

Exhibit

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McCALEB

vs.

LONG

MICHELLE CONSIGLIO-YOUNG

November 16, 2023



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Examination By Mr. Dougherty	Page 5						
Examination By Mr. Stahl	73						
Examination By Mr. Dougherty	81						
<div> <div>1</div> <div>2</div> <div>3</div> <div>4</div> <div>5</div> <div>6</div> <div>7</div> <div>8</div> <div>9</div> <div>10</div> <div>11</div> <div>12</div> <div>13</div> <div>14</div> <div>15</div> <div>16</div> <div>17</div> <div>18</div> <div>19</div> <div>20</div> <div>21</div> <div>22</div> <div>23</div> <div>24</div> <div>25</div> </div> <div> <p>Page 2</p> <p>A P P E A R A N C E S</p> <p>For the Plaintiff:</p> <p>MR. M. E. BUCK DOUGHERTY, III Attorney at Law Liberty Justice Center 440 N. Wells Street, Suite 200 Chicago, IL 60654 (312)637-2280 bdougherty@libertyjusticecenter.org</p> <p>For the Defendant:</p> <p>MR. MICHAEL M. STAHL Attorney at Law Office of the Attorney General PO Box 20207 Nashville, TN 37202-0207 (615)741-3491 michael.stahl@ag.tn.gov</p> <p>For the Administrative Office of the Courts:</p> <p>MR. JOHN COKE Attorney at Law Administrative Office of the Courts 511 Union Street, Suite 600 Nashville, TN 37219 john.coke@tncourts.gov</p> </div>	<div> <div>1</div> <div>2</div> <div>3</div> <div>4</div> <div>5</div> <div>6</div> <div>7</div> <div>8</div> <div>9</div> <div>10</div> <div>11</div> <div>12</div> <div>13</div> <div>14</div> <div>15</div> <div>16</div> <div>17</div> <div>18</div> <div>19</div> <div>20</div> <div>21</div> <div>22</div> <div>23</div> <div>24</div> <div>25</div> </div> <div> <p>Page 4</p> <p>S T I P U L A T I O N S</p> <p>The deposition of MICHELLE CONSIGLIO-YOUNG was taken by counsel for the Plaintiff, at the offices of 500 Charlotte Avenue, Nashville, Tennessee, on November 16, 2023, for all purposes under the Tennessee Rules of Civil Procedure.</p> <p>All formalities as to caption, notice, statement of appearance, et cetera, are waived. All objections, except as to the form of the questions, are reserved to the hearing, and that said deposition may be read and used in evidence in said cause of action in any trial thereon or any proceeding herein.</p> <p>It is agreed that MICHELLE CESSNA, LCR, RPR, and Court Reporter for the State of Tennessee, may swear the witness, and that the reading and signing of the completed deposition by the witness are waived.</p> </div>						

* * *

MICHELLE CONSIGLIO-YOUNG,
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. Can you please state your name for the
record?

A. Sure, my name is Michelle
Consiglio-Young.

Q. And have you ever had your deposition
taken before today?

A. No.

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

A. Yes, sir.

Q. Okay. And you're prepared to answer the
questions that I ask of you today?

A. Yes, sir.

Q. Are you represented by counsel?

A. I am represented by the Attorney
General's Office and our general counsel.

Q. Okay. And I know that we have Mr. Stahl.
If you want to share his name on the record.

A. Oh, John Coke, our general counsel for
the Administrative Office of the Courts.

Q. Thank you. And I probably should have
mentioned that, you know, it's really important
when you're giving a deposition that we -- we
all get in habits, I do it myself, where we nod
or give nonverbal kind of nodding our heads, so
it's important that we give verbal statements
so she can pick up everything. Okay?

A. I understand.

Q. And, you know, any time you need to take
a break, we can do that. I don't anticipate
this going, you know, all day, probably not.
Half a day at the most. But if you do need a
break, we can take it at any time. The only
stipulation or caveat I would have is if I've
already asked a question that you go ahead and
answer it first before we take a break --

A. Sure.

Q. -- okay?

A. That's fine.

Q. All right. Where do you work?

A. I work at the Administrative Office of

the Courts.

Q. And what is your position at the AOC?

A. I am a division director of the
Intergovernmental Affairs Division within the
Administrative Office of the Courts.

Q. And can you explain a little bit about
the Intergovernmental Affairs Division, what do
they do?

A. Sure. I oversee several programs within
my division. One being legislative affairs for
the Administrative Office of the Courts.
Another being juvenile matters within the
Administrative Office of the Courts. We have
the three judge panel system within our
division and also the Court Approval Program
is also within my division, which deals with
juvenile matters.

Q. Okay. When did you start your position
with the AOC?

A. I came to the AOC January of 2015.

Q. And what was your title or role in
January of 2015?

A. It was assistant general counsel and
legislative liaison.

Q. And then so did you get promoted or have

a different position after that?

A. Yes. I kind of gone up the -- the ranks,
but yes, I got promoted -- gosh, what year was
that? 2018? 2019? 2019, I believe.

Q. So what was your new position in 2019
with the AOC?

A. The director of the Intergovernmental
Affairs Division, which was newly created in
2019.

Q. So that's your current position?

A. Correct.

Q. So you've been in that role approximately
four years?

A. Yes.

Q. And you said that's a new position, so
you're the first director of governmental
affairs?

A. Yes.

Q. Okay. And when you were assistant
general counsel from 2015 to 2019, who was the
general counsel at that point?

A. When I first started it was David Haines.
And then shortly thereafter Rachel Harmon
joined the AOC and became it -- the general
counsel.

1 Q. And now Ms. Harmon is the deputy
2 director; is that right?
3 **A. Correct.**
4 Q. Who do you report directly to?
5 **A. I report directly to Director Michelle**
6 **Long.**
7 Q. And do you have employees under you that
8 report directly to you?
9 **A. Yes.**
10 Q. I mean, you don't have to give all their
11 names unless there are only a couple. How many
12 -- how many roughly do you have --
13 **A. I have 11 total. But I have 3**
14 **supervisors that report directly to me, and**
15 **it's -- there are 8 that report to their**
16 **various supervisors.**
17 Q. What are the three supervisors' names?
18 **A. Charlie Baldwin, Stacy Lynch, and**
19 **Stephanie Etheridge.**
20 Q. Okay. So you don't report directly to
21 Deputy Director Harmon and she doesn't report
22 to you, correct?
23 **A. Correct, I do not report to her directly.**
24 Q. Before you came to the AOC in 2015, what
25 type of work did you do before then?

1 **A. I worked at the Attorney General's**
2 **Office.**
3 Q. In what capacity?
4 **A. I was an assistant attorney general in**
5 **the criminal division.**
6 Q. How long were you in that role?
7 **A. I was in that role two years.**
8 Q. So that takes us back to, like -- about
9 ten years to 2013, I guess?
10 **A. Correct.**
11 Q. Were you in private practice or did you
12 do anything before your position with the
13 Attorney General's Office?
14 **A. Before that I clerked for the Court of**
15 **Criminal Appeals for Judge Robert Wedemeyer.**
16 Q. Okay.
17 **A. And I had started that directly after law**
18 **school, so...**
19 Q. Well, let's go ahead and get into your
20 education. That's a good segue.
21 So where is your undergraduate degree
22 from and what year?
23 **A. I graduated from Boston University in**
24 **2005.**
25 Q. And then how about your JD?

1 **A. I graduated from University of Tennessee**
2 **College of Law in 2011.**
3 Q. Okay. And what was the date of your
4 first Bar admission?
5 **A. November 2011.**
6 Q. And that -- that's in Tennessee?
7 **A. Correct.**
8 Q. Are you admitted to any other state Bars?
9 **A. No.**
10 Q. How about any other court admissions that
11 you might hold?
12 **A. No. Just Tennessee.**
13 Q. Okay. Have you ever been formally
14 disciplined by the Tennessee State Bar
15 licensing authority?
16 **A. No.**
17 Q. And have you ever been convicted of a
18 crime?
19 **A. No.**
20 Q. Have you ever been a party to a lawsuit
21 before?
22 **A. No.**
23 Q. Okay. You told us a little bit about
24 your position as intergovernmental affairs.
25 Can you kind of go into a little more detail,

1 kind of what you do and how that relates to
2 your role on the Advisory Commission?
3 **A. Sure. You know, I oversee the**
4 **legislative process for the court system, which**
5 **is mainly the role that correlates with the --**
6 **the Advisory Commission and why I'm the staff**
7 **attorney/liaison for the AOC. And that is**
8 **because the rules package must go through the**
9 **legislative process to be approved. So it just**
10 **made sense within our office when liaisons were**
11 **changing to just add me to that so that I would**
12 **be aware of what was going on through the Rules**
13 **Commission and could carry that through the**
14 **legislative process which is required by**
15 **statute.**
16 Q. So do you also report to anyone over in
17 the legislative branch?
18 **A. No.**
19 Q. Okay. You're there and you're -- as I
20 understand it, and correct me if I'm wrong,
21 you're there to kind of facilitate the Advisory
22 Commission and its rules package with the
23 legislative body; is that right?
24 **A. That's correct.**
25 Q. And what does that look like -- and we'll

1 talk about meetings in a second. But what does
2 that look like on a day-to-day basis? Do you
3 have to have -- do you go to sessions, to
4 legislative session? Do you have to testify?
5 What does that look like?

6 **A. When legislature's in session, I do**
7 **attend daily on behalf of the court system to**
8 **various committee meetings, meetings with**
9 **legislators as requested and testimony as**
10 **requested within the Legislative Committee**
11 **meetings.**

12 Q. Do they ever request testimony from you?

13 **A. Yes.**

14 Q. And have you given testimony before the
15 legislative body?

16 **A. Yes, on a number of different topics. It**
17 **just varies depending on what's before the**
18 **Committee and what is of interest to the**
19 **legislators in that particular meeting.**

20 Q. Is that -- are those transcripts
21 available with the Tennessee legislative body
22 somewhere?

23 **A. Everything is filed online. They have a**
24 **pretty extensive record of all of the**
25 **Legislative Committees that occur within a**

1 **legislative session.**

2 Q. Do you recall when the last time you gave
3 any testimony before the legislature?

4 **A. It was this past legislative session,**
5 **which was in January. And that -- I guess the**
6 **last time was fairly close to the end of**
7 **session, which was in April of this past year.**

8 Q. Is the legislative session -- what is it,
9 January through what?

10 **A. Typically it's through April or May. It**
11 **just depends on when they -- how much business**
12 **they have and when they want to adjourn. This**
13 **past year ended in April.**

14 Q. The testimony that you gave in April, was
15 that related to the Advisory Commission?

16 **A. No.**

17 Q. What was that related to?

18 **A. It was related to legislation that we**
19 **sponsored, but -- that was filed within the**
20 **legislature, but it was not related to the**
21 **Rules Commission.**

22 Q. When you say "we," are you referring to
23 the AOC?

24 **A. Yes, I'm sorry, the AOC.**

25 Q. What type of legislation does the AOC

1 sponsor?

2 **A. We -- it varies. There are various**
3 **topics. A lot of times it has to do with**
4 **various procedures perhaps within the AOC. The**
5 **legislation that was the most talked about this**
6 **past year was adding new judges, so we do file**
7 **legislation requesting new judge positions when**
8 **we deem that necessary. And that was the topic**
9 **that I had testified on in April.**

10 Q. And is that kind of in an advocacy role
11 that you're advocating on behalf of the AOC
12 that we need -- the AOC needs new judges and
13 therefore you're making that request; is that
14 how that works?

15 **A. That's correct.**

16 Q. Do you recall when the last time you gave
17 testimony to the legislature about the Advisory
18 Commission?

19 **A. No. I -- I have not given testimony**
20 **about the Advisory Commission in my recent**
21 **memory.**

22 Q. Do you know if any members of the
23 Advisory Commission have ever given testimony
24 before the legislature?

25 **A. Typically it's the chair of the Advisory**

1 **Commission that will testify if requested;**
2 **however, that request does not -- I don't**
3 **believe in the past couple of legislative**
4 **sessions that they've requested any testimony**
5 **from any member of the Advisory Commission.**

6 Q. And we'll come back, as I said, a little
7 bit in a moment about -- we'll go more in depth
8 about the Advisory Commission.

9 When did you first hear about the lawsuit
10 that -- the reason you're here today to
11 testify?

12 **A. I don't recall the exact date, but it was**
13 **after it had been filed and when the Attorney**
14 **General's Office had notified our general**
15 **counsel about it. Our general counsel had**
16 **notified me and others within our office.**

17 Q. So who would that have been? Would that
18 --

19 **A. John Coke.**

20 Q. Okay. So you think that was fairly close
21 in time after the lawsuit was filed?

22 **A. Yes.**

23 Q. When -- do you recall -- or let me ask:
24 Are you aware that there's a preliminary
25 injunction that was issued in this case?

1 **A. Yes.**

2 Q. When did you first become aware of the
3 preliminary injunction?

4 **A. I became aware when it was filed after --**
5 **when the AG's Office had sent it to notify our**
6 **office.**

7 Q. Did Director Long notify you of the
8 preliminary injunction?

9 **A. No. General Counsel John Coke did.**

10 Q. And what was your understanding of the
11 preliminary injunction at that point?

12 **A. At that point it was that basically we**
13 **needed to have a -- a public option for the**
14 **next commission meeting that would occur, that**
15 **we need to either make that available via**
16 **livestream or in person.**

17 Q. And by "public option" you mean public
18 access, right?

19 **A. Correct.**

20 Q. Have you ever seen a copy of the
21 preliminary injunction?

22 **A. Yes.**

23 Q. And was that when you were first notified
24 of it when you got a copy?

25 **A. Yes.**

1 Q. Who provided you a copy of the
2 preliminary injunction?

3 **A. I believe that was our General Counsel**
4 **John Coke.**

5 Q. What was your understanding of the
6 preliminary injunction in terms of who it
7 applied to?

8 **A. My understanding is that it would apply**
9 **to the Commission as a whole, as well as our**
10 **office and the parties to the -- to the**
11 **lawsuit.**

12 Q. Director Long, would it apply to Director
13 Long?

14 **A. Yes.**

15 Q. So you would agree then it was a fairly
16 broad preliminary injunction in terms of who it
17 applied to?

18 MR. STAHL: Object to the form.

19 **THE WITNESS: Could you restate that?**

20 BY MR. DOUGHERTY:

21 Q. Yeah. I think you said, and I don't want
22 to put words in your mouth, that -- you said --
23 well, let me just ask you this way: The
24 preliminary injunction applied to the members
25 of the Commission, right?

1 **A. Yes.**

2 Q. Did the preliminary injunction apply to
3 Director Long?

4 MR. STAHL: Object to the form.

5 **THE WITNESS: I'm not sure if it**
6 **applies to her directly or it just with her**
7 **connection as far as her role as the director**
8 **of the Administrative Office of the Courts and**
9 **how it's -- our Advisor Commission is overseen.**

10 BY MR. DOUGHERTY:

11 Q. Did the preliminary --

12 **A. -- in our office.**

13 Q. I'm sorry, go ahead.

14 **A. Just within our office.**

15 Q. Did the preliminary injunction apply to
16 AOC employees?

17 MR. STAHL: Object to the form.

18 **THE WITNESS: As an employee of the**
19 **AOC, we would follow the preliminary injunction**
20 **requirements.**

21 BY MR. DOUGHERTY:

22 Q. Did the preliminary injunction apply to
23 the Tennessee Supreme Court justices?

24 MR. STAHL: Object to the form.

25 **THE WITNESS: I'm -- I'm not sure.**

1 BY MR. DOUGHERTY:

2 Q. Did the Tennessee preliminary -- excuse
3 me, let me strike that question.

4 Did the preliminary injunction apply to
5 Director Long's attorneys?

6 **A. As far as the Attorney General's Office**
7 **that who represents her, is that?**

8 Q. Just in general, just attorneys?

9 **A. I'm not sure if I can answer that.**

10 Q. Okay. When's the last time you've read
11 that preliminary injunction?

12 **A. I -- I did review it this week.**

13 Q. What other materials did you review in
14 preparation for this deposition?

15 **A. Just the preliminary injunction and the**
16 **original filing of -- of the lawsuit.**

17 Q. Did you review the first amended
18 complaint?

19 **A. Yes, uh-huh.**

20 Q. Okay. All right. Are you familiar --
21 let's go ahead and deal with the Advisory
22 Commission.

23 Are you familiar with the Advisory
24 Commission on the rules of practice and
25 procedure created by TCA 16-3-601?

1 **A. Yes, sir.**
 2 Q. And are commission members typically
 3 listed on the AOC website?
 4 **A. Yes.**
 5 Q. Describe your role with the Advisory
 6 Commission.
 7 **A. Sure. My role is the AOC liaison to the**
 8 **Advisory Commission. It's -- primarily it's**
 9 **logistical responsibilities. Like I had said**
 10 **earlier, mostly so that there is a staff member**
 11 **of the AOC that is aware of the commission that**
 12 **can assist them in just various scheduling**
 13 **needs or other types of needs for the**
 14 **Commission, as well as making sure that that --**
 15 **the ultimate rules package gets filed and is**
 16 **sought -- seen through the legislative process.**
 17 Q. Are you considered a member of the
 18 Advisory Commission?
 19 **A. No.**
 20 Q. So explain -- and you kind of talked
 21 about it -- what does a liaison do to the
 22 Advisory Commission? Which is what you are,
 23 right?
 24 **A. Yes, yes. Because the Advisory**
 25 **Commission is attached to the Commission of the**

1 **Administrative Office of the Courts for the**
 2 **logistical needs and is appointed by the**
 3 **Tennessee Supreme Court, the liaison role just**
 4 **ensures that their work is -- that they are**
 5 **able to do their work as far as having meeting**
 6 **space and just other, you know, requests from**
 7 **the Commission to be supportive of the chair**
 8 **and the reporter and just to be in**
 9 **communication with them throughout the rules**
 10 **package process and then ultimately to take**
 11 **that and make sure it gets approved through the**
 12 **legislature.**
 13 Q. Do logistical needs include providing
 14 public access to any meetings?
 15 **A. It -- it includes what is required or**
 16 **what's needed for the Commission.**
 17 Q. If meetings were to be open, let's say
 18 for example, would a logistical need that you
 19 would provide in making sure that the public is
 20 notified of a meeting?
 21 **A. I would be sure that that -- that the --**
 22 **whoever within our office that would need to be**
 23 **involved with that, that that would occur, yes.**
 24 Q. So it would occur through the AOC, right?
 25 **A. Yes.**

1 Q. And you used the term "logistical needs."
 2 Is that kind of like -- is it fair to say
 3 that's kind of the administrative support?
 4 **A. Yes, that's what I was going to say,**
 5 **logistical administrative can be**
 6 **interchangeable.**
 7 Q. Okay. What is your understanding --
 8 let's back up.
 9 How long have you served as a liaison to
 10 the Advisory Commission?
 11 **A. I was trying to think back on that and**
 12 **it -- it was either sometime in 2016 or 2017**
 13 **that I became the liaison for the -- the AOC**
 14 **with the Advisory Commission.**
 15 Q. And you started with the AOC in 2015?
 16 **A. Uh-huh.**
 17 Q. Do you recall --
 18 **A. Yes. Sorry, I didn't mean to --**
 19 Q. No, no, you're fine.
 20 Do you recall who the -- when you joined
 21 in 2015, do you recall who the liaison at that
 22 time was for the AOC -- excuse me, for the
 23 Advisory Commission?
 24 **A. Yes, her name is Jeana Hendrix, and she**
 25 **was Assistant General Counsel with the AOC at**

1 **the time.**
 2 Q. Do you recall when you joined in 2015
 3 when Jeana Hendrix was the liaison, do you know
 4 if any Advisory Commission meetings were open
 5 to the public?
 6 **A. I don't recall specifically, but there**
 7 **were open meetings at that time, I believe.**
 8 **But I wasn't involved then, so I couldn't say**
 9 **definitively.**
 10 Q. So when you joined, you recall that there
 11 were open Advisory Commission meetings?
 12 **A. Yes.**
 13 Q. And explain, how do you recall that?
 14 What do you recall about those open meetings?
 15 **A. I don't recall specifics, it's -- I just**
 16 **recall my involvement as far as when the rules**
 17 **package was completed that I would then take**
 18 **it, you know, to the legislator -- to the**
 19 **legislature for that approval process. So I**
 20 **would sit in on meetings here and there just to**
 21 **have an understanding of the particular rules**
 22 **package for that year.**
 23 Q. So even before you became a liaison to
 24 the Advisory Commission you sat in on Advisory
 25 Commission meetings?

1 **A. Yes.**
 2 Q. What years were -- were those?
 3 **A. 2015, 2016.**
 4 Q. Were -- and you say they were open to the
 5 public. Were they open to the public via
 6 livestreaming or in person, how did that work?
 7 **A. I don't recall specifically which method,**
 8 **because I was not the liaison at the time.**
 9 Q. Well, I mean, do you recall people from
 10 the public sitting around a conference room?
 11 I'm just trying to understand, do you recall
 12 anything like that?
 13 **A. I'm sorry, I just don't remember.**
 14 Q. Assuming that the -- well, you say those
 15 meetings were open to the public, right?
 16 **A. As far as I can recall, there were -- was**
 17 **an open option for the meetings.**
 18 Q. Do you ever recall seeing a public
 19 meeting notice in advance of one of those
 20 meetings that you attended?
 21 **A. I do recall some being on our website,**
 22 **but I couldn't tell you specifically which**
 23 **meeting.**
 24 Q. Sure. Would -- would Jeana Hendrix be
 25 the AOC person responsible for generating that

1 public meeting notice at that point?
 2 **A. I do not know if she specifically was the**
 3 **one responsible or if there was another person**
 4 **in the office at the time. I just couldn't**
 5 **tell you definitively.**
 6 Q. But definitively it would have been some
 7 AOC employee, right?
 8 **A. I believe it would have, but because it**
 9 **wasn't me at the time, I -- I can't tell you**
 10 **for sure.**
 11 Q. Was it announced at the meetings that you
 12 were at that were open to the public that it
 13 was open to the public? I mean, was there some
 14 kind of communication on the record, do you
 15 recall?
 16 **A. I don't recall, I'm sorry.**
 17 Q. Okay. Who was the chief justice in --
 18 during this time period that you recall these
 19 open meetings, do you know? Do you recall who
 20 the chief justice was?
 21 **A. Justice Lee was the chief justice when I**
 22 **had started the AOC. And she was the chief**
 23 **justice for the first year, so that was there.**
 24 **I don't know if that answers your question.**
 25 Q. Okay. Did you recall who the chair was

1 at that point during those first years of your
 2 AOC employment?
 3 **A. I'm sorry, I just don't remember off the**
 4 **top of my head.**
 5 Q. So when you became the liaison, did
 6 Ms. Hendrix move on to something else? What
 7 did she do?
 8 **A. There was just a shift within our office**
 9 **of various roles and duties. And at the time**
 10 **I -- because I had taken on the legislative**
 11 **roles that there was just a -- a change made to**
 12 **put me in that liaison role and move her to**
 13 **other roles. But I couldn't say specifically**
 14 **what her roles were at that time.**
 15 Q. So let's fast forward a little bit. You
 16 go on the Advisory Commission. What year was
 17 that again, please?
 18 **A. It was either 2016 or 2017. I'm sorry I**
 19 **don't remember exactly.**
 20 Q. When you started in -- as the liaison on
 21 behalf of the AOC for the Advisory Commission,
 22 were meetings open at this point to the public?
 23 **A. Yes.**
 24 Q. Were you responsible for putting out any
 25 advanced public meeting notices?

1 **A. It varied because of the various**
 2 **different people who worked in our office at**
 3 **the time. However, I did notify the**
 4 **communications division or if there was another**
 5 **-- I think it had been a paralegal at the time**
 6 **that had posted notices before. It just kind**
 7 **of varied based on the people at the office and**
 8 **what roles they were in, but I -- I would -- I**
 9 **do recall requesting, you know, the notice to**
 10 **be put on our website prior to meeting, yes.**
 11 Q. You did that as a liaison?
 12 **A. I would -- I told -- I would be sure to**
 13 **relay that information to those in our office**
 14 **who would post that information.**
 15 Q. And would -- who was the director of the
 16 AOC at that point?
 17 **A. It was Deborah Taylor Tate.**
 18 Q. And did you report directly to Ms. Tate?
 19 **A. At that time I reported to our general**
 20 **counsel, who then was Rachel Harmon. And then**
 21 **that was my direct -- my direct report was to**
 22 **her, so...**
 23 Q. So who assigned you to make sure that
 24 public meeting notices got posted? Was that
 25 Harmon or someone else?

1 **A. It -- it was our General Counsel Rachel**
 2 **Harmon that made the changes of who would be**
 3 **the liaison to the Commission.**
 4 Q. Do you recall in those public meeting
 5 notices that was posted then was there ever a
 6 name of the AOC employee that was provided for
 7 the public to contact?
 8 **A. In the public meeting notices, them**
 9 **specifically I cannot recall that; however, on**
 10 **our website we do have and have consistently**
 11 **had the AOC liaison name on the commission page**
 12 **on our website.**
 13 Q. On the commission page of members?
 14 **A. Yes.**
 15 Q. Okay. In terms of public meeting
 16 notices, if one went out, let's say, five or
 17 ten years ago, would it still be on the AOC
 18 website?
 19 **A. That is more of an IT question. But if**
 20 **it -- if there were records kept of it, then**
 21 **yes, there would be a -- a record of the ones**
 22 **that were posted.**
 23 Q. Do you know how the Commission is
 24 appointed, the members?
 25 **A. I do. I know that they are appointed by**

1 **the Tennessee Supreme Court.**
 2 Q. And are there attorneys in private
 3 practice that are members of the Advisory
 4 Commission?
 5 **A. Yes.**
 6 Q. Are there government attorneys that are
 7 members of the Advisory Commission?
 8 **A. Yes.**
 9 Q. Are there law school faculty
 10 attorneys/attorneys that are members of the
 11 Advisory Commission?
 12 **A. Currently not members, but there --**
 13 **there's a reporter.**
 14 Q. What is the reporter's role on the
 15 Advisory Commission?
 16 **A. The reporter keeps the official records**
 17 **of the Advisory Commission's business.**
 18 Q. And so, you as the liaison, try to help
 19 me distinguish your role from the reporter's
 20 role.
 21 **A. It -- I do not keep the minutes or the --**
 22 **any record of what occurs in those meetings,**
 23 **that is up to the reporter. That's within the**
 24 **reporter's role.**
 25 **My role is -- compared to the reporter is**

1 **purely administrative. Just to be sure that**
 2 **the reporter has any information as far as**
 3 **meeting space or Zoom links, access to the**
 4 **meeting for the members just to be sure that**
 5 **that reporter has the information that they**
 6 **need.**
 7 Q. Are there minutes -- are they ever posted
 8 publicly from the meetings?
 9 **A. Not to my knowledge.**
 10 Q. Where are they kept?
 11 **A. They are housed within the Tennessee**
 12 **Supreme Court building and they are -- there's**
 13 **electronic records. And I'm not sure if there**
 14 **are paper records still or not, but that was**
 15 **something that has -- a duty that's been within**
 16 **the Tennessee Supreme Court building with the**
 17 **Appellate Court clerk's office, I believe.**
 18 Q. When you say there are electronic records
 19 of minutes of the Advisory Commission, what do
 20 you mean?
 21 **A. Just the meeting records which would be**
 22 **their agendas, minutes, any attachments any**
 23 **proposals from the members. Those would be**
 24 **included in the -- in the records that -- for**
 25 **each Commission meeting.**

1 Q. Have minutes been kept for every meeting
 2 since you've been liaison?
 3 **A. Yes.**
 4 Q. Is that a requirement in the statute or
 5 is that just practice?
 6 **A. I cannot recall if that is a statutory**
 7 **requirement, but it has been the practice.**
 8 Q. Okay. So even prior to you being a
 9 liaison, the meetings that you did attend, did
 10 you observe someone keeping minutes?
 11 **A. Yes, the -- there has always been a**
 12 **reporter of the Advisory Commission keeping**
 13 **minutes and other documentation.**
 14 Q. How is the reporter selected?
 15 **A. The reporter is selected by the Tennessee**
 16 **Supreme Court.**
 17 Q. Do the members -- like for example, let's
 18 say there's a meeting, do they look back at the
 19 proposed minutes and then approve them or how
 20 does that work? How do the minutes get
 21 approved?
 22 **A. The Commission approves the minutes from**
 23 **the prior meeting at wherever their current**
 24 **meeting is. So if they meet in June, they are**
 25 **approving the minutes of the March meeting.**

1 Q. Okay. Are there members of the judiciary
2 that are on the Commission?
3 **A. They are not members, voting members, but**
4 **they are liaisons for their particular court.**
5 Q. What's a voting member?
6 **A. They are not voting members.**
7 Q. I understand. I'm just saying what is a
8 voting member?
9 **A. Oh, a voting member is the official**
10 **members appointed by the Tennessee Supreme**
11 **Court pursuant to their ability via statute to**
12 **do that.**
13 Q. When the Tennessee Supreme Court appoints
14 someone, do they -- in an order, for example,
15 do they say that they're a member or do they
16 say that they're a voting member?
17 **A. I don't recall. I would have to look at**
18 **one of their orders to -- to say that**
19 **specifically. I'm not sure.**
20 Q. Does the statute make a distinction
21 between a member of the Advisory Commission and
22 a voting member?
23 **A. I -- I do not know.**
24 Q. And does the statute provide for the term
25 of those members that are appointed? Are you

1 aware of how that works?
2 **A. I would need to brush up on the statute**
3 **language exactly, I can't recall.**
4 Q. Okay. And so, does the Advisory
5 Commission have regular meetings?
6 **A. Yes.**
7 Q. And during your experience as liaison,
8 what's been the typical cadence of meetings
9 each year?
10 **A. It's quarterly.**
11 Q. And was it quarterly in 2015 and 2016
12 prior to you becoming liaison?
13 **A. As far as I can recall, yes.**
14 Q. What -- and you say quarterly. Can you
15 explain what that means?
16 **A. Sure. At least recently and I do believe**
17 **prior, say the Commission has a meeting, for**
18 **example, March, June, September and December**
19 **each year.**
20 Q. And as the -- do you know how long that's
21 been in practice, that March, June, September,
22 December cadence?
23 **A. It has varied slightly over the years.**
24 **Sometimes it will be February rather than March**
25 **and sometimes it will be May rather than June,**

1 **depending on the members' availability**
2 **sometimes.**
3 **But as far as I can recall back to 2017,**
4 **2016, it was in that March, June, September**
5 **vicinity. But like I said, it may be February,**
6 **May. You know, just kind of depending.**
7 Q. In 2022 did the Advisory Commission meet
8 in March?
9 **A. As far as I recall, yes. However, I**
10 **would need to look to make sure that wasn't a**
11 **meeting that, you know, got cancelled or that**
12 **they didn't have.**
13 Q. Did the Advisory Commission -- let's ask
14 it a different way.
15 Did they have quarterly meetings in the
16 calendar year 2022?
17 **A. Yes.**
18 Q. Did you attend all four of those 2022
19 meetings?
20 **A. I believe I did. But to confirm, I would**
21 **have to look at my calendar to be sure I didn't**
22 **miss one. But I believe I was at all four of**
23 **those. I'm typically at the meetings unless**
24 **I'm scheduled out of town or there's another**
25 **conflict. But I do try to make those priority.**

1 Q. And to the best of your recollection, in
2 2022 were the four meetings in March, June,
3 September and December?
4 **A. Yes.**
5 Q. And were the dates in 2022, was it the
6 second Friday in March, June, September and
7 December when they met?
8 **A. Those were the dates -- that second**
9 **Friday of the month was the date set by the**
10 **chair. And unless there was some conflict,**
11 **those would have been the dates that they met.**
12 Q. So that -- you recall that would have
13 been the case in 2022?
14 **A. Yes.**
15 Q. And was the chair in 2022 Mr. Bulso?
16 **A. Yes, Gina Bulso.**
17 Q. And in 2023, which is the year we're in
18 --
19 **A. Uh-huh.**
20 Q. -- had there been quarterly meetings of
21 the Advisory Commission?
22 **A. There were -- I do know there was a March**
23 **and a June meeting. And then I was out on**
24 **maternity leave starting August.**
25 Q. Did you attend the March 2023 Advisory

1 Commission meeting?
 2 **A. Yes.**
 3 Q. And was it open or closed to the public?
 4 **A. It was closed.**
 5 Q. And then the -- did you attend the
 6 June 2023 Advisory Commission meeting?
 7 **A. Yes.**
 8 Q. Was it open or closed to the public?
 9 **A. It was open.**
 10 Q. Why was it open?
 11 **A. It was open due to the preliminary**
 12 **injunction order.**
 13 Q. And do you recall seeing a public meeting
 14 notice in advance of that June meeting?
 15 **A. There was a public meeting notice that**
 16 **posted on our website, the AOC website.**
 17 Q. Is that public meeting notice still to
 18 the best of your recollection posted?
 19 **A. I believe it should still be there, yes.**
 20 Q. Is that -- did that public meeting
 21 notice, is that something that you kind of
 22 oversaw or how did that take place?
 23 **A. I did inform our communications division**
 24 **to post -- to one, create the link for the**
 25 **livestreaming for that meeting, as well as**

1 **posted on the website.**
 2 Q. Were any of the 2022 quarterly meetings
 3 open to the public?
 4 **A. They were not.**
 5 Q. Okay. And when did you go on maternity
 6 leave?
 7 **A. It was August 21st of this year.**
 8 Q. So was there a September Advisory
 9 Commission meeting of 2023?
 10 **A. I believe there was one scheduled, but I**
 11 **was not -- I was on leave when it was scheduled**
 12 **to occur.**
 13 Q. Do you know if that meeting occurred or
 14 not?
 15 **A. I believe it did not occur.**
 16 Q. And do you know why it didn't occur?
 17 **A. I don't.**
 18 Q. Did anyone inform you that -- that it
 19 didn't occur because they weren't able to get
 20 out a public meeting notice in time?
 21 **A. No.**
 22 Q. Okay. You've not had any discussion with
 23 anyone at the AOC about that?
 24 **A. No, I have not.**
 25 Q. How about have you had any discussion

1 with any of the Advisory Commission members
 2 about that?
 3 **A. No.**
 4 Q. Is there -- are you aware of another
 5 meeting in 2023 besides March and June? Is
 6 there one upcoming that you're aware of?
 7 **A. There is a December meeting upcoming. I**
 8 **believe it's December 8th.**
 9 Q. And does that follow that second Friday
 10 cadence, quarterly cadence?
 11 **A. Yes.**
 12 Q. Is there a public meeting notice of the
 13 December upcoming meeting on the AOC website?
 14 **A. Yes, I believe that it has been posted.**
 15 Q. Have you seen that or you just heard
 16 that? How do you know?
 17 **A. I did check it because I will be back**
 18 **from maternity leave for that meeting, and so I**
 19 **wanted to check to see if there was one up --**
 20 **if it had been put on the website, and it is on**
 21 **there.**
 22 Q. Did you actually oversee that while you
 23 were on maternity leave or did you just check
 24 it just to make sure?
 25 **A. I did not facilitate that -- the creation**

1 **of that, but I was aware that it had happened**
 2 **and I checked it to be sure it was posted.**
 3 Q. Do you know who facilitated that public
 4 meeting notice at the AOC office?
 5 **A. It was both our General Counsel John Coke**
 6 **and Charlie Baldwin, who has assumed my role**
 7 **essentially while I've been out on leave.**
 8 Q. Let's kind of backtrack a little bit.
 9 So I think you said 2015 to 2016 you sat
 10 in on some meetings?
 11 **A. Uh-huh.**
 12 Q. And the -- your recollection, they were
 13 open to the public?
 14 **A. Yes.**
 15 Q. At what point did those Advisory
 16 Commission meetings become closed to the
 17 public?
 18 **A. I believe it was 2018.**
 19 Q. I'm sorry?
 20 **A. 2018. It was after I had taken over as**
 21 **liaison. There was -- meetings were open to**
 22 **the public, as far as I can recall. And there**
 23 **was a meeting that we had that there was a**
 24 **member of the public who had attended in person**
 25 **who was there and became unruly and combative**

1 with the Commission. And after that, the --
2 the Tennessee Supreme Court took the matter up
3 for discussion and then the meetings were
4 closed after that incident.

5 Q. And what -- where was this particular
6 meeting in 2018?

7 A. I wish I could recall the exact date. I
8 do believe it was 2018 and the meeting was at
9 the Administrative Office of the Courts, it was
10 in our conference room. And members of the
11 public would come periodically, sometimes we
12 didn't have any and sometimes some would
13 request to come.

14 And that particular meeting there was a
15 member of the public who attended, and he was
16 interested in a topic that was being discussed
17 by the Commission. And during that discussion,
18 he was speaking kind of out of term, you know,
19 without being called on or outside of the
20 public comment period that was allowed and
21 essentially became very assertive with the
22 members and -- and the meeting was stopped and
23 he was asked to leave.

24 Q. Do you recall how many members of the
25 public were at that particular meeting in 2018?

1 A. I believe it was just that gentleman and
2 his son.

3 Q. Do you recall his name?

4 A. I don't. I'm sorry.

5 Q. When you say "combative," do you mean --
6 what do you mean? Was it verbal combativeness
7 --

8 A. Yes.

9 Q. -- or physical?

10 A. It was verbal. He did leave his chair --
11 or, you know, get up from his chair while he
12 was having this discussion, which kind of
13 escalated the -- the tone that was going on in
14 there in his interaction with the members. So
15 it -- yeah, it just became more of an
16 aggressive action on his part. Clearly he was
17 upset with a topic that was being discussed.

18 Q. Do you recall the topic?

19 A. No.

20 Q. Do you recall who the chair was at that
21 time at that meeting?

22 A. I believe the chair was Allen Wade then.

23 Q. Is Mr. Wade currently a member on the
24 Advisory Commission?

25 A. Yes.

1 Q. Were there four quarterly meetings in
2 2018?

3 A. Yes. As far as I remember there were.

4 Q. And you were at this meeting in 2018?

5 A. I was at that meeting, yes.

6 Q. Who was the chief justice of the Supreme
7 Court at that time in 2018?

8 A. It was Justice Jeff Bivins at that time.

9 Q. So did the Chairman Wade ask this person
10 that was being verbal -- verbally combative to
11 leave? Did he -- did the person leave?

12 A. I don't recall who exactly asked him to
13 leave; however, he was asked to leave. We did
14 have to have several people help escort him
15 out. And I can't remember if security was
16 called at that meeting or not. I -- I do
17 believe that building security was made aware.

18 Q. Do you recall if any formal charges,
19 criminal charges were brought against this
20 person?

21 A. I -- I do not believe that there were
22 formal criminal charges.

23 Q. So the person that was verbally combative
24 was never prosecuted to the best of your
25 recollection?

1 A. Correct, I do not believe that he was.

2 Q. And so, I guess, was there a member of
3 the Tennessee Supreme Court that was attending
4 that particular meeting?

5 A. Yes.

6 Q. And who was that?

7 A. It was Justice Holly Kirby.

8 Q. So Justice Kirby was the Supreme Court
9 liaison on the Commission in 2018?

10 A. She was.

11 Q. Justice Kirby is now the Chief Justice of
12 the Supreme Court?

13 A. Yes, she is.

14 Q. So you said something about the -- the
15 justices at that point, they made the call,
16 they made the decision to close meetings.
17 Explain what -- explain what happened after
18 that.

19 A. After the meeting where the person got
20 combative -- and Justice Kirby was in
21 attendance in that meeting, so she had seen it
22 firsthand, the -- as far as I am aware, she
23 took that matter back to the Supreme Court for
24 discussion, and we at the AOC were told that
25 the meetings would no longer be open after

1 that. And that was really my interaction with
2 that. They were -- I was informed that they
3 would be closed.

4 Q. How were you told? How were the members
5 of the Commission told that from now on they
6 were going to be closed, the meetings?

7 A. I don't recall exactly. I do know that
8 if our General Counsel Rachel Harmon at the
9 time had told me that there was no need to put
10 public notice out because they were going to be
11 closed the next meeting after that incident.
12 And I cannot recall if Justice Kirby told the
13 members directly or if a member of our office
14 told them that we -- that they would be closed.
15 I just don't remember exactly.

16 Q. But that decision would have come from
17 either the justices or the AOC office to the
18 Advisory Commission?

19 A. One of the two, yes, would have told
20 either the Commission as a whole or the chair
21 and the chair would have relayed that to the
22 Commission.

23 Q. So the Chair, Mr. Wade, didn't make that
24 decision?

25 A. No.

1 Q. Did -- was it reported, do you recall,
2 that meetings were going to be closed and
3 formally in the minutes?

4 A. I do not recall. I would have to look
5 back at the minutes to see if they were -- if
6 there was any mention.

7 Q. Where are the minutes kept?

8 A. Like I had said earlier, they're housed
9 within the Tennessee Supreme Court building
10 overseen by the Appellate Court Clerk's Office,
11 so there is -- whether they're electronic or
12 paper filed.

13 Q. And the clerk is James Hivner, I believe,
14 right?

15 A. Yes.

16 Q. And Mr. Hivner is a member of the
17 Advisory Commission?

18 A. Yes. I just couldn't recall if he was a
19 voting member or not voting member. He is on
20 the Commission.

21 Q. Did they have a distinction between
22 voting members and members when you first
23 became liaison?

24 A. I'm not sure if there was a formal
25 distinction, but the judge liaisons are members

1 but they don't -- they don't have a vote. So
2 sometimes the terminology "member," "voting
3 member" would be used just to distinguish,
4 okay, we're having votes and the voting members
5 would be the ones participating; however,
6 the -- like for example, the judicial members
7 are members of the court -- of the Commission,
8 they just don't vote on the matters that they
9 are -- that's presented within that commission.

10 Q. I -- I may not -- you may have answered
11 the question, I'm just not quite clear. Do you
12 know definitively when this voting member
13 versus member, when that became part of the
14 culture of the Advisory Commission?

15 A. No. I wouldn't say that there is a
16 culture of that, it's more just a -- the
17 Commission looks toward the judicial members
18 just for insight into various proposals or just
19 kind of on-the-ground experience within the
20 courtroom.

21 Q. Okay. That distinction is not made on
22 the AOC website, though, it list members,
23 right?

24 A. It lists members, and I believe it lists
25 the -- I know it lists the judge members, but I

1 believe it says for that the court, the various
2 courts that they're members -- that they
3 represent on the Commission.

4 Q. Does it say courts or does it just say
5 judicial liaisons?

6 A. It may just say judicial liaisons, but I
7 believe their titles have what their judge --
8 which court they're on.

9 Q. Does it make a distinction on the AOC
10 website between voting members and members?
11 And if you don't know, that's okay.

12 A. I should know, but I do not recall.

13 Q. Did you create the list of members that
14 are on -- that's on the website?

15 A. No.

16 Q. Did someone that you oversee or supervise
17 create that document?

18 A. There is an employee within our office
19 that maintains and creates all the rosters for
20 the various court commissions; however, that
21 person -- I do not oversee that person.

22 Q. So up until that point of 2018 when the
23 one individual became verbally combative, had
24 there been any other problems with the Advisory
25 Commission meetings being open to the public

1 that you saw?

2 **A. Not that I experienced, no.**

3 Q. Was there any discussion at that point in
4 2018 when that incident happened about having
5 the public not physically be present but to
6 view it by any type of livestreaming?

7 **A. I was not privy to those discussions or
8 involvement of them.**

9 Q. Was the Advisory Commission doing
10 livestreaming in 2018?

11 **A. I do not believe so. We did have option
12 for members to join virtually if needed;
13 however, majority of the people then would
14 come -- would travel to the AOC office here in
15 Nashville and majority were in person.**

16 Q. So those meetings where everybody got
17 together at the AOC office --

18 **A. Uh-huh.**

19 Q. -- was that in 2017?

20 **A. Yes.**

21 Q. 2015?

22 **A. As far as I can recall.**

23 Q. 2016?

24 **A. That was the norm prior to 2020.**

25 Q. Okay. That -- I was going to go into

1 that.

2 **A. Uh-huh.**

3 Q. So it -- did that coincide with COVID
4 when the Advisory Commission meetings then went
5 by virtual?

6 **A. Yes, when all the COVID restrictions
7 occurred and we were still having meetings,
8 they were a hundred percent virtual because of
9 what had occurred in 2020. But that was when
10 it shifted to a hundred percent virtual. Prior
11 to that, they were in person.**

12 Q. So now from COVID on, the Advisory
13 Commission itself, they meet virtually, right?

14 **A. It has continued to be virtual since the
15 2020 meetings, yes.**

16 Q. Was there ever discussion about let's go
17 back to open meetings virtually since we
18 wouldn't have a problem with someone
19 interrupting?

20 **A. There were not any discussions prior to
21 this lawsuit within the Commission that I
22 recall.**

23 Q. That issue never came up?

24 **A. It just didn't come up, correct.**

25 Q. If we need to take a break --

1 **A. No I'm okay.**

2 (WHEREUPON, an off-the-record
3 discussion was held.)

4 BY MR. DOUGHERTY:

5 Q. How is that livestreaming working with
6 Advisory Commission meetings kind of post
7 COVID?

8 **A. Livestreaming or the virtual meetings
9 with the members?**

10 Q. Why don't you -- I'm using the term. Why
11 don't you tell me what do you understand by
12 virtual meetings? What does that mean?

13 **A. So since 2020 we've had meetings via
14 Zoom. So our office would generate the Zoom
15 link and send it to the members. The Zoom link
16 typically had not been something that's been
17 given out other than to the members.**

18 Q. Right.

19 **A. And that's all that was generated was the
20 Zoom link sent out to the members. Post the
21 preliminary injunction, we did generate a
22 livestreaming link for this past June -- at
23 least when I -- before I went on leave it was
24 for the June meeting, which was the meeting --
25 the only meeting it would apply to post the**

1 **preliminary injunction based on the timing,
2 so...**

3 Q. So to the best of your knowledge, post
4 preliminary injunction, there's only been one
5 meeting that's been open to the public by
6 livestreaming and that was in June?

7 **A. Correct.**

8 Q. And public meeting notice to the best of
9 your recollection has already been posted in
10 advance of the December meeting; is that right?

11 **A. Yes.**

12 Q. And so, that will be the second post
13 preliminary injunction meeting that will be
14 open to the public?

15 **A. Yes.**

16 Q. And you will be in attendance at the
17 December one?

18 **A. That is the plan.**

19 Q. In terms of your office, the AOC and what
20 you do with providing administrative support,
21 was there any additional labor or work or cost
22 associated with providing the Zoom link to the
23 public for the June meeting?

24 **A. The livestreaming link --**

25 Q. Yes.

1 **A. -- to the public? As far as cost, no.**
 2 **We did need to enlist a member of our**
 3 **communications division to create that because**
 4 **the way that the livestreaming is set up is**
 5 **outside of my division or the Advisory**
 6 **Commission, so the communications division**
 7 **within our office sets all that up. And I --**
 8 **one of the employees there I had contacted to**
 9 **create a livestreaming link for it.**

10 Q. To the best of your recollection,
 11 providing that livestreaming link to the
 12 public, did that -- is that going to cost the
 13 AOC more funds than if they did not provide
 14 livestreaming to the public?

15 **A. To my knowledge, no. However, it does**
 16 **require the use of a communications division**
 17 **employee that was previously not involved with**
 18 **the commission meetings.**

19 Q. So that -- and you do that as the -- in
 20 your role as the liaison?

21 **A. I do communicate with the communications**
 22 **department -- division employee.**

23 Q. Okay. What goes on in the Advisory
 24 Commission meeting? What's the purpose of the
 25 Advisory Commission?

1 **A. The purpose is to discuss rule -- court**
 2 **rule proposals and/or needs and make**
 3 **recommendations of possible changes to the**
 4 **court.**

5 Q. Do they -- does the Advisory Commission
 6 discuss and make potential rule recommendations
 7 regarding the criminal rules and procedure in
 8 Tennessee?

9 **A. Yes. If that is a topic that comes up**
 10 **and is requested or -- by a member of the**
 11 **public or another member of the government or**
 12 **member of the Commission, they would discuss**
 13 **the rules of criminal procedure and make**
 14 **recommendations as to changes if there are any**
 15 **to the Court.**

16 Q. What about proposed recommendations to
 17 the civil rules of procedure, does that come
 18 up?

19 **A. Yes.**

20 Q. What about the rules of appellate
 21 procedure?

22 **A. Yes.**

23 Q. What about the rules of evidence?

24 **A. Yes.**

25 Q. And what about the juvenile rules of

1 procedure?

2 **A. Yes, occasionally.**

3 Q. So is it fair to say that those are the
 4 five categories of proposed rules that the
 5 Advisory Commission discusses?

6 **A. Yes, those are the five.**

7 Q. Are there any more other than those five?

8 **A. No.**

9 Q. Okay. Let's -- walk me through, in
 10 general, how this happens in terms of the
 11 proposed rules -- and my understanding, and you
 12 can tell us, at some point there's a -- there's
 13 a public comment period and then at some point
 14 there's -- but you've referred to the rules
 15 package?

16 **A. Uh-huh.**

17 Q. And at some point the legislature votes
 18 on it. So can you just kind of roughly explain
 19 that process?

20 **A. Sure. It typically goes for a calendar**
 21 **year, so there is -- the June meeting would be**
 22 **the last meeting that rules -- proposed rules**
 23 **would be sent to the Supreme Court for**
 24 **consideration. So from the September meetings**
 25 **to the June meetings would be your -- your year**

1 **of what would be considered in a rules package**
 2 **for -- that would be sent to the Supreme Court.**

3 Q. And that's because the Tennessee
 4 government cycle is July through June; is that
 5 the reason?

6 **A. It probably was based on that at some**
 7 **point, but it does also coincide with being**
 8 **able to have public comment and then having a**
 9 **rules package for January enough time to be --**
 10 **for the consideration in there. So that is --**
 11 **for the rules I think may be more the reason**
 12 **why it goes -- the September meeting would be**
 13 **the start of the new package and June would be**
 14 **the end.**

15 Q. So and that's because the general
 16 assembly comes in January, right?

17 **A. Correct.**

18 Q. Okay. Go ahead, I didn't mean to
 19 interrupt.

20 **A. No, no problem.**

21 **So once the rule -- Advisory Commission**
 22 **has settled on proposals, they -- that is**
 23 **compiled, is sent to the attorneys for the**
 24 **Supreme Court, who are also liaisons on the --**
 25 **on the Commission, they will make sure that**

1 everything is cohesive and together. They send
2 that to the Supreme Court for consideration as
3 far as the recommendations.

4 The Supreme Court will take the
5 recommendations and they may add or subtract or
6 whatnot, but they will then put out those
7 recommendations for public comment. And
8 there's always a public comment period that --
9 it varies, but it's -- typically it's not less
10 than 60 days. There's always a comment period
11 for the public.

12 And then the Supreme Court gets those
13 comments back. They take all that into
14 consideration, and they file an order of
15 proposed rules for that -- we call it the rules
16 package. I mean, that may not -- it's not more
17 of an internal term, it's not an official term.
18 But they issue the order of the proposed rules
19 that -- based on the recommendations and public
20 comment.

21 And then I take certified copies of those
22 orders plus the proposed amendments to the
23 rules, I file them with the -- on behalf of the
24 Supreme Court, but I file them with the clerks
25 at the House and the Senate that -- which is

1 required by statute to do so. And you have to
2 do it from when they gavel in -- between when
3 they gavel in and January 31st. So typically
4 is a couple weeks that you can file them. And
5 then those certified copies of the orders and
6 the amendments are considered via rule
7 resolution, which is -- which I make sure is
8 written up and filed by the legislature.

9 Q. And you -- you've answered exactly like I
10 asked you to, which was general. I just now
11 want to kind of go back and unpack that just a
12 little bit.

13 A. Uh-huh.

14 Q. So the June meeting, as I understand it,
15 you've said that's kind of the last of the term
16 of the Advisory Commission meetings; is that
17 right?

18 A. Yes.

19 Q. And that's when the final proposed rule
20 recommendations to the extent there are any --

21 A. Right.

22 Q. -- that's when they're made?

23 A. Yes.

24 Q. How are they made in June? Does the
25 Advisory Commission have like a list? Do you

1 write it? Does a reporter write it? How does
2 that work?

3 A. It -- it's really ongoing. So there may
4 be rules that they approved to recommend to the
5 Court in the September prior. So it -- and
6 those will not come up again in June, it's just
7 they're -- they are -- the reporter kind of
8 keeps a record -- well, keeps a record of what
9 officially is recommended by the Commission.
10 That's all compiled by the reporter in
11 conjunction with the Supreme Court liaisons.
12 And it's really between them of how the form --
13 the format of how that gets to the Court.

14 Q. So and then do you all send that -- when
15 I saw "you all," does the Advisory Commission,
16 either the reporter or you or the chair, does
17 that get transmitted to the justices in June?

18 A. It's -- the reporter puts it together as
19 far as I know or, like I said, works with the
20 Supreme Court liaison, the Supreme Court
21 attorneys or the liaisons, and they determine
22 how it gets relayed to the Court.

23 Q. And then the Supreme Court around
24 September through maybe November, that's when
25 the public comment period is?

1 A. It varies every year, but typically, yes,
2 it would be -- they -- they typically take it
3 into consideration from that June meeting
4 through August. And then in the past it's been
5 some where between September and November that
6 they'll put out the rules for comment.

7 Q. So there's a lag period between June and
8 then whenever they start the public comment
9 period?

10 A. It's a review period for the Court.
11 That's the time that they take to review the
12 recommendations.

13 Q. So it is a -- there is a lag period
14 between that time?

15 A. And you can call it that, but I don't
16 know that it's necessarily a lag period. It's
17 just part of the process.

18 Q. Well, the Supreme Court is not -- doesn't
19 send out public comment notices in June, right?

20 A. No.

21 Q. And you said typically that public
22 comment period lasts, you said, 60 days?

23 A. It's 60 days minimum. I've not ever seen
24 it less than that.

25 Q. Is that -- do you know if that's by

1 statute or just custom in practice?

2 **A. I can't recall if it's statute or within**
3 **the rules themselves, but it's definitely**
4 **practice within the Court.**

5 Q. So let's say this September to November,
6 roughly, comment period, when comments come
7 back about the proposed rules, what does the
8 Supreme Court do? Do they send it back to the
9 Advisory Commission or do they act on it? How
10 does that work?

11 **A. I mean, I can't speak definitively for**
12 **the Court. I can just say that sometimes**
13 **they -- I mean, they take the recommendations**
14 **or comments by the public into consideration.**
15 **They have in the past sent rules back to the**
16 **Commission, and they've also made changes**
17 **themselves to the recommendations for**
18 **consideration by the legislature. It just**
19 **varies.**

20 Q. Without consulting the Advisory
21 Commission?

22 **A. Correct.**

23 Q. And so, after the public comment period,
24 is it Tennessee Supreme Court or is it you that
25 then takes the rules package to the general

1 assembly?

2 **A. I facilitate it on behalf of the Supreme**
3 **Court. So I essentially represent their**
4 **requirement to do so. I will be the one to**
5 **physically bring it over and file and make sure**
6 **it goes through the process. But it is a**
7 **requirement that the Court -- the Supreme Court**
8 **does that, but I'm their --**

9 Q. And when you say "requirement," you mean
10 a statutory requirement?

11 **A. Yes.**

12 Q. So when you -- when do you typically
13 submit the rules package to the general
14 assembly? Is that around January when they --

15 **A. It's almost always in January.**

16 Q. Right, when they begin their term?

17 **A. Correct.**

18 Q. So once you get the rules package to the
19 general assembly in January, is there anything
20 else that you do?

21 **A. I will -- I file the -- the orders and**
22 **the certified copies with the clerks, and then**
23 **I draft the res -- rule resolutions for**
24 **whichever resolution -- whichever rules that**
25 **are being proposed to be amended. And I will**

1 **send those rule resolution drafts to the member**
2 **of the legislature who will sponsor those**
3 **resolutions. And it varies kind of year to**
4 **year, but typically it's the chair of the**
5 **Judiciary Committee that I would go through and**
6 **then they -- they take those drafts from there**
7 **and consult with their legislative legal**
8 **services attorneys for official drafting.**

9 Q. So you typically submit the rules package
10 to the chair on the Judicial Committee?

11 **A. It's a rule resolution --**

12 Q. Okay.

13 **A. -- that must be filed. It's -- the way**
14 **that the legislature approves the rules is via**
15 **--**

16 Q. I see.

17 **A. -- resolution. So they have to have that**
18 **drafted and then filed officially within the**
19 **rule -- resolution filing process so that it's**
20 **in the -- in the system to -- to be acted upon.**

21 Q. So is it fair to say the rules
22 resolution, that's just more of a summary of
23 the entire rules package?

24 **A. It -- there is a separate resolution for**
25 **every category of court rule that is being**

1 **amended.**

2 Q. And you typically do provide the
3 Judiciary Committee chair with the rules
4 resolution?

5 **A. Yes, it's typically the -- either the**
6 **Senate judiciary chair or the House, civil or**
7 **criminal, it -- obviously criminal rules will**
8 **go through the Criminal Justice Committee --**

9 Q. Oh, okay.

10 **A. -- civil rules will go through the Civil**
11 **Justice Committee. So I just facilitate to**
12 **make sure whichever particular rule package**
13 **amendments we have that they go to the correct**
14 **judiciary chair in the House.**

15 Q. Is there a committee for every -- all
16 five different proposed rules; criminal, civil,
17 appellate, evidence and juvenile?

18 **A. There are -- the way the legislature is**
19 **currently set up, there are just two -- there's**
20 **a Criminal and a Civil Judiciary Committee.**
21 **And the clerk of the House and the clerk of the**
22 **Senate determine which committee the rules**
23 **get -- rule resolutions get sent to.**

24 **However, we know just from past**
25 **experience, obviously, civil ones will go to**

1 civil and criminal would go to the Criminal
2 Committee. So we just be sure to talk to those
3 chairs prior so that they're aware of the rule
4 resolutions.

5 Q. How long does that process take from
6 January through -- does that take through March
7 or April? What does that look like for you?

8 **A. It just depends on when the legislature
9 schedules the rule resolutions to be heard.
10 They are scheduled to be heard in the
11 committees, and so it's really just dependent
12 on the chair of the committee and when they
13 want to schedule it. So we could hear them in
14 January or we could hear them closer to the end
15 of session. It just depends on preference of
16 the chair.**

17 THE REPORTER: And could we take a
18 quick restroom break?

19 MR. DOUGHERTY: Sure.

20 (Short break.)

21 BY MR. DOUGHERTY:

22 Q. We're back on the record.

23 Are you aware of Federal Advisory
24 Committee meetings that are similar to the
25 Tennessee Advisory Commission?

1 **A. I can't say that I'm very familiar with
2 them.**

3 Q. Have you become familiar with the Federal
4 Advisory Committees from this lawsuit?

5 **A. Only what's referenced in the lawsuit. I
6 have not looked it up separately.**

7 Q. And that's never something the Federal
8 Advisory Committee that's ever come up in
9 Advisory Commission meetings?

10 **A. Not that I recall.**

11 Q. Do you go to conferences in your position
12 with the AOC to other either state AOC
13 conferences or federal AOC conferences?

14 **A. I go to the AOC's judicial conferences,
15 yes.**

16 Q. Is that -- is that a state -- on the
17 state or what is that?

18 **A. On the state level. There are various
19 conferences for the different levels of judges,
20 and I attend those.**

21 Q. How often do those usually take place?

22 **A. It varies per judicial conference, but
23 it's either two or three times a year.**

24 Q. You talking about the Tennessee judicial
25 conference?

1 **A. Yes.**

2 Q. And so, are you saying that other state
3 AOC offices and employees come together at
4 these conferences?

5 **A. What do you mean other state?**

6 Q. Well, I guess what I'm trying to ask is:
7 Do you have an opportunity as the Tennessee AOC
8 departmental government liaison, are there
9 other states that have equivalent jobs that
10 you're able to communicate with to see what
11 they do?

12 **A. I do not know. And no, typically we do
13 not confirm with other state AOCs.**

14 Q. Do you have any interaction with the
15 federal AOC?

16 **A. No.**

17 Q. Does the Advisory Commission members, do
18 they have opportunities to do conferences with
19 other either state judicial conferences or
20 federal advisory?

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

22 Q. Okay. Do you personally take a role in
23 making rule recommendations or is your role
24 just to provide administrative support to the
25 Advisory Commission?

1 **A. I do not make rule recommendations, it's
2 purely administrative.**

3 Q. And you may have said, but how does that
4 happen? Let's say a rule comes and someone
5 wants to change Rule 12 of Civil Procedure, do
6 the members debate it, talk about it, does
7 someone write a paper about it? What does that
8 look like?

9 **A. It varies on how it comes up. It can
10 come up via a member or a request from a
11 legislator or another member of the public. It
12 really varies. But the Commission will
13 typically add it to the agenda for the -- for
14 the next meeting, whatever meeting would be in
15 closest proximity to that request. And the
16 Commission members discuss it and decide if it
17 warrants further discussion or reference to a
18 subcommittee within the Commission or -- or
19 they just don't want -- don't deem it necessary
20 to discuss further.**

21 Q. How would a member of the public make a
22 suggestion to get on the agenda of the Advisory
23 Commission?

24 **A. They could do that in various ways by
25 either e-mailing the AOC. They could e-mail**

1 the contact, you know, me or another person via
2 the names on the website or they could reach
3 out directly to the reporter or the chair. It
4 just depends on -- and it's varied in the past.
5 We have had requests from members of the public
6 before for discussion of items.

7 Q. Do members of the public know they have
8 that option? I mean, is that something that
9 the AOC regularly broadcasts to the public?

10 A. Other than the public access to the page
11 on the website, I don't know that there's
12 anything specific.

13 Q. Has there ever been anything on the AOC
14 website that announces to the public that if
15 they want to make a suggestion proposed rule
16 change, they could do so?

17 A. I don't know if that's ever been
18 something that's been on our website. I can't
19 say that it was or wasn't.

20 Q. So it's not something that affirmatively
21 the AOC reaches out to the public, it just kind
22 of comes up occasionally?

23 A. The page is open to the public. And so
24 if a member of the public had a question,
25 they're always free to reach out to contacts

1 provided on that page.

2 Q. And is your contact provided on the page?

3 A. Yes.

4 Q. Okay. That's pre injunction?

5 A. Correct.

6 Q. What about reimbursements of Advisory
7 Commission members, is that something that you
8 provide administrative support for for
9 expenses?

10 A. I have in the past; however, recently I
11 don't recall anyone requesting a reimbursement
12 for mileage or anything like that because our
13 meetings happen virtual.

14 Q. And that's been going on pre preliminary
15 injunction?

16 A. Correct.

17 Q. Do you recall getting the litigation hold
18 letter when this lawsuit was filed by either
19 Director Long or someone within the AOC?

20 A. I don't remember exactly if I received a
21 litigation hold letter or if it was just our
22 director and I was just informed of the pending
23 litigation.

24 Q. And so, was it your understanding that
25 all records and e-mails and everything was

1 supposed to be preserved now that there was
2 litigation?

3 A. Yes.

4 Q. To the best of your recollection and
5 knowledge that has it actually taken place,
6 everything's been preserved?

7 A. As far as I know, yes.

8 Q. Did you participate personally in -- with
9 Director Long or in her answer that was filed
10 in this lawsuit?

11 A. No.

12 Q. Have you ever seen her answer that was
13 filed in this lawsuit?

14 A. I do believe I saw it after it was filed,
15 but I don't recall exactly.

16 Q. Do you recall seeing Director Harmon's
17 two declarations that were filed early when the
18 lawsuit was filed?

19 A. I do believe I saw them, but I don't
20 recall the details.

21 Q. Did you assist in preparing those
22 declarations --

23 A. No.

24 Q. -- for Ms. Harmon?
25 And you said no?

1 A. Correct, no.

2 Q. Do you provide -- in your role with the
3 AOC, do you provide legal advice to the
4 justices of the Supreme Court?

5 A. In various capacities I have in the past
6 on various topics.

7 Q. But what are those topics and capacities?

8 A. It -- majority is with legislative
9 topics.

10 Q. Related to the Advisory Commission rules
11 package?

12 A. No. Just other legislative duties that I
13 provide.

14 Q. Could you give me an example? Is there
15 something you could give me an example?

16 A. Sure. Just the legislation that is
17 either filed, proposed statutory amendment that
18 may affect court process and I will talk to the
19 Court about that. And there are lots of times
20 it's legal in nature but not related to the
21 Advisory Commission, just other proposals that
22 get filed by members of legislature.

23 Q. So that's more in your capacity as
24 intergovernmental affairs director?

25 A. That's correct.

1 Q. Do you know if deputy Harmon provides
2 legal advice to the justices of the Supreme
3 Court?

4 **A. I believe she does, yes.**

5 Q. Do you know in what capacity?

6 MR. STAHL: Object to the form.

7 **THE WITNESS: No.**

8 BY MR. DOUGHERTY:

9 Q. Do you know if Director Long provides
10 legal advice to the justices?

11 **A. I can't -- I can't answer that**
12 **definitively.**

13 Q. So you don't know; is that right?

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

15 MR. DOUGHERTY: I think I'll pass the
16 witness, Mike.

17 MR. STAHL: Okay.

18

19 EXAMINATION

20 QUESTIONS BY MR. STAHL:

21 Q. Ms. Young, just a few questions.

22 Prior to the closing of the meetings and
23 the virtual meetings that occurred when COVID
24 started in 2020, I think you mentioned that
25 most of the meetings occurred in person and

1 they occurred in a conference room at the AOC
2 offices; is that right?

3 **A. That's correct.**

4 Q. How big is that conference room?

5 **A. I'm not good with measurement. I would**
6 **say there's a -- it's fairly large. There's a**
7 **large conference table that seats roughly 20 or**
8 **so. It can probably -- I do believe it can**
9 **accommodate about 50 people com -- maybe not so**
10 **comfortably, but that could be in there.**

11 Q. And how many members of the Committee and
12 other people like yourself from the AOC are
13 typically present at or were typically present
14 when the meetings were held in person?

15 **A. We would have roughly ten members of the**
16 **Commission. Probably more than that before --**
17 **before COVID we had good attendance. I would**
18 **say majority of the members would be in**
19 **attendance.**

20 And then as far as members of the AOC, it
21 would -- myself, possibly a member of our tech
22 division to just handle any technology needs in
23 there. But that would be it, typically. There
24 weren't a lot of members of the AO -- other
25 employees of the AOC that would attend.

1 Q. Okay. In your experience prior to 2020
2 when the meetings went virtual and they were
3 still in person and you mentioned that there
4 was the one incident with the member of the
5 public who had come in, how did that member of
6 the public come into the AOC offices? Is there
7 a security area that they need to request
8 permission to come through in order to go to
9 the offices or are members of the public just
10 able to walk in?

11 **A. No, the -- that member of the public did**
12 **have to check in in our -- the security kiosk**
13 **that's in the lobby of our building. We --**
14 **sometimes we would know if a member of the**
15 **public was going to attend because they would**
16 **reach out prior and request to attend so we**
17 **could give the information to the security**
18 **desk, but sometimes they'd just show up. And**
19 **so they would say, we're here for commission**
20 **meeting, we would basically verify that, allow**
21 **them to come up and then they would go through**
22 **our second -- our own security -- our own doors**
23 **to our -- to the AOC and they would be allowed**
24 **into the meeting.**

25 Q. Okay. When the meetings were in person

1 and when you attended, were they always held in
2 the same conference room or were they held in
3 different rooms?

4 **A. Always the same conference room.**

5 Q. Is that the biggest conference room
6 that's available?

7 **A. Yes.**

8 Q. You mentioned a member of the IT
9 department for the AOC sometimes being at these
10 meetings to facilitate IT needs. I'm wondering
11 in your -- in the AOC's role as administrative
12 support for the Advisory Commission meeting, if
13 a member was to show up in person prior to
14 2020, were they given a computer? Were they
15 expected to provide their own? Would they be
16 provided with writing supplies if they wanted
17 to take notes? What did that look like?

18 **A. Just the member of the public that --**

19 Q. No, a member of the Committee.

20 **A. Oh, anybody. They would typically bring**
21 **their own if they kept information on a**
22 **computer or whatnot, but the AOC would**
23 **typically provide copies of the agenda and any**
24 **documents that would be considered in that**
25 **meeting as requested. I would typically have**

1 copies available, but members, in my
 2 experience, usually brought either on a
 3 computer they would just keep electronic
 4 documents of how they kept up with it or they
 5 would bring their own that they already printed
 6 out and reviewed prior to the meeting.
 7 Q. Okay. Now that the meetings are virtual,
 8 does the AOC provide any computers or hardware,
 9 tech support to facilitate those meetings?
 10 **A. To facilitate the meetings we'll provide**
 11 **the links and whatnot. But as far as any**
 12 **hardware to anybody, no, we don't provide that.**
 13 Q. Okay. You mentioned that the -- that
 14 there's a portion of the Rules Committee
 15 process where there is a public comment period.
 16 I think you mentioned that you've never seen it
 17 to where that comment period was less than
 18 60 days but it could be more; is that right?
 19 **A. Yes, in my experience it has been**
 20 **60 days. It could be more. I won't say it's**
 21 **never been less than 60 days, but in my**
 22 **experience it's been 60 days. That's been the**
 23 **minimum.**
 24 Q. Are you aware of any public comment that
 25 has found its way to the Supreme Court during

1 that public comment period on any Rules
 2 Committee recommendations?
 3 MR. DOUGHERTY: Object to the form.
 4 **THE WITNESS: Yes, there have been**
 5 **public comments.**
 6 BY MR. STAHL:
 7 Q. How were those comments provided to the
 8 Supreme Court during that period as far as, you
 9 know?
 10 **A. They are -- there is a form that you can**
 11 **fill out on the AOC -- the Court website as far**
 12 **as the -- when that public comment notice goes**
 13 **out, there is an ability to file a -- a**
 14 **comment. And that is also within that**
 15 **Appellate Court clerk's office, but there is a**
 16 **form on the website that you can enter your**
 17 **comments or, I believe, you can upload a**
 18 **document as well if you already have comments**
 19 **pre -- you know, written on a Word document or**
 20 **whatnot. But then the Appellate Court clerk's**
 21 **office compiles those.**
 22 Q. Okay. Since your -- you've taken up this
 23 role as liaison for the rules Advisory
 24 Commission, has a member of the public ever
 25 contacted you about attending a meeting?

1 **A. Yes. I mean, prior to 2020 there have --**
 2 **there were members of the public that**
 3 **required -- that requested to attend. I don't**
 4 **know I can give you a specific example, but it**
 5 **has happened.**
 6 Q. Since 2020 has any member of the public
 7 contacted you about attending a meeting?
 8 **A. No.**
 9 Q. Do you make any decisions about rules
 10 Advisory Commission, policies or actions of the
 11 Committee?
 12 **A. No.**
 13 Q. Have you ever witnessed the Committee
 14 requesting someone come and speak to them in
 15 any capacity?
 16 **A. Yes. I've witnessed a legislator asking**
 17 **to come and address the Committee, the**
 18 **Commission. That has happened in the past.**
 19 Q. You also mentioned that there are
 20 subcommittees as part of the Rules Commission;
 21 is that right?
 22 **A. Correct.**
 23 Q. Are they standing committees or are they
 24 committees as necessary?
 25 **A. They have been standing committees;**

1 **however, it is up to the chair whether or not**
 2 **to dissolve a committee or create one as**
 3 **needed. Create a new one.**
 4 Q. Do you know what the standing committees
 5 are -- subcommittees, I'm sorry?
 6 **A. I can't recall all of them, but they**
 7 **basically breakdown into categories. So there**
 8 **is civil, criminal, appellate, evidence. I**
 9 **don't believe there's a juvenile one at the**
 10 **moment.**
 11 Q. Have you witnessed any meetings between
 12 the members of those subcommittees?
 13 **A. No, I have not attended any of those**
 14 **subcommittee meetings.**
 15 Q. Do members of the subcommittee meet at
 16 the AOC offices as far as you know?
 17 **A. Since subcommittees were created, to my**
 18 **knowledge, they have all been virtual meetings.**
 19 Q. Since they've been created have any of
 20 those subcommittees requested AOC technical
 21 support to conduct those virtual meetings?
 22 **A. I do not know.**
 23 MR. STAHL: I think that's all I've
 24 got.
 25 ///

EXAMINATION

BY MR. DOUGHERTY:

Q. Brief follow-up.

Does providing livestreaming access of Advisory Commission meetings to the public elevate any crowding problems from in-person attendance?

A. It could. It just depends, I suppose.

But livestreaming would eliminate the need of someone attending in person.

Q. I mean, if there's a small conference room and you can only fit 60 people in, for example, of the public, it would be better if you had unlimited amount of people, which they could do that through livestreaming, right?

MR. STAHL: Object to the form.

THE WITNESS: The livestreaming does give that option.

BY MR. DOUGHERTY:

Q. Okay.

MR. DOUGHERTY: That's all I've got.

MR. STAHL: Great. Okay.

THE REPORTER: Do you want to order this?

MR. DOUGHERTY: Yeah.

THE REPORTER: Do you want it regular delivery or sooner?

MR. DOUGHERTY: Can I get it before? (WHEREUPON, an off-the-record discussion was held.)

MR. DOUGHERTY: What about Tuesday or Wednesday, the 27th or 28th?

THE REPORTER: Yeah.

MR. STAHL: Yeah, we'll take a copy. Same order. And she's going to waive signature. Thank you.

FURTHER DEPONENT SAITH NOT
(Proceeding concluded at 11:16 a.m. CST)

REPORTER'S CERTIFICATE

STATE OF TENNESSEE
COUNTY OF SUMNER

I, MICHELLE CESSNA, Licensed Court Reporter, with offices in Nashville, Tennessee, hereby certify that I reported the foregoing deposition of MICHELLE CONSIGLIO-YOUNG by machine shorthand to the best of my skills and abilities, and thereafter the same was reduced to typewritten form by me.

I further certify that I am not related to any of the parties named herein, nor their counsel, and have no interest, financial or otherwise, in the outcome of the proceedings.

I further certify that in order for this document to be considered a true and correct copy, it must bear my original signature and that any unauthorized reproduction in whole or in part and/or transfer of this document is not authorized, will not be considered authentic, and will be in violation of Tennessee Code Annotated 39-14-104, Theft of Services.

Michelle Cessna

MICHELLE CESSNA, LCR, RPR

Lexitas Legal

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<div>1</div> <div>11 9:13</div> <div>11:16 82:13</div> <div>12 68:5</div> <div>16-3-601 20:25</div> <div>2</div> <div>20 74:7</div> <div>2005 10:24</div> <div>2011 11:2,5</div> <div>2013 10:9</div> <div>2015 7:20,22 8:20 9:24 23:15,21 24:2 25:3 34:11 40:9 49:21</div> <div>2016 23:12 25:3 27:18 34:11 35:4 40:9 49:23</div> <div>2017 23:12 27:18 35:3 49:19</div> <div>2018 8:4 40:18,20 41:6,8, 25 43:2,4,7 44:9 48:22 49:4,10</div> <div>2019 8:4,5,9,20</div> <div>2020 49:24 50:9,15 51:13 73:24 75:1 76:14 79:1,6</div> <div>2022 35:7,16,18 36:2,5, 13,15 38:2</div> <div>2023 36:17,25 37:6 38:9 39:5</div> <div>21st 38:7</div> <div>27th 82:7</div> <div>28th 82:7</div> <div>3</div> <div>3 9:13</div> <div>31st 58:3</div> <div>5</div> <div>50 74:9</div>	<div>6</div> <div>60 57:10 60:22,23 77:18, 20,21,22 81:12</div> <div>8</div> <div>8 9:15</div> <div>8th 39:8</div> <div>A</div> <div>a.m. 82:13</div> <div>ability 33:11 78:13</div> <div>access 17:18 22:14 31:3 69:10 81:4</div> <div>accommodate 74:9</div> <div>act 61:9</div> <div>acted 63:20</div> <div>action 42:16</div> <div>actions 79:10</div> <div>add 12:11 57:5 68:13</div> <div>adding 15:6</div> <div>additional 52:21</div> <div>address 79:17</div> <div>adjourn 14:12</div> <div>administrative 6:4,25 7:5,11,13 19:8 22:1 23:3, 5 31:1 41:9 52:20 67:24 68:2 70:8 76:11</div> <div>admission 11:4</div> <div>admissions 11:10</div> <div>admitted 11:8</div> <div>advance 25:19 37:14 52:10</div> <div>advanced 27:25</div> <div>advice 72:3 73:2,10</div> <div>Advisor 19:9</div> <div>advisory 12:2,6,21 14:15 15:17,20,23,25 16:5,8 20:21,23 21:5,8, 18,22,24 23:10,14,23 24:4,11,24 27:16,21</div>	<div>30:3,7,11,15,17 31:19 32:12 33:21 34:4 35:7,13 36:21,25 37:6 38:8 39:1 40:15 42:24 45:18 46:17 47:14 48:24 49:9 50:4,12 51:6 53:5,23,25 54:5 55:5 56:21 58:16,25 59:15 61:9,20 65:23,25 66:4,8,9 67:17,20,25 68:22 70:6 72:10,21 76:12 78:23 79:10 81:5</div> <div>advocacy 15:10</div> <div>advocating 15:11</div> <div>affairs 7:4,7,10 8:8,17 11:24 72:24</div> <div>affect 72:18</div> <div>affirmatively 69:20</div> <div>AG's 17:5</div> <div>agenda 68:13,22 76:23</div> <div>agendas 31:22</div> <div>aggressive 42:16</div> <div>agree 18:15</div> <div>ahead 6:19 10:19 19:13 20:21 56:18</div> <div>Allen 42:22</div> <div>allowed 41:20 75:23</div> <div>amended 20:17 62:25 64:1</div> <div>amendment 72:17</div> <div>amendments 57:22 58:6 64:13</div> <div>amount 81:14</div> <div>and/or 54:2</div> <div>announced 26:11</div> <div>announces 69:14</div> <div>answers 26:24</div> <div>anticipate 6:14</div> <div>AO 74:24</div> <div>AOC 7:2,19,20 8:6,24 9:24 12:7 14:23,24,25 15:4,11,12 19:16,19 21:3,7,11 22:24 23:13, 15,22,25 25:25 26:7,22 27:2,21 28:16 29:6,11,17 37:16 38:23 39:13 40:4</div>	<div>44:24 45:17 47:22 48:9 49:14,17 52:19 53:13 66:12,13 67:3,7,15 68:25 69:9,13,21 70:19 72:3 74:1,12,20,25 75:6,23 76:9,22 77:8 78:11 80:16,20</div> <div>AOC's 66:14 76:11</div> <div>AOCS 67:13</div> <div>Appeals 10:15</div> <div>appellate 31:17 46:10 54:20 64:17 78:15,20 80:8</div> <div>applied 18:7,17,24</div> <div>applies 19:6</div> <div>apply 18:8,12 19:2,15,22 20:4 51:25</div> <div>appointed 22:2 29:24,25 33:10,25</div> <div>appoints 33:13</div> <div>approval 24:19</div> <div>approve 32:19</div> <div>approved 12:9 22:11 32:21 59:4</div> <div>Approval 7:15</div> <div>approves 32:22 63:14</div> <div>approving 32:25</div> <div>approximately 8:12</div> <div>April 14:7,10,13,14 15:9 65:7</div> <div>area 75:7</div> <div>assembly 56:16 62:1, 14,19</div> <div>assertive 41:21</div> <div>assigned 28:23</div> <div>assist 21:12 71:21</div> <div>assistant 7:23 8:19 10:4 23:25</div> <div>assumed 40:6</div> <div>Assuming 25:14</div> <div>attached 21:25</div> <div>attachments 31:22</div>
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attend 13:7 32:9 35:18
36:25 37:5 66:20 74:25
75:15,16 79:3

attendance 44:21 52:16
74:17,19 81:7

attended 25:20 40:24
41:15 76:1 80:13

attending 44:3 78:25
79:7 81:10

attorney 5:24 10:1,4,13
16:13 20:6

attorney/liaison 12:7

attorneys 20:5,8 30:2,6
56:23 59:21 63:8

attorneys/attorneys
30:10

August 36:24 38:7 60:4

authority 11:15

availability 35:1

aware 12:12 16:24 17:2,
4 21:11 34:1 39:4,6 40:1
43:17 44:22 65:3,23
67:21 77:24

B

back 10:8 16:6 23:8,11
32:18 35:3 39:17 44:23
46:5 50:17 57:13 58:11
61:7,8,15 65:22

backtrack 40:8

Baldwin 9:18 40:6

Bar 11:4,14

Bars 11:8

based 28:7 52:1 56:6
57:19

basically 17:12 75:20
80:7

basis 13:2

begin 62:16

behalf 13:7 15:11 27:21
57:23 62:2

big 74:4

biggest 76:5

bit 7:6 11:23 16:7 27:15
40:8 58:12

Bivins 43:8

body 12:23 13:15,21

Boston 10:23

branch 12:17

break 6:14,17,20 50:25
65:18,20

breakdown 80:7

bring 62:5 76:20 77:5

broad 18:16

broadcasts 69:9

brought 43:19 77:2

brush 34:2

building 31:12,16 43:17
46:9 75:13

Bulso 36:15,16

business 14:11 30:17

C

cadence 34:8,22 39:10

calendar 35:16,21 55:20

call 44:15 57:15 60:15

called 5:3 41:19 43:16

cancelled 35:11

capacities 72:5,7

capacity 10:3 72:23 73:5
79:15

carry 12:13

case 16:25 36:13

categories 55:4 80:7

category 63:25

caveat 6:18

certified 57:21 58:5
62:22

chair 15:25 22:7 26:25
36:10,15 42:10,11,20,22
45:20,21,23 59:16 63:4,
10 64:3,6,14 65:12,16
69:3 80:1

Chairman 43:9

chairs 65:3

change 27:11 68:5 69:16

changing 12:11

charges 43:18,19,22

Charlie 9:18 40:6

check 39:17,19,23 75:12

checked 40:2

chief 26:17,20,21,22
43:6 44:11

civil 54:17 64:6,10,16,20,
25 65:1 68:5 80:8

clear 47:11

clerk 46:13 64:21

clerk's 31:17 46:10
78:15,20

clerked 10:14

clerks 57:24 62:22

close 14:6 16:20 44:16

closed 37:3,4,8 40:16
41:4 45:3,6,11,14 46:2

closer 65:14

closest 68:15

closing 73:22

cohesive 57:1

coincide 50:3 56:7

Coke 6:3 16:19 17:9 18:4
40:5

College 11:2

combative 40:25 42:5
43:10,23 44:20 48:23

combateness 42:6

comfortably 74:10

comment 41:20 55:13
56:8 57:7,8,10,20 59:25
60:6,8,19,22 61:6,23
77:15,17,24 78:1,12,14

comments 57:13 61:6,
14 78:5,7,17,18

commission 12:2,6,13,
22 14:15,21 15:18,20,23
16:1,5,8 17:14 18:9,25

19:9 20:22,24 21:2,6,8,
11,14,18,22,25 22:7,16
23:10,14,23 24:4,11,24,
25 27:16,21 29:3,11,13,
23 30:4,7,11,15 31:19,25
32:12,22 33:2,21 34:5,17
35:7,13 36:21 37:1,6
38:9 39:1 40:16 41:1,17
42:24 44:9 45:5,18,20,22
46:17,20 47:7,9,14,17
48:3,25 49:9 50:4,13,21
51:6 53:6,18,24,25 54:5,
12 55:5 56:21,25 58:16,
25 59:9,15 61:9,16,21
65:25 66:9 67:17,25
68:12,16,18,23 70:7
72:10,21 74:16 75:19
76:12 78:24 79:10,18,20
81:5

Commission's 30:17

commissions 48:20

committee 13:8,10,18
63:5,10 64:3,8,11,15,20,
22 65:2,12,24 66:8 74:11
76:19 77:14 78:2 79:11,
13,17 80:2

committees 13:25
65:11 66:4 79:23,24,25
80:4

communicate 53:21
67:10

communication 22:9
26:14

communications 28:4
37:23 53:3,6,16,21

compared 30:25

compiled 56:23 59:10

compiles 78:21

complaint 20:18

completed 24:17

computer 76:14,22 77:3

computers 77:8

concluded 82:13

conduct 80:21

conference 25:10 41:10
66:22,25 74:1,4,7 76:2,4,
5 81:11

conferences 66:11,13,
14,19 67:4,18,19
confirm 35:20 67:13
conflict 35:25 36:10
conjunction 59:11
connection 19:7
consideration 55:24
56:10 57:2,14 60:3
61:14,18
considered 21:17 56:1
58:6 76:24
Consiglio-young 5:2,
13
consistently 29:10
consult 63:7
consulting 61:20
contact 29:7 69:1 70:2
contacted 53:8 78:25
79:7
contacts 69:25
continued 50:14
convicted 11:17
copies 57:21 58:5 62:22
76:23 77:1
copy 17:20,24 18:1 82:9
correct 8:11 9:3,22,23
10:10 11:7 12:20,24
15:15 17:19 44:1 50:24
52:7 56:17 61:22 62:17
64:13 70:5,16 72:1,25
74:3 79:22
correlates 12:5
cost 52:21 53:1,12
counsel 5:23,25 6:3 7:23
8:20,21,25 16:15 17:9
18:3 23:25 28:20 29:1
40:5 45:8
couple 9:11 16:3 58:4
court 7:15 10:14 11:10
12:4 13:7 19:23 22:3
30:1 31:12,16,17 32:16
33:4,11,13 41:2 43:7
44:3,8,12,23 46:9,10
47:7 48:1,8,20 54:1,4,15
55:23 56:2,24 57:2,4,12,

24 59:5,11,13,20,22,23
60:10,18 61:4,8,12,24
62:3,7 63:25 72:4,18,19
73:3 77:25 78:8,11,15,20
courtroom 47:20
courts 6:4 7:1,5,11,13
19:8 22:1 41:9 48:2,4
COVID 50:3,6,12 51:7
73:23 74:17
create 37:24 48:13,17
53:3,9 80:2,3
created 8:8 20:25 80:17,
19
creates 48:19
creation 39:25
crime 11:18
criminal 10:5,15 43:19,
22 54:7,13 64:7,8,16,20
65:1 80:8
crowding 81:6
CST 82:13
culture 47:14,16
current 8:10 32:23
custom 61:1
cycle 56:4

D

daily 13:7
date 11:3 16:12 36:9
41:7
dates 36:5,8,11
David 8:22
day 6:15,16
day-to-day 13:2
days 57:10 60:22,23
77:18,20,21,22
deal 20:21
deals 7:16
debate 68:6
Deborah 28:17
December 34:18,22
36:3,7 39:7,8,13 52:10,

17
decide 68:16
decision 44:16 45:16,24
decisions 79:9
declarations 71:17,22
deem 15:8 68:19
definitively 24:9 26:5,6
47:12 61:11 73:12
degree 10:21
delivery 82:2
department 53:22 76:9
departmental 67:8
dependent 65:11
depending 13:17 35:1,6
depends 14:11 65:8,15
69:4 81:8
DEPONENT 82:12
deposition 5:14 6:7
20:14
depth 16:7
deputy 9:1,21 73:1
Describe 21:5
desk 75:18
detail 11:25
details 71:20
determine 59:21 64:22
direct 28:21
directly 9:4,5,8,14,20,23
10:17 19:6 28:18 45:13
69:3
director 7:3 8:7,16 9:2,5,
21 17:7 18:12 19:3,7
20:5 28:15 70:19,22
71:9,16 72:24 73:9
disciplined 11:14
discuss 54:1,6,12 68:16,
20
discussed 41:16 42:17
discusses 55:5
discussion 38:22,25
41:3,17 42:12 44:24 49:3
50:16 51:3 68:17 69:6

82:5
discussions 49:7 50:20
dissolve 80:2
distinction 33:20 46:21,
25 47:21 48:9
distinguish 30:19 47:3
division 7:3,4,7,10,15,16
8:8 10:5 28:4 37:23 53:3,
5,6,16,22 74:22
document 48:17 78:18,
19
documentation 32:13
documents 76:24 77:4
doors 75:22
DOUGHERTY 5:7 18:20
19:10,21 20:1 51:4
65:19,21 73:8,15 78:3
81:2,19,21,25 82:3,6
draft 62:23
drafted 63:18
drafting 63:8
drafts 63:1,6
due 37:11
duly 5:4
duties 27:9 72:12
duty 31:15

E

e-mail 68:25
e-mailing 68:25
e-mails 70:25
earlier 21:10 46:8
early 71:17
education 10:20
electronic 31:13,18
46:11 77:3
elevate 81:6
eliminate 81:9
employee 19:18 26:7
29:6 48:18 53:17,22

employees 9:7 19:16
53:8 67:3 74:25
employment 27:2
end 14:6 56:14 65:14
ended 14:13
enlist 53:2
ensures 22:4
enter 78:16
entire 63:23
equivalent 67:9
escalated 42:13
escort 43:14
essentially 40:7 41:21
62:3
Etheridge 9:19
everything's 71:6
evidence 54:23 64:17
80:8
exact 16:12 41:7
EXAMINATION 5:6
73:19 81:1
excuse 20:2 23:22
expected 76:15
expenses 70:9
experience 34:7 47:19
64:25 75:1 77:2,19,22
experienced 49:2
explain 7:6 21:20 24:13
34:15 44:17 55:18
extensive 13:24
extent 58:20

F

facilitate 12:21 39:25
62:2 64:11 76:10 77:9,10
facilitated 40:3
faculty 30:9
fair 23:2 55:3 63:21
fairly 14:6 16:20 18:15
74:6

familiar 20:20,23 66:1,3
fast 27:15
February 34:24 35:5
federal 65:23 66:3,7,13
67:15,20
file 15:6 57:14,23,24 58:4
62:5,21 78:13
filed 13:23 14:19 16:13,
21 17:4 21:15 46:12 58:8
63:13,18 70:18 71:9,13,
14,17,18 72:17,22
filing 20:16 63:19
fill 78:11
final 58:19
fine 6:23 23:19
firsthand 44:22
fit 81:12
follow 19:19 39:9
follow-up 81:3
form 18:18 19:4,17,24
59:12 73:6 78:3,10,16
81:16
formal 43:18,22 46:24
formally 11:13 46:3
format 59:13
forward 27:15
found 77:25
free 69:25
Friday 36:6,9 39:9
funds 53:13

G

gave 14:2,14 15:16
gavel 58:2,3
general 5:25 6:3 7:23
8:20,21,24 10:4 16:14,15
17:9 18:3 20:8 23:25
28:19 29:1 40:5 45:8
55:10 56:15 58:10 61:25
62:13,19
General's 5:25 10:1,13
16:14 20:6

generate 51:14,21
generated 51:19
generating 25:25
gentleman 42:1
Gina 36:16
give 6:9,10 9:10 72:14,15
75:17 79:4 81:18
giving 6:7
good 5:8,9 10:20 74:5,17
gosh 8:3
government 30:6 54:11
56:4 67:8
governmental 8:16
graduated 10:23 11:1
Great 81:22
guess 10:9 14:5 44:2
67:6

H

habits 6:8
Haines 8:22
Half 6:16
handle 74:22
happen 68:4 70:13
happened 40:1 44:17
49:4 79:5,18
hardware 77:8,12
Harmon 8:23 9:1,21
28:20,25 29:2 45:8 71:24
73:1
Harmon's 71:16
head 27:4
heads 6:9
hear 16:9 65:13,14
heard 39:15 65:9,10
held 51:3 74:14 76:1,2
82:5
Hendrix 23:24 24:3
25:24 27:6
Hivner 46:13,16

hold 11:11 70:17,21
Holly 44:7
House 57:25 64:6,14,21
housed 31:11 46:8
hundred 50:8,10

I

important 6:6,10
in-person 81:6
incident 41:4 45:11 49:4
75:4
include 22:13
included 31:24
includes 22:15
individual 48:23
inform 37:23 38:18
information 28:13,14
31:2,5 75:17 76:21
informed 45:2 70:22
injunction 16:25 17:3,8,
11,21 18:2,6,16,24 19:2,
15,19,22 20:4,11,15
37:12 51:21 52:1,4,13
70:4,15
insight 47:18
interaction 42:14 45:1
67:14
interchangeable 23:6
interest 13:18
interested 41:16
intergovernmental 7:4,
7 8:7 11:24 72:24
internal 57:17
interrupt 56:19
interrupting 50:19
involved 22:23 24:8
53:17
involvement 24:16 49:8
issue 50:23 57:18
issued 16:25

items 69:6

J

James 46:13

January 7:20,22 14:5,9
56:9,16 58:3 62:14,15,19
65:6,14

JD 10:25

Jeana 23:24 24:3 25:24

Jeff 43:8

jobs 67:9

John 6:3 16:19 17:9 18:4
40:5

join 49:12

joined 8:24 23:20 24:2,
10

judge 7:14 10:15 15:7
46:25 47:25 48:7

judges 15:6,12 66:19

judicial 47:6,17 48:5,6
63:10 66:14,22,24 67:19

judiciary 33:1 63:5 64:3,
6,14,20

July 56:4

June 32:24 34:18,21,25
35:4 36:2,6,23 37:6,14
39:5 51:22,24 52:6,23
55:21,25 56:4,13 58:14,
24 59:6,17 60:3,7,19

justice 26:17,20,21,23
43:6,8 44:7,8,11,20
45:12 64:8,11

justices 19:23 44:15
45:17 59:17 72:4 73:2,10

juvenile 7:12,17 54:25
64:17 80:9

K

keeping 32:10,12

kind 6:9 8:2 11:25 12:1,
21 15:10 21:20 23:2,3
26:14 28:6 35:6 37:21
40:8 41:18 42:12 47:19
51:6 55:18 58:11,15 59:7

63:3 69:21

kiosk 75:12

Kirby 44:7,8,11,20 45:12

knowledge 31:9 52:3
53:15 71:5 80:18

L

labor 52:21

lag 60:7,13,16

language 34:3

large 74:6,7

lasts 60:22

law 10:17 11:2 30:9

lawsuit 11:20 16:9,21
18:11 20:16 50:21 66:4,5
70:18 71:10,13,18

leave 36:24 38:6,11
39:18,23 40:7 41:23
42:10 43:11,13 51:23

Lee 26:21

legal 63:7 72:3,20 73:2,
10

legislation 14:18,25
15:5,7 72:16

legislative 7:10,24 12:4,
9,14,17,23 13:4,10,15,
21,25 14:1,4,8 16:3
21:16 27:10 63:7 72:8,12

legislator 24:18 68:11
79:16

legislators 13:9,19

legislature 14:3,20
15:17,24 22:12 24:19
55:17 58:8 61:18 63:2,14
64:18 65:8 72:22

legislature's 13:6

letter 70:18,21

level 66:18

levels 66:19

liaison 7:24 21:7,21 22:3
23:9,13,21 24:3,23 25:8
27:5,12,20 28:11 29:3,11
30:18 32:2,9 34:7,12
40:21 44:9 46:23 53:20

59:20 67:8 78:23

liaisons 12:10 33:4
46:25 48:5,6 56:24
59:11,21

licensing 11:15

link 37:24 51:15,20,22
52:22,24 53:9,11

links 31:3 77:11

list 47:22 48:13 58:25

listed 21:3

lists 47:24,25

litigation 70:17,21,23
71:2

livestream 17:16

livestreaming 25:6
37:25 49:6,10 51:5,8,22
52:6,24 53:4,9,11,14
81:4,9,15,17

lobby 75:13

logistical 21:9 22:2,13,
18 23:1,5

long 9:6 10:6 17:7 18:12,
13 19:3 23:9 34:20 65:5
70:19 71:9 73:9

Long's 20:5

longer 44:25

looked 66:6

lot 15:3 74:24

lots 72:19

Lynch 9:18

M

made 12:10 27:11 29:2
43:17 44:15,16 47:21
58:22,24 61:16

maintains 48:19

majority 49:13,15 72:8
74:18

make 17:15 22:11 28:23
33:20 35:10,25 39:24
45:23 48:9 54:2,6,13
56:25 58:7 62:5 64:12
68:1,21 69:15 79:9

making 15:13 21:14
22:19 67:23

March 32:25 34:18,21,24
35:4,8 36:2,6,22,25 39:5
65:6

materials 20:13

maternity 36:24 38:5
39:18,23

matter 41:2 44:23

matters 7:12,17 47:8

means 34:15

measurement 74:5

meet 32:24 35:7 50:13
80:15

meeting 13:19 17:14
22:5,20 25:19,23 26:1
27:25 28:10,24 29:4,8,15
31:3,4,21,25 32:1,18,23,
24,25 34:17 35:11 36:23
37:1,6,13,14,15,17,20,25
38:9,13,20 39:5,7,12,13,
18 40:4,23 41:6,8,14,22,
25 42:21 43:4,5,16 44:4,
19,21 45:11 51:24,25
52:5,8,10,13,23 53:24
55:21,22 56:12 58:14
60:3 68:14 75:20,24
76:12,25 77:6 78:25 79:7

meetings 13:1,8,11
22:14,17 24:4,7,11,14,
20,25 25:15,17,20 26:11,
19 27:22 30:22 31:8 32:9
34:5,8 35:15,19,23 36:2,
20 38:2 40:10,16,21 41:3
43:1 44:16,25 45:6 46:2
48:25 49:16 50:4,7,15,17
51:6,8,12,13 53:18
55:24,25 58:16 65:24
66:9 70:13 73:22,23,25
74:14 75:2,25 76:10
77:7,9,10 80:11,14,18,21
81:5

member 16:5 21:10,17
33:5,8,9,15,16,21,22
40:24 41:15 42:23 44:2
45:13 46:16,19 47:2,3,
12,13 53:2 54:10,11,12
63:1 68:10,11,21 69:24
74:21 75:4,5,11,14 76:8,
13,18,19 78:24 79:6

members 15:22 18:24

21:2 29:13,24 30:3,7,10,
12 31:4,23 32:17 33:1,3,
6,10,25 39:1 41:10,22,24
42:14 45:4,13 46:22,25
47:4,6,7,17,22,24,25
48:2,10,13 49:12 51:9,
15,17,20 67:17 68:6,16
69:5,7 70:7 72:22 74:11,
15,18,20,24 75:9 77:1
79:2 80:12,15

members' 35:1

memory 15:21

mention 46:6

mentioned 6:6 73:24
75:3 76:8 77:13,16 79:19

met 36:7,11

method 25:7

Michelle 5:2,12 9:5

Mike 73:16

mileage 70:12

minimum 60:23 77:23

minutes 30:21 31:7,19,
22 32:1,10,13,19,20,22,
25 46:3,5,7

moment 16:7 80:10

month 36:9

morning 5:8,9

mouth 18:22

move 27:6,12

N

names 9:11,17 69:2

Nashville 49:15

nature 72:20

necessarily 60:16

needed 17:13 22:16
49:12 80:3

newly 8:8

nod 6:8

nodding 6:9

nonverbal 6:9

norm 49:24

notes 76:17

notice 25:19 26:1 28:9
37:14,15,17,21 38:20
39:12 40:4 45:10 52:8
78:12

notices 27:25 28:6,24
29:5,8,16 60:19

notified 16:14,16 17:23
22:20

notify 17:5,7 28:3

November 11:5 59:24
60:5 61:5

number 13:16

O

oath 5:18

Object 18:18 19:4,17,24
73:6 78:3 81:16

observe 32:10

occasionally 55:2 69:22

occur 13:25 17:14 22:23,
24 38:12,15,16,19

occurred 38:13 50:7,9
73:23,25 74:1

occurs 30:22

off-the-record 51:2
82:4

office 5:25 6:4,25 7:5,11,
13 10:2,13 12:10 16:14,
16 17:5,6 18:10 19:8,12,
14 20:6 22:1,22 26:4
27:8 28:2,7,13 31:17
40:4 41:9 45:13,17 46:10
48:18 49:14,17 51:14
52:19 53:7 78:15,21

offices 67:3 74:2 75:6,9
80:16

official 30:16 33:9 57:17
63:8

officially 59:9 63:18

on-the-ground 47:19

ongoing 59:3

online 13:23

open 22:17 24:4,7,11,14
25:4,5,15,17 26:12,13,19

27:22 37:3,8,9,10,11
38:3 40:13,21 44:25
48:25 50:17 52:5,14
69:23

opportunities 67:18

opportunity 67:7

option 17:13,17 25:17
49:11 69:8 81:18

order 33:14 37:12 57:14,
18 75:8 81:23 82:10

orders 33:18 57:22 58:5
62:21

original 20:16

oversaw 37:22

oversee 7:9 12:3 39:22
48:16,21

overseen 19:9 46:10

P

package 12:8,22 21:15
22:10 24:17,22 55:15
56:1,9,13 57:16 61:25
62:13,18 63:9,23 64:12
72:11

panel 7:14

paper 31:14 46:12 68:7

paralegal 28:5

part 42:16 47:13 60:17
79:20

participate 71:8

participating 47:5

parties 18:10

party 11:20

pass 73:15

past 14:4,7,13 15:6 16:3
51:22 60:4 61:15 64:24
69:4 70:10 72:5 79:18

pending 70:22

people 25:9 28:2,7 43:14
49:13 74:9,12 81:12,14

percent 50:8,10

period 26:18 41:20
55:13 57:8,10 59:25
60:7,9,10,13,16,22 61:6,

23 77:15,17 78:1,8

periodically 41:11

permission 75:8

person 17:16 25:6,25
26:3 40:24 43:9,11,20,23
44:19 48:21 49:15 50:11
69:1 73:25 74:14 75:3,25
76:13 81:10

personally 67:22 71:8

physical 42:9

physically 49:5 62:5

pick 6:11

place 37:22 66:21 71:5

plan 52:18

point 8:21 17:11,12 26:1
27:1,22 28:16 40:15
44:15 48:22 49:3 55:12,
13,17 56:7

policies 79:10

portion 77:14

position 7:2,18 8:1,5,10,
15 10:12 11:24 66:11

positions 15:7

possibly 74:21

post 28:14 37:24 51:6,
20,25 52:3,12

posted 28:6,24 29:5,22
31:7 37:16,18 38:1 39:14
40:2 52:9

potential 54:6

practice 10:11 20:24
30:3 32:5,7 34:21 61:1,4

pre 70:4,14 78:19

preference 65:15

preliminary 16:24 17:3,
8,11,21 18:2,6,16,24
19:2,11,15,19,22 20:2,4,
11,15 37:11 51:21 52:1,
4,13 70:14

preparation 20:14

prepared 5:20

preparing 71:21

present 49:5 74:13

presented 47:9
preserved 71:1,6
pretty 13:24
previously 53:17
primarily 21:8
printed 77:5
prior 28:10 32:8,23
 34:12,17 49:24 50:10,20
 59:5 65:3 73:22 75:1,16
 76:13 77:6 79:1
priority 35:25
private 10:11 30:2
privy 49:7
problem 50:18 56:20
problems 48:24 81:6
procedure 20:25 54:7,
 13,17,21 55:1 68:5
procedures 15:4
proceeding 82:13
process 12:4,9,14 21:16
 22:10 24:19 55:19 60:17
 62:6 63:19 65:5 72:18
 77:15
Program 7:15
programs 7:9
promoted 7:25 8:3
proposals 31:23 47:18
 54:2 56:22 72:21
proposed 32:19 54:16
 55:4,11,22 57:15,18,22
 58:19 61:7 62:25 64:16
 69:15 72:17
prosecuted 43:24
provide 22:19 33:24
 53:13 64:2 67:24 70:8
 72:2,3,13 76:15,23 77:8,
 10,12
provided 18:1 29:6 70:1,
 2 76:16 78:7
providing 22:13 52:20,
 22 53:11 81:4
proximity 68:15
public 17:13,17 22:14,19
 24:5 25:5,10,15,18 26:1,

12,13 27:22,25 28:24
 29:4,7,8,15 37:3,8,13,15,
 17,20 38:3,20 39:12
 40:3,13,17,22,24 41:11,
 15,20,25 45:10 48:25
 49:5 52:5,8,14,23 53:1,
 12,14 54:11 55:13 56:8
 57:7,8,11,19 59:25 60:8,
 19,21 61:14,23 68:11,21
 69:5,7,9,10,14,21,23,24
 75:5,6,9,11,15 76:18
 77:15,24 78:1,5,12,24
 79:2,6 81:5,13

publicly 31:8
purely 31:1 68:2
purpose 53:24 54:1
pursuant 33:11
put 18:22 27:12 28:10
 39:20 45:9 57:6 60:6
puts 59:18
putting 27:24

Q

quarterly 34:10,11,14
 35:15 36:20 38:2 39:10
 43:1
question 6:19 20:3
 26:24 29:19 47:11 69:24
questions 5:7,21 73:20,
 21
quick 65:18

R

Rachel 8:23 28:20 29:1
 45:8
ranks 8:2
reach 69:2,25 75:16
reaches 69:21
read 20:10
reason 16:10 56:5,11
recall 14:2 15:16 16:12,
 23 23:17,20,21 24:2,6,
 10,13,14,15,16 25:7,9,
 11,16,18,21 26:15,16,18,
 19,25 28:9 29:4,9 32:6

33:17 34:3,13 35:3,9
 36:12 37:13 40:22 41:7,
 24 42:3,18,20 43:12,18
 45:7,12 46:1,4,18 48:12
 49:22 50:22 61:2 66:10
 70:11,17 71:15,16,20
 80:6

received 70:20
recent 15:20
recently 34:16 70:10
recollection 36:1 37:18
 40:12 43:25 52:9 53:10
 71:4
recommend 59:4
recommendations
 54:3,6,14,16 57:3,5,7,19
 58:20 60:12 61:13,17
 67:23 68:1 78:2
recommended 59:9
record 5:11 6:2 13:24
 26:14 29:21 30:22 59:8
 65:22
records 29:20 30:16
 31:13,14,18,21,24 70:25
reference 68:17
referenced 66:5
referred 55:14
referring 14:22
regular 34:5 82:1
regularly 69:9
reimbursement 70:11
reimbursements 70:6
related 14:15,17,18,20
 72:10,20
relates 12:1
relay 28:13
relayed 45:21 59:22
remember 25:13 27:3,
 19 43:3,15 45:15 70:20
report 9:4,5,8,14,15,20,
 21,23 12:16 28:18,21
reported 28:19 46:1
reporter 22:8 30:13,16,
 23,25 31:2,5 32:12,14,15

59:1,7,10,16,18 65:17
 69:3 81:23 82:1,8
reporter's 30:14,19,24
represent 48:3 62:3
represented 5:23,24
represents 20:7
request 13:12 15:13
 16:2 41:13 68:10,15
 75:7,16
requested 13:9,10 16:1,
 4 54:10 76:25 79:3 80:20
requesting 15:7 28:9
 70:11 79:14
requests 22:6 69:5
require 53:16
required 12:14 22:15
 58:1 79:3
requirement 32:4,7
 62:4,7,9,10
requirements 19:20
res 62:23
resolution 58:7 62:24
 63:1,11,17,19,22,24 64:4
resolutions 62:23 63:3
 64:23 65:4,9
responsibilities 21:9
responsible 25:25 26:3
 27:24
restate 18:19
restrictions 50:6
restroom 65:18
review 20:12,13,17
 60:10,11
reviewed 77:6
Robert 10:15
role 7:21 8:12 10:6,7
 12:2,5 15:10 19:7 21:5,7
 22:3 27:12 30:14,19,20,
 24,25 40:6 53:20 67:22,
 23 72:2 76:11 78:23
roles 27:9,11,13,14 28:8
room 25:10 41:10 74:1,4
 76:2,4,5 81:12

rooms 76:3
rosters 48:19
roughly 9:12 55:18 61:6 74:7,15
rule 54:1,2,6 56:21 58:6, 19 62:23 63:1,11,19,25 64:12,23 65:3,9 67:23 68:1,4,5 69:15
rules 12:8,12,22 14:21 20:24 21:15 22:9 24:16, 21 54:7,13,17,20,23,25 55:4,11,14,22 56:1,9,11 57:15,18,23 59:4 60:6 61:3,7,15,25 62:13,18,24 63:9,14,21,23 64:3,7,10, 16,22 72:10 77:14 78:1, 23 79:9,20

S

SAITH 82:12
sat 24:24 40:9
schedule 65:13
scheduled 35:24 38:10, 11 65:10
schedules 65:9
scheduling 21:12
school 10:18 30:9
seats 74:7
security 43:15,17 75:7, 12,17,22
segue 10:20
selected 32:14,15
Senate 57:25 64:6,22
send 51:15 57:1 59:14 60:19 61:8 63:1
sense 12:10
separate 63:24
separately 66:6
September 34:18,21 35:4 36:3,6 38:8 55:24 56:12 59:5,24 60:5 61:5
served 23:9
services 63:8

session 13:4,6 14:1,4,7, 8 65:15
sessions 13:3 16:4
set 36:9 53:4 64:19
sets 53:7
settled 56:22
share 6:2
shift 27:8
shifted 50:10
short 65:20
shortly 8:23
show 75:18 76:13
signature 82:11
similar 65:24
sir 5:19,22 21:1
sit 24:20
sitting 25:10
slightly 34:23
small 81:11
son 42:2
sooner 82:2
sought 21:16
space 22:6 31:3
speak 61:11 79:14
speaking 41:18
specific 69:12 79:4
specifically 24:6 25:7, 22 26:2 27:13 29:9 33:19
specifics 24:15
sponsor 15:1 63:2
sponsored 14:19
Stacy 9:18
staff 12:6 21:10
Stahl 6:1 18:18 19:4,17, 24 73:6,17,20 78:6 80:23 81:16,22 82:9
standing 79:23,25 80:4
start 7:18 56:13 60:8
started 8:22 10:17 23:15 26:22 27:20 73:24

starting 36:24
state 5:10 11:8,14 66:12, 16,17,18 67:2,5,13,19
statements 6:10
states 67:9
statute 12:15 32:4 33:11, 20,24 34:2 58:1 61:1,2
statutory 32:6 62:10 72:17
Stephanie 9:19
stipulation 6:18
stopped 41:22
strike 20:3
subcommittee 68:18 80:14,15
subcommittees 79:20 80:5,12,17,20
submit 62:13 63:9
subtract 57:5
suggestion 68:22 69:15
summary 63:22
supervise 48:16
supervisors 9:14,16
supervisors' 9:17
supplies 76:16
support 23:3 52:20 67:24 70:8 76:12 77:9 80:21
supportive 22:7
suppose 81:8
supposed 71:1
Supreme 19:23 22:3 30:1 31:12,16 32:16 33:10,13 41:2 43:6 44:3, 8,12,23 46:9 55:23 56:2, 24 57:2,4,12,24 59:11, 20,23 60:18 61:8,24 62:2,7 72:4 73:2 77:25 78:8
sworn 5:4
system 7:14 12:4 13:7 63:20

T

table 74:7
takes 10:8 61:25
talk 13:1 65:2 68:6 72:18
talked 15:5 21:20
talking 66:24
Tate 28:17,18
Taylor 28:17
TCA 20:25
tech 74:21 77:9
technical 80:20
technology 74:22
ten 10:9 29:17 74:15
Tennessee 11:1,6,12,14 13:21 19:23 20:2 22:3 30:1 31:11,16 32:15 33:10,13 41:2 44:3 46:9 54:8 56:3 61:24 65:25 66:24 67:7
term 23:1 33:24 41:18 51:10 57:17 58:15 62:16
terminology 47:2
terms 18:6,16 29:15 52:19 55:10
testified 5:4 15:9
testify 13:4 16:1,11
testimony 13:9,12,14 14:3,14 15:17,19,23 16:4
time 6:13,17 14:2,6 15:16 16:21 20:10 23:22 24:1,7 25:8 26:4,9,18 27:9,14 28:3,5,19 38:20 42:21 43:7,8 45:9 56:9 60:11,14
times 15:3 66:23 72:19
timing 52:1
title 7:21
titles 48:7
today 5:15,21 16:10
told 11:23 28:12 44:24 45:4,5,9,12,14,19

tone 42:13

top 27:4

topic 15:8 41:16 42:17,
18 54:9

topics 13:16 15:3 72:6,7,
9

total 9:13

town 35:24

transcripts 13:20

transmitted 59:17

travel 49:14

Tuesday 82:6

type 9:25 14:25 49:6

types 21:13

typical 34:8

typically 14:10 15:25
21:2 35:23 51:16 55:20
57:9 58:3 60:1,2,21
62:12 63:4,9 64:2,5
67:12 68:13 74:13,23
76:20,23,25

U

uh-huh 20:19 23:16
36:19 40:11 49:18 50:2
55:16 58:13

ultimate 21:15

ultimately 22:10

undergraduate 10:21

understand 5:17 6:12
12:20 25:11 33:7 51:11
58:14

understanding 17:10
18:5,8 23:7 24:21 55:11
70:24

University 10:23 11:1

unlimited 81:14

unpack 58:11

unruly 40:25

upcoming 39:6,7,13

upload 78:17

upset 42:17

V

varied 28:1,7 34:23 69:4

varies 13:17 15:2 57:9
60:1 61:19 63:3 66:22
68:9,12

verbal 6:10 42:6,10
43:10

verbally 43:10,23 48:23

verify 75:20

versus 47:13

vicinity 35:5

view 49:6

virtual 50:5,8,10,14 51:8,
12 70:13 73:23 75:2 77:7
80:18,21

virtually 49:12 50:13,17

vote 47:1,8

votes 47:4 55:17

voting 33:3,5,6,8,9,16,22
46:19,22 47:2,4,12 48:10

W

Wade 42:22,23 43:9
45:23

waive 82:10

walk 55:9 75:10

wanted 39:19 76:16

warrants 68:17

ways 68:24

website 21:3 25:21
28:10 29:10,12,18 37:16
38:1 39:13,20 47:22
48:10,14 69:2,11,14,18
78:11,16

Wedemeyer 10:15

Wednesday 82:7

week 20:12

weeks 58:4

whatnot 57:6 76:22
77:11 78:20

When's 20:10

whichever 62:24 64:12

witnessed 79:13,16
80:11

wondering 76:10

Word 78:19

words 18:22

work 6:24,25 9:25 22:4,5
25:6 32:20 52:21 59:2
61:10

worked 10:1 28:2

working 51:5

works 15:14 34:1 59:19

write 59:1 68:7

writing 76:16

written 58:8 78:19

wrong 12:20

Y

year 8:3 10:22 14:7,13
15:6 24:22 26:23 27:16
34:9,19 35:16 36:17 38:7
55:21,25 60:1 63:3,4
66:23

years 8:13 10:7,9 25:2
27:1 29:17 34:23

Young 73:21

Z

Zoom 31:3 51:14,15,20
52:22