties and obligations?

15 **A. So on the duties and responsibilities of**
16 **any position in the AOC, if you fail to do**
17 **those things, then we're going to get**
18 **complaints, we're going to learn about it**
19 **through complaints.**

20 Q. Who would give those complaints about
21 Michelle Consiglio-Young, for example, on her
22 role on the Advisory Commission?

23 **A. It could be --**

24 MR. STAHL: Object to the form.

25 **THE WITNESS: -- any member of the**

1 **Commission.**

2 BY MR. DOUGHERTY:

3 Q. It could be any member of the Commission?

4 **A. Uh-huh.**

5 Q. Do you ever consult with the chair of the
6 Advisory Commission when you're preparing a
7 budget?

8 **A. No.**

9 Q. Do you ever consult with the chair of the
10 Commission with any administrative support they
11 might need?

12 **A. No.**

13 Q. Do you leave that responsibility up to
14 Michelle Consiglio-Young?

15 **A. The Advisory Commission does not have a
16 budget.**

17 Q. Right, let me -- just in a broad sense.
18 I understand that, and you've made that clear,
19 I apologize.

20 Does Michelle Consiglio-Young, is she the
21 one that's responsible with communicating with
22 the Advisory Commission chair on administrative
23 support, just general administrative support?

24 **A. I suppose so.**

25 Q. Would she be the only person that would

1 be communicating with the Advisory Commission
2 on administrative support from the AOC?

3 **A. Yes.**

4 Q. You wouldn't have direct communications
5 with the chair?

6 **A. No.**

7 Q. Do you know the chair of the Advisory
8 Commission, who that is?

9 **A. I do.**

10 Q. And who is that?

11 **A. Gino Bulso.**

12 Q. And have you talked to Chairman Bulso in
13 preparation for this deposition?

14 **A. No.**

15 Q. Are you aware that he gave a deposition
16 in this case?

17 **A. Yes.**

18 Q. Did you talk to Chairman Bulso either
19 prior to the preliminary injunction or after
20 the preliminary injunction?

21 **A. No.**

22 Q. Do you know if Deputy Director Harmon
23 spoke with Chairman Bulso either previous to
24 the injunction or after the injunction?

25 **A. I don't know.**

1 Q. Do you know if the justices have talked
2 to Chairman Bulso either pre or post
3 preliminary injunction about this case?

4 **A. I don't know.**

5 Q. So for June 2023, you observed or you saw
6 a public meeting notice; is that correct?

7 **A. Yes.**

8 Q. Do you know why that was there? Was that
9 there because of the preliminary injunction?

10 **A. I don't know.**

11 Q. You weren't aware that that June meeting
12 happened after the preliminary injunction?

13 **A. I am aware.**

14 Q. Let me rephrase it a different way.

15 Is it your understanding that the reason
16 that the June 2023 meeting was open to the
17 public was because of the March 2023
18 preliminary injunction?

19 MR. STAHL: Object to the form.

20 **THE WITNESS: Yes. So that would be
21 consistent with our intention to comply with
22 the order.**

23 BY MR. DOUGHERTY:

24 Q. And that would have been something,
25 livestreaming the Advisory Commission meeting,

1 the AOC office would typically do; is that
2 right?

3 **A. I'm struggling with the question, I'm
4 sorry.**

5 Q. Sure. Assuming -- let's assume before
6 the preliminary injunction got entered --
7 because you would agree when the preliminary
8 injunction was entered, Advisory Commission
9 meetings had to be open; would you agree with
10 that?

11 **A. After the preliminary injunction, yes.**

12 Q. Okay. Let's say meetings at some point
13 before the preliminary injunction, let's say
14 there was a meeting that was open to the public
15 and it was going to be livestreamed to the
16 public, is that something that the AOC office
17 would assist the Advisory Commission in making
18 that happen?

19 **A. Yes.**

20 Q. Okay. And would the AOC office put out a
21 public meeting notice that it was going to be
22 livestreamed, assuming the meeting was going to
23 be open prior to the preliminary injunction?

24 MR. STAHL: Object to the form.

25 **THE WITNESS: If you're -- so if**

1 **you're going to livestream the meeting, it's**
 2 **for the public's ability to observe.**
 3 BY MR. DOUGHERTY:
 4 Q. Right, the AOC --
 5 **A. So I would assume that yes, we would post**
 6 **that.**
 7 Q. That's going to be the AOC?
 8 **A. That's going to be the AOC.**
 9 Q. That's what you do? That's what your
 10 office does, I should say?
 11 **A. We post what's on the public notice**
 12 **calendar, yes.**
 13 Q. Okay. Have you ever observed an Advisory
 14 Commission meeting either in person or by
 15 livestreaming?
 16 **A. I have not.**
 17 Q. Did you observe -- or were you aware that
 18 the June 2023 meeting is on the Tennessee
 19 YouTube channel?
 20 **A. I was not aware.**
 21 Q. So you didn't observe that June 2023
 22 meeting that was livestreamed when it was
 23 taking place; is that right?
 24 **A. I did not.**
 25 Q. And you haven't watched it on the

1 Tennessee YouTube channel?
 2 **A. I have not.**
 3 Q. Okay. Do you know if anyone, like Deputy
 4 Harmon, if anyone from your office, if they
 5 ever commented that they saw the Advisory
 6 Commission meeting on the YouTube channel?
 7 **A. No one has commented to me.**
 8 Q. Have you spoken to the justices about the
 9 Advisory Commission in June that was -- that's
 10 on the YouTube channel?
 11 **A. No.**
 12 Q. Okay. So what is your understanding
 13 about the Advisory Commission and the rule
 14 recommendations and how those rule
 15 recommendations get transmitted to the Supreme
 16 Court, which then get transmitted to the
 17 General Assembly and then at some point
 18 they're -- they become law or they become
 19 rules; what is your understanding of that
 20 process?
 21 **A. So my understanding is basically what you**
 22 **just said, that the rules package gets put out**
 23 **for public comment. At some point it then is**
 24 **transmitted to the General Assembly and has to**
 25 **be passed by both houses before becoming**

1 **official and then they get published.**
 2 Q. Now, the public comment period, is that
 3 something that happens at some point after the
 4 meetings and the recommendations get
 5 formulated?
 6 **A. Yes.**
 7 Q. Okay. Have you ever attended one of
 8 those General Assembly hearings where the rules
 9 package is being discussed?
 10 **A. I have not.**
 11 Q. Do you know if Michelle Consiglio-Young
 12 has ever attended one of those General Assembly
 13 hearings on the rules package at any point?
 14 **A. I am sure she has. I cannot think of a**
 15 **specific example, but I know that's part of her**
 16 **role. She and her team, that's part of their**
 17 **role.**
 18 Q. Okay. Do you communicate with the
 19 justices about the rules package?
 20 **A. No.**
 21 Q. Do you ever communicate with the justices
 22 about the administrative support that the
 23 Advisory Commission might need?
 24 **A. No.**
 25 Q. Did you communicate with Barbara Peck,

1 your communications director, after the
 2 preliminary injunction was entered?
 3 **A. I did not.**
 4 Q. Do you know if someone else on your team
 5 communicated with Barbara Peck after the
 6 preliminary injunction was entered?
 7 **A. I don't know.**
 8 Q. Did you know that the June meeting was
 9 livestreamed to the public?
 10 **A. Yes.**
 11 Q. When did you first become aware of that?
 12 **A. Likely in the pleadings, something I**
 13 **reviewed for today.**
 14 Q. You don't remember any conversation you
 15 had with Ms. Peck or anyone in your AOC team
 16 about the livestreaming of the Advisory
 17 Commission?
 18 **A. I do not recall, no.**
 19 Q. Do you know how meetings are
 20 livestreamed?
 21 **A. So I know she has explained it to me, but**
 22 **I could not say that I know how they're**
 23 **livestreamed, no.**
 24 Q. Well, for example, is Ms. Peck or
 25 somebody that works with her on her team, do

1 they physically go in to a room with a camera
 2 or is it something on a computer where
 3 they're --
 4 **A. I don't know.**
 5 Q. You don't know how that works?
 6 **A. No.**
 7 Q. She would be the one that knows how that
 8 works?
 9 **A. Yes.**
 10 Q. Is the AOC and the Tennessee courts, are
 11 they livestreaming court sessions more
 12 frequently post pandemic?
 13 **A. Yes.**
 14 Q. Is the AOC and Tennessee courts
 15 livestreaming meetings publicly post pandemic
 16 more so than they were pre pandemic?
 17 **A. I am unaware.**
 18 Q. You don't have those discussions with
 19 budgetary issues that might come up?
 20 **A. Only for the court sessions.**
 21 Q. Does it cost more money for the courts to
 22 be livestreamed?
 23 **A. We've had some investment in equipment to**
 24 **enable the courtrooms to livestream, so yes.**
 25 Q. How does that process work on

1 livestreaming something in the courts?
 2 **A. I don't know.**
 3 Q. Is there an additional investment of
 4 employees with this increased capacity to
 5 livestream court sessions?
 6 **A. We have not added any employees to be**
 7 **able to do that.**
 8 Q. So would you say it's more of a financial
 9 burden on the AOC to livestream court sessions?
 10 **A. I would not call it a burden, I would say**
 11 **yes, we have invested in equipment to make sure**
 12 **that we can, but I would not call it a burden.**
 13 Q. Okay. Other than the public meeting
 14 notice that you saw the other day on the
 15 June 2023 Advisory Commission meeting, have you
 16 ever seen any other public meeting notices of
 17 the Advisory Commission on your website, either
 18 in your role as deputy or director?
 19 **A. I have not, but I cannot say I've ever**
 20 **looked for them.**
 21 Q. Have you ever seen any public meeting
 22 notices in your role as deputy or director of
 23 any public meeting notice for any board or
 24 commission?
 25 **A. Yes.**

1 Q. And who might that be, which one?
 2 **A. The Trial Vacancy Commission.**
 3 Q. The trial what?
 4 **A. Trial vacancy.**
 5 Q. And what is that commission?
 6 **A. So it is the body that vets candidates**
 7 **for judicial vacancies at the trial court level**
 8 **for the governor, they send names, three names**
 9 **to the governor of recommendation to fill**
 10 **vacancies.**
 11 Q. And do you recall when you observed that
 12 and what that might have been?
 13 **A. We've had several here recently, so -- I**
 14 **can't recall.**
 15 Q. Did you ever serve as chief of staff for
 16 the Tennessee governor before?
 17 **A. Chief of staff? No.**
 18 Q. Did you ever serve in any capacity for a
 19 former governor of Tennessee?
 20 **A. Yes.**
 21 Q. Who was that and what was your role?
 22 **A. I served as Governor Don Sundquist's**
 23 **deputy legal counsel and legal counsel.**
 24 Q. And what was your -- what were your
 25 functions with governor Sundquist in those

1 roles?
 2 **A. So at the time we were combining --**
 3 **creating the Department of Labor and Workforce**
 4 **Development, so I drafted the legislation for**
 5 **that. We were also engaged in bringing school**
 6 **reform to the state of Tennessee, so I drafted**
 7 **the charter school legislation for the**
 8 **governor. I also was engaged in extraditions,**
 9 **probation parole, clemency actions, the very**
 10 **first execution in decades, and then generally**
 11 **kind of supported our legislative liaisons.**
 12 Q. So what years were you in that role with
 13 Governor Sundquist? Doesn't have to be the
 14 exact date, I'm just curious of the years. I
 15 don't recall, I can look it up when he was in
 16 office. I mean, was it his entire term or
 17 terms?
 18 **A. No, it was the second term.**
 19 Q. We're about the same age, so I don't
 20 remember. Was that mid '90s?
 21 **A. It would be late '90s and then early**
 22 **2000s.**
 23 Q. I think the charter school statute was
 24 2002, is that -- you said you drafted that or
 25 assisted with it?

1 **A. I drafted the first one. It was**
 2 **unsuccessful, I think it took us two years to**
 3 **get something.**
 4 Q. That would have been in early 2000, okay.
 5 About 20, 25 years ago you would say roughly
 6 you were with Governor Sundquist?
 7 **A. Yeah.**
 8 Q. I know we're in 2023.
 9 **A. Yeah.**
 10 Q. So in 2022, do you know if the Advisory
 11 Commission held any meetings?
 12 **A. In 2023?**
 13 Q. 2022 first.
 14 **A. 2022, I don't know.**
 15 Q. You started in February 2022, right?
 16 **A. Yes.**
 17 Q. Do you know if there were any meetings in
 18 2022 of the Advisory Commission?
 19 **A. I don't know.**
 20 Q. You never communicated with Michelle
 21 Consiglio-Young about that?
 22 **A. No.**
 23 Q. If there were reimbursements from 2022,
 24 would those be somewhere in your AOC files?
 25 **A. They would be, yes, with our fiscal**

1 **director.**
 2 Q. Tell me -- you may have given me that
 3 person's name.
 4 **A. Dalton Hensley.**
 5 Q. Yeah, okay, I got it.
 6 Dalton is a male?
 7 **A. Yes.**
 8 Q. What about 2023, do you know if the
 9 Advisory Commission met in 2023?
 10 **A. I only know of the June meeting.**
 11 Q. Now, are you aware that the Advisory
 12 Commission meeting -- and the June meeting you
 13 would agree was the post preliminary
 14 injunction?
 15 **A. Yes.**
 16 Q. Were you aware that there was supposed to
 17 be an Advisory Commission meeting in September
 18 of 2023?
 19 **A. Yes.**
 20 Q. And what is your understanding -- first
 21 of all, did that meeting take place in
 22 September of 2023?
 23 **A. No.**
 24 Q. And tell me your understanding as to why
 25 it did not.

1 **A. It did not get properly noticed or we**
 2 **became aware that it was not properly noticed**
 3 **and so it was rescheduled.**
 4 Q. And when did you become aware, your
 5 office, that it was not properly noticed?
 6 **A. I am 99 percent sure that that would have**
 7 **come from legal counsel at the AOC --**
 8 Q. Is that --
 9 **A. -- making me aware that there was a**
 10 **problem.**
 11 Q. -- Mr. Coke?
 12 **A. Yes.**
 13 Q. Was the meeting supposed to be on
 14 September 8, 2023?
 15 **A. I don't remember the date, I just know it**
 16 **was September.**
 17 Q. And what is your understanding -- you
 18 said it got -- I don't want to put words in
 19 your mouth.
 20 Did it get cancelled, the September, or
 21 did it get postponed?
 22 **A. Postponed is probably the better word.**
 23 Q. And what is your understanding, when did
 24 it get postponed to, what date?
 25 **A. To December. So it is scheduled for**

1 **December.**
 2 Q. Wasn't there already though a December
 3 quarterly meeting they were supposed to have?
 4 **A. I don't know.**
 5 Q. How many meetings -- how many meetings is
 6 the Advisory Commission having in 2023 calendar
 7 year?
 8 **A. I don't know.**
 9 Q. So you don't know if this December is --
 10 if it was already scheduled anyway or if it's
 11 the postponed meeting, you're not sure about
 12 that?
 13 **A. I don't know.**
 14 Q. Who would know about that if it's -- if
 15 it was already on the schedule or if it's the
 16 one that got postponed from September?
 17 **A. Michelle Consiglio-Young.**
 18 Q. Anyone else besides Michelle
 19 Consiglio-Young?
 20 **A. John Coke.**
 21 Q. Anyone else?
 22 **A. Rachel Harmon.**
 23 Q. Okay, anyone else? Would the Supreme
 24 Court liaison?
 25 **A. Probably.**

1 Q. Would Chairman Bulso, would he know?

2 MR. STAHL: Object to the form.

3 **THE WITNESS: If the meeting got --**
 4 **if the September meeting was cancelled or**
 5 **postponed, sure, yes, he should know.**

6 BY MR. DOUGHERTY:

7 Q. Okay. And so what's your understanding
 8 of the reason that it was postponed? Is it
 9 because there was going to be a violation of
 10 the injunction and therefore they didn't have
 11 it; is that a fair assessment?

12 MR. STAHL: Object to the form,
 13 misstates testimony.

14 **THE WITNESS: What I believe -- I**
 15 **believe what I was made aware of is that it had**
 16 **not been properly noticed.**

17 BY MR. DOUGHERTY:

18 Q. What do you mean by not properly noticed?
 19 That's what I'm trying to understand.

20 **A. There was nothing on our public facing**
 21 **calendar to let the public know that that**
 22 **meeting was scheduled.**

23 Q. Did the injunction require the AOC to
 24 properly notice the public?

25 MR. STAHL: Object to the form.

1 **THE WITNESS: So the injunction would**
 2 **require us to either have it in person or**
 3 **livestream it and so I'm going to assume**
 4 **neither was capable of happening for that**
 5 **September meeting.**

6 BY MR. DOUGHERTY:

7 Q. Does the injunction also require the AOC
 8 to give proper notice to the public as to when
 9 it's going to be?

10 **A. Yes.**

11 Q. What do you consider proper notice to the
 12 public in advance of a meeting? I think you
 13 said 30 days; is that your testimony?

14 **A. I will stick to that answer, I think**
 15 **that's standard.**

16 Q. Do you know if the injunction requires a
 17 certain amount of notice or not?

18 **A. I don't recall.**

19 Q. Okay. Have you spoken to Michelle
 20 Consiglio-Young while she has been out on
 21 maternity leave?

22 **A. Yes.**

23 Q. Have you spoken to her specifically about
 24 the Advisory Commission?

25 **A. No.**

1 Q. So have you spoken to her about her
 2 functions as liaison to the Advisory
 3 Commission?

4 **A. No.**

5 Q. What -- have you spoken to her about AOC
 6 business?

7 **A. Yes, strategic planning and the final**
 8 **assessments of her team members on their goals.**
 9 **So we do pay for performance, so she would be**
 10 **responsible for evaluating her team members.**
 11 **So we've talked about that. We've talked about**
 12 **revisions we've made to the strategic plan for**
 13 **this next calendar performance cycle, and other**
 14 **than that we've just talked about the baby.**

15 Q. So -- and I'm just referring to AOC
 16 business, I'm not asking you anything about
 17 your personal conversations with her.

18 What is pay -- you said pay for
 19 performance?

20 **A. Correct.**

21 Q. What is that?

22 **A. So we do an incentive program tied to**
 23 **those goals that I talked about earlier. Each**
 24 **person has an individual performance plan and**
 25 **we assess performance based on the goals and**

1 **objectives in those individual plans. And then**
 2 **we rank the outcomes and reward employees for**
 3 **their performance.**

4 Q. Whose responsibility was it to properly
 5 notice the Advisory Commission meeting in
 6 September?

7 MR. STAHL: Object to the form.

8 **THE WITNESS: I don't know.**

9 BY MR. DOUGHERTY:

10 Q. Was it Michelle Consiglio-Young?

11 **A. I don't know.**

12 Q. Who is on her team?

13 **A. So she oversees Charley Baldwin who is**
 14 **legislative liaison. She also oversees our**
 15 **court improvement program. I think that's**
 16 **everyone on her team.**

17 Q. So Charley Baldwin, I only heard one
 18 person's name.

19 **A. Well, Stacy Lynch is the director, if you**
 20 **will, I may get the titles wrong, for the court**
 21 **improvement program. And I believe she has a**
 22 **staff of -- oh, I forgot one other person,**
 23 **Stephanie Ethridge who is over our safe baby**
 24 **courts. And then there are probably three or**
 25 **four people that report through them.**

1 Q. Okay. Do you think whether or not
2 Advisory Commission meetings are open or closed
3 to the public is important to improve the
4 administrative -- administration of justice in
5 the Tennessee courts?
6 **A. You're asking my opinion?**
7 Q. Yes.
8 **A. Okay. So the process, as I know it, has**
9 **the opportunity for the public to comment. So**
10 **if the goal of whether they're open or closed**
11 **is to ensure that the public has the**
12 **opportunity to comment, I think that is already**
13 **part of the process.**
14 Q. Yeah, and that's not my question. I
15 didn't ask about commenting, I didn't suggest
16 that the purpose was about public commenting.
17 I said, do you think Advisory Commission
18 meetings that are closed to the public, closed
19 meetings, does that improve the administration
20 of justice?
21 **A. I think there are times when in order to**
22 **have candid discussion of a matter, there is a**
23 **need to have that discussion be closed. In**
24 **terms of the public's ability to know and**
25 **understand what comes out of that discussion, I**

1 **believe that is already part of this process.**
2 **So I don't have an opinion one way or the**
3 **other whether they should be open or closed, I**
4 **just look at the outcomes. And so I believe**
5 **that there is already process in place for the**
6 **outcomes for the public that promote the**
7 **administration of justice.**
8 Q. And so are meetings -- is it your
9 understanding that Advisory Commission meetings
10 are open or closed?
11 **A. For this particular commission, I**
12 **understand the history has been that at one**
13 **point they were open and at one point they were**
14 **closed.**
15 Q. And at what point is it your
16 understanding on the history were they open?
17 **A. It predates me. I want to say maybe**
18 **2017, 2018, but I am not certain.**
19 Q. What is your understanding of history
20 wise when they became closed?
21 **A. I don't know why they became closed.**
22 Q. I didn't say "why," I said what is your
23 understanding of the process of getting closed
24 and why they became closed?
25 **A. I don't know.**

1 Q. Who would know that? Would the justices
2 know that?
3 MR. STAHL: Object to the form.
4 **THE WITNESS: Any -- whoever was**
5 **involved at the time.**
6 BY MR. DOUGHERTY:
7 Q. So I guess is it fair to say if they were
8 open, Advisory Commission meetings at some
9 point in the past -- I think you said they were
10 at some point, right?
11 **A. (Nodding head.)**
12 Q. If they were open, do you think they were
13 open to try to improve the administration of
14 justice?
15 MR. STAHL: Object to the form.
16 **THE WITNESS: I don't know if there**
17 **was the intentionality around that or not, I**
18 **don't know.**
19 BY MR. DOUGHERTY:
20 Q. Why do you think they would have been
21 open previously?
22 **A. I don't -- I don't know.**
23 Q. Is there someone that you're aware of who
24 decided not to keep the meetings open any
25 longer?

1 **A. I'm sorry, it predates me, I don't know.**
2 Q. Well, you talked about the history, I'm
3 just trying to understand, how did you have the
4 knowledge to be able to know that historically
5 at some point meetings of the Advisory
6 Commission were open?
7 **A. In the context of preparing for this**
8 **deposition, I learned that at one point they**
9 **were open.**
10 Q. And who did you learn that from?
11 **A. Likely legal counsel, John Coke.**
12 Q. And did you review any information that
13 would have -- evidence that they were open at
14 some point?
15 **A. No.**
16 Q. Do you know -- have you ever reviewed any
17 information as to a reason they might have been
18 open in the past at some point?
19 **A. No.**
20 Q. So is it possible that open Advisory
21 Commission meetings could improve the
22 administration of justice?
23 MR. STAHL: Object to the form.
24 **THE WITNESS: I've never attended an**
25 **Advisory Commission meeting for rules, but I**

1 would say, again, that there may be a need to
 2 have candid discussion among the lawyers and
 3 judges that are part of that body. And so that
 4 may be problematic in an open forum. And so as
 5 long as the results of that discussion are made
 6 available to the public, in my opinion, that is
 7 sufficient.

8 BY MR. DOUGHERTY:

9 Q. As long as -- you're saying the public
 10 comment period comes sometime after the meeting
 11 happens, that that's sufficient is what you're
 12 saying?

13 MR. STAHL: Object to the form,
 14 misstates testimony.

15 BY MR. DOUGHERTY:

16 Q. Well, then you tell me what your
 17 testimony is when you talk about public
 18 comment. I'm just trying to understand it.
 19 Because I understood you to say before that the
 20 public comment period happens after the
 21 meetings; is that right?

22 **A. I think that is the way it is set up
 23 today, yes.**

24 Q. Okay. And you think that's sufficient to
 25 improve the administration of justice?

1 improve the administration of justice?

2 MR. STAHL: Object to the form.

3 **THE WITNESS: I don't believe it's
 4 not transparent.**

5 BY MR. DOUGHERTY:

6 Q. And so you think closed meetings are
 7 transparent?

8 MR. STAHL: Object to the form.

9 **THE WITNESS: So I am saying the need
 10 for candid conversation improves the
 11 administration of justice. The outcomes of
 12 that candid conversation are transparent to the
 13 public, that also improves the administration
 14 of justice. And the ability to take in comment
 15 and information from the public improves the
 16 administration of justice.**

17 BY MR. DOUGHERTY:

18 Q. Would open meetings improve the
 19 rulemaking process?

20 **A. It is open when it gets to the
 21 legislative process.**

22 Q. No, it's not, it's a meeting?

23 MR. STAHL: Object to the form,
 24 argumentative.

25 ///

1 MR. STAHL: Object to the form.

2 **THE WITNESS: I don't think it
 3 hinders the administration of justice.**

4 BY MR. DOUGHERTY:

5 Q. Well, you would agree that part of your
 6 responsibility and duties are to improve the
 7 administration of justice as director of AOC,
 8 right?

9 **A. Yes.**

10 Q. Statute requires you to survey and try to
 11 come up with ideas of how to do that, right?

12 **A. Yes.**

13 Q. So is it possible that open meetings to
 14 the public on court rulemaking is to improve
 15 the administration of justice?

16 MR. COKE: Object to the form.

17 MR. STAHL: Object to the form.

18 **THE WITNESS: Is it possible. I
 19 would still lean toward the need to have candid
 20 open dialogue about rule changes and that may
 21 not happen in a public forum to the level of
 22 candor needed to improve the administration of
 23 justice.**

24 BY MR. DOUGHERTY:

25 Q. Does transparency on rulemaking meetings

1 BY MR. DOUGHERTY:

2 Q. It's a meeting. Are meetings today open
 3 prior to the preliminary injunction?

4 MR. STAHL: I'm going to allow this
 5 one last question, then I'm going to ask to
 6 take a break.

7 **THE WITNESS: Are meetings open
 8 prior --**

9 BY MR. DOUGHERTY:

10 Q. We're talking about Advisory Commission
 11 meetings. Were they open --

12 **A. My understanding is they have not been
 13 open.**

14 Q. Okay.

15 MR. STAHL: We're going to take a
 16 break. That was a question. Thank you. Take
 17 a five-minute break.

18 MR. DOUGHERTY: Just make it 11:35.

19 MR. STAHL: Okay.

20 (Short break.)

21 BY MR. DOUGHERTY:

22 Q. Okay, we'll go back on the record.

23 Ms. Long, what is your understanding of
 24 the preliminary injunction in March; why was it
 25 issued by the court?

1 **A. To ensure that the Advisory Commission on**
2 **rules was open to the public.**

3 Q. When you say the advisory -- you talking
4 about meetings?

5 **A. Meetings.**

6 Q. So was it your understanding that prior
7 to the injunction they were closed --

8 **A. Yes.**

9 Q. -- meetings, right?

10 **A. Yes.**

11 Q. Okay. Do you know if they talk about --
12 let's go back.

13 What -- is the Advisory Commission made
14 up of -- what do they make rule recommendations
15 on? Are there certain courts, certain
16 procedures, are you aware of that?

17 MR. STAHL: Object to the form.

18 **THE WITNESS: So I did -- I think I**
19 **answered earlier that they make recommendations**
20 **on the rules of practice and procedure for**
21 **various courts and for the rules of evidence.**

22 BY MR. DOUGHERTY:

23 Q. Yeah, so it's the rules of evidence is
24 one; is that your understanding?

25 **A. Yes.**

1 Q. And is also the rules of civil procedure
2 one of the rule recommendations they make?

3 **A. Yes.**

4 Q. And the rules of criminal procedure?

5 **A. Yes.**

6 Q. Rules of juvenile procedure?

7 **A. Yes.**

8 Q. And is the last one, the fifth one, the
9 rules of appellate procedure?

10 **A. Yes.**

11 Q. When we talk about court rules of
12 practice, that's what they're actually doing?

13 **A. Yes.**

14 Q. Were you aware that the federal analog
15 has very similar rules in certain courts?

16 **A. No.**

17 Q. Have you read the pleadings about the
18 federal analog and what they do?

19 **A. Yes.**

20 Q. What does Michelle Consiglio-Young,
21 Intergovernmental -- what is her title --

22 **A. Affairs.**

23 Q. What does that mean?

24 **A. So she is our liaison to the other**
25 **branches of government and so she does -- she**

1 **works very closely with the legislature and**
2 **then other departments. And so for court**
3 **improvement programs, she's working with**
4 **Children's Services. For safe baby courts,**
5 **she's working with Human Services and**
6 **Children's Services as well. So it's that**
7 **place that connects with other departments and**
8 **agencies across the state.**

9 Q. So is it fair to say then when you say
10 "intergovernmental" or what she does, some of
11 her work touches on the executive branch and
12 the legislative branch and the judicial branch?

13 **A. Yes.**

14 Q. Is that a relatively new position or has
15 that always kind of been there with the AOC?

16 **A. I think it's always -- well, since I've**
17 **been at the AOC it's been there.**

18 Q. Okay. Do you know how long she served on
19 the Advisory Commission as the AOC liaison?

20 **A. I do not know.**

21 Q. Is the Advisory Commission listed
22 somewhere on the AOC website?

23 **A. It is.**

24 Q. And are there names of the people who are
25 on that commission on that particular website?

1 **A. Yes.**

2 Q. I think all of the -- we talked earlier
3 about the boards and commissions section of the
4 AOC website; do you recall that?

5 **A. Yes.**

6 Q. And I haven't looked last week, but I
7 think it is fair to say that most members who
8 serve on these various commissions and boards
9 are listed there on the AOC website?

10 **A. Yes.**

11 Q. Who puts that information together?

12 **A. So who serves is decided in most places**
13 **by the Court and they will often times put down**
14 **a court order for membership and then that gets**
15 **accumulated at the AOC. I don't know who**
16 **physically puts it on the website.**

17 Q. Well, is the responsibility of liaison
18 for that particular board or commission to make
19 sure those names are on the website or is that
20 your communications group?

21 **A. I don't know.**

22 Q. Okay. Do you all have like a flow chart
23 at the AOC because you have a lot of different
24 divisions? I am just trying to understand how,
25 you know, delegation of duties and obligations

1 are carried out when you've got kind of these
2 various six divisions, what -- and you don't
3 have to tell me everything, I am just trying to
4 understand the hierarchy and how everybody
5 communicates with one another.

6 **A. So you won't find flow charts. What you**
7 **will find is trust in liaisons that work with**
8 **these various boards and commissions to carry**
9 **out the functions that they always carried out.**
10 **We are in the process of trying to document**
11 **some of those processes and procedures, I call**
12 **it eliminating single points of failure,**
13 **because if something happens to Michelle**
14 **Consiglio-Young, someone else needs to be able**
15 **to pick up where she left off. So it's not**
16 **written down now, but we're working toward**
17 **writing some of those practices and procedures**
18 **down.**

19 Q. Are you aware of a commission that was
20 established several years ago that put together
21 several reports on aspirations for the
22 Tennessee judicial system in the year 2030?

23 **A. I'm not.**

24 Q. Are you aware that that commission's
25 final report is on the AOC website?

1 **A. So I believe I saw a report -- I don't**
2 **think that's what -- I thought it was more**
3 **around diversity. I don't know if we're**
4 **talking about the same report or not, though.**

5 Q. So as I understand it, I believe it might
6 even be in the pleadings at some point or
7 motions, I'm not sure, but I just wanted to
8 know if you were aware that -- I want to say it
9 was the mid '90s, there was a commission in
10 Tennessee by various members, private
11 attorneys, judges, you weren't aware of that?
12 I know that was several years ago.

13 **A. If you're talking about -- I'm calling it**
14 **a diversity report. I have seen that one, but**
15 **I don't know if we're talking about the same**
16 **thing.**

17 Q. What I am referring to, and I don't know
18 the exact name, but I think it was Vision,
19 Tennessee Courts 2030. I believe the year was
20 2030. You don't recall that?

21 **A. I don't.**

22 Q. And you haven't seen that 2030 -- I am
23 just -- it may not be exactly, but you don't
24 recall seeing that 2030 report on the AOC
25 website?

1 **A. No.**

2 Q. I don't recall who the person -- the
3 person who served in your role, the director of
4 the AOC was, but do you ever get together or
5 have communications with previous AOC directors
6 that predated you? Even going back mid '90s or
7 the '80s?

8 **A. So two of them are friends. So I do have**
9 **conversation with two previous directors.**

10 Q. Who are those?

11 **A. Debbie Tate and Bill Young.**

12 Q. And Ms. Tate was your -- you were deputy
13 to her, right?

14 **A. Yes.**

15 Q. Does she still serve in some capacity
16 with the AOC?

17 **A. We have her on a temporary assignment**
18 **right now, so yes.**

19 Q. Is that like a limited contract for
20 certain period of time?

21 **A. Yes.**

22 Q. 120-day contract?

23 **A. I think so, yes.**

24 Q. Bill Young, who is Bill Young?

25 **A. Bill Young was I believe Ms. Tate's**

1 **predecessor in the role.**

2 Q. How long did Ms. Tate serve as AOC
3 director, if you can recall?

4 **A. I think it was seven years.**

5 Q. And then how about Mr. Young, how long
6 was he -- do you know? If you don't, that's
7 fine.

8 **A. I don't know.**

9 Q. Is he still living?

10 **A. Yes.**

11 Q. Does he work for the AOC?

12 **A. No.**

13 Q. Is he retired?

14 **A. Not that I'm aware of.**

15 Q. Okay. Is he an attorney?

16 **A. Yes, he is. I think he's working for the**
17 **Ethics Commission.**

18 Q. So is that a Tennessee government paid
19 position?

20 **A. Yes.**

21 Q. Bill Young?

22 **A. Yes.**

23 Q. He is an attorney?

24 **A. Yes.**

25 Q. Is Ms. Tate an attorney?

1 **A. Yes.**

2 Q. And is there a requirement that the
3 executive director of the AOC has to be an
4 attorney?

5 **A. Not in statute.**

6 Q. Have most of them, besides Ms. Tate and
7 Mr. Young and yourself, have most previous AOC
8 directors been attorneys?

9 **A. To my knowledge, yes.**

10 Q. Are you aware of how the Federal AOC is
11 set up with respect to the relationship with
12 the chief justices of the US Supreme Court?

13 **A. No.**

14 Q. So if I told you that the AOC in the
15 federal court does not serve at the pleasure of
16 the chief justice, Chief Justice Roberts, and
17 is a separate entity, you wouldn't have any
18 information on that or knowledge?

19 **A. No.**

20 Q. Are you aware of anyone or any report
21 that has ever suggested or recommended that the
22 AOC director and office should be separate from
23 the Tennessee Supreme Court?

24 **A. No.**

25 Q. You've never seen a report or heard about

1 **how the AOC operates. The statute clearly says**
2 **that the AOC director serves at the pleasure of**
3 **the Tennessee Supreme Court. The reality is the**
4 **Tennessee Supreme Court is responsible for the**
5 **entire court system. So the Tennessee Supreme**
6 **Court, vis-a-vis the AOC director, is**
7 **responsive to all levels of court. But we**
8 **don't control perception.**

9 Q. What is your opinion on that, do you
10 think they -- that maybe the statute requiring
11 your position to serve, as you say, the
12 pleasure of the chief justice and the justices,
13 is that a good thing or a bad thing?

14 **A. It's a thing.**

15 Q. Right.

16 **A. I think that in terms of --**

17 Q. I'm not trying to --

18 **A. -- to get something done, having five**
19 **bosses is very different from having some**
20 **larger group of bosses, if you will.**

21 Q. I'm not trying to get you in trouble with
22 your bosses, I'm just -- I'm just talking
23 about -- I mean, because you would agree that
24 you are responsible for the administration of
25 justice and some of these kind of broad

1 any recommendations on that?

2 **A. I think there's some opinion out there**
3 **that it should be led by more than just the**
4 **Supreme Court, in other words a group of judges**
5 **representing all levels of the court system,**
6 **but I've never seen a report, I've never seen**
7 **anything in writing in that regard.**

8 Q. What opinion are you referring to?

9 **A. I think there's been some discussion over**
10 **time about the AOC being responsible, if you**
11 **will, to more than just the Supreme Court.**

12 Q. So is it your understanding that the AOC
13 is just responsible for the Tennessee Supreme
14 Court?

15 **A. No, it is not my understanding.**

16 Q. Well, then why does that -- why is that
17 opinion or idea out there?

18 **A. I don't know.**

19 Q. Who -- when you say opinion, is it like
20 an Tennessee attorney general opinion; what do
21 you mean?

22 **A. No, no. I just mean over the course of**
23 **time, there have been comments that I'm aware**
24 **of that trial judges don't get -- don't**
25 **perceive that they are heard when it comes to**

1 concepts; would you agree with that?

2 **A. Absolutely.**

3 Q. So having five bosses, is that more
4 difficult to carry out your duties? Or what do
5 you mean by having five bosses? Explain that.
6 I am just trying to understand. I don't want
7 to put words in your mouth, I don't want you to
8 talk bad about -- I'm just trying to understand
9 philosophically what your opinion is.

10 **A. Well, the AOC is the administrative arm**
11 **of the Tennessee Supreme Court. The Tennessee**
12 **Supreme Court has five justices.**

13 Q. Right. Do you think it would be a better
14 situation if your office, the AOC, was
15 completely separate from the Tennessee Supreme
16 Court and that you made all those decisions?

17 **A. No.**

18 Q. Okay. And if the Feds do it that way,
19 and I don't know if they do it exactly that
20 way, but would that be something you wouldn't
21 agree or think would be a great thing or you
22 don't know right now?

23 **A. I don't know. I don't think it would be**
24 **because I think our Tennessee Supreme Court is**
25 **very intentional about hearing and making sure**

1 they are responsive to all courts.

2 I mean, we have programs across the AOC
3 that address juvenile courts, general sessions
4 courts, trial courts. So there -- the
5 processes are in place to make sure all courts
6 are represented in what the Tennessee Supreme
7 Court then directs.

8 Q. Do you think the people on the inside,
9 attorneys, all of us at this table, justices
10 and judges think that the Tennessee judicial
11 system is a good thing or --

12 MR. STAHL: Object to the form.

13 BY MR. DOUGHERTY:

14 Q. -- or doing the best it can?

15 **A. The Tennessee judicial system?**

16 Q. Yeah. Well, the courts, what you have to
17 do, what you have to do. Do you think the
18 Tennessee courts are perceived by the members
19 of the bar and the judiciary as being a pretty
20 good system?

21 **A. Yes.**

22 Q. Do you think the public perceives the
23 Tennessee judicial system as a pretty good
24 system?

25 MR. STAHL: Object to the form.

1 **THE WITNESS: The public is kind of**
2 **broad. I think it depends on your interaction**
3 **with the courts. So you could have a negative**
4 **interaction and I suppose your perception would**
5 **not be positive. I think generally, when I**
6 **talk about what I do, I don't hear negative**
7 **things about the Tennessee judicial system.**

8 BY MR. DOUGHERTY:

9 Q. Do you think there's an access to justice
10 crisis in the state of Tennessee?

11 **A. Crisis, no.**

12 Q. Do you think there's an access to justice
13 problem in the state of Tennessee?

14 **A. I think we are intentional with programs**
15 **to make sure that the reach of the Tennessee**
16 **courts is as broad as it can be from where we**
17 **work at the AOC, and then we work very closely**
18 **with all of those legal aid societies out there**
19 **that do provide the reach and access. So I**
20 **believe that's a very positive thing for the**
21 **state of Tennessee.**

22 Q. Are there a lot of pro se litigants in
23 the state of Tennessee?

24 **A. I don't know.**

25 Q. That's not something that you keep track

1 of, record wise?

2 **A. I don't keep track of that, no.**

3 Q. You're not required to do that under the
4 statute?

5 **A. No.**

6 Q. Are you aware of the compensation system
7 for attorneys in Tennessee for indigent
8 representation?

9 **A. Yes.**

10 Q. Is it good or is it bad compared to other
11 states?

12 MR. STAHL: Object to the form.

13 **THE WITNESS: So compared to other**
14 **states, we compensate lawyers for their**
15 **representation at the lowest level of any other**
16 **state.**

17 BY MR. DOUGHERTY:

18 Q. So Tennessee's the worst state, right?

19 MR. STAHL: Object to the form.

20 **THE WITNESS: We compensate at a rate**
21 **lower than any other state.**

22 BY MR. DOUGHERTY:

23 Q. The worst state in terms of compensation,
24 I should have clarified that.

25 **A. The lowest.**

1 Q. Well, is it better to get less money or
2 more money?

3 MR. STAHL: Object to the form, asked
4 and answered.

5 **THE WITNESS: Better to get -- so I**
6 **don't view it from the standpoint of the**
7 **attorney compensation whether or not that is**
8 **good or bad, I view it from the standpoint of**
9 **are we providing representation. And so**
10 **representation continues, despite paying the**
11 **lowest rate in the country.**

12 BY MR. DOUGHERTY:

13 Q. Did Chief Justice Kirby think it was bad
14 enough to issue some comments recently about
15 how she wanted to improve the compensation
16 system?

17 **A. So we are currently in the process of**
18 **advocating to improve the compensation for**
19 **attorneys, yes.**

20 Q. Did Chief Justice Kirby release some
21 public comments recently?

22 **A. Yes, she did.**

23 Q. Were those on the AOC website?

24 **A. Yes, they are.**

25 Q. How is -- is the AOC, part of that

1 advocacy, as you called it, about trying to
2 increase compensation?

3 **A. Yes.**

4 Q. How -- what does that advocacy look like?
5 What does your office have to do?

6 **A. So the entire fund for indigent
7 representation is appropriated money by the
8 General Assembly. So if there is to be an
9 increase in attorney compensation rates, it
10 will have to come from additional appropriation
11 of moneys.**

12 Q. So does that mean, when you say
13 "advocacy," trying to get more money
14 appropriated? You don't have to pass a law,
15 right?

16 **A. No.**

17 Q. Who does the advocacy besides the AOC
18 office?

19 **A. I'm sure on this topic there will be many
20 groups advocating. I think the TBA will
21 definitely be at the table on behalf of
22 attorneys. You might see the PDs office, some
23 of the legal aid societies. I'm sure there's a
24 wide swath of people that would agree.**

25 Q. Is low compensation that we're talking

1 **our budget request, the Court would have to
2 agree with that. And so they have. I don't
3 know about individual advocacy on their parts.**

4 BY MR. DOUGHERTY:

5 Q. How do you know they agreed with the
6 increase of compensation?

7 **A. We present our budget proposals to the
8 Court in advance.**

9 Q. When you say "we," you're talking about
10 the AOC?

11 **A. I'm talking about me.**

12 Q. You?

13 **A. Uh-huh.**

14 Q. So when you're doing a budget -- I know
15 you said that's kind of a year-long process,
16 kind of, right?

17 **A. Uh-huh.**

18 Q. You're putting numbers together, you go
19 to the justices first or at some point before
20 that gets submitted to the governor?

21 **A. That's right, I need approval.**

22 Q. Okay. So we're just talking about the
23 compensation for attorneys right now, what the
24 article was recently that Justice Kirby spoke
25 about.

1 about, does that make the access to justice
2 issue better or worse?

3 MR. STAHL: Object to the form.

4 **THE WITNESS: Better or worse. I
5 think we could be -- I don't think it has to
6 date, but I think if we don't address it, we
7 could be in a position where access to justice
8 is in jeopardy.**

9 BY MR. DOUGHERTY:

10 Q. So appreciate you sharing the advocacy,
11 is there any kind of written materials that
12 your office has on this -- what you have to do
13 to increase the funding to get -- to
14 compensate, is there anything out there
15 physically written?

16 **A. So it is one of our budget requests. And
17 so we have provided information to the
18 Department of Finance and Administration in
19 writing that we will be making an ask to
20 increase the rates.**

21 Q. Are the justices themselves advocating on
22 this issue? I mentioned Justice Kirby, but are
23 they doing any advocacy along with the AOC?

24 MR. STAHL: Object to the form.

25 **THE WITNESS: So before it appears in**

1 What's the increase -- or proposed
2 increase for attorney compensation on a
3 percentage basis?

4 **A. Well, it's \$30 increase in the
5 compensation rate. So from \$50 an hour to 80.**

6 Q. And so currently it's \$50 an hour, is
7 that for criminal or explain that -- or is that
8 just court appointed? What does that mean?

9 MR. COKE: Object to the form.

10 **THE WITNESS: That's court appointed
11 counsel.**

12 BY MR. DOUGHERTY:

13 Q. In state courts in Tennessee?

14 **A. Yes.**

15 Q. So is that by statute or is that just how
16 it's been, the \$50?

17 **A. It's by rule, supreme court rule, Rule
18 13.**

19 Q. That's Rule 13?

20 **A. Yes.**

21 Q. When was that rule promulgated?

22 **A. I don't know.**

23 Q. And so this compensation of \$50 an hour,
24 is that civil or criminal?

25 **A. Both.**

1 Q. Oh, it is, okay.
 2 How does that on a criminal side? Isn't
 3 the public defender's office -- don't they
 4 serve that role or -- I don't understand that
 5 part of it.
 6 MR. COKE: Object to form.
 7 **THE WITNESS: So the public**
 8 **defender's office does take -- undertake the**
 9 **representation. However, the indigent -- my**
 10 **understanding, the indigent representation fund**
 11 **for adult defense applied when the public**
 12 **defender's office had a conflict on a matter,**
 13 **and so private counsel could be engaged.**
 14 BY MR. DOUGHERTY:
 15 Q. I see. So the increase in it, assuming
 16 it goes through, does that require a rule
 17 change of Supreme Court Rule 13?
 18 **A. Yes.**
 19 Q. Who makes that change? Do the Supreme
 20 Court justices make that change?
 21 **A. Yes.**
 22 Q. Supreme Court rules are not part of the
 23 Advisory Commission, are they?
 24 **A. I don't believe so, no.**
 25 Q. Is there any commission or board outside

1 of the justices themselves that make changes to
 2 supreme court rules?
 3 **A. So they will -- no, there's no entity,**
 4 **no.**
 5 Q. Do they do that at like certain period,
 6 cadence of the year, or is that ongoing; how
 7 does that work?
 8 **A. I think it's ongoing and they will be put**
 9 **out for public comment.**
 10 Q. So they also put out public comment, but
 11 as far as you know the Supreme Court rules are
 12 not part of the Advisory Commission meeting
 13 rule recommendations; is that right?
 14 **A. That's right.**
 15 Q. Okay. So assuming that the rate
 16 increases from \$50 an hour to compensate an
 17 attorney representing indigent people to 80,
 18 where does that -- where would that put
 19 Tennessee?
 20 MR. COKE: Object to form.
 21 **THE WITNESS: It puts us kind of**
 22 **square in the middle of other states that do**
 23 **indigent representation in this way.**
 24 BY MR. DOUGHERTY:
 25 Q. How many states do indigent

1 representation like Tennessee?
 2 **A. I don't know.**
 3 Q. Approximately?
 4 **A. I don't know.**
 5 Q. Do you ever discuss indigent
 6 representation in your -- is it the COSCA
 7 group, that organization, does that ever come
 8 up?
 9 **A. We have not.**
 10 Q. What about access to justice issues in
 11 general, does that ever come up in your state
 12 meeting association?
 13 **A. So, yes. Interpreters has come up in the**
 14 **COSCA group. I'm trying to remember. I think**
 15 **just interpreters and language access has been**
 16 **an issue.**
 17 Q. What about litigants having to represent
 18 themselves or being pro se, does that pro se
 19 litigation ever come up?
 20 **A. Not that I recall.**
 21 Q. Is part of the goal of increasing
 22 compensation for indigent representation so
 23 that we will have fewer pro se litigants?
 24 MR. STAHL: Object to the form.
 25 **THE WITNESS: I don't -- I don't know**

1 **that that is a goal.**
 2 BY MR. DOUGHERTY:
 3 Q. Would it be fair to say that if attorneys
 4 are going to be paid more to represent people
 5 who can't afford payment, then you're going to
 6 have less indigent -- excuse me, you're going
 7 to have less pro se litigants in courts?
 8 MR. STAHL: Object to the form.
 9 MR. COKE: Object to the form.
 10 **THE WITNESS: Yeah, I don't know the**
 11 **reasons why people choose to go pro se, so I**
 12 **can't necessarily say that I know the answer to**
 13 **that.**
 14 BY MR. DOUGHERTY:
 15 Q. Is one of the reasons that people choose
 16 to go pro se because they don't have enough
 17 money to pay for a lawyer?
 18 **A. I suppose it could be one reason.**
 19 Q. Isn't that the main reason?
 20 MR. STAHL: Object to the form.
 21 **THE WITNESS: I don't know that to be**
 22 **the main reason.**
 23 BY MR. DOUGHERTY:
 24 Q. You don't know that to be the main
 25 reason?

1 **A. (Shaking head.)**

2 Q. Have you ever had this discussion
3 specifically with Justice Kirby?

4 **A. No.**

5 Q. Were there any justices that opposed the
6 rate increase from \$50 an hour to 80?

7 MR. COKE: Object to the form.

8 **THE WITNESS: No.**

9 BY MR. DOUGHERTY:

10 Q. Are any of the justices opposed to having
11 Advisory Commission meetings open to the
12 public?

13 MR. STAHL: Object to the form.

14 **THE WITNESS: I -- I don't know.**

15 BY MR. DOUGHERTY:

16 Q. Has anyone said anything to you about
17 that -- their objection to having open
18 meetings?

19 **A. No.**

20 Q. Do you personally object to having
21 Advisory Commission meetings open to the
22 public?

23 **A. Do I object? I don't know that it**
24 **matters. They are open now pursuant to court**
25 **order. So no, I don't object.**

1 Q. Has that ever been a discussion within
2 the AOC office about whether or not Advisory
3 Commission meetings should be open or closed?

4 **A. I have not had such a discussion.**

5 Q. You don't know anyone's opinion? Like,
6 for example, you don't know if Director Harmon
7 thinks it's a good idea or bad idea?

8 **A. I don't know her opinion.**

9 Q. Do you know Chairman Bulso's opinion
10 whether he thinks it's a good idea or bad idea?

11 **A. I do not know.**

12 Q. Do you think if Chairman Bulso thought it
13 was a bad idea to have meetings open, would he
14 tell you as the AOC director?

15 MR. STAHL: Object to the form.

16 **THE WITNESS: He's more likely to**
17 **talk with the staff liaison. I don't interact**
18 **with the commission or the chairman.**

19 BY MR. DOUGHERTY:

20 Q. So that would be -- you think he would
21 tell Michelle Consiglio-Young?

22 **A. Possibly.**

23 Q. Would he tell any of the justices on the
24 Supreme Court?

25 MR. STAHL: Object to the form.

1 **THE WITNESS: I don't know.**

2 BY MR. DOUGHERTY:

3 Q. You don't think he would tell -- you
4 don't know.

5 **A. I don't know.**

6 Q. Do you ever have any input with the
7 justices when they appoint members to the
8 Advisory Commission?

9 **A. Do I -- say the first, do I?**

10 Q. Yeah, do -- you would agree that the
11 Tennessee Supreme Court justices appoint
12 members to serve on the Advisory Commission,
13 correct?

14 **A. Yes.**

15 Q. Do you as the AOC director have any input
16 with the justices before they appoint someone?

17 **A. No.**

18 Q. Does anyone in your office at the AOC
19 have any input on that process?

20 MR. STAHL: Object to the form.

21 **THE WITNESS: The only input that our**
22 **office would have would be based on the terms**
23 **of the currently serving members and whether or**
24 **not they are eligible for reappointment.**

25 ///

1 BY MR. DOUGHERTY:

2 Q. And that eligibility is by statute,
3 right?

4 **A. Yes.**

5 Q. So you don't -- your office doesn't weigh
6 in and say I think you all should appoint John
7 Smith as a member to the Advisory Commission,
8 is that right?

9 **A. That is correct. Or I don't.**

10 Q. And I'm talking about -- when I say
11 "you," I'm talking about your office, the AOC.
12 Who would be the person that would get involved
13 in that?

14 **A. I don't know if, for instance, Michelle**
15 **Consiglio-Young would have the opportunity to**
16 **weigh in on appointments or not. I know on the**
17 **boards and commissions that I serve as liaison,**
18 **I do not.**

19 Q. What boards and commissions do you serve
20 as liaison?

21 **A. So I serve on the Building Commission.**

22 Q. The building?

23 **A. Yes.**

24 Q. Okay.

25 **A. I serve on the Technology Oversight**

1 **Committee. I cannot recall if I am on the**
 2 **Access to Justice Commission or not by name,**
 3 **but I attend sometimes their meetings. I think**
 4 **that's all.**
 5 Q. The Building Commission, do they hold
 6 regular meetings?
 7 **A. They do.**
 8 Q. Do you all meet together in one physical
 9 location or is it through Zoom or Webinar?
 10 **A. It's been Zoom.**
 11 Q. Has that been since the pandemic?
 12 **A. I don't -- I started in October like**
 13 **right before, I don't recall a meeting -- well,**
 14 **I wasn't director before then, so I don't know**
 15 **what it was before the pandemic.**
 16 Q. Are your Building meetings open to the
 17 public?
 18 **A. I don't -- I don't think I've ever seen a**
 19 **public notice. They're really about**
 20 **maintenance of the building, like landscaping,**
 21 **plumbing issues.**
 22 Q. Right. How about the Tech Oversight, how
 23 many times a year typically do they meet?
 24 **A. So it's brand new and so it has met maybe**
 25 **three times.**

1 Q. When you say "three times," you're
 2 talking about in calendar year 2023?
 3 **A. Yes.**
 4 Q. Where do you all meet and how do you all
 5 meet?
 6 **A. It's been via Zoom.**
 7 Q. And are any of those meetings been open
 8 to the public?
 9 **A. Not to my knowledge.**
 10 Q. How would you know if a meeting that you
 11 were serving on would be open to the public?
 12 **A. If public was a part of the meeting. I**
 13 **attend, so if there were members of the public**
 14 **outside of, you know, those who are on the**
 15 **committee was in attendance, then I would know**
 16 **that it was open.**
 17 Q. I understand that if they were physically
 18 in the same room. So my question is how would
 19 you -- if you're sitting in a room and it's
 20 being Zoomed out to the public, would you know?
 21 Would there be a camera in the room? How would
 22 you understand that that meeting was going out
 23 to the public?
 24 **A. We're all joining from our own locations.**
 25 Q. Sure.

1 **A. And there's no livestreaming, if that's**
 2 **your question.**
 3 Q. That's what I'm trying to figure out.
 4 How do you know -- not sitting on the side of
 5 the public, you're in the room or your meetings
 6 are being livestreamed, how do you as a
 7 participant know that the public -- that this
 8 meeting is being livestreamed to the public?
 9 **A. I guess I don't know.**
 10 Q. So assuming a chair didn't say, hey
 11 members, this meeting's going to be
 12 livestreamed -- if they told you, you would
 13 know at that point, right?
 14 **A. Right.**
 15 Q. Would you also know if you saw a public
 16 meeting notice on the AOC website that it was
 17 being livestreamed?
 18 **A. Yes.**
 19 Q. Okay. Any other way that you would know?
 20 **A. No.**
 21 Q. Okay. So one of the other aspirational
 22 goals -- are you required as the director to
 23 come up with ways to expedite litigation?
 24 **A. Yes.**
 25 Q. How does that -- what does that look

1 like? What things have you done in your role
 2 to expedite litigation?
 3 **A. I would say the entire in Korean**
 4 **(phonetic) study of E-filing in the state is**
 5 **one of those.**
 6 Q. The E-filing?
 7 **A. Yes.**
 8 Q. Any other ways of expediting litigation?
 9 **A. No. We collect statistical data that**
 10 **would inform the Court of where there may be**
 11 **overloaded dockets and then the Court has some**
 12 **tools available to it to address that.**
 13 Q. So when you see expedited litigation, you
 14 think that relates more towards particular
 15 court dockets?
 16 **A. Yes.**
 17 Q. Are there some court dockets that are
 18 slower to work through a case than other
 19 dockets or courts?
 20 **A. So I think there are places where**
 21 **population growth has caused the courts to be**
 22 **more heavily burdened than in the past. And so**
 23 **the 19th Judicial District comes to mind,**
 24 **they've just got more filings -- filings than**
 25 **they -- over the course of time.**

1 Q. So what's the 19th Judicial District?

2 **A. So that's Montgomery County.**

3 Q. And what's the major city in Montgomery
4 County?

5 **A. Clarksville.**

6 Q. Okay. Is that because there has been an
7 increase in population?

8 **A. That's what I would argue.**

9 Q. Well, when you're setting up your
10 processes to expedite litigation and collecting
11 all this information, how do you do that? If
12 you have a district that has a lot more
13 filings, how does that work? What do you do?

14 **A. To address it or get the information?**

15 Q. Well, I don't know. I'm just trying to
16 understand, is it just your job to collect the
17 information and statistics or is it your job --

18 **A. It is my job to collect the information.**

19 Q. Once you collect the information, is it
20 your job to come up with a fix or that's not
21 your job?

22 **A. So I'm -- it's not my job. I support the
23 Court with the information that it needs to
24 make decisions.**

25 Q. Okay. And who would be making a decision

1 let's say on information you collect from
2 Montgomery -- you said Montgomery County?

3 **A. Uh-huh.**

4 Q. Who would make decisions on what to do
5 with that information that you're collecting,
6 would that be the justices?

7 MR. STAHL: Object to the form.

8 **THE WITNESS: Yes. So one of the
9 things that resulted from the collection of
10 information on filings and the growth over time
11 was the request for new judicial positions. So
12 that is something once the Court decides that
13 that is needed, then we would advocate for new
14 judicial positions through the legislature.**

15 BY MR. DOUGHERTY:

16 Q. And has that happened once the
17 information you collected and shared with the
18 justices?

19 **A. Yes.**

20 Q. Okay. So you would think it's fair to
21 say that a big part of the director position is
22 collecting a lot of these statistics and
23 information and sharing it with justices,
24 right?

25 **A. Yes.**

1 Q. Do you remember filing an answer in this
2 lawsuit?

3 **A. Yes.**

4 Q. Who helped prepare that answer for you?

5 **A. Rachel Harmon and the Offices of the
6 Attorney General.**

7 Q. Anyone else assist you with that?

8 **A. No.**

9 Q. Was Ms. Harmon representing you at any
10 point during this lawsuit?

11 **A. She has not represented me, no.**

12 Q. And you reviewed that answer before it
13 was filed?

14 **A. Yes.**

15 Q. Along with your attorneys?

16 **A. Yes.**

17 Q. I will segue a little bit away from the
18 Advisory Commission and talk about the
19 Tennessee Judicial Conference Committees, which
20 is a part of this lawsuit, you'll recall.

21 **A. Okay.**

22 Q. For simplicity purposes, I'm going to try
23 to keep it simple and not say Advocacy
24 Commission, just say TJC committees, if that's
25 okay.

1 **A. Okay.**

2 Q. What is your understanding of the TJC
3 committees?

4 **A. They are committees of the Judicial
5 Conference. We support them in the same way we
6 do other committees, just administrative
7 support. So there's a staff member assigned to
8 -- I don't want to -- I'm not certain that it's
9 all, but most.**

10 Q. Right. And is your -- what is your
11 office responsible for? I mean, your office is
12 responsible for providing education for judges;
13 is that right?

14 **A. Yes.**

15 Q. Is your office responsible for providing
16 any kind of education to the Advisory
17 Commission?

18 **A. No.**

19 Q. Okay. But you would agree that judges do
20 serve on the Advisory Commission?

21 **A. Yes.**

22 Q. And non-judges serve on the Advisory
23 Commission?

24 **A. Yes.**

25 Q. Okay. But with the TJC committees, are

1 there any non-judges that serve on any of those
2 committees that you're aware of?

3 **A. There's a Bench Bar Committee, so there**
4 **would be non-judges on that committee, but I'm**
5 **not sure about others.**

6 Q. Yeah, and that's -- what's -- what's your
7 understanding of what that means, "bench bar,"
8 what does that typically mean?

9 **A. It's for joint programming, education**
10 **programming.**

11 Q. But --

12 **A. Between the bar associations and the**
13 **Court.**

14 Q. For simplicity purposes, does bench bar
15 mean you have some judges that are on a group
16 and then some non-judges, attorneys, who are in
17 the group?

18 **A. Yes.**

19 Q. And the Advisory Commission is a Bench
20 Bar Committee -- Commission, right?

21 **A. In the generic sense of the term, sure.**

22 Q. Yeah. Do you participate or serve on any
23 of these TJC committees?

24 **A. I participate in the Executive Committee,**
25 **which I think I actually serve on that**

1 **committee. I participate with the Court**
2 **Security Committee, the Weighted Caseload**
3 **Committee, Trust and Confidence Committee. I**
4 **think those are the only ones I've been**
5 **involved in.**

6 Q. Are you required by statute to be on any
7 of those committees?

8 **A. No.**

9 Q. Okay. Who makes the selection as to
10 whether or not you're going to be on a
11 committee or a commission, who makes that
12 determination?

13 **A. I don't know. I inherited all of that.**

14 Q. Have you ever asked Ms. Tate?

15 **A. No.**

16 Q. Do the justices make that decision?

17 **A. I don't think so.**

18 Q. Who would be making the decision?

19 **A. I think most likely the head of the TJC,**
20 **the president of the TJC.**

21 Q. Who is that a chief justice of the
22 Supreme Court?

23 **A. No.**

24 Q. Who is the head of the TJC?

25 **A. Currently it is Valerie Smith.**

1 Q. Okay. Is that position elected or
2 whatever by the people that are -- by the
3 members?

4 **A. By the membership.**

5 Q. Okay. So since you've been director, how
6 many of these various TJC meetings have you
7 been to?

8 **A. I would say four or five. Because most**
9 **of them meet during a conference and so I will**
10 **pop in.**

11 Q. Okay.

12 **A. Or I'm asked to join just to provide**
13 **information.**

14 Q. Does your office also help gain speakers
15 for CLE for the judges?

16 **A. Yes.**

17 Q. Okay. Is that something that you're
18 involved in or someone else in your office is
19 involved in?

20 **A. Someone else in my office.**

21 Q. Is that Deputy Director Harmon?

22 **A. I would say it's John Crawford, but I**
23 **wouldn't doubt that he consults her. He's not**
24 **an attorney, so I would not doubt that he would**
25 **consult Deputy Harmon.**

1 Q. Do you know how Mr. Crawford makes the
2 decisions to choose certain speakers for
3 education?

4 **A. I don't think he chooses them, I think he**
5 **might recommend to the Education Committee.**
6 **There's an Education Committee for TJC.**

7 Q. Do any of those committees of the TJC, do
8 they make rule recommendations, court rule
9 recommendations like the Advisory Commission?

10 **A. No.**

11 Q. Okay. And do you know if any of their
12 meetings are open or closed to the public?

13 **A. I don't know.**

14 Q. When you say you pop in, is that -- when
15 you say conference, are you talking about like
16 a TBA conference that happens to be taking
17 place at the same time as the TJC committee
18 meetings? What do you mean by that, you pop
19 in?

20 **A. So I attend all of the conferences for**
21 **our judicial trial courts -- State Judges**
22 **Conference, the General Sessions Conference,**
23 **the Municipal Judge Conference, I'll be going**
24 **to that here shortly. So I'm an attendant. So**
25 **if their committees are meeting, then I'll join**

1 **them.**

2 Q. Okay. Do you know if any of those
3 conference meetings that the judges have had,
4 have they ever been open to the public?

5 **A. Not that I'm aware of. Those conferences
6 are their Judicial Education Conference, so I
7 don't believe they're open to the public.**

8 Q. Okay. Is it your intention to provide --
9 well, are you going to provide any expert
10 testimony in this case or be designated as an
11 expert witness?

12 **A. I don't believe so.**

13 Q. Okay. Do you know if Deputy Director
14 Harmon would be doing that?

15 **A. I don't know.**

16 Q. Okay. Do you know if any of the
17 Tennessee Supreme Court justices will be doing
18 that?

19 **A. I don't know.**

20 Q. Okay.

21 MR. DOUGHERTY: I'll pass the
22 witness, Mike.

23 ///

24 ///

25 ///

1 notices, you had mentioned 30 days was a time
2 frame that you thought was reasonable to post a
3 public notice if a meeting was going to be
4 public; is that right?

5 **A. Well, I said I felt like that was pretty
6 standard. I don't know if that's reasonable.**

7 Q. Why would you feel like that's a standard
8 time frame?

9 **A. I can only draw on my experiences with
10 the Department of Health, and I know that our
11 notices for boards that were meeting in the
12 Department of Health was published in advance
13 and it was about a 30-day notice.**

14 Q. Would the AOC, as far as you know,
15 publish a public notice without permission of
16 the committee or chairperson?

17 **A. No.**

18 Q. Who -- the information contained within a
19 public notice, the public notices that you've
20 seen, what kind of information is included in a
21 public notice that you've seen?

22 **A. So date and time for a meeting. I've
23 seen -- I believe I've seen some with proposed
24 agenda or an agenda for the meeting. That's
25 what I recall.**

1 EXAMINATION

2 QUESTIONS BY MR. STAHL:

3 Q. Just a few questions, Director Long.

4 Do you personally as director of the AOC
5 control any of the conduct related to any
6 committee meetings that happen at the AOC?

7 **A. No.**

8 Q. Would you be able to tell a chairperson
9 of any committee how or what to do during their
10 meetings?

11 **A. No. Our interaction with the chairs is
12 limited to implementing what they desire.
13 That's our interaction with the chairs.**

14 Q. Has any member of your office, as far as
15 you know, ever told a committee or a commission
16 when or where to hold its meeting?

17 **A. No.**

18 Q. Are the commissions that are listed on
19 the AOC website either statutorily or otherwise
20 required to hold their meetings at the AOC?

21 **A. At the AOC?**

22 Q. (Nodding head.)

23 **A. I don't know the answer to that.**

24 Q. Okay. You're a -- your statement earlier
25 regarding counsel's question about public

1 Q. Okay. Would the AOC in any capacity
2 control the information on public notice
3 concerning the date and time of the meeting?

4 **A. No.**

5 Q. Would the AOC have the ability or in any
6 way control the proposed agenda of the meeting?

7 **A. No.**

8 Q. So the information you've seen on public
9 notices must come from someone outside the AOC?

10 **A. Yes.**

11 Q. And can you describe the AOC's role in
12 publishing the notice after it gets that
13 information?

14 **A. So this is where I'm not sure who handles
15 what, but I know more than likely the staff
16 liaison for whatever body we're talking about
17 would get that information, when is the next
18 meeting, what's the time, date, proposed
19 agenda, and then provide that most likely to
20 our communications team that then posts to our
21 website.**

22 Q. Do you have any reason to believe that
23 anybody within that process would change or
24 alter that information?

25 **A. Absolutely not.**

1 Q. Do you think anybody within that process
2 has the authority to change or alter that
3 information?

4 **A. No.**

5 MR. STAHL: That's all I have.

6
7 FURTHER EXAMINATION
8 QUESTIONS BY MR. DOUGHERTY:

9 Q. On that line of questioning, on those
10 public meeting notices that you've seen, is
11 there an AOC contact person listed?

12 **A. I didn't make note of that.**

13 Q. Would there be an AOC contact person
14 listed with e-mail and phone number if the
15 public has a question?

16 **A. I don't know. There could be.**

17 Q. Who would the public call if they had a
18 question about a public meeting notice that the
19 AOC put out?

20 **A. This is speculative, but I would say
21 Barbara Peck or our web master.**

22 Q. They would call someone at the AOC,
23 right?

24 **A. Yes.**

25 Q. Does the first amendment require the

ERRATA PAGE

1 I, MICHELLE LONG, having read the foregoing
2 deposition, Pages 1 through 158, do hereby certify
3 said testimony is a true and accurate transcript,
with the following changes (if any):

PAGE	LINE	SHOULD HAVE BEEN
6	_____	_____
7	_____	_____
8	_____	_____
9	_____	_____
10	_____	_____
11	_____	_____
12	_____	_____
13	_____	_____
14	_____	_____
15	_____	_____
16	_____	_____
17	_____	_____

21 _____
MICHELLE LONG

22
23 Notary Public

24 My Commission Expires: _____
25

1 Advisory Commission meetings to be open to the
2 public?

3 MR. STAHL: Object to the form, legal
4 conclusion.

5 **THE WITNESS: I know that's what's
6 argued in this case. I don't know.**

7 BY MR. DOUGHERTY:

8 Q. You don't know?

9 **A. I don't know.**

10 MR. DOUGHERTY: I have nothing
11 further.

12 MR. STAHL: Great. Do you want to
13 review the transcript or do you want to waive
14 signature?

15 MR. COKE: I'd like to review.

16 **THE WITNESS: Okay, we'd like to
17 review.**

18 THE REPORTER: Did you want to order
19 this?

20 MR. DOUGHERTY: Yes.

21 MR. STAHL: Yes, we want a copy of
22 it.

23 FURTHER DEPONENT SAITH NOT
24 (At 12:30 p.m. CST.)
25

REPORTER'S CERTIFICATE

1 STATE OF TENNESSEE
2 COUNTY OF SUMNER

3 I, JENNY CHECUGA, Licensed Court Reporter,
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5 Professional Reporter, hereby certify that I reported
6 the foregoing deposition of MICHELLE LONG by machine
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8 thereafter the same was reduced to typewritten form
9 by me.

10 I further certify that I am not related to
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