

**In The Matter Of:**  
*In Re: Paul M. Sushchik*

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*Hearing, Day 1*  
*July 20, 2020*  
*Videoconference*

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COMMONWEALTH OF MASSACHUSETTS  
COMMISSION ON JUDICIAL CONDUCT  
COMPLAINT NUMBER 2019-27  
SUPREME JUDICIAL COURT CASE NO. OE-143

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:  
IN RE: PAUL M. SUSHCHYK :  
:  
- - - - -x

ALL PARTICIPANTS APPEARED REMOTELY  
VIA ZOOM VIDEOCONFERENCE

BEFORE: HON. BERTHA JOSEPHSON (Ret.),  
Hearing Officer

APPEARANCES:

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ALSO PRESENT:

Hon. Paul M. Sushchyk

Held via Zoom  
Monday, July 20, 2020  
10:11 a.m.

(Alexander Loos, Registered Diplomate Reporter)

\* \* \*

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I N D E X

WITNESS	DIRECT	CROSS	REDIRECT	RE CROSS
EMILY DEINES				
BY MS. COSGROVE	26		205	
BY MR. ANGELINI		116		

\* \* \* \*

E X H I B I T S

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1 P R O C E E D I N G S

2 THE HEARING OFFICER: I'm going to  
3 introduce myself.

4 My name is Bertha Josephson. I'm the  
5 Hearing Officer conducting the hearing in this  
6 matter.

7 Before we begin, I would ask anyone who is  
8 not a participant in these proceedings -- that is,  
9 if you're not a witness, or if you're not one of the  
10 attorneys engaged in the matter -- kindly disable  
11 your video so you will not appear on the screen. It  
12 seems as though most have done that, and we'll be  
13 able to get underway.

14 This is the matter of the Commission on  
15 Judicial Conduct complaint Number 2019-27 in re  
16 Judge Paul M. Sushchyk.

17 The attorneys who are involved in this  
18 case, I would ask if you would kindly identify  
19 yourselves and the party you're representing at the  
20 outset now.

21 MR. NEFF: Well, I can start, if you'd  
22 like, Judge Josephson.

23 And my name is Howard Neff. I'm an  
24 attorney for the Commission on Judicial Conduct

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1 representing the Commission on Judicial Conduct in  
2 this matter, and I also serve as its executive  
3 director.

4 THE HEARING OFFICER: Thank you.

5 MR. ANGELINI: My name is Michael Angelini.  
6 I'm a partner with the firm of Bowditch & Dewey in  
7 Worcester, Massachusetts, and I am counsel for Judge  
8 Sushchyk.

9 THE HEARING OFFICER: Thank you,  
10 Mr. Angelini.

11 Ms. Cosgrove.

12 MS. COSGROVE: My name is Audrey Cosgrove.  
13 I am a staff attorney, and I am representing the  
14 Commission on Judicial Conduct in this matter.

15 THE HEARING OFFICER: Thank you very much.

16 The hearing will be conducted according to  
17 the protocols that were promulgated by the Supreme  
18 Judicial Court's emergency -- excuse me -- temporary  
19 emergency order on protocol for remote formal  
20 hearing that was promulgated on July 10th.

21 Because we are proceeding virtually, I'm  
22 going to ask -- first, I'm going to thank Mr. Loos,  
23 who is our technical guru, for all of his help and  
24 everything that I know he's going to be taking care

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1 of. I would also ask all of the participants please  
2 be mindful of the fact that, because we are on a  
3 virtual platform, it's really, really important that  
4 we not speak over one another. Please leave, for  
5 lack of a better phrase, daylight between when  
6 someone else finishes speaking and you begin.

7 Other than that, we will be conducting this  
8 as closely as possible to the way that it would be  
9 conducted if we were actually in one another's  
10 presence. Any adjustments that we have to make, of  
11 course, we will do our best to keep the hearing in  
12 the same form and at least with the same decorum as  
13 would be the case if it was not virtual.

14 So the first order of business that I would  
15 like to address is just two outstanding matters:

16 One is Mr. Angelini has filed a motion to  
17 reconsider a prior ruling of mine concerning expert  
18 testimony in an area of inquiry of one of the  
19 witnesses, and I am -- I know that Mr. Neff had  
20 wanted an opportunity to be able to address that in  
21 writing. The motion was filed yesterday, so the  
22 turnaround time is really difficult given that we're  
23 starting today.

24 What I will do is I am not going to

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1 consider the motion at this time, but what I will do  
2 is offer, at the end of the day, these proceedings,  
3 I will offer Mr. Angelini the opportunity to make an  
4 offer of proof on the record. But at this time,  
5 because I am not considering -- because I am not  
6 reconsidering, let me put it that way, my prior  
7 decision, the motion is denied without prejudice,  
8 and Mr. Angelini can make whatever record he would  
9 like at the conclusion of today's proceedings.

10           The second matter I would like to address  
11 is I received a -- an e-mail from Mr. Angelini  
12 referencing withdrawing an objection to Exhibit B.  
13 I didn't know what that was in reference to, but I'm  
14 assuming Mr. Neff does, and we will just go forward  
15 with any objection to Exhibit B having been  
16 withdrawn.

17           So --

18           MR. ANGELINI: Thank you.

19           THE HEARING OFFICER: -- with that, I would  
20 ask Mr. Neff, will you be giving the opening on  
21 behalf of the Commission?

22           MR. NEFF: I will, indeed, Judge, and I'm  
23 prepared to do so now if -- if now is the time.

24           THE HEARING OFFICER: Thank you.



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1           Go ahead.

2           MR. NEFF: All right; great. Thank you.

3           OPENING STATEMENT ON BEHALF OF THE COMMISSION

4           MR. NEFF: Well, good morning, Judge  
5 Josephson. Good morning to you all. Thank you for  
6 taking the time to be here with us today for -- for  
7 the Commission's first virtual formal hearing.

8           As I've already said, my name is Howard  
9 Neff. I am counsel for the Commission in this  
10 particular matter and -- I should say co-counsel for  
11 the Commission in this particular matter with  
12 Ms. Audrey Cosgrove, who will also be representing  
13 the Commission in the presentation of evidence in  
14 connection with the formal charges against Probate  
15 and Family Court Judge Paul M. Sushchyk in this  
16 matter.

17           In this matter the Commission has brought  
18 those charges of judicial misconduct against Judge  
19 Sushchyk charging him with having engaged in willful  
20 judicial misconduct that brings the judicial office  
21 into disrepute, as well as conduct prejudicial to  
22 the administration of justice and unbecoming a  
23 judicial officer in violation of Massachusetts  
24 General Laws, Chapter 211C.

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1           And the Commission is also charging him  
2 with having, by extension, violated the  
3 Massachusetts Code of Judicial Conduct which is, as  
4 you know, a rule promulgated by the Supreme Judicial  
5 Court of Massachusetts. The violations of the Code  
6 of Judicial Conduct that are at issue in the formal  
7 charges here are that Judge Sushchyk violated the  
8 Code by failing to comply with the law, including  
9 the Code of Judicial Conduct:

10           In violation of Rule 1.1 of the Code, that  
11 he failed to act at all times in a manner that  
12 promotes public confidence in the integrity and/or  
13 impartiality of the judiciary;

14           And/or by failing to avoid to impropriety  
15 or the appearance of impropriety in violation of  
16 Rule 1.2;

17           That by failing to perform judicial  
18 duties -- perform the duties -- perform the duties  
19 of judicial office without bias, prejudice or  
20 harassment, he violated Rule 2.3(A) of the Code of  
21 Judicial Conduct;

22           That by failing, in the performance of  
23 judicial duties, to refrain from manifesting bias,  
24 prejudice or engaging in harassment, he violated

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1 Rule 2.3(B) of the Code of Judicial Conduct;

2 That he failed to be dignified and/or  
3 courteous to litigants, witnesses, lawyers, court  
4 personnel and others with whom he deals in an  
5 official capacity in violation of Rule 2.8(B) of the  
6 Code of Judicial Conduct;

7 And that he participated in activities that  
8 would appear, to a reasonable person, to undermine a  
9 judge's independence, integrity or impartiality in  
10 violation of Rule 3.1(C) of the Code of Judicial  
11 Conduct.

12 This matter is brought before all of you --  
13 but in particular Judge Josephson, as the trier of  
14 fact -- based on a factual allegation that the  
15 Commission would argue was very courageously brought  
16 to the attention of the Chief Justice of the Probate  
17 and Family Court, John Casey, and other senior staff  
18 and judges of the Probate and Family Court by  
19 Ms. Emily Deines, a field coordinator for the  
20 Massachusetts Probate and Family Court, who has  
21 worked for Probate and Family Court here in  
22 Massachusetts since 2004.

23 The first witness you'll actually hear from  
24 today is Ms. Deines, and we expect that she will

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1 testify that she helped plan, and then attended, a  
2 two-day Probate and Family Court conference at the  
3 Ocean Edge Resort in Brewster, Massachusetts, to  
4 take place on April 25th and 26th of 2019. She will  
5 testify that after the training had ended on  
6 April 25th, there was a court-arranged dinner for  
7 attendees; and immediately after that dinner, some  
8 of those attendees extended their evening by going  
9 to a bar called the Bayzos Pub, which is a bar that  
10 is essentially located on part of the -- the Ocean  
11 Edge Resort campus. The parties went to that bar  
12 approximately -- approximately 8:30, 9:00 p.m. on  
13 April 25th.

14 Ms. Deines, we expect, will testify that  
15 she sat at a tall, bar-height table, on a tall,  
16 bar-height stool with coworkers from the Probate and  
17 Family Court that included a number of people,  
18 including Ms. Evelyn Patsos, Ms. Christine Yurgelun,  
19 Ms. Jocelyne Welsh, all of whom we expect we'll  
20 hear from and who will testify as part of this  
21 hearing. We expect that Ms. Deines will testify  
22 that while she was sitting with them at that table  
23 at Bayzos Pub, she saw the respondent in this case,  
24 Judge Paul M. Sushchyk, in the Bayzos Pub, walking

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1 toward her table. She will testify that she saw him  
2 walk toward her table from one direction and just as  
3 he passed by behind her, she felt someone grab her  
4 left buttock -- without invitation or consent,  
5 without justification or excuse -- and that the  
6 touching by this person -- who she believed was  
7 Judge Sushchuk, because she believed he was the only  
8 person behind her at the time and could have done  
9 that -- was unwanted.

10 We expect that Ms. Deines will testify that  
11 she was so shocked at that moment that a person  
12 serving in such a highly regarded and respected  
13 position as a Massachusetts judge, a Probate and  
14 Family Court judge, had done this to her, that she  
15 didn't react at first. She didn't know what to do.  
16 She only slowly came to terms with the reality that  
17 what had happened had actually really just happened;  
18 and that someone had randomly -- in this case she  
19 will testify she believes Judge Sushchuk -- had  
20 randomly assaulted her by touching her buttock in  
21 the midst of a public bar, with people around, on  
22 April 25th, 2019.

23 We expect Ms. Deines to testify that she  
24 remained at the bar after that happened for a short

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1 period of time, mostly trying to get the attention  
2 of one of her friends who was also sitting at the  
3 table speaking with Judge Sushchyk, Ms. Evelyn  
4 Patsos -- who, as I said, will testify as part of  
5 this hearing, we expect. And after she failed to  
6 get Ms. Patsos's attention, Ms. Deines eventually  
7 left the bar and went to her home, which was her  
8 family home, a short distance away from the resort  
9 where the conference was taking place.

10 In his responses to date, Judge Sushchyk  
11 has denied grabbing Ms. Deines' buttock as  
12 Ms. Deines has described it, so over the course of  
13 the next few days, and several witnesses, the  
14 Commission expects to present you -- meaning you,  
15 Judge Josephson, as trier of fact -- with evidence  
16 and testimony establishing, we would say clearly and  
17 convincingly, that Ms. Deines made a credible report  
18 that Judge Sushchyk improperly grabbed her buttocks  
19 at the Bayzos Pub on April 25th, 2019.

20 We expect to present testimony and evidence  
21 regarding the natural and deliberate thought process  
22 Ms. Deines went through after this happened and as  
23 she decided whether to report Judge Sushchyk's  
24 assault upon her person. Ms. Deines was

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1 concerned -- Ms. Deines, we expect, will testify she  
2 was concerned for her own career, but she was also  
3 concerned for the potential impact on Judge  
4 Sushchuk's career; was not necessarily out to get  
5 anyone. We expect that she will testify that, after  
6 seeking more than one opinion from more than one  
7 person regarding what should she do -- should she  
8 report this; who should she report it to --  
9 Ms. Deines considered whether or not to file a  
10 complaint about this with the Massachusetts  
11 Commission Against Discrimination -- I would argue,  
12 effectively escalating this complaint -- and  
13 instead, with 16 years of experience working for the  
14 Probate and Family Court, Ms. Deines had said --  
15 decided to keep the matter in-house and make the  
16 complaint to the Probate and Family Court, the court  
17 she worked with and trusted a number of employees  
18 within that court department.

19 Ms. Deines will also testify that as part  
20 of her decisionmaking process that caused her to --  
21 to eventually decide that she needed to make this  
22 report, or did make this report, she had concerns  
23 about other employees who may end up working with  
24 Judge Sushchuk in the future and what it would mean

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1 if she remained silent in response to Judge  
2 Sushchyk's conduct toward her and let it slide.  
3 And, as a consequence, ultimately decided that she  
4 was going to make a complaint to the Probate and  
5 Family Court.

6 We expect Ms. Deines to testify that she  
7 formally reported Judge Sushchyk's assault against  
8 her on April 25th to the chief justice of the  
9 Probate and Family Court, John Casey, by phone. We  
10 expect you will hear testimony that the Probate and  
11 Family Court takes all complaints of sexual  
12 harassment very seriously and, accordingly, Chief  
13 Justice Casey also took this complaint very  
14 seriously, swiftly acting on Ms. Deines' report,  
15 seeking advice from the chief justice of the Trial  
16 Court, Paula Carey, following established guidelines  
17 set by the Trial Court for the investigation of this  
18 type of complaint, complaints of sexual harassment.

19 And we expect that you will hear testimony  
20 that Ms. Deines reported Judge Sushchyk's assault on  
21 her on April 25th, 2019, several times during the  
22 course of that investigation, and to several  
23 people -- sometimes using slightly different word  
24 choices -- but the Commission fully expects that the



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1 testimony will be such that you will see that her  
2 report that Judge Sushchuk improperly grabbed her  
3 left buttock never waivered in any kind of  
4 meaningful way other than that she occasionally  
5 chose different words to describe what happened, the  
6 Commission might argue, based on her familiarity or  
7 the formality of the relationship Ms. Deines had  
8 with the particular party to whom she was making the  
9 report.

10 THE HEARING OFFICER: All right.

11 MR. NEFF: We expect that in the testimony  
12 and evidence that will be presented you will find a  
13 clear, convincing contrast between Ms. Deines'  
14 thoughtful, measured actions and Judge Sushchuk's  
15 emotional, nonsensical and arguably meaningfully  
16 inconsistent responses to Ms. Deines' allegations of  
17 misconduct against him; and on the basis of all of  
18 that evidence, the Commission expects that that  
19 testimony and evidence presented will clearly and  
20 convincingly establish that Ms. Deines -- a woman  
21 with nothing, really, to gain and everything to  
22 lose; who had fears of the consequences to her  
23 career and her job by bringing a complaint against a  
24 judge -- despite all that, chose to make the

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1 difficult and courageous decision to make the  
2 complaint against Judge Sushchuk and not let the  
3 matter pass.

4 Thank you.

5 THE HEARING OFFICER: Thank you very much,  
6 Mr. Neff.

7 Before I turn to Mr. Angelini, let me just  
8 say to those members who have joined, or observers  
9 who have joined, welcome. If you did not hear what  
10 I initially said to members of the public, of course  
11 you're welcome to be here. I would ask that you  
12 kindly disable your video so -- the video coming  
13 from you so that we have a blank screen.

14 I will also state for the record that I  
15 disabled the video of Galaxy S10 because of the  
16 display of political material in the video, which  
17 would not be allowed in any court and will not be  
18 allowed here, either.

19 With that, Mr. Angelini, would you like to  
20 make an opening at this time or do you want to  
21 reserve your right?

22 MR. ANGELINI: I would like to make a very  
23 brief opening, your Honor, and I'll do so now with  
24 your permission.

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1           THE HEARING OFFICER: Absolutely.

2           MR. ANGELINI: Thank you.

3           OPENING STATEMENT ON BEHALF OF JUDGE SUSHCHYK

4           MR. ANGELINI: My name is Michael Angelini,  
5 and I'm proud to represent Judge Sushchyk, who is a  
6 judge of the Probate and Family Court sitting  
7 primarily here in Worcester, Massachusetts.

8           Let me be clear from the beginning, Judge  
9 Sushchyk explicitly denies each and every one of  
10 these allegations. He does so in the strongest  
11 possible terms. He respects the fact that we have a  
12 system of justice that allows anyone to make a claim  
13 against someone else, but we're pleased to be here  
14 in this very formal proceeding by which that claim  
15 is tested.

16           You will hear, your Honor, that this claim  
17 is a claim which has been variously stated,  
18 inconsistently repeated, and is entirely without  
19 foundation. There is no witness to what is claimed  
20 to have occurred. There is no percipient testimony  
21 by anyone with respect to what has been claimed to  
22 have occurred. Ms. Deines has not claimed that she  
23 saw Judge Sushchyk do anything to her or with  
24 respect to her. There are no other witnesses to

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1 this, and you will find that her claim, which has  
2 been variously stated, is implausible based on the  
3 evidence.

4 Let me be clear what we're here for, your  
5 Honor. We're here based on formal charges brought  
6 by the Commission. It is their responsibility to  
7 prove these charges not just simply by some  
8 evidence, but by reliable evidence which is clear  
9 and convincing.

10 You will find, with respect to these  
11 charges, that there is, indeed, no evidence which  
12 supports either of them -- and I say either of them,  
13 because the charges here fall into two categories:

14 The first category is that Judge Sushchuk  
15 intentionally -- I'm quoting the words from the  
16 Commission's formal charges, quote:

17 "Intentionally, without justification  
18 or excuse, and without invitation or  
19 consent from Ms. Deines, placed one of  
20 his hands under Ms. Deines' buttocks or  
21 buttock and pinched and squeezed her  
22 buttock or buttocks."

23 That claim is expressly denied. No one saw  
24 anything like that happen. Judge Sushchuk will

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1 testify under oath, as an officer of the court as  
2 well as a human being who has a reputation for truth  
3 and credibility, that no such thing occurred  
4 implicating him in any way.

5           You will hear Ms. Deines say that she  
6 doesn't know who, if anyone, did this to her. She  
7 doesn't know who, if anyone, did any of the actions  
8 which she has variously described as involving some  
9 contact with some part of her body. There are no  
10 witnesses. She did not see it happen. She has  
11 presumed it happened based upon faulty assumptions,  
12 which we will provide significant evidence about.  
13 She has no basis to believe that Judge Sushchuk did  
14 any of these things, but she has nevertheless  
15 concluded that he did, despite the fact that he  
16 expressly denies it, and despite the fact that he  
17 has no motive for doing anything of this nature.

18           You will hear a lot about this. You will  
19 hear from Ms. Deines, and I look forward to my  
20 cross-examination of her testimony.

21           The second aspect here is the claim that  
22 while he was in an area engaging in friendly  
23 conversation after this alleged event had occurred  
24 involving her body, that Judge Sushchuk, during the

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1 course of friendly conversation, noted that he had a  
2 flask in his side coat pocket. And you will hear  
3 Ms. Deines testify that he didn't remove it from his  
4 pocket. He lifted it about one inch so that the top  
5 inch of that flask was visible.

6 That was a harmless event. There's no  
7 violation of law to carry a flask into a restaurant  
8 or anywhere else. He'll testify as to why he did  
9 so. That it was -- it is neither illegal, nor an  
10 embarrassing or inappropriate act. And you'll hear  
11 Ms. Deines, the principal witness of the -- of the  
12 Commission on Judicial Conduct, testify that he  
13 didn't remove it.

14 So I ask you, your Honor, that -- as I know  
15 you will -- you consider this case to be what it is:  
16 That it is the responsibility of the Commission on  
17 Judicial Conduct to prove its case, to prove its  
18 case not on the basis of supposition, not on the  
19 basis of assumption, not on the basis of conjecture,  
20 not on the basis of speculation, not on the basis of  
21 character assassination, but prove what it says has  
22 occurred. And I assert to you that when you hear  
23 all the evidence, you will conclude that there is,  
24 indeed, much less no clear evidence, much less no

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1     convincing evidence, but much less no reliable  
2     evidence whatsoever in support of either of these  
3     charges.

4             Thank you very much.

5             THE HEARING OFFICER: Thank you,  
6     Mr. Angelini.

7             We'll be asking you, Mr. Neff, to call your  
8     first witness.

9             And I will just say to anyone who may be a  
10    witness in this matter, at the outset of your  
11    testimony I will be asking you a series of questions  
12    that are required under the protocol, the emergency  
13    protocol promulgated by the Commission on Judicial  
14    Conduct. I will be asking the same questions of  
15    every witness, and I will be asking those questions  
16    again of every witness after any breaks or recesses  
17    or if there is a break going overnight. So please  
18    don't feel as though you're being singled out in any  
19    way for some special attention to where you are or  
20    what the circumstances are of your testimony.

21             THE COMMISSION'S CASE-IN-CHIEF

22             THE HEARING OFFICER: So with that,  
23    Mr. Neff, could I ask you to please call your first  
24    witness.

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1 MR. NEFF: I appreciate that.

2 At the risk of being picky, I just wanted  
3 to address one minor issue first, Judge Josephson.

4 I am not aware that Mr. Angelini intends to  
5 call any character witnesses regarding Judge  
6 Sushchuk, so I object to and would ask that  
7 Mr. Angelini's vouching that Judge Sushchuk is a  
8 truthful or credible judge during his opening  
9 statement is not based on any evidence before the  
10 Court and should be stricken from -- from the record  
11 of this matter and shouldn't be repeated unless  
12 proper foundation is established.

13 THE HEARING OFFICER: Okay. Well, thank  
14 you, Mr. Neff.

15 Not to cut you off, Mr. Angelini, but given  
16 that it's an opening statement without a jury, if it  
17 were a jury, I'd instruct the jury that it is simply  
18 opening and it is not evidence, and until there is  
19 evidence, it is not to be considered.

20 So I'll instruct myself accordingly, and  
21 thank you, Mr. Neff.

22 MR. NEFF: As I said, I'm just being a  
23 little picky.

24 But in any event, the next thing to say is



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1 that, as I indicated, our next witness will be  
2 Ms. Emily Deines. And my co-counsel, Ms. Cosgrove,  
3 is going to conduct the examination of this time.

4 THE HEARING OFFICER: Thank you, Mr. Neff.

5 (EMILY DEINES, called)

6 THE HEARING OFFICER: Good morning,  
7 Ms. Deines.

8 THE WITNESS: Good morning, Judge.

9 THE HEARING OFFICER: Can you hear me okay?

10 THE WITNESS: I can.

11 THE HEARING OFFICER: As I said, I need to  
12 ask you some questions before Ms. Cosgrove gets  
13 underway with her direct examination.

14 So could I ask you to kindly state your  
15 name for the record.

16 THE WITNESS: Sure.

17 My name is Emily Deines.

18 THE HEARING OFFICER: Thank you.

19 And where are you physically located at  
20 this time?

21 THE WITNESS: I'm physically located in my  
22 home in Northampton, Massachusetts.

23 THE HEARING OFFICER: Okay. And who is  
24 physically in the room with you at this time?

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1           THE WITNESS:  No one.

2           THE HEARING OFFICER:  What materials and  
3 devices do you have with you?

4           THE WITNESS:  I have some of the -- so  
5 devices, I have a phone and I have a tablet, both of  
6 which are switched off.  And materials, I have some  
7 of the evidence, photographs.

8           THE HEARING OFFICER:  Okay.  And if you  
9 would, please tell us what is currently on your  
10 screen or screens.

11          THE WITNESS:  Just my e-mail and Zoom.

12          THE HEARING OFFICER:  Okay.

13          THE WITNESS:  That's it.

14          THE HEARING OFFICER:  And this, right?

15          THE WITNESS:  And this, right.  Correct.  
16 Zoom.

17          THE HEARING OFFICER:  Okay.  And finally,  
18 are you in communication with any persons other than  
19 those conducting the examination?

20          THE WITNESS:  No.  Not right -- not at this  
21 moment.

22          THE HEARING OFFICER:  Right.  Okay.

23                 If anything about those answers changes at  
24 any time during your testimony, if you would please

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1 make me aware of that.

2 THE WITNESS: Okay.

3 THE HEARING OFFICER: All right. Thank  
4 you, Ms. Cosgrove.

5 MS. COSGROVE: Thank you, your Honor.

6 May I inquire of the witness?

7 THE HEARING OFFICER: Yes, please.

8 DIRECT EXAMINATION

9 BY MS. COSGROVE:

10 Q. Ms. Deines, could you please state your  
11 name -- state your full name and spell your last  
12 name for the record as a way of introduction.

13 A. Sure.

14 My name Emily Deines. It's spelled  
15 D-e-i-n-e-s, as in "Sam."

16 Q. Thank you.

17 Can you please tell us just generally where  
18 do you live?

19 A. I live in Northampton, Massachusetts.

20 Q. In -- with who do you reside?

21 A. I live with my 3-year-old and my husband.

22 Q. Okay. You said your husband.

23 What's his name?

24 A. My husband's name is Lawrence George.

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1 Q. And how long have you been married?

2 A. Five years.

3 Q. You said you had a three-year-old son?

4 A. Yes.

5 Q. Now, Ms. Deines, can you tell us, are you  
6 currently employed?

7 A. I am.

8 Q. And where do you work?

9 A. I work for the Trial Court of  
10 Massachusetts.

11 Q. And specifically do you work for a  
12 particular branch of the Trial Court of  
13 Massachusetts?

14 A. Yes. I work for the administrative office  
15 of the Probate and Family Court.

16 Q. Can you tell us for how long have you  
17 worked for the administrative office of the Probate  
18 and Family Court?

19 A. It will be 16 years in the fall.

20 Q. So when did you actually begin employment  
21 there?

22 A. 2004.

23 Q. Now, can you please explain to us where are  
24 you -- where is your office physically located in

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1 Massachusetts?

2 A. I am regional to western Massachusetts. I  
3 have an office in Springfield and a very nice  
4 cubicle in Northampton at the Northampton court.

5 Q. However, does your job take you to various  
6 locations throughout the state?

7 A. It does, yes.

8 Q. Okay. So can you please explain to us what  
9 is your job title, actually?

10 A. My job title is field coordinator.

11 Q. And could you please describe for us some  
12 of your job responsibilities as the field  
13 coordinator for the Probate and Family Court.

14 A. Sure.

15 We handle sort of IT initiatives,  
16 technology initiatives for the Probate and Family  
17 Court. I do a decent amount of training, on-site  
18 support, you know, creating implementation, rollout  
19 of technology, helping our office sort of move  
20 forward with technology.

21 Q. When you say "trainings," is that for the  
22 judges of the Probate and Family Court?

23 A. Yes.

24 Q. And are these trainings collective group

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1 trainings or are they individual trainings?

2 A. They're both.

3 So there are some one-on-one trainings I do  
4 for some newer employees, and I'll also do group  
5 trainings when we have new technology that's being  
6 rolled out or implemented.

7 Q. So in your time for the past 16 years with  
8 the Probate and Family Court has your job involved  
9 doing any type of judicial conferences?

10 A. Yes. I am the staff liaison to our  
11 judicial education committee.

12 Q. So as you also -- you're field coordinator,  
13 but, as a field coordinator, you're also the staff  
14 liaison?

15 A. Yes. To our judicial education committee,  
16 and they put on our two conferences a year.

17 Q. Can you please explain that for all of us.  
18 What do you mean by two conferences a year?

19 A. Sure.

20 The Probate and Family Court judges have a  
21 fall one-day -- usually one-day conference and a  
22 spring two-day conference every year, and the  
23 education committee puts together the programming  
24 for those two days. Or for that -- I'm sorry, those

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1 two conferences.

2 Q. And how many people are on this education  
3 committee?

4 A. There's about 10 to 15, usually.

5 Q. In -- in your past 16 years with the  
6 Probate and Family Court, have you participated in  
7 several of these conferences, both the fall and the  
8 spring?

9 A. Yes. I was added to the education  
10 committee probably about six years ago, and so I've  
11 participated in it an average of 12, I would say,  
12 conferences.

13 Q. Now, I would like to now draw your  
14 attention to the dates of April 25th through the  
15 26th of 2019.

16 Can you tell me specifically, were you  
17 involved in the spring Probate and Family judicial  
18 conference at that time?

19 A. I was, yes.

20 Q. Okay. Can you explain to us what -- what  
21 your schedule -- what your -- what your involvement  
22 was?

23 A. Sure.

24 So we plan the conference, conferences

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1 throughout the year, with the committee. We meet  
2 monthly. We put together the programming.

3 My role is sometimes to coordinate  
4 presenters, you know, make sure materials work, make  
5 sure that all of the Powerpoints are in, that the  
6 technology is going to -- to go off without a hitch,  
7 and to make sure that the conferences are -- are --  
8 we're supporting the judges at the conferences.

9 Q. So on this occasion, where was the  
10 conference actually scheduled to be held?

11 A. The actual conference was at the Ocean Edge  
12 Resort in -- on the Cape in Brewster.

13 Q. So it was in Brewster, Mass.

14 Had the conference actually ever been held  
15 there before?

16 A. Not since I've been on the committee. Not  
17 that I've known. Not that -- not since I've been  
18 going. They could have been prior to my time on  
19 the -- on the committee.

20 Q. As part of your preparation, did you  
21 actually visit the facility at all?

22 A. I did not, no.

23 Q. Okay. Now, you said it was a two-day  
24 conference.



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1           Where --

2           A.    I'm sorry, Audrey.  Sorry, Attorney  
3   Cosgrove.  They -- I believe that they had the  
4   conference the year before at the Ocean Edge Resort,  
5   but I was -- I didn't go to that one.

6           Q.    Okay.

7           A.    I'm sorry.  To clarify.

8           Q.    Thank you.

9                   Now, as a two-day conference were the  
10   participants, the judicial participants attending  
11   that conference offered overnight accommodation?

12          A.    Yes.  They are.

13          Q.    Okay.  And so where -- where on the  
14   facility did the -- did the judges that attended the  
15   conference stay?

16          A.    They had the option of either staying, at  
17   the Trial Court's expense, in I believe what's  
18   called the Villages, which is a little bit removed  
19   from -- from the actual location of the conference,  
20   or stay in what they called the mansion rooms, which  
21   are on-site where the conference is, but they would  
22   have to pay the difference in cost.

23          Q.    And who actually arranged all these  
24   reservations for the judges that were in attendance?

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1           A.     Sure.

2                     Michelle Hynes from the Judicial Institute.

3           Q.     And if you know, how many -- how many --  
4 approximately how many judges were attending the  
5 conference that year?

6           A.     I think approximately 48 or 49.

7           Q.     Now, as -- as somebody that was helping to  
8 coordinate this event, were you offered the  
9 opportunity to stay overnight at the conference?

10          A.     Yes, I was.

11          Q.     And did you do that?

12          A.     No, I did not. I stayed at my family's  
13 summer home in Eastham, Massachusetts.

14          Q.     I'm sorry. Where did you say?

15          A.     I stayed at my family's home in Eastham,  
16 Massachusetts.

17          Q.     Thank you.

18                     And why is it that you stayed in your  
19 family home -- at your family's home in Eastham,  
20 Massachusetts versus on the facility in Brewster?

21          A.     I had to bring my son with me, and my  
22 parents were going to be watching him while I worked  
23 at the conference for the two days.

24          Q.     So -- and once again, so you -- actually

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1 for child care reasons you did that?

2 A. Yes.

3 Q. Okay. Now, why is it that you couldn't  
4 leave your child at home?

5 A. My husband works on Thursday and Friday  
6 nights.

7 MR. ANGELINI: Objection. Relevance.

8 THE HEARING OFFICER: Sustained.

9 Q. Other than the judges who were there at  
10 the -- and yourself who was invited to attend, were  
11 there other nonjudicial employees that attended the  
12 conference?

13 A. Non-judges, yes. There was -- there were a  
14 few administrative office staff and Michelle Hynes  
15 from the Judicial Institute.

16 Q. Can you please explain to us, is it normal  
17 for nonjudicial attendees to attend the conference?

18 A. Some years, if they're invited. I believe  
19 Chief Justice Casey wanted to offer them an invite  
20 that year.

21 Q. And why is that, if you know?

22 A. I don't --

23 MR. ANGELINI: Objection.

24 THE HEARING OFFICER: Sustained.

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1           Q.    So do you know if any of the other  
2 nonjudicial court employees that attended the  
3 conference were offered overnight stays?

4           A.    They were, yes.

5           Q.    And who do you know, if you do, was given  
6 an opportunity to stay overnight?

7           A.    Jocelyne Welsh, Christine Yurgelun, Evelyn  
8 Patsos and Denise Fitzgerald.

9           Q.    So when did you actually leave to actually  
10 get to this conference that you were helping  
11 coordinate on April 25th and 26th, 2019?

12          A.    When did I leave to go to the -- to the  
13 Cape?

14          Q.    Yes.

15          A.    So I traveled down Wednesday night with my  
16 son.

17          Q.    Now, I want to actually just specifically  
18 now turn to April 25th, 2019.

19                    What time was the conference scheduled to  
20 begin that day?

21          A.    I believe it was scheduled to begin around  
22 9:00 or 9:30.

23          Q.    So what time did you get up -- what was  
24 your routine that day?  What time did you get up?

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1 What time did you leave your mother's house?

2 A. I probably got up when my son got up, but  
3 probably between 6:00 and 6:30. I got him ready for  
4 the day, made sure my parents were -- were okay  
5 taking care of him, probably fed him breakfast, and  
6 I believe I left -- it took about 20 minutes to get  
7 from the house to the conference -- probably left  
8 around 7:15 that morning to get there.

9 Q. And so what time did you arrive at the  
10 conference facility at the Ocean Edge?

11 A. About 7:45, eight o'clock.

12 Q. And what were your responsibilities at that  
13 time as you arrived at the Ocean Edge Resort?

14 A. Sure.

15 I was bringing some materials that were  
16 last minute that didn't get into the folders, so I  
17 had to bring those in. I had to set up, add those  
18 to the folders that were already there. We set up  
19 the name tags. We greet the judges when they come  
20 in. We make sure they have their folders, their  
21 agenda for their day, their name tag, and that they  
22 sign in. We sort of make sure that the breakfast is  
23 set out okay and that the -- the -- the -- the  
24 presenters are sort of prepared to speak and

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1 everything, the setup looks good.

2 Q. You said -- you keep saying the word "we."  
3 Was anybody else working with you in this task of  
4 coordinating and greeting the participants?

5 A. Yes. Michelle Hynes.

6 Q. Okay. And you mentioned that some of the  
7 other employees that are nonjudicial were at the  
8 conference.

9 Were they also arriving?

10 A. Yes, they were.

11 Q. And what was their role in the conference?

12 A. They -- I'm sorry, Audrey. I'm sorry,  
13 Attorney Cosgrove.

14 They were there as guests, so they were  
15 there to -- to listen to the speakers and be guests  
16 of the -- like similar to how a judge would be.

17 Q. Okay. And can you tell us a little bit  
18 about what was scheduled? Like how -- what the  
19 timing of the schedule was that day, for the  
20 conference itself?

21 A. Sure.

22 From what I remember, we had two  
23 presentations in the morning, a break for lunch, and  
24 we would have usually two or three smaller

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1 presentations in the afternoon. And the goal was to  
2 end a little bit early on the first day, about 3:30.  
3 I think it probably went to almost 4:00 at that  
4 point, but...

5 Q. So as the first day was supposed to end at  
6 4:00?

7 A. I believe the first day was supposed to end  
8 at 3:30, but I think they usually go a little bit  
9 late. So I think it almost went till 4:00.

10 Q. And there was -- I think you made mention  
11 of a luncheon?

12 A. Yes. There's a lunch provided on site.

13 Q. Did you attend the luncheon?

14 A. On Thursday, I actually think I was working  
15 to help put one of the Powerpoint presentations  
16 together for -- for the afternoon session. I don't  
17 think I actually sat down and had -- had lunch with  
18 the other people that were there.

19 Q. Now, when you were greeting participants  
20 did you see Judge Sushchuk when he came to the  
21 conference? Had you seen him that day on the 25th?

22 A. I don't remember in particular. There were  
23 a decent number of people coming in and out.

24 Q. There was -- so you have no independent

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1 recollection of when he arrived at the conference?

2 A. No, I do not.

3 Q. Do you remember seeing him during the first  
4 day of this -- of the -- of the afternoon portion or  
5 the morning portion of the conference?

6 A. Yes, I do remember seeing him at the  
7 conference that day.

8 Q. Was there anything in particular that drew  
9 your attention to anything? Was there anything  
10 unusual between your interactions with him?

11 A. No.

12 MR. ANGELINI: Objection.

13 THE HEARING OFFICER: Overruled.

14 Q. When -- backing up for a minute, have you  
15 met Judge Sushchuk before this conference on the  
16 25th and the 26th?

17 A. Yes.

18 Q. Thank you.

19 And please tell me, when was the first time  
20 you've met Judge Sushchuk?

21 A. I believe the first time I met him, I had  
22 offered to do a training. I do a training for our  
23 newer judges a few months after they get on the  
24 bench. It's just a walk-through of our software and



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1 hardware programs that we -- that the Trial Court  
2 provides. It's really to answer any technical  
3 questions.

4 And I met with him, it was probably  
5 sometime in May or April of the year that he was  
6 appointed.

7 Q. And how was your interaction with Judge  
8 Sushchuk at that time?

9 A. Fine. It was, you know, short.

10 Q. Did you help him -- had you had any other  
11 working -- relationship other than a working  
12 relationship with him? Was he a social friend --

13 A. No.

14 Q. -- or acquaintance?

15 A. No.

16 Q. Did you actually have any other -- any  
17 other time during your professional relationship  
18 with him to interact with Judge Sushchuk?

19 A. Yes.

20 Pretty soon after that he was having issues  
21 logging into our videoconferencing system, and he  
22 texted me. You know, it was resolved, and he  
23 thanked me.

24 Q. Was there anything unusual about that, in

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1 your opinion?

2 A. No.

3 MR. ANGELINI: Objection.

4 I withdraw my objection.

5 Q. So going back to the April 25th of 2019,  
6 you said that the session was scheduled to end  
7 around 3:30, but it actually went till 4:00?

8 A. Yeah. Or 3:45. Actually 3:30, 3:45, I  
9 would say.

10 Q. At the end of that, of the first afternoon  
11 of the conference, what did -- what did you do,  
12 then?

13 A. I helped clean up the room, and I left to  
14 go back to my family's home and get my son ready,  
15 you know, for dinner and for bed.

16 Q. Thank you.

17 But was there actually a dinner planned  
18 that night as part of the events, since everybody  
19 was staying overnight?

20 A. Yes. Yes. There's a Trial Court-sponsored  
21 dinner.

22 Q. Okay. So what time was the dinner  
23 scheduled to begin?

24 A. 7:00 p.m.

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1           Q.     And so as you were finishing cleaning up,  
2     at approximately what time did you leave the Ocean  
3     Edge facility to go care for your son?

4           A.     I probably left around 4:00.

5           Q.     Okay. Was your intention to come back for  
6     the dinner?

7           A.     Yes.

8           Q.     And wouldn't it have been easier just to  
9     stay at the facility until the dinner happened?

10          A.     I guess I didn't think about that, but no.  
11     You know, I had to sort of take care of my son. So  
12     I had to make sure everything was okay, my parents  
13     were not overwhelmed with a toddler.

14          Q.     Okay. So as you were leaving, or at some  
15     point prior to that, were you aware if there was any  
16     other non-conference-related events that were being  
17     hosted for the judges or the attendees that happened  
18     after the -- after the conference and before dinner?

19          A.     I believe there was an announcement made  
20     about a social gathering for judges in between the  
21     dinner and the end of the conference -- the  
22     conference and the end of the dinner. I'm sorry.

23          Q.     So there was actually an announcement made  
24     about a social gathering for judges?

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1           A.    Yeah.

2           Q.    Was this a planned event as part of the  
3 conference that you had coordinated?

4           A.    No.

5           Q.    And was it only for the judges?

6           A.    That was my understanding.

7           Q.    So after at some point in time you went to  
8 your mom's house and then actually had to drive back  
9 to the Ocean Edge facility for the dinner?

10          A.    Yes.

11          Q.    Okay.  What time did you arrive back at the  
12 Ocean Edge facility for that dinner?

13          A.    I believe I was a little bit late.  I think  
14 I got there about 7:15.

15          Q.    Can you please tell us a little bit about  
16 the dinner?  You know, were there other non-judges  
17 there, other nonjudicial employees there attending  
18 the dinner as well?

19          A.    Yes.  They did.  Yes.

20          Q.    So specifically who was there as far as  
21 your social group?

22          A.    As far as my social group, it would have  
23 been Michelle Hynes, Jocelyne Welsh, Christine  
24 Yurgelun, Evelyn Patsos and Denise Fitzgerald.

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1           Q.    And can you please tell us what you  
2 remember about, as you arrived at the Ocean Edge for  
3 the dinner portion of the evening, what happened?

4           A.    It was located sort of downstairs in I  
5 would call it probably a ballroom, and it was a  
6 buffet. There was a cash bar. I think everyone was  
7 there before I got there, so I -- our table sort of  
8 sat together in the back, closest to the door.

9           Q.    When you say "closest to the door," you  
10 mean the exit at the back of the ballroom?

11          A.    Yes. So -- yes.

12          Q.    So when you arrived at the event, what's  
13 the first thing you did?

14          A.    I got in line for the cash bar. Looked  
15 pretty popular.

16          Q.    Okay. So -- and what did -- did you  
17 purchase a beverage?

18          A.    I did.

19          Q.    And what kind of beverage did you purchase?

20          A.    I purchased a glass of wine for myself and  
21 for Michelle Hynes.

22          Q.    And then did you find your way towards a  
23 seat?

24          A.    I did, yes.

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1 Q. And who did you sit with specifically?

2 A. I sat with Michelle Hynes, Jocelyne Welsh,  
3 Denise Fitzgerald, Evelyn Patsos and Christine  
4 Yurgelun.

5 Q. Was there anything unusual that occurred at  
6 the dinner itself?

7 MR. ANGELINI: Objection.

8 A. No.

9 Q. Did you see or speak to Judge Sushchuk at  
10 that dinner?

11 A. No.

12 Q. After the dinner concluded --

13 I should ask first, what time did the  
14 dinner conclude?

15 I think we lost -- oh, you came back.

16 A. The host had to unmute me. I can't unmute  
17 myself.

18 THE HEARING OFFICER: Correct.

19 A. So I'm sorry about that. I'm not sure what  
20 happened.

21 So Audrey -- I'm sorry.

22 Attorney Cosgrove, can you ask that  
23 question again?

24 Q. Of course.

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1           So what time did the dinner conclude at?

2           A.    I believe it started to wrap up around  
3    8:00 p.m.

4           Q.    I couldn't -- I'm sorry.

5           A.    I'm sorry.

6           It started to wrap up around 8:00 p.m.

7           Q.    And did you have any plans for after the  
8    dinner concluded?

9           A.    The -- the people at my table decided to go  
10   grab a drink at the Bayzos Pub, which is located  
11   on -- in the facility.

12          Q.    I was just going to ask you that.

13                    So the Beyzos Pub is actually on the same  
14   facility? Can you please explain that to us?

15          A.    Sure.

16                    So the ballroom was sort of downstairs from  
17   where the conference was held, and the Bayzos Pub  
18   was on the same floor. So you sort of walk by it on  
19   your way upstairs and downstairs.

20          Q.    Approximately how far from the -- from the  
21   ballroom is it to the Bayzos Pub? How long would it  
22   take to walk?

23          A.    Oh, two minutes. I think it's probably  
24   about 50 feet. Close to -- close to the location.

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1           Q.    So at that point in time you had a  
2 conversation with the people you were having dinner  
3 with?

4           A.    I did.

5           Q.    And the decision was to head to the Bayzos  
6 Pub?

7           A.    Yeah.  Yep.

8           Q.    At that point was anybody else leaving the  
9 dinner?

10          A.    From what I remember, I believe we were  
11 some of the first people to leave the dinner.

12          Q.    Okay.  So you were some of the first  
13 people.

14                   And at that point in time why didn't you  
15 just head back to your mother's house?

16                   MR. ANGELINI:  Objection.

17                   THE HEARING OFFICER:  Sustained.

18          Q.    And so who specifically did you walk over  
19 to the Bayzos Pub with?

20          A.    Sure.

21                   Evelyn Patsos, Jocelyne Welsh, Christine  
22 Yurgelun and Denise Fitzgerald.

23          Q.    As you were walking towards that, were  
24 there other judicial attendees who were also moving



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1 towards the Bayzos Pub after the dinner portion of  
2 the conference concluded?

3 A. I didn't notice at the time.

4 Q. Now, can you please tell us -- can you  
5 please describe for us, give us a brief description  
6 about the Bayzos Pub.

7 A. Sure.

8 It's a -- appeared to be a bar/restaurant.  
9 When you walked in the front door, there was a --  
10 like a sort of L-shaped bar on your left. There  
11 were sort of what I would call restaurant tables on  
12 the left, and -- and then in the middle there were  
13 some sort of what I would call high-top tables.

14 MS. COSGROVE: Your Honor, at this point in  
15 time I would like to, if I might, ask what has been  
16 previously marked for identification as Exhibit F be  
17 brought up for Ms. Deines to view and --

18 THE HEARING OFFICER: All right.

19 THE REPORTER: One moment.

20 THE WITNESS: So, Mr. Loos, you're putting  
21 it in the chat so I can open it?

22 THE REPORTER: Yes.

23 THE WITNESS: Okay. Perfect. Thank you.

24 Okay, Audrey. I have it.

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1 MS. COSGROVE: So let me see. I'm just  
2 opening it up on mine also.

3 THE HEARING OFFICER: Hang on one minute.  
4 Let me make sure also Mr. Angelini and Judge  
5 Sushchuk have it.

6 Do you have it?

7 MR. ANGELINI: I haven't gotten it, Judge,  
8 but let me try here.

9 THE HEARING OFFICER: All righty.

10 MR. ANGELINI: Excuse me a second.  
11 I opened chat, but I don't see it.

12 THE REPORTER: I can try again. I'll send  
13 it to you again.

14 MR. ANGELINI: Mr. Matthew is here, and  
15 he's going to try to assist me here, an exhibit  
16 which is shown in the chat.

17 Oh, I have it.

18 MS. COSGROVE: Great.

19 MR. ANGELINI: Thank you, your Honor.

20 THE HEARING OFFICER: Okay, Ms. Cosgrove.

21 MS. COSGROVE: Thank you, your Honor.

22 May I inquire?

23 THE HEARING OFFICER: Sure.

24

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1 BY MS. COSGROVE:

2 Q. Ms. Deines, with Mr. Loos' help here, I  
3 believe you can view what has been previously marked  
4 as Exhibit F for identification.

5 Do you see that?

6 A. I do.

7 Q. And can you please tell us, do you  
8 recognize what that is?

9 A. That is the Bayzos Pub.

10 Q. Can you please tell us, is that a fair and  
11 accurate representation or depiction of the Bayzos  
12 Pub as you entered it on April 25th, 2019, after the  
13 dinner?

14 A. Yes.

15 MS. COSGROVE: Your Honor, at this point I  
16 would like to move that the Commonwealth's Exhibit F  
17 that was marked for identification be admitted into  
18 evidence.

19 THE HEARING OFFICER: Any objection?

20 MR. ANGELINI: No objection, your Honor.

21 THE HEARING OFFICER: All right.

22 Exhibit 1, please.

23 (Document marked as Commonwealth's  
24 Exhibit 1 admitted into evidence)

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1 MS. COSGROVE: Thank you, your Honor.

2 Mr. Loos, could you please mark that as  
3 Exhibit 1.

4 THE REPORTER: Sure.

5 MS. COSGROVE: Thank you.

6 Q. Now, as you gave us a brief description, by  
7 looking at this photo could you please describe for  
8 us what you see in the photo, how you entered the  
9 Bayzos Pub with your coworkers?

10 A. Okay. So the Bayzos, on the far side of  
11 the photo there's the -- there's the door. That  
12 would be the entrance, and we would have entered  
13 through there. And we went to the bar to get drinks  
14 before we picked -- before we sat at a table.

15 MS. COSGROVE: Mr. Loos, is it possible for  
16 Ms. Deines to actually manipulate a pointer so she  
17 could actually use a pointer to move this through  
18 while she's describing it? Or is that not -- I'm  
19 not sure about the technology. You'll have to bear  
20 with me.

21 THE REPORTER: Your Honor, do you want to  
22 post it on the screen?

23 THE HEARING OFFICER: Yes. It's an exhibit  
24 now. We can do that. Thank you.

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1           THE REPORTER: Ms. Deines, you can share  
2 your screen now. The document. I gave you  
3 permission.

4           THE WITNESS: Sure.

5           Does everyone see it?

6           THE HEARING OFFICER: Yes.

7           MS. COSGROVE: Thank you.

8           Q. So, Ms. Deines, can you actually -- using  
9 the cursor, as I would call it, if that's using the  
10 right term -- show us exactly from when you entered  
11 after the dinner?

12          A. Sure.

13                   So we would have traveled in from this door  
14 (indicating), and we came in and stood at the bar  
15 here (indicating) to -- to order drinks.

16          Q. When you say "we," once again, just to be  
17 specific, who were you walking in with?

18          A. Okay. So I was walking in with Evelyn  
19 Patsos, Jocelyne Welsh, Denise Fitzgerald and  
20 Christine Yurgelun.

21          Q. Okay. And did -- did you all stop there to  
22 purchase something to drink?

23          A. No. Denise Fitzgerald had stopped earlier  
24 to speak with a -- two judges who were at the bar,

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1 and I believe -- I believe Evelyn and I were the  
2 ones who were ordering.

3 Q. Okay. Now, you said that there were --  
4 Denise Fitzgerald had stopped to speak with two  
5 judges that were in the bar.

6 So there were other judges that were in the  
7 bar at that time?

8 A. Yes.

9 Q. And approximately how many did you see in  
10 the bar at that time?

11 A. Just the two, that I noticed.

12 Q. And when you say you stopped with  
13 Ms. Patsos to purchase a beverage, what did you  
14 purchase?

15 A. I purchased a beer.

16 Q. Okay. All right.

17 Then go on, please. Can you tell us -- can  
18 you show us exactly what you did next?

19 A. Sure.

20 I paid, and then I took my beer over here  
21 to the table that Jocelyne and Christine were  
22 already seated at (indicating).

23 Q. Okay. So Jocelyne Welsh and Christine  
24 Yurgelun already made their way over to that table

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1 that you have your cursor on now?

2 A. Yes.

3 Q. With your -- with your cursor can you  
4 please show us exactly, when you arrived, where  
5 everybody was seated?

6 A. Sure.

7 So I was seated here in this -- the stool  
8 closest to -- I'm sorry, closest to the brick  
9 pillar. Christine was seated in the stool, but it  
10 was pulled out a little bit and her leg -- she had a  
11 foot injury -- was up on this stool, and Jocelyne  
12 was sitting across from me in that stool.

13 Q. Okay. Now --

14 A. And Evelyn was standing back here  
15 (indicating). Sorry.

16 Q. Oh, okay.

17 So Evelyn actually did make her way over to  
18 the table?

19 A. Yes.

20 Q. Okay. And I see four stools, but you said  
21 there were -- there were -- you know, so there was  
22 five people; nobody brought over a separate stool?

23 A. No.

24 Q. So Evelyn chose to stand?

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1 A. Evelyn chose to stand, yeah.

2 Q. Were there extra stools in the bar area  
3 that you could have dragged over if you wanted to?

4 A. Yes.

5 Q. Now, you said that Ms. Yurgelun's foot was  
6 on a barstool.

7 Was there a reason for that?

8 A. She had an injury to her foot or her ankle.  
9 I'm not remembering what it was. But she was in a  
10 sort of Aircast, something along those lines.

11 Q. So the extra stool was to have her foot  
12 elevated?

13 A. Have her foot elevated.

14 Q. Yes.

15 Now as I look at photos, the four stools  
16 are pushed in.

17 Was that how they were once you sat in  
18 them?

19 A. No. We probably pulled them out a  
20 little -- I know Christine did, because she sort of  
21 had to put her foot up. I probably pulled mine out  
22 a little to make room for the other people who were  
23 standing.

24 Q. Okay. Now, you also discussed sitting next



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1 to a pillar. I see -- is that -- can you point to  
2 the brick pillar that you were sitting near?

3 A. Sure. Right here (indicating).

4 Q. Okay. And there's two seats. I just want  
5 to be very specific.

6 When you were sitting, you were facing  
7 Ms. Jocelyne Welsh?

8 A. Yes. I was.

9 Q. And you were facing towards the entrance of  
10 the bar where you were?

11 A. I was, yes.

12 MS. COSGROVE: Okay. Bear with me one  
13 moment, please.

14 THE HEARING OFFICER: Sure.

15 BY MS. COSGROVE:

16 Q. Specifically, can you point, once again, to  
17 the stool you were sitting in?

18 A. (Indicating)

19 Q. And can you please describe the stools as  
20 you remember them on that night on April 25th, 2019?

21 A. Sure.

22 They were round, backless stools with a  
23 cushioned top.

24 Q. And when you say "cushioned," you know, was

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1     there -- like there was definitely a cushion on it;  
2     you could feel that when you sat in the seat?

3             A.     Yeah.    Maybe foam.

4             Q.     Okay.

5             A.     Something along those lines.

6             MS. COSGROVE:   At this point, your Honor, I  
7     would like to ask permission to have the host,  
8     Mr. Loos, bring up what has been previously marked  
9     for identification as Exhibit D.

10            THE HEARING OFFICER:   All right.

11            Mr. Loos, if you could.

12            THE REPORTER:   Could you bring down, stop  
13     sharing your screen, Ms. Deines.

14            Okay.

15            THE HEARING OFFICER:   All right.

16            THE WITNESS:   Thank you, Mr. Loos.

17            MS. COSGROVE:   I can see it.   I have it,  
18     your Honor.

19            THE HEARING OFFICER:   Mr. Angelini.

20            MR. ANGELINI:   No objection, your Honor.

21            BY MS. COSGROVE:

22            Q.     Well, just as a way of foundation:

23            I'm showing you a picture what's marked as  
24     D for identification.   Do you recognize what it --

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1     that picture, Ms. Deines?

2             A.     Yes.   That is a picture of the Bayzos -- of  
3     me seated on the stool at the Bayzos Pub.

4             Q.     Is this the type of stool that you sat on  
5     on the night of April 25th, 2019?

6             A.     Yes.

7             MS. COSGROVE:   Your Honor, just for  
8     purposes of the record, I would like to have that  
9     moved in and marked as, I guess, Exhibit Number 2.

10            THE HEARING OFFICER:   I understand there's  
11     no Exhibit 2.

12            So Exhibit 2, please, Mr. Loos.

13                                 (Document marked as Commonwealth's  
14                                 Exhibit 2 admitted into evidence)

15            BY MS. COSGROVE:

16            Q.     So, Ms. Deines, do you remember when you  
17     took this photo?

18            A.     I took that photo when I traveled down to  
19     the Ocean Edge Resort in October or November of last  
20     year to meet you and Attorney Neff.

21            Q.     So this was not taken actually on the night  
22     of April 25th, 2019?

23            A.     No.

24            Q.     You are seated on a barstool in the Bayzos

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1 Pub, are you not?

2 A. Yes, I am.

3 Q. And is this -- is this how you were seated  
4 on the night of April 25th, 2019?

5 A. I was probably -- I was probably leaning  
6 forward, talking to Jocelyne. I probably wasn't  
7 seated as upright.

8 Q. Okay. I see your feet are on the bar --

9 A. Yes.

10 Q. -- at the bottom of that.

11 And why is that?

12 A. I'm not very tall.

13 Q. And can you explain? You said that you may  
14 have been, I think you said the word "leaning."

15 Explain that, why would you be leaning?

16 A. It is sort of generally how I sit. And I  
17 was talking to Jocelyne across from me, so I'm sure  
18 my body was leaning in to that conversation.

19 Q. Okay. Now, in this photo, you were  
20 sitting -- you're seated near the brick pillar.

21 Is that how you were seated on that night  
22 in relation to the brick pillar that was in what has  
23 been previously marked as Exhibit 1?

24 A. Yes.

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1           Q.    And, once again, you said you were across  
2 from Jocelynnne?

3           A.    Yes.  I was across from Jocelynnne, yep.

4           Q.    Now, at this point, while you were speaking  
5 with her, while you were speaking with Jocelynnne,  
6 how long have you been in the Bayzos Pub for at this  
7 point in time?

8           A.    Probably about 15, 20 minutes.

9           Q.    And were other attendees coming in --  
10 judicial attendees coming in from the conference,  
11 from the dinner?

12          A.    Yeah.

13          Q.    What about were there other patrons in the  
14 pub other than yourself and your friends and  
15 judicial attendees?

16          A.    From what I remember, yes, there were a  
17 few.

18          Q.    A few.

19                How big is the Bayzos Pub, if you recall?

20          A.    How big is the Bayzos Pub?

21                So it's not a small bar.  It had sort of a  
22 split bar/restaurant-y type of area.  So it wasn't  
23 small, small, but it wasn't a big restaurant,  
24 either.

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1 Q. Can you please maybe describe the crowd and  
2 the noise level in there as attendees from the  
3 conference were coming in?

4 A. So the -- from what I remember, the -- the  
5 attendees from the conference were coming in through  
6 the front door, in sort of a pretty steady fashion,  
7 and it was getting progressively louder. But most  
8 of them were sort of congregating together around  
9 the bar area.

10 Q. So it was getting a little bit more  
11 crowded?

12 A. Yes.

13 MR. ANGELINI: Objection.

14 THE HEARING OFFICER: Sustained.

15 BY MS. COSGROVE:

16 Q. Do you -- at this point in time, at that  
17 time had you seen Judge Sushchyk in the Bayzos Pub?

18 A. No.

19 MS. COSGROVE: Now, at this point in time,  
20 your Honor, I would like to ask if I could have  
21 Mr. Loos bring up what has been previously marked  
22 for identification as Exhibit Z.

23 THE HEARING OFFICER: Z, as in "zebra"?

24 MS. COSGROVE: Yes, please.

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1 THE HEARING OFFICER: Okay.

2 THE REPORTER: One moment.

3 THE HEARING OFFICER: Yes.

4 THE REPORTER: Okay.

5 THE HEARING OFFICER: Okay.

6 MR. NEFF: Does everybody have it? I'm  
7 sorry.

8 THE HEARING OFFICER: I do.

9 Mr. Angelini?

10 MR. ANGELINI: Yes, your Honor, I do.

11 THE HEARING OFFICER: Okay.

12 BY MS. COSGROVE:

13 Q. Ms. Deines, I believe what you're seeing  
14 now is what has previously been marked as Exhibit  
15 Z -- Z, as in "zebra" -- for identification.

16 Do you recognize what that is?

17 A. Yes. That is where I was seated the night  
18 of April 25th.

19 Q. And from the photo you believe that is  
20 exactly the location of where you were seated on  
21 April 25th, 2019?

22 A. Yes. From this photo, I believe that's  
23 where I was seated.

24 Q. You can see where your seat was.

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1           Is that a fair and accurate representation  
2 of the table and stool that you were seated at?

3           A.     Yes.

4           MS. COSGROVE: Your Honor, at this point I  
5 would like to have this -- move that this Exhibit Z  
6 for identification be admitted into evidence as,  
7 apparently, Exhibit 3, I believe.

8           THE HEARING OFFICER: Any objection?

9           MR. ANGELINI: No objection.

10          THE HEARING OFFICER: Thank you.

11          MR. ANGELINI: No objection, your Honor.

12          THE HEARING OFFICER: Thank you. 3.

13                         (Document marked as Commonwealth's  
14                         Exhibit 3 admitted into evidence)

15          MS. COSGROVE: Mr. Loos, could I ask if we  
16 could bring that up so that I could have Emily use  
17 the cursor.

18                 And again -- and your Honor, I should say,  
19 more -- more appropriately, is it possible that we  
20 share that so Ms. Deines can actually manipulate  
21 that on screen for us?

22          THE HEARING OFFICER: Sure.

23          MS. COSGROVE: Are we all set?

24          THE WITNESS: All set.



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1 MS. COSGROVE: Thank you.

2 Q. Ms. Deines, can you please, using the  
3 cursor, show us exactly where you were seated once  
4 again on that night on April 25th, 2019?

5 A. I was seated here (indicating).

6 Q. Okay. And I'm now going to ask you in  
7 relation to --

8 At some point in time at that evening,  
9 while you were seated in that seat, did you have an  
10 occasion to see Judge Sushchyk in the Bayzos Pub?

11 A. Yes.

12 Q. And when was that, if you recall?

13 A. I couldn't say for certain, but it was  
14 when -- it was sort of while the other participants  
15 from the conference were filtering in.

16 Q. Okay. And can you please show us where he  
17 was when you first saw him?

18 A. So Jocelyne was seated in front of me, and  
19 I was having a conversation with her. And I sort of  
20 noticed him coming towards our table from over her  
21 shoulder, her left shoulder.

22 Q. Okay. Now, so you said you were speaking  
23 with Ms. Welsh at that time?

24 A. Yes.

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1           Q.    And you said you saw him over her left  
2 shoulder?

3           A.    Over, yeah, sort of her left shoulder.  Or  
4 behind her, probably, somewhere behind her.

5           Q.    So did you notice how he was -- where he  
6 was traveling towards?  What direction he was  
7 walking towards, I should say.

8           MR. ANGELINI:  Objection.

9           THE HEARING OFFICER:  Overruled.

10          Go ahead.

11          A.    He was traveling in this direction  
12 (indicating).

13          Q.    Okay.  So as I note that there are some  
14 pillars there.

15                Was he on the other side, to the right side  
16 of those pillars as we look at the photo right now?

17          A.    Yes, he was.

18          Q.    Okay.  Now, as -- so at some point in time  
19 did he walk around that pillar -- pillar?

20          MR. ANGELINI:  Objection.

21          THE HEARING OFFICER:  Sustained.

22          Q.    Emily, why don't you just tell us.

23          A.    Yes, he walked around the tables on the  
24 other side -- I'm sorry.

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1           So he sort of was walking around the tables  
2 on the other side of the pillar.

3           Q.    I apologize.  Why don't I put a question to  
4 you.

5           Emily, can you please describe for us,  
6 using the cursor -- actually, I should say show us,  
7 as best you can, using the cursor, the course that  
8 Mr. -- that Judge Sushchuk took as you watched him  
9 walk through the bar, the pub?

10          A.    I first saw him probably over here, and  
11 then I next saw him when he was walking around the  
12 table and coming towards our table.

13          Q.    I see that there are tables to the right of  
14 you on the other side of that pillar?

15          A.    Yes.

16          Q.    Were those types of tables there on that  
17 evening?

18          A.    They were.

19          Q.    Is there any possible way, I mean, that you  
20 could actually draw a line on that?  Is there, like  
21 I would call it a bread crumb trail, if anybody had  
22 an objection, so we can make it clear?

23                Like can she mark up the photo?

24                Can Ms. Deines mark up the photo, or is

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1 that not possible?

2 A. I would probably have to download it first.  
3 Would you like me to try?

4 THE HEARING OFFICER: Well, let's ask  
5 Mr. Loos. He's our --

6 THE WITNESS: Okay.

7 THE HEARING OFFICER: -- expert about this.  
8 Is there a way for her to mark it at all,  
9 Mr. Loos?

10 THE REPORTER: There may be.

11 Can we go off the record for a moment?

12 THE HEARING OFFICER: Sure. Let's do that.  
13 This will be with counsel, Mr. Loos and I.  
14 (Meeting in private breakout room. Hearing  
15 Officer Josephson, Mr. Neff, Ms. Cosgrove,  
16 Mr. Angelini, Ms. Deines and Mr. Loos  
17 present)

18 THE HEARING OFFICER: Thank you.

19 Mr. Angelini, I had asked if Ms. Deines  
20 could join us in the breakout room to be able to...

21 I had asked Ms. Deines to join us in this  
22 conversation about how to use the -- how to use the  
23 ability to mark the exhibit, and if there was no  
24 objection.

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1           Mr. Angelini, you had an objection, so we  
2 went back on the record for that. Go ahead.

3           MR. ANGELINI: So, I -- I have no objection  
4 to the witness identifying where Judge -- where she  
5 claims Judge Sushchyk was when she saw him.  
6 However, in the absence of any evidence that she was  
7 continuously watching him in his course of travel, I  
8 would object to her diagraming what she would  
9 suppose to have been his course of travel. So  
10 that's the nature of my objection. I don't want to  
11 overly -- I realize we're trying to --

12           THE HEARING OFFICER: Yeah.

13           MR. ANGELINI: -- adapt as best as possible  
14 to this, but it's a more elemental objection than it  
15 is to her ability to course -- to describe a course  
16 of travel.

17           That's what I object to.

18           THE HEARING OFFICER: Okay.

19           MR. ANGELINI: I think she's testified she  
20 saw him in two places.

21           MR. NEFF: I know this is Ms. Cosgrove's  
22 examination, Judge.

23           THE HEARING OFFICER: Yes, it is. Yes.

24           MR. NEFF: But she and I were just talking

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1 a little bit, and, I mean, obviously, Mr. Angelini  
2 has made it clear --

3 THE HEARING OFFICER: Mr. Neff. Mr. Neff.

4 MR. NEFF: Can you hear me?

5 THE HEARING OFFICER: I can hear you, but I  
6 don't think I should.

7 MR. NEFF: Okay.

8 THE HEARING OFFICER: -- because it's  
9 Ms. Cosgrove's.

10 MS. COSGROVE: Do you want to hear from me?

11 Yes, your Honor, I believe that I've  
12 already -- I mean, we can go back and, if need be, I  
13 will try to lay a better foundation, but I believe  
14 that Ms. Deines has appropriately said that she has  
15 identified that she saw him. She actually already  
16 was using the cursor in order to identify that she  
17 could see him, Judge -- I don't mean "him" -- Judge  
18 Sushchyk over Jocelyne Welsh's shoulder. And that  
19 she has already indicated that while that -- in that  
20 area that she could see his route.

21 I was just trying to make it clear for the  
22 record so that she could actually draw that route  
23 in, but -- so I would actually suggest that there is  
24 no reason to stop her from being able to manipulate

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1 that and make a -- make a record of that. I believe  
2 I've already laid the proper foundation for that.

3 THE HEARING OFFICER: Okay. Let me just  
4 ask Mr. Loos, is there a way that Ms. Cosgrove --  
5 Ms. -- excuse me -- Deines could -- I bet there is.  
6 I don't need an answer to that.

7 Let me just say, Ms. Deines is allowed to  
8 testify to what she saw, and she can mark along the  
9 pathway that she saw the points at which she saw  
10 Judge Sushchyk. Okay.

11 MS. COSGROVE: And I would say, too -- just  
12 off the record --

13 THE REPORTER: We're on the record.

14 THE HEARING OFFICER: No. We're on the  
15 record.

16 MS. COSGROVE: Well, on the record.

17 In my experience Ms. Deines is pretty --  
18 luckily pretty well-versed with this because of her  
19 job with the --

20 THE HEARING OFFICER: Sure.

21 MS. COSGROVE: -- with the Trial Court. I  
22 think she actually is pretty good with this.

23 Better than me, I would say, and that's on  
24 the record.

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1           THE HEARING OFFICER:   Okay.   Thanks.   All  
2 right.

3           So why don't we, if you would, Mr. Loos,  
4 when we go back into the public forum, perhaps you  
5 could just direct Ms. Deines how to utilize the tool  
6 that will be able to mark where she saw Judge  
7 Sushchyk.   Okay?

8           MS. COSGROVE:   Thank you.

9           THE REPORTER:   All right.   So you can just  
10 leave the room and we'll be back in the main room.

11          THE HEARING OFFICER:   Okay.

12          (Return to the open proceedings)

13          THE HEARING OFFICER:   All right.   I think  
14 we can go ahead.

15          THE REPORTER:   One moment.

16          Do you want everything on the record or  
17 not?

18          THE HEARING OFFICER:   Yes.   Please.

19          Just how -- how a tool can be utilized for  
20 the progress that she observed.

21          THE REPORTER:   So, Ms. Deines, I believe at  
22 the top of the screen, you should see something when  
23 share the screen that says "annotate," and that  
24 should allow you to mark the screen.



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1           If you put it back up.

2           THE WITNESS: I'll try it, Mr. Loos.

3           MS. COSGROVE: Am I ready? Or you need a  
4           few minutes, Ms. Deines?

5           THE HEARING OFFICER: Ms. Deines, why don't  
6           you tell us when you've located that feature that  
7           Mr. Loos described.

8           THE WITNESS: To Mr. Loos, I'm not seeing  
9           it when I do share screen, but I believe that when I  
10          have to -- I think I have to share it as like a --  
11          like a white board. I have to share advanced first.

12          Can I stop a second and try to come back  
13          in?

14          THE HEARING OFFICER: Sure.

15          THE REPORTER: It might work more easily if  
16          you download it and manipulate it somewhere.

17          THE WITNESS: Let me try that, Mr. Loos.

18          THE REPORTER: I think I might have the  
19          whiteboard turned off.

20          THE WITNESS: Do you want me to wait until  
21          you turn it back on before I share my screen?

22          THE REPORTER: Can we go off the record for  
23          a moment?

24          THE HEARING OFFICER: Yes.

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1           (Recess taken)

2           MS. COSGROVE: All right.

3           May I inquire, your Honor?

4           THE HEARING OFFICER: Yes, please.

5           MS. COSGROVE: Thank you.

6           Q.    So, Ms. Deines, can you please mark where  
7 you first saw Judge Sushchyk on -- Sushchyk on the  
8 evening of April 25th, 2019?

9           A.    (Complies)

10          Q.    And can you please, using your marker, show  
11 us what you saw was his course of travel on that  
12 evening?

13          A.    (Complies)

14          Q.    And could you also just mark where you were  
15 sitting on that evening?

16          A.    (Complies)

17          Q.    What were you doing when you -- when you --  
18 once again, what were you doing when you saw him?

19          A.    I was having a conversation with Jocelyne  
20 Welsh. I was seated at the -- at the table --

21          Q.    And --

22          A.    -- drinking a beer.

23          Q.    -- while you were speaking with Ms. Welsh,  
24 that's when you saw him over her shoulder?

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1 A. Yes.

2 Q. Okay. As you -- as I look at the course of  
3 travel, your mark indicates he came around the  
4 bricks and around those tables that were to your  
5 right?

6 A. I'm sorry, Audrey, you cut up.

7 Can you ask that one more time?

8 Q. By your mark it looks like you're saying  
9 that he went around some low tables that were  
10 located to your right.

11 Was that the case on April 25th, 2019?

12 A. Yes, that was the case.

13 Q. Okay. So can you tell us what happened --  
14 so were you able to see whether or not he was  
15 walking towards you?

16 A. I was able to see that he was walking  
17 towards me, yes.

18 Q. Okay. And then can you tell us what  
19 happened next?

20 A. As he passed behind me, I felt him grab,  
21 slide his hand under my left buttock and grab me.

22 Q. Okay. You said he -- when you say he  
23 "slid" his hand under your left buttock and grabbed  
24 you, did you see him do that?

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1           A.    I did not see him do that, no.

2           Q.    Okay.  So how do you know it was Judge  
3 Sushchyk who grabbed your left buttocks?

4           A.    He was walking behind me at that time.

5           Q.    When you say "walking behind" you, was  
6 there anything -- was there anybody else behind you  
7 at that time?

8           MR. ANGELINI:  Objection.

9           THE HEARING OFFICER:  Overruled.

10          A.    There was no one else directly behind me at  
11 that time that I know of, no.

12          Q.    Was there any other seats behind you?

13          A.    I'm sorry.

14          Q.    Were there any seats behind you?

15          A.    No.  No.  I believe there was a low table  
16 farther in the back of the facility, but -- but not  
17 anything directly behind us.

18          Q.    And then -- all right.

19                So once again, you said that there was  
20 nobody behind you, and was there -- who was the only  
21 person that walked behind you that you know of?

22          MR. ANGELINI:  Objection.

23          THE HEARING OFFICER:  Sustained.

24          MR. ANGELINI:  Objection.

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1 THE HEARING OFFICER: Sustained.

2 Q. So as soon as you found -- as soon as you  
3 felt an individual grab your left buttocks, what did  
4 you do?

5 A. I paused. I paused, and then I turned --  
6 turned around.

7 Q. Did you say anything to him?

8 A. No.

9 Q. Why not?

10 MR. ANGELINI: Objection.

11 THE HEARING OFFICER: Sustained.

12 Sustained. Excuse me.

13 Q. Can you please describe for us what it felt  
14 like when Judge Sushchuk grabbed your left buttocks?

15 MR. ANGELINI: I object to that form.

16 THE HEARING OFFICER: Overruled.

17 A. It felt like someone was -- was sliding  
18 their hand under me and using their full hand to  
19 grab upwards.

20 Q. Using your hand, could you demonstrate for  
21 us what you felt?

22 A. Yeah. So it felt like somebody lifted  
23 their hand and then like an upward (indicating)  
24 grab.

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1           Q.    Now, I think at different points in time --  
2 strike that.

3                    So you say when that happened you  
4 immediately turned.

5                    And who was the first person that you saw  
6 after feeling that grab of your left buttocks?

7                    MR. ANGELINI:  I object to the question.  
8 It's leading, your Honor.

9                    THE HEARING OFFICER:  Overruled.

10                   I'll allow it.

11           A.    I saw Paul Sushchuk behind me over my left  
12 shoulder, and I saw Evelyn standing next to him.

13           Q.    How long did the -- did the grab actually  
14 last?

15           A.    Geesh.  I don't know, 5, 10, 15 seconds,  
16 something along those lines.

17           Q.    And once again, can you describe the --  
18 the -- how many patrons were in the pub at that  
19 time?  Was it crowded?  Was it not?

20           A.    I would say that the bar area was crowded,  
21 but the restaurant side didn't have very many  
22 people.

23           Q.    In your opinion, could it have been an  
24 accident?

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1           MR. ANGELINI:  Objection.

2           THE HEARING OFFICER:  Sustained.

3           Q.    Do you have any doubt in your mind whether  
4 or not the grabbing of your left buttocks was  
5 intentional?

6           A.    I believe it was intentional.

7           Q.    And why do you feel that way?

8           MR. ANGELINI:  Objection.

9           THE HEARING OFFICER:  Well, overruled.

10          A.    Because it felt like somebody was  
11 intentionally sliding their hand under and reaching  
12 up to grab.

13          Q.    So why didn't you turn around and yell at  
14 Judge Sushchuk at that point in time?

15          MR. ANGELINI:  I object.

16          THE HEARING OFFICER:  Overruled at this  
17 time.

18          I'm sorry, I overruled it.

19          THE WITNESS:  I'm sorry.

20          THE HEARING OFFICER:  That's okay.

21          MS. COSGROVE:  So, your Honor, may she  
22 answer?

23          THE HEARING OFFICER:  Yes.

24          I'm sorry.  Wait a minute.  I meant -- I'm

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1     sorry.  This is my error.

2             She cannot answer it.  The objection is  
3     sustained.  My problem.  I'm sorry.  I -- go ahead.

4             BY MS. COSGROVE:

5             Q.     Once again, could you please tell us who  
6     else -- who else was in the -- at your table at the  
7     time of this incident?

8             A.     Jocelynn Welsh was seated across from me,  
9     Christine Yurgelun was seated sort of across from me  
10    and to the left, and then Evelyn was standing sort  
11    of behind me but next to me on the left-hand side,  
12    my left-hand side.

13            Q.     And was Judge Sushchuk now at the table  
14    also?  Or did he go to another location in the pub?

15            A.     No.  He had stopped to speak with Evelyn.

16            Q.     And approximately how close -- using, once  
17    again, as Exhibit Z, as we turn to it -- I'd like to  
18    draw your attention to Exhibit Z, which I believe  
19    now is Exhibit 3 -- what was previously identified  
20    as Exhibit Z is now Exhibit 3 --

21            MS. COSGROVE:  And I apologize, your Honor.  
22    But is that now -- do I now have to ask that be  
23    marked as another numerical exhibit because I'm  
24    having her mark it?



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1           THE HEARING OFFICER: Well, I don't know if  
2 it can be. That's what I was wondering.

3           Mr. Loos, is that -- is that something that  
4 can be preserved in the way that we see it on the  
5 screen?

6           THE REPORTER: Yes. If Ms. Deines will  
7 save and forward to Ms. Cosgrove, then we can have  
8 it marked as an exhibit.

9           THE HEARING OFFICER: Okay.

10          THE WITNESS: Is it a new exhibit number?  
11 I'm sorry. Is it --

12          THE HEARING OFFICER: Why don't we have it  
13 marked as Exhibit Number 4.

14                           (Document marked as Commonwealth's  
15                           Exhibit 4 admitted into evidence)

16          THE HEARING OFFICER: Thank you.

17          THE REPORTER: And if Ms. Cosgrove can get  
18 that to me, we'll have it appended.

19          THE HEARING OFFICER: Okay.

20          MS. COSGROVE: So my computer says it's  
21 letting the ink dry.

22                   Oh, there it is.

23          BY MS. COSGROVE:

24          Q. So, Ms. Deines, could you please show us

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1 approximately from -- where Judge Sushchyk and  
2 Ms. Evelyn Patsos were standing when they were  
3 speaking?

4 A. I'm going to change pen color.

5 MS. COSGROVE: Okay. For the record, I  
6 believe the witness is changing to a purple color.

7 A. So -- so Evelyn was probably around here  
8 (indicating). The judge was probably around here  
9 (indicating).

10 Q. And can you tell us, could you hear their  
11 conversation?

12 A. Yes.

13 Well, after I turned around, yes.

14 Q. After you turned around, did you have any  
15 conversation with Judge Sushchyk?

16 A. Not at first.

17 Q. Not at first.

18 But at some point did you have a  
19 conversation with Judge Sushchyk?

20 A. I don't know if it was a conversation.

21 Q. Did you have any --

22 A. But I asked him what he was carrying in his  
23 flask.

24 I'm sorry, Attorney Cosgrove, what was

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1 that?

2 Q. So you had some communication with Judge  
3 Sushchyk?

4 A. Yes.

5 Q. And what was in a communication?

6 A. I asked him what he was carrying in his  
7 flask. I think I said, "Whiskey or bourbon?"

8 Q. So when did you learn that Judge Sushchyk  
9 had a flask in his -- on his person on that evening?

10 A. When I turned around -- so I turned, and he  
11 was having a conversation with Evelyn and -- about  
12 what they were drinking, and he opened his coat  
13 pocket and pulled out a flask.

14 Q. Okay. When you said he opened his coat  
15 pocket, can you please tell us exactly, you know,  
16 what he did? What side did he open up?

17 A. Sure.

18 It was the left-hand coat pocket -- you  
19 know, inside pocket. I don't know what it's called.

20 Q. So if you remember, what was Judge -- was  
21 Judge Sushchyk wearing a blazer?

22 A. I don't know if it had like a notched, like  
23 a blazer collar. I'm picturing more of a -- more of  
24 a -- like a stand-up collar.

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1           So I don't know if I would describe it as a  
2 blazer. I'm not sure.

3           Q. But it was from his inside pocket; is that  
4 what you're saying?

5           A. Yes.

6           Q. And what was -- was there conversation  
7 about what was in the flask?

8           A. Yes.

9           Q. And what was that conversation precisely?

10          A. I'm sorry, Attorney Cosgrove. Can you ask  
11 that again?

12          Q. What was the conversation? Can you please  
13 describe for us the conversation that you heard  
14 about what was in the flask.

15          A. I don't remember. I believe he said it was  
16 whiskey.

17          MR. ANGELINI: Objection.

18          Q. So at some point in time --

19          THE REPORTER: Excuse me, your Honor. What  
20 was that?

21          THE HEARING OFFICER: That was overruled,  
22 Mr. Loos. I'm sorry.

23          MS. COSGROVE: I apologize, your Honor.

24          THE HEARING OFFICER: Okay.

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1 BY MS. COSGROVE:

2 Q. At some point in time was there a  
3 conversation about what was in the flask?

4 A. I'm sorry. Can you ask that question  
5 again.

6 I'm sorry, Attorney Cosgrove. You cut out  
7 a little bit.

8 Q. At some point in time was there a  
9 conversation about what Judge Sushchuk had in his  
10 flask?

11 A. Yes.

12 Q. Please tell us about that conversation.

13 A. I believe I said, "Whiskey or bourbon?"  
14 And I don't remember his response.

15 Q. Did Judge Sushchuk seem impaired to you by  
16 alcohol at this time?

17 MR. ANGELINI: Objection.

18 A. No.

19 THE HEARING OFFICER: Overruled.

20 Q. Did Judge Sushchuk ever leave that table  
21 before you did on that evening?

22 A. No.

23 Q. How long did you remain at that table with  
24 Judge Sushchuk after you -- your left buttocks had

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1 been grabbed?

2 A. Probably 10, 15 minutes.

3 Q. And did you speak to anybody else at that  
4 table about what had happened to you?

5 A. No.

6 Q. Why not?

7 MR. ANGELINI: Objection.

8 THE HEARING OFFICER: Overruled.

9 Go ahead.

10 A. I was with work colleagues. It was a work  
11 event. I was still probably processing it. I think  
12 I was pretty shocked. I wouldn't have known how to  
13 start that conversation in -- in that room at that  
14 time.

15 Q. So at some point in time did you leave the  
16 table yourself?

17 A. Yes.

18 Q. And why did you do that?

19 A. Because I was very uncomfortable.

20 Q. Did you say good-bye to anybody at the  
21 table before you left?

22 A. I'm sorry, Attorney Cosgrove. What was  
23 that question?

24 Q. Did you -- did you say good-bye to the

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1 individuals at the table before you left?

2 A. I did. I finished my conversation with  
3 Evelyn -- I'm sorry, with Jocelyne. I think I gave  
4 Evelyn a sort of wave and I got ready to leave.

5 Q. So did you actually try to communicate with  
6 Evelyn at all as she was standing closest to you?

7 A. I did. I tried to give her some nonverbal  
8 cues that something had happened, and I was  
9 uncomfortable leaving her in that situation.

10 Q. And were you able to do -- were you able to  
11 communicate at all with Evelyn on that evening --  
12 Evelyn, I apologize -- Ms. Patsos on that evening?

13 A. No. We did sort of give each other some  
14 raised eyebrows back and forth, you know, some  
15 pointed looks, but I don't think what happened was  
16 communicated.

17 THE HEARING OFFICER: I'm sorry,  
18 Mr. Angelini. You had stood for a moment, and I did  
19 not hear what you said.

20 MR. ANGELINI: I did not object, your  
21 Honor.

22 THE HEARING OFFICER: Okay. Thank you.

23 MR. ANGELINI: Thank you.

24

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1 BY MS. COSGROVE:

2 Q. All right.

3 After -- so at that point in time what did  
4 you do after saying good-bye to your -- the patrons  
5 at the table, your friends -- the coworkers at the  
6 table?

7 A. I went and said good-bye to Chief Justice  
8 Casey and his wife.

9 As I was walking out, Judge Connolly and  
10 Judge Fiordino stopped to just have a quick  
11 conversation about one of the programs earlier in  
12 the day. And I saw Judge Simons on the stairs as I  
13 was leaving, and I said good-bye to him, and then I  
14 got in my car.

15 Q. Did you indicate to any of the people that  
16 you also spoke to, or the justices that you spoke to  
17 as you were leaving, what had occurred?

18 A. No.

19 Q. You said that you actually went over to say  
20 farewell to Judge Casey; is that true?

21 A. That is true. I did.

22 Q. And you did not say anything to him at that  
23 point in time to report the incident?

24 A. No.



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1           Q.     And why not?

2                   MR. ANGELINI:  Objection.

3                   THE HEARING OFFICER:  At this point I will  
4 sustain that.

5           Q.     So as you were leaving the Ocean Edge  
6 facility after -- was there anybody else you said  
7 farewell to or you communicated with before you left  
8 the facility?

9           A.     Not that I remember.

10          Q.     And at that point in time where did you go  
11 after leaving the Bayzos Pub?

12          A.     I drove back to my family's home in  
13 Eastham.

14          Q.     So you left and got into your car?

15          A.     I left and got into my car, yes.

16          Q.     Okay.  And when you got into your car,  
17 what's the first thing you did?

18          A.     I texted my sister.

19                   MS. COSGROVE:  Your Honor, at this point in  
20 time I would ask permission to have Mr. Loos bring  
21 up what has been previously marked as Exhibit -- as  
22 Exhibit W for identification.

23                   THE HEARING OFFICER:  All right.

24                   THE REPORTER:  If you could pull down your

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1 screen, Ms. Deines.

2 THE WITNESS: Okay.

3 MS. COSGROVE: I have it up. Does  
4 everybody else?

5 THE HEARING OFFICER: I don't. I don't  
6 have anything.

7 THE REPORTER: Try again.

8 MR. ANGELINI: I have it.

9 MR. NEFF: I believe it should be in the  
10 chat room, your Honor.

11 THE HEARING OFFICER: I'm looking. Thank  
12 you.

13 I think I changed the screen here. Hold on  
14 one minute. Okay. There we go.

15 Thank you. Great.

16 MS. COSGROVE: Ms. Deines, can you see  
17 that --

18 I apologize, your Honor.

19 May I inquire?

20 THE HEARING OFFICER: Yes.

21 BY MS. COSGROVE:

22 Q. Ms. Deines, do you see that screen now,  
23 what has been previously marked as Exhibit W for  
24 identification?

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1           A.    I do.

2           Q.    Do you recognize what that is?

3           A.    It's a text message between my sister and  
4 I.

5           Q.    And is that a screen shot of a text message  
6 that you actually provided to this office?

7           A.    Yes, it is.

8           MS. COSGROVE:   Okay.  Your Honor, I'd ask  
9 that this -- I'd move that this, what has been  
10 previously marked as Exhibit W for identification,  
11 be now admitted into evidence as Exhibit 5, I  
12 believe.

13           THE HEARING OFFICER:   Mr. Angelini?

14           MR. ANGELINI:   There is no objection, your  
15 Honor.

16           THE HEARING OFFICER:   All right.

17           Exhibit 5, please.

18                                 (Document marked as Commonwealth's  
19                                 Exhibit 5 admitted into evidence)

20           MS. COSGROVE:   Thank you, your Honor.

21           Q.    Ms. Deines, could you please tell us who is  
22 that a text message to?

23           A.    It's a text message to my sister, Allison  
24 Deines.

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1           Q.    Okay.  And is that the text message you  
2 were referring to that you sent after leaving the  
3 Bayzos Pub and getting into the car on April 25th,  
4 2019?

5           A.    It is.

6           Q.    Can you please read the text message for  
7 us.

8           A.    "OMG.  I think one of the judges grabbed my  
9 butt on purpose."

10          She responds:

11                    "What?  Slap him."

12          And then I respond:

13                    "He's also carrying a hip flask, so  
14 maybe just fell?  Except it was a distinct  
15 pinch."

16          Q.    So in this text message I note that you  
17 used the word, I think -- can you please explain to  
18 us, in your first line when you said:

19                    "OMG.  I think one of the judges  
20 grabbed my butt on purpose,"

21          what did you mean?

22          MR. ANGELINI:  Objection.

23          THE HEARING OFFICER:  Sustained.

24          Q.    Can you please clarify for us, in this text

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1 message I see the term "I think."

2 Why did -- why did you write "I think"?

3 MR. ANGELINI: Objection.

4 THE HEARING OFFICER: Sustained.

5 Q. Emily -- Ms. Deines, after reading this  
6 text, did you think Judge Sushchyk grabbed your left  
7 buttocks?

8 MR. ANGELINI: I object.

9 THE HEARING OFFICER: Sustained.

10 Q. Ms. Deines, what was your state of mind  
11 when you -- when you wrote that text message?

12 MR. ANGELINI: I object.

13 THE HEARING OFFICER: Sustained.

14 Q. Your Honor -- I mean, Ms. Deines, I see  
15 that you also discussed a hip flask.

16 Can you describe for us what you meant by  
17 that?

18 MR. ANGELINI: Objection.

19 THE HEARING OFFICER: I'm sorry. Go ahead.

20 MR. ANGELINI: If the question is simply  
21 for her to describe what she meant by the words "hip  
22 flask," I have no objection.

23 THE HEARING OFFICER: Okay. Then  
24 overruled -- without objection, Ms. Deines may

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1 answer the question.

2 A. I meant that -- that it was a small metal  
3 container to hold, usually, alcohol.

4 MS. COSGROVE: Your Honor, may we go off  
5 the record for a brief moment?

6 THE HEARING OFFICER: Sure.

7 MS. COSGROVE: Or actually, could I  
8 actually have a brief moment to speak to -- confer  
9 with co-counsel?

10 THE HEARING OFFICER: Yes. Please.

11 Why don't we -- actually, why don't we --  
12 why don't we -- I don't know how we would do this,  
13 but we could suspend for about five minutes.

14 Are you -- are you just about done with  
15 your examination of the witness, Ms. Cosgrove?

16 MS. COSGROVE: Yeah. I would say probably  
17 another -- I'd like to be fair -- probably about  
18 another -- maybe another 20 minutes.

19 THE HEARING OFFICER: Okay. All right.

20 Well, then, why don't you confer with  
21 counsel and we'll -- we'll have a side bar  
22 conference, if that's what you're asking for. I  
23 don't want to go off the record, but I don't see any  
24 reason why we can't go into the chat room.

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1 MS. COSGROVE: I just wanted to confer with  
2 Mr. Neff privately for a brief moment.

3 THE HEARING OFFICER: No. No. That's  
4 fine. Go ahead.

5 THE REPORTER: Off the record?

6 MS. COSGROVE: Mr. Loos, I would just like  
7 to confer for a moment.

8 THE HEARING OFFICER: So you want to mute.

9 MR. NEFF: Can't we just mute ourselves?

10 THE HEARING OFFICER: Yes.

11 THE REPORTER: Off the record?

12 THE HEARING OFFICER: Yep.

13 (Recess)

14 MS. COSGROVE: All right.

15 So, your Honor, may I inquire?

16 THE HEARING OFFICER: Yes.

17 BY MS. COSGROVE:

18 Q. So, Emily, after you texted with your  
19 sister, Allison Deines, where did you -- what did  
20 you do?

21 A. I drove back to my family's home in  
22 Eastham.

23 Q. After you got to your mother's house, did  
24 you make any phone calls?

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1 A. No.

2 Q. Why not?

3 MR. ANGELINI: Objection.

4 THE HEARING OFFICER: Sustained.

5 Q. So did you speak with anybody else on that  
6 evening after -- about what had happened?

7 A. No.

8 Q. Okay. Now, I would like to move to  
9 April 26th, 2019.

10 Drawing your attention to the following  
11 morning, you know, can you please briefly tell us  
12 what time you wake up -- woke up at?

13 A. It's usually between 6:00 and 6:30.

14 And I would get up with my son. I would  
15 have, you know, helped get him ready for the day,  
16 breakfast, things like that, handed him over to my  
17 parents, and -- and then left to -- to go to the  
18 second day of the conference.

19 Q. What date was the conference set to begin  
20 at?

21 A. The second day I believe was beginning  
22 earlier, maybe 8:30 or 8:45.

23 Q. And approximately how far away -- what's  
24 the distance and time frame from your mother's house



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1 to the conference?

2 A. It's about 20 minutes.

3 Q. At some point in time on that morning did  
4 you make any phone calls on your commute to the  
5 conference?

6 A. I did. I called my husband.

7 Q. And why did you call your husband?

8 MR. ANGELINI: Objection.

9 THE HEARING OFFICER: Sustained.

10 Q. Can you please tell us -- you said you  
11 called your husband. What was -- what did you talk  
12 about with your husband?

13 MR. ANGELINI: I object.

14 THE HEARING OFFICER: Sustained.

15 Q. What did you say to your husband?

16 MR. ANGELINI: I object.

17 THE HEARING OFFICER: Sustained.

18 Q. So you actually -- you spoke to your  
19 husband on that morning?

20 MR. ANGELINI: I object.

21 A. Yes.

22 THE HEARING OFFICER: That calls for a  
23 "yes" or "no."

24 A. Yes.

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1 Q. Did you speak to anybody else on your way  
2 to the conference?

3 MR. ANGELINI: Objection.

4 A. My sister.

5 THE REPORTER: What was that, your Honor?

6 THE HEARING OFFICER: That was overruled.

7 Q. Did you speak to anyone else on the way to  
8 the conference, "yes" or "no," Ms. Deines?

9 A. Yes.

10 THE HEARING OFFICER: Thank you.

11 Q. And who was that?

12 A. My sister.

13 Q. Why did you decide to return to the  
14 conference on the second day after what had  
15 happened --

16 MR. ANGELINI: Objection.

17 Q. -- the night before?

18 MR. ANGELINI: I object.

19 THE HEARING OFFICER: Sustained.

20 Q. What time did you arrive at the conference  
21 on the second day?

22 A. I believe about 8:00 a.m.

23 Q. How did you feel walking into the Ocean  
24 Edge?

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1 MR. ANGELINI: I object.

2 THE HEARING OFFICER: Sustained.

3 MR. ANGELINI: I object.

4 THE HEARING OFFICER: Sustained.

5 MS. COSGROVE: Thank you, your Honor.

6 Q. So you saw the attendees as they were  
7 entering the conference that morning?

8 A. I did.

9 Q. What was your duties that day? Your work  
10 duties and responsibilities.

11 A. Similar to the day before.

12 Similar to the day before, both making sure  
13 that the everyone had an agenda, that they were  
14 prepared for the day, and that if there were any new  
15 materials, that they were provided.

16 Q. Did you see Judge Sushchuk that morning?

17 A. Yes. At some point.

18 Q. Was there any communication between the two  
19 of you?

20 A. No.

21 Q. What about your coworkers from the evening  
22 before? Did you see Jocelyne Welsh, Christine  
23 Yurgelun and Christine Patsos that morning?

24 A. Yes.

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1           Q.    Were they there at the beginning of the  
2 conference on the second day?

3           A.    Yes.

4           Q.    At the same time in the morning, around  
5 8:00, would you say around 8:15, 8:30?

6           A.    Yeah.  Probably a little bit later.  Maybe  
7 8:45.  I think our first speaker went on at 8:45.

8           Q.    Can you tell us a little bit about the  
9 agenda the second day?

10          A.    Sure.

11                   Chief Justice Gants was speaking first  
12 about a confidential issue, so we had to make sure  
13 that no non-judges and non-Trial Court personnel  
14 were able to enter the room, including, you know,  
15 servers or people setting up or breaking down  
16 breakfast.

17                   And then the rest of the day was  
18 presentations, with a lunch, and our last  
19 presentation ended -- we sort of ran a little late,  
20 so we canceled the small-group discussions.

21          Q.    So there was a lunch that day?

22          A.    Yes.

23          Q.    And did you -- who did -- did you attend  
24 that lunch?

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1           A.     I'm sorry.

2                     Attorney Cosgrove, can you repeat that?

3           Q.     Did you attend lunch on the second day?

4           A.     I did, yes.

5           Q.     And with whom did you sit on that day?

6           A.     I sat with Judge Jennifer Ulwick.  I sat  
7 with Evelyn Patsos, and I believe Chief Justice  
8 Gants was at the table also.

9           Q.     Did you have any conversation with  
10 Ms. Patsos on that date about what had happened the  
11 night before?

12                     MR. ANGELINI:  Objection.

13                     THE HEARING OFFICER:  That's a "yes" or a  
14 "no."

15           A.     Yes.

16           Q.     And what was that conversation?

17                     MR. ANGELINI:  I object.

18                     THE HEARING OFFICER:  Sustained.

19           Q.     And once again, was there any interaction  
20 or communication between you and Judge Sushchuk  
21 during the second -- during the afternoon portion of  
22 the conference on the second day?

23           A.     No.

24           Q.     And what time did the conference end?

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1           A.     I believe around 3:30.

2           Q.     And where did you go after you left the  
3     Ocean Edge at the end of the conference?

4           A.     I went back to my family's home in Eastham.

5           Q.     And so you did not head back to  
6     Northampton?

7           A.     No.

8           Q.     And why not?

9           MR. ANGELINI:  Objection.

10          A.     I was --

11          THE HEARING OFFICER:  Sustained.

12          Q.     At some point in time did you actually --  
13     so you went back to your mother's house?

14          A.     Yes.

15          Q.     And at any point in time did you discuss  
16     what had happened with your mother?

17          A.     Yes.

18          MR. ANGELINI:  Objection.

19          THE HEARING OFFICER:  Sustained.

20          Q.     When did you leave your mother's house?

21          A.     Saturday.  Saturday.  The Saturday of the  
22     conference, so the 27th.

23          Q.     And at that point in time, where did you  
24     go?

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1           A.     I drove back to Northampton.

2           Q.     And -- to return home?

3           A.     Yes, to return home.

4           Q.     At any point in time did you have a  
5 conversation with your husband about -- about the  
6 conference?

7           MR. ANGELINI:    Objection.

8           THE HEARING OFFICER:   That's "yes" or "no."

9           A.     Yes.

10          Q.     What was the purpose of your communication  
11 with your husband about the conference?

12          MR. ANGELINI:    I object.

13          THE HEARING OFFICER:   Sustained.

14          Q.     Ms. Deines, you have -- earlier you've  
15 described an incident that occurred on April 25th,  
16 2019, with -- that you believe with Judge -- that  
17 Judge Sushchyk grabbed you on April 25th, 2019.

18                 At any point in time did you report that to  
19 Chief Justice Casey?

20          A.     Yes.

21          Q.     So at some point in time you decided to  
22 make a formal reporting of this incident?

23          A.     Yes.

24          Q.     How did you decide to do that?

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1           A.    I spoke with some trusted friends and  
2 family, and I --

3           MR. ANGELINI:   I object.   I object.   I  
4 object.   Unresponsive.

5           THE HEARING OFFICER:   No, it is responsive.  
6 Overruled.

7           THE WITNESS:   May I continue?

8           THE HEARING OFFICER:   Please.

9           THE WITNESS:   Okay.

10          I spoke with some family, some friends, my  
11 husband, some people that I respect their opinion,  
12 and I contacted an attorney.

13          BY MS. COSGROVE:

14          Q.    And after speaking with an attorney, what  
15 did you decide to do?

16          A.    I decided to report it.

17          MR. ANGELINI:   I object.

18          THE HEARING OFFICER:   Overruled.

19          Q.    Who did you report it to?

20          A.    I reported it to Chief Justice Casey.

21          Q.    And how did you report it?

22          A.    By phone.   By phone call.

23          Q.    And when did you report it?

24          A.    It was a Wednesday, Wednesday -- the



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1 Wednesday after the conference, so I believe it's  
2 May 1st.

3 Q. Was that an easy decision for you?

4 A. No.

5 MR. ANGELINI: Objection.

6 THE HEARING OFFICER: Sustained.

7 Q. As part of your formal reporting, did you  
8 make -- did you give Judge Casey a written  
9 statement?

10 A. Yes.

11 MS. COSGROVE: Your Honor, I would now ask  
12 that what has been previously marked as Exhibit SS  
13 for identification, that Mr. Loos be allowed to  
14 bring that up for us to view.

15 THE HEARING OFFICER: Mr. Loos, go ahead.

16 THE REPORTER: One moment.

17 THE HEARING OFFICER: Sure.

18 THE REPORTER: Okay.

19 THE HEARING OFFICER: One minute, please.  
20 Does everyone have it?

21 MR. ANGELINI: I have it, your Honor.

22 THE HEARING OFFICER: Okay. Great.

23 All right.

24 MS. COSGROVE: May I continue, your Honor?

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1 THE HEARING OFFICER: Yes.

2 MS. COSGROVE: Okay. Thank you, your  
3 Honor.

4 Q. You can now see what has been previously  
5 marked as Exhibit SS for identification.

6 Is that true, Ms. Deines?

7 A. I can see the -- yes, my statement.

8 Q. Okay. And so -- I was just going to ask  
9 you, do you know what that is?

10 A. That is the written statement I provided to  
11 Chief Justice Casey.

12 MS. COSGROVE: I would move that the  
13 Commission's Exhibit SS for identification be now  
14 admitted into evidence.

15 THE HEARING OFFICER: Any objection,  
16 Mr. Angelini?

17 MR. ANGELINI: No, your Honor.

18 THE HEARING OFFICER: Okay. Without  
19 objection, Exhibit 6.

20 (Document marked as Commonwealth's  
21 Exhibit 6 admitted into evidence)

22 MS. COSGROVE: Thank you, your Honor.

23 Q. Ms. Deines, could you please read Exhibit 6  
24 for the record.

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1           A.    Give me one second.

2                    Okay.  Would you like me to read it?

3           Q.    Yes, please.

4           A.    Okay.

5                    "Emily Deines, typed 4/29/19 at 3:00  
6                    p.m.

7                    "At or around 9:00 p.m. on Thursday,  
8                    April 25th, 2019, someone grabbed my left  
9                    buttock while I was seated on a stool at  
10                   the Bayzos Pub at the Ocean Edge Resort  
11                   during the Probate and Family Court's  
12                   spring judicial conference.  I believe the  
13                   person who grabbed me was Paul Sushchyk  
14                   because he had recently come over to the  
15                   table where I was seated and was the only  
16                   person directly behind me at the time of  
17                   the grab.

18                   "The following other individuals were  
19                   either seated at the table with me or were  
20                   in the direct vicinity:

21                   "Evelyn Patsos, Jocelyne Welsh,  
22                   Christine Yurgelun.

23                   "The grab lasted a few seconds and  
24                   felt like it was made using a full hand.  I

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1 did not address this with Judge Sushchyk or  
2 anyone else at the table at the time. I  
3 did try to make eye contact with Evelyn  
4 Patsos before leaving a few minutes later."

5 Q. Thank you.

6 This is the statement, the written  
7 statement you provided to Chief Justice Casey?

8 A. Yes.

9 Q. Did you actually have an in-person  
10 conversation with Chief Justice Casey about the  
11 incident at any time?

12 A. Yes.

13 Q. And at that time did you express how you  
14 felt you wanted the situation to be handled?

15 MR. ANGELINI: Objection.

16 THE HEARING OFFICER: Just "yes" or "no."

17 A. Yes.

18 Q. Did you also -- after reporting this to  
19 Chief Justice Casey, did you actually -- did you  
20 discuss the incident with anybody else?

21 A. Yes.

22 Q. And who was that?

23 A. I spoke with Judge Linda Fidnick, and Judge  
24 Richard Simons.

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1           Q.    And specifically why did you speak to those  
2 two judges?

3           MR. ANGELINI:   I object.

4           THE HEARING OFFICER:   If it's -- if it's --  
5 is the question what was her purpose in speaking to  
6 them?  Or is the question why did she select those  
7 individuals?

8           Q.    Why did you select those individuals to  
9 speak with?

10          MS. COSGROVE:   That was my question.  I  
11 apologize, your Honor.

12          THE HEARING OFFICER:   That's all right.  
13 Go ahead.

14          MR. ANGELINI:   My objection to that  
15 question, your Honor.

16          THE HEARING OFFICER:   Overruled.

17          A.    Judge Fidnick is a very kind human being,  
18 first.  Second, she's the vice chair of the  
19 education committee.

20          Q.    And why did you select Judge Simons to  
21 speak with?

22          A.    Judge Fidnick asked me if I would mind if  
23 she reached out to him, and I said no, because he's  
24 the -- he's the chair of the education committee.

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1           MS. COSGROVE: Your Honor, at this point in  
2 time could I take a brief break? Or is this an  
3 appropriate time for a recess?

4           THE HEARING OFFICER: Sure.

5           How much longer, Ms. Cosgrove, do you think  
6 you'll be with Ms. Deines?

7           MS. COSGROVE: I don't know. I believe  
8 co-counsel would like to confer with me.

9           THE HEARING OFFICER: Okay. All right.

10          Let me ask, Mr. Angelini and -- and  
11 Ms. Cosgrove, would this be a good time for us  
12 perhaps to suspend for the lunch break and then come  
13 back at -- it's 12:23 now. We could reconvene at  
14 five minutes of 1:00.

15          MS. COSGROVE: That's fine with us, your  
16 Honor.

17          THE HEARING OFFICER: Mr. Angelini?

18          MR. ANGELINI: Your Honor.

19          Yeah, your Honor. In light of the fact  
20 that I think counsel said 20 minutes ago that she  
21 had about 20 minutes left, and I think she's nearly  
22 done, I would, frankly, prefer we complete direct  
23 and then take a lunch break.

24          But of course --

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1 THE HEARING OFFICER: Okay.

2 MR. ANGELINI: -- whatever is convenient  
3 for your Honor is what controls.

4 THE HEARING OFFICER: That's right. We'll  
5 take a very brief recess. Five minutes.

6 MS. COSGROVE: I'll just mute myself.

7 Is that okay, Mr. Loos?

8 THE REPORTER: Sure.

9 Off the record?

10 THE HEARING OFFICER: Okay.

11 (Recess taken)

12 THE HEARING OFFICER: All right.

13 Ms. Cosgrove, go ahead.

14 MS. COSGROVE: Thank you.

15 Q. So, Ms. Patsos -- at some point in time  
16 after the April 25th conference did you have an  
17 occasion to speak with Evelyn Patsos?

18 A. Yes.

19 Q. And did you speak with her about the  
20 conference?

21 A. Yes.

22 Q. And what did you express about the  
23 conference?

24 MR. ANGELINI: I object.

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1 THE HEARING OFFICER: Sustained.

2 Q. Why did you speak with Evelyn Patsos about  
3 the conference?

4 MR. ANGELINI: I object.

5 THE HEARING OFFICER: Overruled, if it's  
6 what was the purpose in speaking to her.

7 MS. COSGROVE: Yes, it is what is the  
8 purpose in speaking with her.

9 THE HEARING OFFICER: Okay.

10 A. I wanted to get her advice. I wanted to  
11 know if she had -- if she saw anything. Yeah.  
12 Mostly to get her advice and to see if she -- she  
13 was -- had witnessed it.

14 Q. And did she indicate whether or not she had  
15 witnessed anything on that evening?

16 MR. ANGELINI: Objection.

17 THE HEARING OFFICER: Sustained.

18 Q. Just briefly drawing your attention back to  
19 April 26th, 2019, during the conference -- I'm not  
20 sure if you answered it, but on that date did you  
21 see Judge Paul Sushchuk?

22 MR. ANGELINI: I'm sorry.

23 THE HEARING OFFICER: I'm sorry?

24 MR. ANGELINI: I missed the question.



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1           May the question be restated, your Honor?  
2 I apologize.

3           THE HEARING OFFICER: Yes.

4           Please, Ms. Cosgrove.

5           MS. COSGROVE: I apologize, your Honor.

6           Q. On April 26th, 2019, during the second day  
7 of the conference, did you see Paul Sushchuk?

8           A. Yes.

9           MR. ANGELINI: I object, your Honor. Asked  
10 and answered.

11           THE HEARING OFFICER: Yeah. Overruled.

12           Ms. Deines, I think your answer was "yes"?

13           A. Yes.

14           Q. And how did he appear to you on that day?

15           MR. ANGELINI: Objection.

16           THE HEARING OFFICER: I'll sustain to the  
17 form of the question.

18           Q. Did you notice, was there any interaction  
19 between you and Judge Sushchuk on that day?

20           A. There was no verbal interaction.

21           Q. Can you please clarify that when you say  
22 "no verbal," was there any other type of interaction  
23 between you two?

24           MR. ANGELINI: I object, your Honor. Asked

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1 and answered.

2 THE HEARING OFFICER: Overruled.

3 A. From my perception, I thought he sat too  
4 close behind me at lunch.

5 MR. ANGELINI: May it be stricken, your  
6 Honor?

7 THE HEARING OFFICER: No. It may stand.

8 MS. COSGROVE: At this point in time, your  
9 Honor, I believe that we have no further questions  
10 on direct examination.

11 THE HEARING OFFICER: All right. All  
12 right.

13 Then, I had, in your absence, Ms. Cosgrove,  
14 and Mr. Angelini, and I think Ms. Deines as well,  
15 and Judge Sushchyk, asked Mr. Loos if he needed a  
16 break, and he said he'd be fine going until the  
17 direct examination was finished.

18 So if there's no objection to it,  
19 Mr. Angelini, because you're up next, would you have  
20 any objection to us taking a lunch recess now for a  
21 half hour and when we come back, have the  
22 cross-examination?

23 MR. ANGELINI: I have no objection, your  
24 Honor. I would like to -- I do have a request of

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1 the Court, however, prior to the recess.

2 THE HEARING OFFICER: Okay. Is this in the  
3 nature of a side bar?

4 MR. ANGELINI: It need not be.

5 I would simply request that the witness be  
6 instructed not to have any conversations with anyone  
7 with respect to the subject matter during the break.

8 THE HEARING OFFICER: Okay. All right.

9 Ms. Deines, did you hear what Mr. Angelini  
10 said?

11 THE WITNESS: I did. He --

12 I'm sorry. Can he repeat it, though, just  
13 so I'm clear?

14 THE HEARING OFFICER: I'll cover it. Okay.

15 THE WITNESS: Okay.

16 THE HEARING OFFICER: Please don't have any  
17 conversation with anyone concerning your testimony  
18 or any matters related to your testimony during the  
19 recess.

20 And also I am required to ask you, when you  
21 come back, the same questions as I asked you when  
22 you were first sworn in, and I will also be asking  
23 you if you've had any conversations.

24 Okay?

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1           THE WITNESS:   Okay.

2           THE HEARING OFFICER:   Just so you're  
3 prepared.

4           All right.   Anything else?

5           THE WITNESS:   Thank you, Judge.

6           MS. COSGROVE:   Thank you, your Honor.

7           MR. NEFF:   Thank you, your Honor.

8           THE HEARING OFFICER:   Then I'm going to  
9 say, let's -- five minutes after 1:00, everybody  
10 back in their places, and we'll start then.

11           Thank you.

12           MS. COSGROVE:   Thank you.

13           MR. NEFF:   Okay.

14           MR. ANGELINI:   Thank you, your Honor.

15                       (Luncheon recess taken  
16                       at 12:33 p.m. to 1:05 p.m.)

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1                                   AFTERNOON SESSION

2                   THE HEARING OFFICER:  We're underway.

3                   And, Mr. Loos, you've opened it up again,  
4 if it was ever shut down, for people who wish to  
5 attend to be able to see and hear us?

6                   THE REPORTER:  Yes.

7                   THE HEARING OFFICER:  Okay.  Great.

8                   All right, then.

9                   We had left off with Ms. Cosgrove's direct  
10 examination, and Mr. Angelini, you were going to  
11 conduct your cross-examination of Ms. Deines.

12                  MR. ANGELINI:  I'm ready to proceed, your  
13 Honor.

14                  May I proceed?

15                  THE HEARING OFFICER:  Yes.

16                                   CROSS-EXAMINATION

17                  BY MR. ANGELINI:

18                  Q.  So good afternoon, Ms. Deines.  My name is  
19 Mike Angelini.  We've met before at your deposition.  
20 Thank you for your appearance today.

21                  Let me ask you, you've made some reference  
22 at the beginning of the day to having some documents  
23 with you today as you've been testifying.  And I  
24 just want to make sure that we have a complete

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1 record of what you had in front of you during your  
2 testimony this morning.

3           Would you please tell us?

4           A. I had -- I can pull it up. Just give me  
5 one second, Attorney Angelini.

6           So I had Exhibit Z, which I believe is now  
7 Exhibit 3.

8           THE HEARING OFFICER: Excuse me. Let me  
9 interrupt for a moment, Ms. Deines.

10           I don't want to derail where you're headed,  
11 or you, Mr. Angelini, but I am mindful of the fact  
12 that I asked -- or told Ms. Deines that I would be  
13 asking if there had been any conversation or any  
14 changes in your answers to my questions earlier  
15 since you answered them last.

16           Any changes in those answers?

17           THE WITNESS: No.

18           THE HEARING OFFICER: Okay. And any  
19 conversations with anyone during the break  
20 concerning this matter --

21           THE WITNESS: No.

22           THE HEARING OFFICER: -- testimony?

23           All righty, then.

24           I'm sorry. Go ahead. You were going to

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1 answer that.

2 BY MR. ANGELINI:

3 Q. So that my question to you is clear, let me  
4 withdraw it and start again.

5 Aside from what have become exhibits in  
6 this matter, did you have, when you began your  
7 testimony this morning, any notes, any handwritten  
8 or typed instructions, any reflections on paper or  
9 otherwise that were available to you?

10 A. No. No, Attorney Angelini.

11 Q. What had you done in preparation for your  
12 testimony here today?

13 A. I had spoken with Attorney Dan Carey. I  
14 had spoken with Attorney Audrey Cosgrove twice.

15 Q. Does that complete your answer?

16 A. That completes my answer.

17 Q. And during your meeting with Attorney  
18 Cosgrove, did you make notes?

19 A. No.

20 Q. All right.

21 Now, let me just direct your attention now  
22 to the period before April 25th of 2018 -- 2019.

23 You had what you described as some  
24 interactions with Judge Sushchuk prior to the events

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1 at the Ocean Edge Resort, and those events were  
2 professional events.

3 Is that correct?

4 A. That is correct.

5 Q. Your dealings with him were entirely on a  
6 professional basis; is that right?

7 A. Yes.

8 Q. And you had met with him during the course  
9 of his orientation as a judge in 2018; is that  
10 correct?

11 A. There is a formal orientation that the  
12 judges --

13 Q. Is that correct?

14 A. No. No.

15 Q. Did you -- did you meet with him in 2018?

16 A. Yes.

17 Q. Was that in connection for his introduction  
18 to the probate court?

19 A. Yes.

20 Q. Was there anything inappropriate in any way  
21 about that meeting?

22 A. I'm sorry, Attorney Angelini. Could you  
23 repeat that question?

24 Q. Would you agree with me that there was



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1 nothing inappropriate in any way about that meeting?

2 A. I would agree with you, yes.

3 Q. Then you spoke with him once by telephone;  
4 is that correct?

5 A. I spoke with him by text and telephone,  
6 yes.

7 Q. And you would agree with me that that --  
8 that there was nothing at all in any way  
9 inappropriate about that change?

10 A. Not inappropriate, no.

11 Q. So by the time that you came to Bayzos  
12 Pub -- or to the Ocean Edge Resort, I should say, on  
13 April 25th of 2019, you had met in person with Judge  
14 Sushchuk once and you had texted or telephoned with  
15 him on one other occasion, for a total of two  
16 communications; is that right?

17 A. No. We had e-mails going back and forth  
18 prior to setting up a -- setting up the training or  
19 meeting.

20 Q. And were those entirely on a professional  
21 basis?

22 A. Yes.

23 Q. Thank you.

24 But you had met him in person only once; is

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1 that correct?

2 A. I believe so, yes.

3 Q. Now, with respect to this event, do you --  
4 this event was an event to which all of the probate  
5 judges were invited.

6 Am I correct about that?

7 A. Yes.

8 Q. And others as well, correct?

9 A. Yes.

10 Q. What was the total number of the attendees  
11 at this event -- judges, non-judges -- all in?

12 A. So I don't have an exact number.

13 Q. What's your best understanding?

14 A. My best understanding, including presenters  
15 and judges and administrative office staff, and  
16 speakers -- so those would be, you know -- we had  
17 some speakers -- I would say probably 60.

18 Q. Does that include -- does that include you  
19 and the other staff members who were invited?

20 A. Yeah.

21 So it's probably -- yes. So it's probably  
22 more like 65 if we're including the -- the guest --  
23 what we call guest speakers.

24 Q. Okay. Now, you have testified that after

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1 the speaking event, the banquet, so to speak, on the  
2 first day, you then went with your colleagues down  
3 to the Bayzos Pub, and that was at about between  
4 8:00 and 8:15 in the evening; is that correct?

5 A. That is correct.

6 Q. And you left the Bayzos Pub that evening at  
7 about shortly before 9:30; is that correct?

8 A. No. I think I probably left closer to  
9 9:00.

10 Q. Answer my question.

11 Your answer is no?

12 MS. COSGROVE: I would ask that the witness  
13 be allowed to answer the question.

14 THE HEARING OFFICER: Right.

15 Ms. Deines, had you answered?

16 THE WITNESS: The answer to that is "no."

17 THE HEARING OFFICER: Okay. Thank you.

18 BY MR. ANGELINI:

19 Q. Now you've testified on examination --

20 THE WITNESS: If he's asking for 9:30.

21 THE HEARING OFFICER: Okay.

22 THE WITNESS: I'm sorry, Attorney Angelini.

23 What was that?

24

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1 BY MR. ANGELINI:

2 Q. You testified on direct examination that  
3 when you left the pub that evening, the first thing  
4 you did was to send a text message to your sister.

5 A. No. I did say -- no. I did say "bye" to  
6 some people first.

7 Q. Okay. So you left the table; you had a  
8 conversation with Judge Casey. You saw some other  
9 people very briefly on the way out.

10 And then you left and immediately sent a  
11 text to your sister; is that right?

12 A. So I walked to my car, and then I sent a  
13 text to my sister from my car, yes.

14 Q. And that text was sent at 9:29 in the  
15 evening; isn't that right?

16 A. I believe -- if I can look again.

17 Am I allowed to look again?

18 Q. Of course.

19 A. It's 9:25.

20 Q. 9:25. Fair enough. And I apologize.

21 And how long would you say it took you to  
22 get from where you were in the Bayzos Pub at that  
23 round table until you got to your automobile?

24 A. I mean, I would say probably 15 minutes.

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1           Q.    Okay.  So that you left the Bayzos Pub,  
2    according to what you now recall, at about 9:10 that  
3    evening; is that right?

4           A.    So I left the table at probably about 9:10  
5    that evening, yes.  So if you're -- yes.

6           Q.    The -- from the time that you went to that  
7    table after going to the bar and ordering a drink,  
8    until the time you left at 9:10 or so, did your  
9    location at that table change in any way?

10          A.    No.

11          Q.    During that entire period of time you sat  
12    on the barstool that you've identified next to the  
13    brick wall; isn't that correct?

14          A.    Yes.

15          Q.    Now, in the course of the evening -- strike  
16    the question.

17                You have identified some photographs  
18    showing the Bayzos Pub and the table and chair at  
19    which you were -- on which you were seated.

20                Those photographs were taken at a time when  
21    the pub was not in operation; isn't that correct?

22          A.    The pub was in operation.  They were  
23    getting -- preparing to -- if I remember correctly,  
24    they were preparing to serve lunch.

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1           Q.    Were people attending the pub at that time;  
2 that is to say, were there customers present?

3           A.    No.    Just -- just workers.

4           Q.    But now let me direct your attention to the  
5 evening of the first day of the event at the Ocean  
6 Edge Resort.

7                    You and your colleagues from work walked  
8 down the stairs.  As you said, you were among the  
9 first to leave the dinner, and you walked down the  
10 stairs and there were a few people there in the pub  
11 area.

12                   Am I correct?

13           A.    No.    The pub is on the same floor as the  
14 ballroom.  We did not walk downstairs.

15           Q.    I'm sorry.

16                    You walked into the pub, and you came to  
17 the bar room area, and there were a few people  
18 there, right?

19           A.    Yes.

20           Q.    And over time that evening -- that was  
21 about 8:15 in the evening.

22                    Over time that evening the number of people  
23 who came to that bar increased, did it not?

24           A.    The number of people increased, yes.

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1 Q. The bar was, as you pointed out in your  
2 direct examination, open to the public as well as to  
3 people using the hotel; isn't that correct?

4 A. That is correct.

5 Q. And the bar area --

6 A. Attorney Angelini, I'm sorry. I actually  
7 don't know if it was open to the public. I know --  
8 I don't know if it's open to the public. I just  
9 know that it was open for -- for the people who were  
10 staying there.

11 Q. In any event, there were a number of people  
12 there at the pub when you arrived that evening, were  
13 there not?

14 A. No, there were not a number of people there  
15 when we arrived.

16 Q. Was there anybody there when you arrived?

17 A. Yes.

18 Q. All right.

19 So there were some people there. And we'll  
20 come to back to that again, but in any event, as the  
21 evening wore on, the pub became crowded.

22 Is that not right?

23 A. The -- the bar area filled with people from  
24 the conference, yes. Participants from the dinner.

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1 Q. All right.

2 And the bar area was the area in which you  
3 were seated, am I not correct?

4 A. No. We weren't seated at the bar. We were  
5 seated on one of the high tops sort of in the  
6 middle.

7 Q. But there was, at the Bayzos Pub, an area  
8 where there was a bar and next to it, five or six or  
9 seven feet away, some high-top tables, and then on  
10 the other side of the brick wall that you've  
11 mentioned was a restaurant area.

12 Am I not correct?

13 A. You are correct. Yes.

14 Q. All right.

15 And you were seated on -- at one of the  
16 high-top tables directly across from the bar.

17 Is that not correct?

18 A. That is correct, yes.

19 Q. All right.

20 And indeed, the table at which you were  
21 seated was more or less in the middle of what was a  
22 long and extended bar, right? Am I not correct?

23 A. Can you ask that question again?

24 Q. You were seated at a table, a high-top



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1 table on a barstool, and to the left of where you  
2 were sitting was the bar.

3 Am I correct?

4 A. That is correct, yes.

5 Q. So if you had turned -- if you were sitting  
6 at that table and, instead of looking at Jocelyne  
7 Welsh, you turned your head to the left, you would  
8 see the bar?

9 A. Yes.

10 Q. Am I correct? All right.

11 And you would see what was approximately  
12 the middle of what was a long bar by turning your  
13 head to the left; am I correct?

14 A. So, you mean -- when you ask me about the  
15 middle, you mean sort of the bar's lengthwise, in  
16 the middle lengthwise?

17 Is that your question?

18 Q. Yes. Yes.

19 A. Okay.

20 Q. Am I correct?

21 A. So -- no. We were probably -- we were  
22 probably more towards the back, I would say. I  
23 don't think -- we weren't right in the middle.

24 Q. Okay. But without doubt you were only a

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1 few feet from what was a very long bar, right?

2 A. Yeah. I mean, we were probably, you know,  
3 at least seven feet away, maybe six or seven feet  
4 away.

5 Q. And at that bar there were a number of  
6 bar -- there were a number of seats at which people  
7 were seated at the bar.

8 Am I not correct?

9 A. There were a number of seats, yes.

10 Q. People were sitting there during the course  
11 of the evening, correct?

12 A. Yes.

13 Q. And other people were standing in the area  
14 between the brick pillars that you've identified and  
15 the bar; is that not correct?

16 A. So other people were standing in between  
17 the bar and where we were seated, yes.

18 Q. Thank you.

19 And people were milling about, so to speak,  
20 talking with each other, moving around. It was that  
21 type of event.

22 Am I correct?

23 A. You are correct.

24 Q. All right.

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1           And as the evening moved on, the crowd got  
2 larger, and it got louder.

3           Am I correct?

4           A.    Yes.

5           Q.    Thank you.

6           A.    Yes.

7           MR. ANGELINI:  Now, just give me one  
8 moment, your Honor.

9           Would you please call up, Mr. Loos, Exhibit  
10 Number 4.

11          THE REPORTER:  From today?

12          MR. ANGELINI:  Yes.

13          Exhibit Number 4 was Exhibit Z with markers  
14 on it.

15          THE REPORTER:  I don't have the one with  
16 markers yet.  Ms. Deines has it.

17          THE WITNESS:  I e-mailed it to Attorney  
18 Cosgrove at the break.

19          MS. COSGROVE:  I apologize about this  
20 little technical -- I haven't been to my e-mail yet,  
21 so if you'd like, I can try to take a brief pause  
22 and go see -- check my e-mail.

23          MR. ANGELINI:  I'd ask you to do that now,  
24 and I'll come back to it, with your Honor's

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1 permission.

2 MS. COSGROVE: I would actually ask your  
3 Honor if I might be able to do that.

4 THE HEARING OFFICER: Sure.

5 It will just be a couple of minutes.

6 MS. COSGROVE: Just by way of  
7 explanation -- I apologize about this -- I had to be  
8 in a different spot. I can't be actually at my  
9 desk. With the confidentiality here, we don't have  
10 webcams in our offices attached right now. So I'm  
11 in a satellite conference area. So I'm just going  
12 to go back to my office and actually do that.

13 I apologize, your Honor.

14 THE HEARING OFFICER: No problem.

15 THE REPORTER: Off the record?

16 MS. COSGROVE: Off the record?

17 THE HEARING OFFICER: Yes.

18 (Recess taken)

19 THE HEARING OFFICER: And, Ms. Deines --  
20 Ms. Deines, are you able to do the transfer of that  
21 to your screen and then share it with us?

22 There we go. Thank you very much.

23 MS. COSGROVE: Thank you.

24 MR. ANGELINI: Actually, I'm going to start

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1 with Exhibit Number 3 and then come back to this in  
2 a couple of minutes.

3 So may I have Exhibit Number 3, please.

4 THE REPORTER: I put it in the chat on the  
5 break.

6 THE WITNESS: Would you like me to pull it  
7 up, Attorney Angelini?

8 MR. ANGELINI: Sure.

9 All right.

10 May I proceed, your Honor?

11 THE HEARING OFFICER: Yes.

12 MR. ANGELINI: All right.

13 Q. So Exhibit Number 3 is the same as what was  
14 marked as Exhibit Z, and it shows a brick post or  
15 wall.

16 Do you see that, Ms. Deines?

17 A. I do.

18 Q. And in the forefront of this photograph, it  
19 shows a stool adjacent to that brick wall or post.

20 And that's the stool in which you were  
21 seated that evening; am I correct?

22 A. That is correct.

23 Q. You were sitting on that stool, centered on  
24 that stool; is that correct?

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1 A. Yes.

2 Q. And you were approximately five -- your  
3 body was approximately five or six inches from the  
4 high-top table that you were facing; is that  
5 correct?

6 A. So --

7 Q. Is that correct?

8 A. My body, I think I was making contact with  
9 the actual table.

10 Q. Fair enough.

11 So you were on that stool, leaning in  
12 towards the table, correct? To the point where your  
13 body was just either contacting the table or a very  
14 short space between the table and your body.

15 Correct, Ms. Deines?

16 A. Yes.

17 Q. And you were looking across the table?

18 A. Yes, I think that's correct.

19 Q. And you were speaking to Jocelyne Welsh --  
20 Welsh, and Ms. Welsh was seated in a chair, on the  
21 barstool directly across from you as you were -- as  
22 you were facing her, correct?

23 A. That is correct.

24 Q. Now, you and Ms. Welsh -- you and Ms. Welsh

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1 had known each other for some time; maybe not?

2 A. It's Attorney Welsh.

3 And yes, we have.

4 Q. And you were friendly?

5 A. Yes.

6 Q. And do you recall -- I'll withdraw.

7 Was she seated in the same location for the  
8 entire evening at which you were seated at that --  
9 at that table?

10 A. Yes.

11 Q. So she was directly across from you during  
12 this entire period of time, correct?

13 A. Yes.

14 Q. And you were primarily speaking with her  
15 that evening.

16 Am I correct about that as well?

17 A. I spoke to Christine Yurgelun and Evelyn  
18 Patsos also while I was seated there.

19 Q. But shortly before this incident occurred,  
20 you were engaged in conversation, looking at  
21 Ms. Welsh and speaking with her?

22 A. Yes.

23 Q. That's your testimony, isn't it?

24 A. Yes.

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1 Q. Now -- and you were leaning -- your hands  
2 were on the table, were they?

3 Excuse me. I was moving.

4 Your hands were on the table as you were  
5 speaking to and facing Ms. Welsh.

6 Am I correct?

7 A. I believe I was actually -- had my elbows  
8 on the -- on the table.

9 Q. All right.

10 So -- and so your upper body was on -- was  
11 angled towards the table so the elbows were actually  
12 on top of it, right?

13 A. Yes.

14 Q. That's your testimony (indicating)?

15 A. Yes.

16 Not like that, but yes.

17 Q. Well, your elbows were on the table. Were  
18 your hands raised or were your hands -- or were your  
19 hands horizontal to the table?

20 A. They were probably crossed.

21 Q. All right. Your hands were crossed.

22 Your elbows were on the table, and your  
23 hands were crossed on the table, correct?

24 A. Yes.



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1 Q. All right. Fair enough.

2 And you were looking at Ms. Welsh, Attorney  
3 Welsh, as you were speaking with her, right?

4 A. Yes. Yes.

5 Q. I hear you.

6 You were -- your feet were not touching the  
7 floor.

8 Am I correct about that?

9 A. No.

10 Q. Were your feet touching the floor?

11 A. No.

12 Q. And you don't remember whether or not your  
13 feet were on the footrest, do you? Do you?

14 A. Is it -- no, I don't.

15 Q. And were your feet crossed?

16 A. I don't remember.

17 Q. And just to clear up this point, your best  
18 recollection is that your feet were not on the  
19 floor, right?

20 MS. COSGROVE: Objection, asked and  
21 answered, your Honor.

22 THE HEARING OFFICER: Yeah. Overruled.

23 But I don't think that was her answer.

24 Q. Well, what was your answer as to whether

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1 your feet were on the floor, Ms. Deines?

2 A. My feet did not reach the floor; that is  
3 correct.

4 Q. Okay. Now, what was your weight at that  
5 time?

6 MS. COSGROVE: Objection, your Honor.

7 THE HEARING OFFICER: Overruled.

8 A. I would say about 200 pounds.

9 Q. And as you were sitting on that barstool,  
10 centered on it, with your elbows on the table,  
11 leaning forward towards Attorney Welsh -- excuse me  
12 for moving your Honor; it's an old and bad habit --  
13 did you feel any deflection in the cushion that was  
14 on the top of that barstool?

15 A. I can't say for certain.

16 Q. Okay. But, indeed, the barstool did have a  
17 top, and it was a soft top, was it not?

18 A. Yes, it was a soft top.

19 Q. So it was not a hardwood top as some bar  
20 stools are, but it was a piece of leather or other  
21 fabric which compressed a bit on pressure.

22 Am I not correct?

23 A. Yes.

24 Q. Now, as you were looking -- as you were --

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1 excuse me -- as you were sitting on that barstool,  
2 with your elbows on the table, with your hands  
3 crossed, with your feet dangling, and leaning  
4 towards Attorney Welsh, you saw, you say, Judge  
5 Sushchuk over one of Ms. -- Attorney Welsh's  
6 shoulders.

7 Is that your testimony?

8 A. Yes.

9 Q. Over which shoulder did you see Judge  
10 Sushchuk?

11 A. So it would have been Attorney Welsh's left  
12 shoulder, if I'm remembering correctly.

13 Q. So it was her shoulder that would have been  
14 closer to the brick post or wall, right?

15 A. I'm sorry, Attorney Angelini. Could you  
16 repeat that question?

17 Q. Yes.

18 It would have been her shoulder that was  
19 closest to the brick post or wall?

20 A. Yes.

21 Q. By the way, Ms. Deines, before I continue  
22 with this, let me ask you, do you have with you a  
23 copy of your deposition transcript?

24 A. I do not.

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1           Would you like me to get it?

2           Q.    Just answer my question for the time being.

3           Were you ever asked to have a copy of your  
4 deposition transcript with you here today?

5           A.    I do not have it here with me, no.

6           Q.    Were you asked to bring it with you?

7           A.    I have it electronically.

8           Q.    Okay. And you will be able to refer to it  
9 electronically during the course of my examination,  
10 will you?

11          A.    Yes. If we could take a short break, and I  
12 can retrieve it.

13          Q.    When the time comes I'll ask the Court for  
14 your ability to take the time to do so.

15                All right.

16                So we're now looking at this exhibit.  
17 You've identified seeing Judge Sushchyk over  
18 Attorney Welsh's left shoulder.

19                And what time that evening do you say you  
20 saw him at that location?

21          A.    I'm sorry, Attorney Angelini. Could you  
22 repeat that? You cut out a little bit.

23          Q.    What time -- what was the time that evening  
24 at which you say you saw him at that location?

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1           A.    I can't be certain.

2           Q.    But certainly it was sometime after you had  
3 with your group come -- come to the Bayzos Pub, gone  
4 to the bar, retrieved drinks, come back to the table  
5 and sat down.

6                    It was sometime after that, right?

7           A.    Yes.

8           Q.    Was it -- it wasn't immediately after you  
9 sat down, was it?

10          A.    No.

11          Q.    It was at least several minutes, was it  
12 not?

13          A.    Yes.

14          Q.    And so you were looking at Ms. Welsh; your  
15 elbows and hands were on the table; you were leaning  
16 forward. You were --

17                   MS. COSGROVE:  Actually, I believe

18 Mr. Angelini is testifying for Ms. Deines.

19                    Could he just put a question towards her?

20                   MR. ANGELINI:  A question is coming.

21                   THE HEARING OFFICER:  I know.

22                   Overruled.

23                   Go ahead, Mr. Angelini.

24

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1 BY MR. ANGELINI:

2 Q. Let me just start. I want to make sure I  
3 have this correct.

4 You were centered on that stool; your feet  
5 were not touching the ground; you don't remember  
6 whether they were on the barstool, on the -- your  
7 feet were not on the ground; you were leaning  
8 forward; you were talking with Attorney Welsh; your  
9 elbows were on the table; your body was either  
10 touching the table or just about touching the table;  
11 and you were looking at Ms. Welsh as you were  
12 speaking with her.

13 Am I correct?

14 A. I can't say for certain that I was only  
15 looking at Attorney Welsh as she was speaking.

16 Q. Well, she was the person with whom you were  
17 speaking, certainly, when you saw Judge Sushchuk?

18 A. Yes.

19 Q. Isn't that correct?

20 A. Yes. Yes. That is correct.

21 Q. And you were looking at her then, were you  
22 not?

23 A. I'm sorry, Attorney Angelini. Could you  
24 repeat that?

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1 Q. You were looking at her then when you saw  
2 over her left shoulder the person you have described  
3 as Judge Sushchyk.

4 Is that not correct?

5 A. Yes. I was looking in her direction, that  
6 is correct.

7 Q. And you continued to look at her direction,  
8 did you not?

9 A. I don't know.

10 Q. Okay. Now, at that time, at that moment  
11 when you saw Judge Sushchyk, for how many minutes  
12 had you been conversing with Attorney Welsh?

13 A. With Attorney Welsh only? Or...

14 Q. I'm going ask you to tell us from -- at the  
15 time that you saw Judge Sushchyk, you were talking  
16 to Attorney Welsh. And my question is for how many  
17 minutes had you been speaking with Attorney Welsh?

18 A. I don't know. I think we were -- I don't  
19 know.

20 Q. Well, was it several minutes?

21 MS. COSGROVE: Asked and answered, your  
22 Honor. Objection.

23 THE HEARING OFFICER: Overruled.

24 Q. It was several minutes, at least, was it

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1 not, Ms. Deines?

2 A. Yes. It was probably several minutes, yes.

3 Q. And during that period of time, your  
4 attention was directed across the table, correct?

5 A. Yes.

6 Q. Okay. Now, as we look at Exhibit Z, there  
7 is an area behind the barstool in which you were  
8 seated in the foreground of that exhibit.

9 Do you see, it's a wooden floor behind the  
10 barstool? Do you see that area?

11 A. Yes.

12 Q. By the time you saw Judge Sushchuk over the  
13 left shoulder of Attorney Welsh, that area that I've  
14 just pointed out to you had become filled with  
15 people, had it not?

16 A. I don't believe so, no.

17 Q. Well, you didn't look back there, did you?

18 A. My --

19 Q. You were looking at -- you were looking at  
20 Ms. Welsh. You weren't looking behind yourself,  
21 were you?

22 A. I was --

23 THE HEARING OFFICER: Excuse me.

24 There are two questions, Mr. Angelini. One



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1 question at a time.

2 MR. ANGELINI: Yes, your Honor. Thank you.  
3 My apologies.

4 THE HEARING OFFICER: That's all right.

5 Mr. Deines...

6 BY MR. ANGELINI:

7 Q. You were not looking behind you; your  
8 attention was directed to Ms. Welsh and over her  
9 shoulder to Attorney -- to Judge Sushchyk, correct?

10 A. I was speaking with Attorney Welsh; that's  
11 correct.

12 Q. That's where your attention -- you were  
13 not -- you had not turned around and looked behind  
14 you for several minutes during which you were  
15 speaking with Attorney Welsh, were you?

16 A. I actually don't remember.

17 Q. You don't remember?

18 A. I don't remember. I can't say for certain.

19 Q. But you cannot say for certain -- strike  
20 the question.

21 You can't tell us, based on your own  
22 knowledge, who or what was going on as you were  
23 sitting on that barstool talking to Ms. Welsh and  
24 looking at Judge Sushchyk over her left shoulder.

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1 You cannot tell us, can you?

2 A. I cannot tell you -- I cannot tell you  
3 what -- I cannot tell you --

4 Q. You can't tell me what was going on behind  
5 your back, can you?

6 A. I cannot tell you what was going on behind  
7 my back. That is accurate.

8 Q. But you can tell us, as this evening went  
9 on, the area between those brick walls and the bar  
10 became increasingly crowded as you testified; isn't  
11 that correct?

12 A. That is correct.

13 Q. And indeed that area behind the barstool on  
14 which you were seated was -- was a passageway from  
15 the area on the other side of the brick wall, the  
16 restaurant, for people to get from that restaurant  
17 area over into the bar? It was a passageway for  
18 that purpose, was it not?

19 A. I don't know.

20 Q. Well, it was an open area between two  
21 tables and there were restaurant tables on the other  
22 side.

23 Is that not correct?

24 A. That is correct, yes.

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1 Q. And there were people on the other side  
2 congregating and eating.

3 Is that not also correct?

4 A. That is correct, yes.

5 Q. And for those people to get from where they  
6 were cong -- where they had been congregated and  
7 were eating, they would, to get to the bar, pass  
8 directly behind the barstool of which you were  
9 seated.

10 Is that not correct?

11 A. Yes, among other routes, probably.

12 Q. That was a route to get to the bar from the  
13 restaurant area, right?

14 A. Yes.

15 MR. ANGELINI: Now, I just need a minute,  
16 your Honor.

17 THE HEARING OFFICER: Sure.

18 MR. ANGELINI: May we now have Exhibit  
19 Number 4?

20 THE WITNESS: I'm sorry. You'd like me to  
21 share another exhibit?

22 MR. ANGELINI: I'd like to see Exhibit  
23 Number 4. That is the Exhibit Number 3 in which you  
24 have made pencilled markings.

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1           THE WITNESS:   Okay.

2           THE HEARING OFFICER:   I think the only way  
3 for us to get it is for you to share it, Ms. Deines.  
4           Thank you.

5           Okay.   Thank you.

6           BY MR. ANGELINI:

7           Q.   Now, the "X" in the foreground in blue  
8 represents the barstool in which you were seated as  
9 you were talking with Ms. Welsh, right?

10          A.   Yes.

11          Q.   And the "X" in the background is the  
12 location at which you said you saw Judge Sushchyk  
13 over Ms. Welsh's left shoulder, correct?

14          A.   That is correct.

15          Q.   Now, after you saw Judge Sushchyk over  
16 Ms. Welsh's left shoulder, or when you saw him, did  
17 you recognize him?

18          A.   I did.

19          Q.   You hadn't seen him for how long?

20          A.   I'm sorry, Attorney Angelini.   You cut out  
21 again.

22                   Can you repeat the question?

23          Q.   I'm sorry.   I'll ask you again.

24                   The last time you saw Judge Sushchyk was

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1 during his orientation as a probate judge.

2 Am I not correct?

3 A. No, I did not see him during his  
4 orientation as a probate judge. It would have been  
5 probably three or four months after. Two to four  
6 months after.

7 Q. All right.

8 And when was that --

9 A. It was --

10 Q. -- period of time?

11 A. -- in, I believe, late May or June of 2018.

12 But that was not the last time I saw him.  
13 I saw him at the fall conference, the previous fall.

14 Q. All right.

15 So you had -- and at that fall conference  
16 had you had any interaction with him?

17 A. No.

18 Q. But your testimony is that as you looked  
19 over Christine -- I'm sorry, Jocelyne Welsh's left  
20 shoulder and saw you a man over her shoulder, you  
21 recognized that as Judge Paul Sushchuk.

22 That's your testimony under oath, isn't it?

23 A. My testimony is I saw Judge Sushchuk in  
24 that area, yes.

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1           Q.     And you recognized him as Paul -- as Judge  
2 Paul Sushchyk. That's your testimony under oath; is  
3 that not right?

4           A.     Yes, that is my testimony under oath.

5           Q.     And then you kept on speaking with  
6 Ms. Welsh, did you not?

7           A.     Yes.

8           Q.     And you continued speaking with her for  
9 several minutes, did you not?

10          A.     I'm sorry, Attorney Angelini. What was  
11 that question?

12          Q.     You continued to speak with her for several  
13 minutes?

14          A.     Yes. For a few minutes, yes.

15          Q.     For a few minutes.

16                 And during that period of time, you  
17 continued leaning forward on that barstool with your  
18 elbows on the table in the direct -- with your hands  
19 crossed, with your body either at or very close to  
20 the bar table itself, and speaking with and  
21 communicating with Jocelyne Welsh in those several  
22 minutes, right?

23          A.     Yes. As far as I can remember.

24          Q.     Of course. Of course.

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1           Now, when do you say -- recognizing all of  
2 which you just testified, when do you say you next  
3 saw Judge Sushchyk?

4           A.    When he was approaching our table from the  
5 right-hand side.  So when he was sort of  
6 approaching, yes, from the right-hand side.

7           Q.    Well, you have drawn on this exhibit what  
8 you say -- strike the question.

9                    When you say "approaching our table from  
10 the right-hand side," do you mean to say to the  
11 right of your barstool?

12          A.    Yes.  To the right of my barstool.  Uh-huh.

13          Q.    Now, you were still talking with Jocelyne  
14 Welsh, were you not?

15          A.    Yes.  I was having a conversation.

16          Q.    The same conversation that you had been  
17 having -- that you were in the course of having when  
18 you first saw Judge Sushchyk over Ms. Welsh's left  
19 hand shoulder, right?

20          A.    Yes.

21          Q.    And was it during that conversation,  
22 Ms. Deines, that you say you saw Judge Sushchyk to  
23 the right of your barstool?

24          A.    Was it during that conversation?

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1 Yes.

2 Q. Thank you.

3 So your testimony is that this path of  
4 travel that you've drawn on Exhibit 4 is not the  
5 path that you saw Judge Sushchuk take. You didn't  
6 see him take any path, did you?

7 MS. COSGROVE: Objection. I don't think  
8 that's her testimony.

9 THE HEARING OFFICER: Overruled.

10 Q. You didn't see any path of travel by Judge  
11 Sushchuk as you testified to on direct examination,  
12 did you, Ms. Deines?

13 A. Attorney Angelini, I'm not sure I  
14 understand your question.

15 Q. Let me withdraw it and start again.

16 THE HEARING OFFICER: You rephrased it,  
17 Mr. Angelini, in the form that I would sustain  
18 objection to, so let's give it another go on it.

19 MR. ANGELINI: All right. I'll give it  
20 another shot, your Honor. Thank you.

21 THE HEARING OFFICER: Okay.

22 BY MR. ANGELINI:

23 Q. We've established by your testimony, or at  
24 least your testimony is that you saw Judge Sushchuk



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1 at the location over Attorney Welsh's left shoulder  
2 where it is marked "X" at the upper part of this  
3 photograph?

4 A. That's correct.

5 Q. That's where you first saw him?

6 A. Yes.

7 Q. And your testimony is that you next saw him  
8 while you were speaking to Attorney Welsh in the  
9 location that you've described and in the posture  
10 that you've described just to the right of your  
11 barstool, right?

12 A. Yes.

13 Q. All right.

14 So this path of travel that you have marked  
15 here in a blue pen or pencil does not describe  
16 anything you saw, does it?

17 MS. COSGROVE: Objection.

18 THE HEARING OFFICER: Overruled.

19 A. So Attorney Angelini --

20 Q. Not anything you saw.

21 A. So I think the answer to that is --

22 Okay, no.

23 Q. "Yes" or "no," please.

24 MS. COSGROVE: Objection, your Honor.

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1           I would ask that the witness be allowed to  
2 answer. I think we discussed the fact that we're on  
3 a Zoom and that there are going to be some pauses,  
4 but if Mr. Angelini doesn't allow Ms. Deines the  
5 opportunity to actually briefly answer, we can't  
6 actually can't hear her answers.

7           THE HEARING OFFICER: I understand.

8           MR. ANGELINI: I would ask that the witness  
9 be directed to answer the question responsively.  
10 The question asked is whether or not she observed  
11 Judge Sushchuk on that path of travel that she wrote  
12 on this exhibit. That's my question.

13           THE HEARING OFFICER: Okay.

14           Ms. Deines, go ahead.

15           A. So I did not see the -- the path behind the  
16 pole. That is correct.

17           Q. If that's the case, why during direct  
18 examination did you draw this as Judge Sushchuk's  
19 path of travel, if you didn't see it?

20           A. Well, I assumed that when I saw him on one  
21 side of the pole and then on the other side of the  
22 pole, that would be where he would be coming from.

23           Q. So that was an assumption you made, right?

24           A. That was an assumption. That is correct.

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1 Q. Now, you've testified that sometime  
2 later -- strike the question.

3 Do you recall anything that occurred  
4 immediately before you say you saw Judge Sushchyk to  
5 the right of your barstool?

6 A. Do I recall anything occurring?

7 Q. Yes.

8 A. No. Other than having a conversation.

9 Q. With Jocelyne, right?

10 A. Right.

11 Q. Okay. And the next time you say you saw  
12 Judge Sushchyk was sometime later when you saw him  
13 at the location in which you have marked the larger  
14 of two Xs on this exhibit.

15 Am I correct?

16 A. No. So I saw him over Jocelyne's  
17 shoulder, and then I saw him walking towards our  
18 table on the right-hand side of the barstool.  
19 That -- the purple "X" is --

20 Q. So -- go ahead. Sorry. I interrupted you,  
21 and I did not mean to, and I apologize to you.

22 A. Okay.

23 Q. You saw him over Jocelyne's shoulder?

24 MS. COSGROVE: Can she finish her answer,

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1 please?

2 THE HEARING OFFICER: Were you done,  
3 Ms. Deines?

4 A. So the purple "X" just indicates where he  
5 had stopped. So after I turned around, that's where  
6 he was standing.

7 Q. So you saw him at three different  
8 locations:

9 You first saw him over Jocelyne Welsh's  
10 left shoulder. You secondly saw him to the right of  
11 the barstool while you were speaking to Jocelyne,  
12 and you then also saw him at the location of the  
13 larger of those two Xs.

14 Am I correct about those three points?

15 A. Yes.

16 Q. Thank you.

17 And in the meantime, somebody touched your  
18 body; is that correct?

19 A. Yes.

20 Q. You did not see who did it, did you?

21 A. I'm sorry, Attorney Angelini. Can you ask  
22 that question again? You cut out.

23 Q. You did not see the person whom you claim  
24 touched your body, did you?

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1 A. I did not see who touched my body.

2 MR. ANGELINI: Now, I just need a moment,  
3 your Honor.

4 THE HEARING OFFICER: Sure.

5 BY MR. ANGELINI:

6 Q. You testified on direct examination that  
7 somebody touched your body what you described 5, 10,  
8 or 15 seconds, correct?

9 A. Yes. That is correct.

10 Q. That was your testimony?

11 A. Yes.

12 Q. And -- and as you described this in your  
13 direct examination, you said that somebody grabbed  
14 part of your body; is that right? You said that  
15 somebody grabbed your buttocks; is that right?

16 A. Yes.

17 Q. Now -- and that grab lasted 5, 10 or 15  
18 seconds.

19 Is that right?

20 A. Yes.

21 Q. Now, as you say that you experienced this  
22 situation --

23 MS. COSGROVE: Objection, I don't believe  
24 that was her testimony.

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1           THE HEARING OFFICER: There's not a  
2 question yet, so overruled.

3           Go ahead.

4           Q. You say that somebody grabbed your  
5 buttocks, right?

6           A. I believe I said somebody slid their hand  
7 under my left buttocks and grabbed, yes.

8           Q. And -- and you don't know who that was, do  
9 you?

10          A. I believe it was Paul Sushchuk.

11          Q. But you didn't see Judge Sushchuk do that,  
12 did you?

13          A. I did -- I did -- did not see the person at  
14 the exact moment that it was grabbed, no.

15          Q. You didn't see that person -- well, before  
16 you were grabbed, what is your best estimate as to  
17 how long before that you had seen Judge Sushchuk?  
18 How many minutes, if any?

19          A. No minutes.

20                 So he was -- I saw him out of the corner of  
21 my eye on the right-hand side. And before -- how  
22 many seconds before I was grabbed, I'm probably 15,  
23 20 seconds, something along those lines, if I had to  
24 guess. I mean, I didn't have a stopwatch.

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1           Q.    Now, you don't know at that moment -- just  
2 to continue, you don't know at that moment how many  
3 people were behind you at that barstool, do you?

4           A.    I don't.

5           Q.    There could have been several people behind  
6 you on that barstool; is that not correct?

7           A.    I did not see anyone -- I did not see  
8 anyone, but that is accurate, I suppose.

9           Q.    You didn't see anybody because you don't  
10 have eyes in the back of your head, sort of as the  
11 saying goes.

12                   MS. COSGROVE:  Objection, your Honor.

13                   THE HEARING OFFICER:  It's not a question.  
14                   Sustained.  Sustained.

15           Q.    You didn't see anybody because you weren't  
16 looking in that direction, right?

17           A.    That is true, yes.

18           Q.    Right.

19                   And if there was someone else behind there,  
20 any one of the persons who were behind there could  
21 have done what you say happened to you; isn't that  
22 not correct?

23                   MS. COSGROVE:  Objection.

24                   THE HEARING OFFICER:  I'll -- I will

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1 sustain. It's a confusing formulation of the  
2 question, Mr. Angelini.

3 MR. ANGELINI: I'll restate it, your Honor.  
4 I'll restate it. I'm happy to.

5 THE HEARING OFFICER: Sure.

6 BY MR. ANGELINI:

7 Q. If there were other people behind you, any  
8 one of them could have grabbed you at that moment,  
9 right?

10 MS. COSGROVE: Objection.

11 THE HEARING OFFICER: Overruled.

12 A. If there were other people behind me, any  
13 one of them could have grabbed me, yes.

14 Q. By the way, it wasn't just that a person --  
15 strike the question.

16 What part of your buttocks you say was  
17 grabbed by whoever grabbed you?

18 A. It was my left what I would call cheek,  
19 left butt cheek.

20 Q. And according to what you say occurred, the  
21 person who did this slid his or her hand under that  
22 left cheek and grabbed it from underneath.

23 Isn't that -- isn't that what you say  
24 happened?



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1 A. That is what I say happened. Yes, that is  
2 what happened.

3 Q. And how far under your left cheek -- strike  
4 that.

5 You have said that this person slid his or  
6 her hand under that left cheek and grabbed it with a  
7 full hand.

8 Isn't that your testimony?

9 A. Yes. That's what it felt like.

10 Q. So that whoever this person was had a hand  
11 of the size that would allow her or him to go  
12 completely under your left cheek with his or her  
13 hand and then to contract his hand and grab or  
14 squeeze your left buttocks, right?

15 A. I'm assuming yes. That person would have  
16 to have a certain hand size.

17 Q. And to do that for 5, 10 or 15 seconds,  
18 right?

19 A. Yes.

20 Q. Now, during that 5, 10 or 15 seconds, did  
21 you continue to have your conversation with  
22 Jocelyne Welsh?

23 A. I -- I believe she was speaking to me, and  
24 I was not speaking back. But yes, I was still

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1 facing Jocelyne.

2 Q. You were still facing her, and the  
3 conversation with her was continuing, right?

4 A. Yes.

5 Q. Now, can you access your deposition  
6 transcript, Ms. Deines?

7 A. Yes.

8 Could someone give me a few minutes,  
9 please?

10 THE HEARING OFFICER: Sure.

11 MR. ANGELINI: Your Honor, I'm sorry for  
12 this interruption. I ask that she have it available  
13 to her, so if we could have a short break.

14 THE HEARING OFFICER: No problem.

15 Let's take a short recess -- let's say no  
16 more than five minutes -- and everybody will be back  
17 in place.

18 MR. ANGELINI: Thank you.

19 (Recess taken)

20 MS. COSGROVE: I would just like a private  
21 conversation with the attorneys, just for a brief  
22 moment, and Mr. Loos, and obviously Judge Sushchuk.

23 THE HEARING OFFICER: Sure.

24 Let's go into a -- the chat room. Just I

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1 want to make sure the record's clear when we're --

2 MS. COSGROVE: Yes. Clearly, your Honor.

3 THE HEARING OFFICER: -- addressing it.

4 MS. COSGROVE: Okay.

5 THE REPORTER: One moment.

6 (Meeting in private breakout room. Hearing  
7 Officer Josephson, Mr. Neff, Ms. Cosgrove,  
8 Mr. Angelini, Judge Sushchyk and Mr. Loos  
9 present)

10 THE HEARING OFFICER: Okay. We just need  
11 Mr. Angelini.

12 THE REPORTER: He should be able to get in  
13 there.

14 MS. COSGROVE: My apologies.

15 Because when we took that brief break  
16 Mr. Neff and I were just conferring a little bit  
17 about scheduling and trying to, you know, make sure  
18 we coordinated the next witness. So we were trying  
19 to figure out with the afternoon -- because we're  
20 coming on 2:30, and...

21 MR. NEFF: And I don't want -- I feel bad I  
22 spoke out of turn last time, so I don't -- can I --  
23 can I weigh in on --

24 THE HEARING OFFICER: On scheduling, yes,

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1 of course.

2 MR. NEFF: I -- I'll confess, in terms of  
3 administration and logistics, I was working on so  
4 many things over the last couple of days I don't  
5 remember what I necessarily e-mailed and/or  
6 vocalized and to whom in every case.

7 THE HEARING OFFICER: Of course.

8 MR. NEFF: I thought I communicated to most  
9 people hopefully, including all of you, that I had  
10 kind of hatched a plan with our witnesses where I  
11 had everyone's text message and/or e-mail and could  
12 give them, like, a 35- to 45-minute warning that  
13 they would need to make themselves available to  
14 testify so that they would be kind of ready to go.  
15 And --

16 THE HEARING OFFICER: Yes.

17 MR. NEFF: And I guess the point of this  
18 was in part just to kind of remind everyone of that,  
19 and then if we get to a point where we have 35 to 45  
20 minutes to go -- and I know we were going to maybe  
21 end a little early today -- whether you want me  
22 to -- to warn a witness to -- to potentially make  
23 themselves available.

24 THE HEARING OFFICER: Okay. Thank you.

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1           Yes. I did receive that.

2           Mr. Angelini, do you have a sense -- and  
3 I'm not holding you to anything -- but do you have a  
4 sense of how much longer you'll be with Ms. Deines?

5           MR. ANGELINI: My sense is about a half  
6 hour.

7           THE HEARING OFFICER: Okay.

8           MR. ANGELINI: I appreciate you not holding  
9 me to it.

10          THE HEARING OFFICER: No. I know it's a  
11 moving target.

12          Ms. Cosgrove, you may have redirect, I'm  
13 assuming.

14          MS. COSGROVE: I do, but it would be fairly  
15 brief after Ms. Angelini finishes, so maybe 15 --  
16 you know, I don't even know if it will be 15  
17 minutes. You know, if he's...

18          MR. NEFF: I think we wanted to end at 3:30  
19 if I remember correctly.

20          THE HEARING OFFICER: Right. Right.

21          MS. COSGROVE: I had just learned that  
22 Mr. Angelini has an appointment, so part of this is  
23 whether or not we can try to bring other people --  
24 you know, whether we should try to bring somebody

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1 else on board or make sure that they're in the  
2 queue, as you would say.

3 THE HEARING OFFICER: Why don't we have  
4 something in the queue, given that they don't have  
5 to show up anywhere; they just have to be -- you  
6 know, we might get a few minutes, you know. But  
7 let's do that.

8 MS. COSGROVE: I would say that, depending  
9 on how the testimony comes out, I think I may not  
10 be -- given some of your rulings on the -- my  
11 direct, I do not know that I'll be calling  
12 Mr. George or Ms. Deines' sister.

13 So the next person would just --

14 MR. NEFF: Maybe.

15 MS. COSGROVE: -- maybe could possibly be  
16 Chief Justice Casey. So we should get him in the  
17 queue.

18 THE HEARING OFFICER: Okay. Whoever you  
19 want next who's on that list that we were expecting  
20 is fine. And, you know, worst case scenario is they  
21 sat somewhere for a few minutes and would have to be  
22 called back tomorrow anyway.

23 MS. COSGROVE: Okay.

24 THE HEARING OFFICER: Okay?

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1 MR. NEFF: I just want to say, I have  
2 advised him of the possibility. So I --

3 THE HEARING OFFICER: Great. Good.

4 MR. NEFF: -- haven't necessarily told him  
5 the possibility may be in five to ten minutes of  
6 testimony, but --

7 THE HEARING OFFICER: We'll get what we  
8 can. Thank you.

9 Okay. So I think we're done --

10 MR. NEFF: I'll get out of your way.

11 THE HEARING OFFICER: I think we're done at  
12 the sidebar, and we can continue on.

13 MS. COSGROVE: Yeah. I just want to -- I  
14 didn't want to interrupt again, so I thought maybe  
15 just to bring that up now. I apologize.

16 Thank you, Mr. Angelini.

17 MR. NEFF: Yes, thank you, Judge. I  
18 appreciate it.

19 THE HEARING OFFICER: No problem.

20 (Return to the open proceedings)

21 MR. ANGELINI: May I proceed, your Honor?

22 THE HEARING OFFICER: Okay. Go ahead,  
23 Mr. Angelini.

24

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1 BY MR. ANGELINI:

2 Q. Ms. Deines, you have previously testified  
3 under oath, have you not, that this grab, which  
4 you've told us today in your sworn testimony lasted  
5 5, 10 to 15 seconds, took one to two seconds.

6 Isn't that correct?

7 A. In the deposition, yes.

8 Q. That's what you testified to under oath at  
9 your deposition.

10 Am I not correct?

11 A. Yes.

12 Q. And you testified to that on at least two  
13 occasions in your deposition.

14 Isn't that correct?

15 A. Yes.

16 Q. And today you say it wasn't one or two  
17 seconds; it was 5, 10 or 15.

18 Now, on which of those two occasions were  
19 you telling the truth, Ms. Deines?

20 MS. COSGROVE: Objection.

21 THE HEARING OFFICER: Well, I'll sustain.

22 THE WITNESS: Would you like me to answer  
23 that?

24 THE HEARING OFFICER: No, I sustained the



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1 objection.

2 THE WITNESS: Okay. Thank you.

3 BY MR. ANGELINI:

4 Q. Now, you testified today that after this  
5 occurred, after this grab occurred -- whether it was  
6 one or two seconds, as you testified to in your  
7 deposition twice, or whether it was up to 15 seconds  
8 as you testified today -- but after it occurred,  
9 your testimony on direct examination was, "I  
10 immediately turned and saw Paul Sushchyk behind me  
11 to my left."

12 That was your testimony on direct  
13 examination, wasn't it?

14 A. No. I paused. I believe I said I paused.

15 Q. You didn't say, "I immediately turned and  
16 saw Paul Sushchyk behind me and to my left"?

17 A. I don't -- I don't remember saying that. I  
18 don't remember saying that.

19 Q. In any event, your testimony now is that  
20 you paused before turning, right?

21 A. Yes. That is accurate.

22 Q. And what you say now, for how long a period  
23 do you say you paused, Ms. Deines?

24 A. I don't know. I don't know. If I had to

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1 guess, it was a few seconds, but...

2 Q. What was --

3 A. I was in shock.

4 Q. How many seconds --

5 MR. ANGELINI: I ask that be stricken, your  
6 Honor.

7 THE HEARING OFFICER: Okay. All right.

8 BY MR. ANGELINI:

9 Q. What do you -- you said a few seconds, if  
10 you had to guess.

11 Do you mean by that --

12 MS. COSGROVE: Objection, your Honor. He  
13 just asked that that be stricken and now he's  
14 choosing to use that word.

15 THE HEARING OFFICER: No. That wasn't the  
16 part that was stricken.

17 Overruled. Go ahead.

18 Q. I think you said, "if I had to guess, I  
19 would say a few seconds."

20 Do you mean by that answer that you have no  
21 recollection as to how long it was before you turned  
22 and saw Judge Sushchyk?

23 MS. COSGROVE: Objection.

24 THE HEARING OFFICER: Overruled.

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1           A.     Attorney Angelini, could you ask that  
2 question again? I'm sorry. I missed a little bit  
3 of it.

4           Q.     Yes. I'll be happy to ask it again.

5                     I asked you how long you say it was before  
6 you turned and saw Judge Sushchyk after somebody  
7 grabbed your buttocks, and you said, as I recall  
8 your testimony of a minute ago, "if I had to guess,  
9 I would say a few seconds."

10                    That was your answer, was it not?

11           A.     Yes. That is my answer.

12           Q.     And do you mean by that answer that you  
13 don't have any memory as to how long it was?

14           A.     I mean that -- yes. That is what I mean by  
15 that answer.

16           Q.     Okay. So you remember some things that  
17 occurred that evening, but other things you do not  
18 remember.

19                    Am I correct about that, Ms. Deines?

20           A.     Yes, that is correct.

21           Q.     In fact, at your deposition you stated, did  
22 you not, that you paused for a few seconds before  
23 you turned, and you said, "I mean, within  
24 30 seconds."

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1           That was your deposition testimony, wasn't  
2 it, Ms. Deines?

3           A.    Yes.  With -- yes.

4           Q.    So sometime within 30 seconds after  
5 somebody slid his or her hand under your -- under  
6 your left buttocks, contracted it, and grabbed it,  
7 and squeezed it, as many as 30 seconds later you saw  
8 Judge Sushchuk for the first time to your left,  
9 right?

10          A.    For the first time after it happened, yes.

11          Q.    Yes.  You don't know how long he was there,  
12 how long he had been there when you saw him, do you?

13          A.    No, I do not.

14          Q.    For all you know, he was there for  
15 30 seconds.

16                Isn't that right?

17           MS. COSGROVE:  Objection.

18           THE HEARING OFFICER:  Overruled.

19          Q.    Isn't that right?

20          A.    So for all I know --

21                Yes, that is correct.  That is correct.

22          Q.    And if he was there for all of those  
23 30 seconds, he could not have been the person who  
24 slid his hand, his full hand under your left

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1 buttocks and grabbed and squeezed it.

2 Isn't that correct?

3 MS. COSGROVE: Objection.

4 THE HEARING OFFICER: Sustained.

5 THE WITNESS: I don't think that's correct.

6 Oh, I'm sorry. Sustained.

7 THE HEARING OFFICER: Okay. That's okay.

8 BY MR. ANGELINI:

9 Q. Well, if he was there for those 30 seconds,  
10 he couldn't be the person who had contact with your  
11 body, could he?

12 MS. COSGROVE: Objection.

13 THE HEARING OFFICER: Sustained.

14 MR. ANGELINI: Is that sustained, your  
15 Honor?

16 THE HEARING OFFICER: Yes.

17 MR. ANGELINI: I'm sorry. I didn't hear  
18 you.

19 THE HEARING OFFICER: Yes. That's all  
20 right.

21 BY MR. ANGELINI:

22 Q. Now 30 seconds, Ms. Deines, your best  
23 memory when your deposition was taken. And that  
24 was, as I recall, last winter sometime; is that

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1 right?

2 January of 2020, right?

3 A. That is correct.

4 Q. And during those 30 seconds, you were  
5 continuing your conversation with Jocelyne Welsh,  
6 weren't you?

7 A. I was facing towards Jocelyne, and it  
8 wasn't -- it was under 30 seconds.

9 Q. Well, you said you said "immediately,  
10 within 30 seconds"?

11 A. Right.

12 Q. Do you want to change that testimony now?

13 A. No. I think under 30 seconds is what I --  
14 is within 30 seconds.

15 Q. I see.

16 So somewhere from one second to 29 seconds,  
17 would that be a fair way of saying it?

18 A. Yes, I think so.

19 Q. In any event, going back to what  
20 occurred -- strike that. Strike that.

21 Let me turn now to Exhibit Number 6.

22 THE HEARING OFFICER: All right.

23 A. Attorney Angelini, that would be my  
24 statement; is that correct?

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1 Q. Yes. That is your statement dated  
2 April 29th, at 3:00 p.m.

3 A. Okay.

4 Q. This is the -- do you have that available  
5 to you?

6 A. I do.

7 MR. ANGELINI: Do you want to call that up,  
8 Mr. Loos?

9 THE REPORTER: Do you want it on the screen  
10 or --

11 MR. ANGELINI: Yeah. On the screen, if you  
12 would.

13 THE REPORTER: Ms. Deines, perhaps.

14 THE WITNESS: Yes, I can share it.

15 THE REPORTER: It might be easier.

16 THE HEARING OFFICER: Thank you.

17 BY MR. ANGELINI:

18 Q. All right.

19 Now, this is a statement that you made, you  
20 typed approximately four days after this alleged  
21 incident.

22 Is that correct, Ms. Deines?

23 A. Yes.

24 Q. And directing your attention to the third

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1 line of the body of this statement, you said:

2 "I believe the person who grabbed me  
3 was Paul Sushchuk because he had recently  
4 come over to the table where I was  
5 seated..."

6 Now, when you describe him as having  
7 recently come over to the table, you're talking  
8 about, are you not, that you saw him to your right  
9 during the course of your conversation with  
10 Jocelyne Welsh, right?

11 MS. COSGROVE: Objection.

12 THE HEARING OFFICER: Overruled.

13 Is that --

14 A. When I'm saying when -- I'm sorry.

15 So when I say, "because he had recently  
16 come over to the table where I was seated," and your  
17 question is?

18 Q. Well, my question is, what you're referring  
19 to is having seen him to your right during the  
20 course of your conversation with Jocelyne Welsh.

21 Is that what you're referring to there in  
22 this statement?

23 A. I believe it's -- what I'm referring to is  
24 both when I saw him on my right-hand side and also



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1 when I turned around and saw him behind me. I think  
2 I'm also -- I'm just trying to portray that he had  
3 come over to the table.

4 Q. All right.

5 And then you go on to say:

6 "... and" he "was" -- I'm sorry, "and  
7 was the only person directly behind me at  
8 the time of the grab."

9 Those are your words, right?

10 A. Yes.

11 Q. Those are the words that you presented as a  
12 truthful statement to Judge Casey --

13 A. Yes.

14 MS. COSGROVE: Objection.

15 Q. -- in order for him to conduct his  
16 investigation.

17 Isn't that right? Right?

18 A. Yes. That is correct.

19 Q. He asked you to prepare a statement; you  
20 told him you'd prepare a statement; and you  
21 understood the responsibility of giving him a  
22 truthful statement, didn't you?

23 A. I did.

24 Q. But, in fact, as we have -- as you have

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1 acknowledged, you have no idea whether he was the  
2 only person behind you -- that is, whether Judge  
3 Sushchyk was the only person behind you at the time  
4 of this alleged grab.

5           You just don't know; isn't that correct?

6           MS. COSGROVE: Objection.

7           THE HEARING OFFICER: Overruled.

8           You can answer it, Ms. Deines.

9           A. I don't know for certain because I had not  
10 turned around before it happened.

11          Q. And when you say you don't know for  
12 certain, the fact is you just don't know at all,  
13 whether for certain or uncertain; you have no  
14 knowledge of who or how many people were behind you  
15 while you were sitting on that stool at the time  
16 that somebody grabbed you, right?

17          MS. COSGROVE: Objection.

18          THE HEARING OFFICER: Sustained.

19          Q. Now, let me now direct your attention to  
20 Exhibit Number 5.

21          THE HEARING OFFICER: And we'll get that  
22 from Mr. Loos.

23          THE WITNESS: Would you like me to pull  
24 up -- is it the text message between my sister and

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1 I?

2 THE HEARING OFFICER: Yes, it is.

3 MR. ANGELINI: It is a text message, April  
4 25, 9:25 p.m. That's correct.

5 THE HEARING OFFICER: Thank you.

6 THE WITNESS: Thank you.

7 I'm sorry. I don't know if I have it here.  
8 I do.

9 THE HEARING OFFICER: Thank you.

10 MR. ANGELINI: Do you have it? Yes.

11 MS. COSGROVE: I can't see it. I have a  
12 deposition in front of me.

13 THE WITNESS: Oh, let me stop and restart.  
14 Give me two seconds.

15 THE HEARING OFFICER: Okay.

16 THE WITNESS: Can everyone see it now?

17 THE HEARING OFFICER: Yes, I can.

18 MR. ANGELINI: All right.

19 Q. Now, I want -- I want to direct your  
20 testimony (sic) to the last three lines of this  
21 exhibit. And let me deal now to the subject of the  
22 flask and then I'll ask you some questions about  
23 this.

24 You have stated that Judge Sushchyk had a

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1 flask with him that evening.

2 Am I correct?

3 A. Yes.

4 Q. And you had some conversation with him  
5 about that flask, did you not?

6 A. It wasn't necessarily about the flask. It  
7 was about what he was drinking.

8 Q. And this conversation is conversation that  
9 took place after someone had -- had physical contact  
10 with you, right?

11 A. Yes.

12 Q. And there was some conversation about what  
13 kind of alcohol he had in the flask, and whether it  
14 was Irish whiskey or some other kind of whiskey,  
15 words to that effect.

16 Is that a fair way to describe it?

17 A. Yes.

18 Q. And you and he participated in that  
19 conversation with other people at the table.

20 Am I correct about that?

21 A. I believe with Evelyn Patsos, yes.

22 Q. Now, Judge Sushchyk did not remove that  
23 flask from his pocket that evening, did he?

24 A. He didn't pull it out all the way, no.

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1 Q. Well, when you remove something, you take  
2 it from where it is and you put it somewhere else,  
3 right?

4 MS. COSGROVE: Objection.

5 THE HEARING OFFICER: I'll sustain to that.

6 Q. Well, what Judge Sushchyk did is he opened  
7 his side pocket -- as I'm doing -- and pulled that  
8 flask, the top of it, and showed about one inch of  
9 it.

10 MS. COSGROVE: Objection.

11 Q. Isn't that what he did?

12 THE HEARING OFFICER: Overruled.

13 Q. Isn't that what he did?

14 A. Yes. It was -- it was more of a show; less  
15 of a -- he didn't pull it out, yes.

16 Q. He showed one inch of the top of his flask,  
17 right?

18 MS. COSGROVE: Objection.

19 THE HEARING OFFICER: Overruled.

20 A. An inch? Maybe a few inches. Maybe two  
21 inches.

22 Q. Let me direct you to your deposition  
23 testimony at Page 87. If you could pull that up,  
24 please, Ms. Deines.

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1 A. Sure. I'm sharing my screen.

2 Can I -- can I pull it up with the screen  
3 or should I stop?

4 THE HEARING OFFICER: No, you can share, if  
5 that's okay with you.

6 THE WITNESS: Sure.

7 And I'm sorry, Attorney Angelini. You said  
8 Page --

9 BY MR. ANGELINI:

10 Q. 87.

11 A. It's going to take me a minute.

12 I don't have page 87. Did you say 27?

13 Q. 87.

14 A. Oh, I'm sorry, I'm going by my -- I'm going  
15 by my actual pages.

16 Yes, I see it.

17 MS. COSGROVE: It's a Min-u-script, so...

18 THE WITNESS: Yep. I got it.

19 BY MR. ANGELINI:

20 Q. Before we go to that, let's look at Page 85  
21 Ms. Deines.

22 A. Okay.

23 Q. And I'll direct your attention to Line 11.

24 A. Yes.

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1 Q. The question was:

2 "He said he was carrying a flask,"  
3 question mark.

4 Your answer:

5 "He didn't say it. He showed it.

6 "Q." -- Line 13 -- "Yeah. How did  
7 he -- what did he do to show it," question  
8 mark.

9 Line 15, your answer:

10 "He opened his left coat pocket, and  
11 it was in his" pocket -- "it was in his  
12 jacket pocket, and he raised it out of his  
13 jacket pocket."

14 Now let me direct your attention to

15 Page 87, Line 6:

16 "Q. Okay. Okay. Did you see the  
17 entire flask?

18 "A. No.

19 "Q. Okay. What kept you from seeing  
20 the entire flask?

21 "A." -- Line 11 -- "He just pulled it  
22 out a little bit, a small amount, maybe an  
23 inch.

24 "Q. Yeah.

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1           Line 14, your answer:

2                   "Maybe less."

3           That was your testimony under oath at the  
4 time of your deposition in January of 2020, was it  
5 not, Ms. Deines?

6           A.    It was, yes.

7           Q.    Were you telling the truth that day?

8           A.    To the best of my knowledge, of course.

9           Q.    Thank you.

10          A.    Can I stop sharing?

11          Q.    Yes.  Thank you very much.

12                Now, going back to Exhibit Number 5 --

13          A.    My sister's text messages?

14          Q.    Yeah.  The text message to your sister?

15          A.    Would you like me to share that?

16          Q.    Please do it.  Thank you.

17                THE WITNESS:  Does everyone see it?

18                MS. COSGROVE:  Yes.  I do.  At least I do.

19                I'm sorry.

20                BY MR. ANGELINI:

21                Q.    You said in the first sentence of the last  
22 paragraph:

23                        "He is also carrying a hip flask, so  
24                        maybe just fell," double question mark.



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1           Were you referring to the hip flask -- what  
2 you called a "hip flask" falling? Or are you  
3 referring to Judge Sushchyk falling?

4           A.     I was referring to Judge -- to a possible  
5 scenario, Judge Sushchyk falling.

6           Q.     Now, if someone, in your experience, was  
7 walking behind you and fell, and you felt the effect  
8 of that fall, that person could not, in your  
9 experience, slide his or her hand under your left  
10 buttock, close the fingers of that hand and squeeze  
11 or grab it.

12                     Isn't that correct?

13           MS. COSGROVE:  Objection, your Honor.

14           THE HEARING OFFICER:  Sustained.

15           Q.     But you concluded that maybe what you  
16 experienced was Judge Sushchyk falling down?

17           MS. COSGROVE:  Objection.

18           THE HEARING OFFICER:  Overruled.

19           Q.     Is that right?  Isn't that right?

20           A.     I was working through what had happened,  
21 and that was a -- you know, it was a possibility, I  
22 guess.

23           Q.     That was a possibility in your mind within  
24 an hour of this event having occurred, right?

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1 A. I'm sorry, Attorney Angelini. I didn't  
2 hear that question.

3 Q. That was a possibility in your mind within  
4 an hour of your having experienced whatever you  
5 experienced?

6 A. It wasn't a possibility within an hour. It  
7 was -- it was a way I was working through what had  
8 happened.

9 Q. Well, you said to your sister -- so maybe  
10 you didn't use the word "he," but you were saying to  
11 your sister, "maybe he just fell."

12 That's what you were saying to your sister,  
13 right?

14 MR. NEFF: Objection.

15 THE HEARING OFFICER: Sustained. It's in  
16 the context.

17 Q. "He is also carrying a hip flask, so maybe  
18 just fell?"

19 That's what you told your sister, right?

20 A. That is what I sent in this text message,  
21 yes.

22 Q. Were you suggesting to her that maybe he  
23 was falling down and, in the course of falling down,  
24 had made contact with your body?

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1 A. I -- yes.

2 Q. And then you said:

3 "Except it was a distinct pinch,"  
4 right?

5 A. Yes.

6 Q. So that's how you described it to your  
7 sister, as a "distinct pinch." The grabbing of the  
8 butt was a "distinct pinch."

9 Is that a fair way -- does that fairly  
10 describe what you were describing to your sister?

11 A. I -- I wrote that, yes.

12 But in the context of this text message  
13 section, it was mostly to just say that -- that it  
14 was on purpose; that it was purposeful. I don't  
15 think I meant it -- I didn't mean -- I meant -- I  
16 didn't mean "pinch," like you take two fingers and  
17 pinch.

18 Q. You didn't mean the word "pinch"; is that  
19 what you said?

20 A. Yeah. I don't believe I meant the word  
21 "pinch."

22 Q. So when you said "except it was a distinct  
23 pinch," you didn't mean what you said.

24 Is that it?

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1           A.    Yeah.  I was trying to convey that -- that  
2   it was on purpose.  That it was purposeful.  It  
3   wasn't by accident.

4           Q.    But those are the words that you picked in  
5   order to convey that, is it?

6           A.    Yes.

7           MR. ANGELINI:  Now, I'm sorry, your Honor.  
8   Just almost there.

9           THE HEARING OFFICER:  All right.

10          While we are waiting, let me just say  
11   something regarding members of the public.

12          Mr. Loos, I am not inclined to allow in  
13   people who use a statement that could be construed  
14   as a view of the evidence in this case into the --  
15   any more than I would somebody wearing a sign in the  
16   courtroom.

17          So, for the record, I am excluding and  
18   would ask that you exclude the one waiting person  
19   who has that type of a name.

20          THE REPORTER:  Understood.

21          THE HEARING OFFICER:  That's the reason why  
22   I'm doing it for the record.

23          MR. ANGELINI:  Thank you, your Honor.

24          May I resume?

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1 THE HEARING OFFICER: Please.

2 MR. ANGELINI: Thank you.

3 Q. Ms. Deines, the next day, on April 26th,  
4 the day after the evening in which someone had  
5 contact with your body, you wrote a message to a  
6 group of your friends, including -- to a group of  
7 your friends.

8 Am I not correct?

9 A. I did, yes. Yes.

10 Q. And to whom did you write that?

11 A. My friend, Ashley Mroczek; and my friend,  
12 Serena Mohan.

13 MR. ANGELINI: Mr. Loos, could you call up,  
14 please, what is Exhibit Y to the Commission's  
15 exhibits.

16 THE REPORTER: One moment, please.

17 MS. COSGROVE: Your Honor, could we just go  
18 off the record just for a brief moment? I have a  
19 sidebar question I would like to ask.

20 THE HEARING OFFICER: Let's go to the chat,  
21 please.

22 MS. COSGROVE: Yes.

23 (Meeting in private breakout room. Hearing  
24 Officer Josephson, Mr. Neff, Ms. Cosgrove,

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1           Mr. Angelini, Judge Sushchyk and Mr. Loos  
2           present)

3           MS. COSGROVE: And this is probably -- I  
4 apologize if it's my fault, but I was just -- I was  
5 concerned because I wasn't sure. I thought the  
6 second text message was not -- it's probably more  
7 Mr. Angelini saying.

8           Mr. Angelini, did you want that second  
9 message to come in? I thought that was something  
10 that was out of the order of completeness that  
11 was -- you had requested that we not bring in.

12           MR. ANGELINI: I've decided to use it as an  
13 exhibit.

14           MS. COSGROVE: Okay. I just wanted to make  
15 sure. I just wanted to make sure that I was -- I  
16 was not aware of that. I probably would have, you  
17 know, let Ms. Deines -- Deines know, or whatever.

18           But I just wasn't sure I was not -- we  
19 weren't doing something improper. I wanted to stop  
20 it on the record if it was an improper -- if I was  
21 misunderstanding. I just needed a point of  
22 clarification.

23           I apologize. I know this was -- it was a  
24 point of contention about the completeness of it.

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1           So I definitely asked about whether or not  
2           there was other messages or whatnot, and I wanted to  
3           make sure that I had that clearly on the record  
4           before we went down a line of questioning and got  
5           too far.

6           THE HEARING OFFICER:   Okay.   Thank you.

7           While we're here, let me just complete the  
8           record by saying -- and I don't know.

9           Mr. Loos, are you the only other one who  
10          can see the people who are in the waiting room?

11          THE REPORTER:   Yes.

12          THE HEARING OFFICER:   Okay.

13          Is there a way of preserving the name of  
14          the individual, or the name that was posted trying  
15          to get in?

16          THE REPORTER:   To my knowledge, no.

17          THE HEARING OFFICER:   Then I'll say on the  
18          record there was someone who was in the waiting  
19          room, and their name was "he did it."   And so that  
20          person was excluded.   Whoever that is is not coming  
21          in.

22          It's as I said --

23          MS. COSGROVE:   Of course.

24          THE HEARING OFFICER:   -- it's tantamount to

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1 somebody bringing in a sign during a proceeding, and  
2 I'm not going to allow it.

3 MS. COSGROVE: It's improper.

4 MR. NEFF: I absolutely agree. In fact, in  
5 the protocol we wrote up, there's a section about  
6 that.

7 THE HEARING OFFICER: Okay.

8 MR. NEFF: And at first I didn't understand  
9 what that meant.

10 THE HEARING OFFICER: Yeah.

11 MR. NEFF: But that's what that means.

12 Which is people come up with, like, all sorts of  
13 offensive names --

14 THE HEARING OFFICER: Right.

15 MR. NEFF: -- to call themselves, and then  
16 they enter these chat rooms, and that's how they  
17 make their offensive case. So --

18 THE HEARING OFFICER: Okay. Well, thank  
19 you.

20 Mr. Loos has been watching as well, and I  
21 think Mr. Loos has allowed -- allowed me to let them  
22 in, and if I didn't let them in, then they waited  
23 out there for a while, and that was one of the ones  
24 that was not permitted in. That was the only one



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1 that was not permitted in.

2 Galaxy S10 was turned off as to the video  
3 feed because of a political paraphernalia that was  
4 what he was displaying.

5 Okay. So we'll go back. We'll leave our  
6 breakout room.

7 MS. COSGROVE: I apologize. I know this is  
8 a lot of work. I just wanted to make sure. It is  
9 easier if we could just go up to sidebar, but I just  
10 wanted to make sure.

11 THE HEARING OFFICER: No apology necessary.

12 MR. NEFF: I wasn't sure if that was  
13 Exhibit D, the exhibit to the whole hearing, or  
14 Exhibit D to my motion in limine.

15 MR. ANGELINI: So for -- that is exhibit --  
16 the exhibit is Exhibit Y to the disclosures made by  
17 the Commission, the exhibits marked by the  
18 Commission. I'm going to offer it in evidence  
19 eventually, but I'm just trying to find it.

20 MS. COSGROVE: Yeah. Mr. Angelini, I was a  
21 little confused as to the status of the motion in  
22 limine, but I appreciate it.

23 Thank you -- thank you, guys.

24 THE HEARING OFFICER: Okay. We're done.

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1 We'll go back. Thanks.

2 (Return to open proceedings)

3 THE HEARING OFFICER: We're back.

4 MR. ANGELINI: All right.

5 Q. Ms. Deines, during your direct examination  
6 this morning you were asked about contact you had  
7 with Judge Sushchyk on the day following this  
8 alleged incident. And as I recall the record -- but  
9 I invite you to correct me -- you indicated that you  
10 had no interaction with Judge Sushchyk on the second  
11 day.

12 Is that your testimony?

13 A. I had no verbal interaction with Judge  
14 Sushchyk on the second day; that is correct.

15 Q. And you then testified that you did see him  
16 once on the second day, right? At lunch?

17 A. I -- I saw him in the morning and at lunch,  
18 yes.

19 Q. In the morning you saw him from a distance,  
20 right?

21 A. Yes.

22 Q. And at lunch, the lunch took place where?

23 A. It was sort of up in an upstairs room from  
24 where the conference was held. It was a smaller

1 sort of meeting room.

2 Q. And was it a -- how many tables were there  
3 in that room?

4 A. I don't know for certain.

5 Q. Do you have any memory whatsoever with  
6 respect to that?

7 A. I'm sorry, of the exact number? Sorry.

8 Q. Approximately. The approximate number.

9 A. The -- so configurations can be ten people  
10 per table, eight people per table or six people per  
11 table usually for conferences. And I believe the  
12 room was small. I think that there were -- but the  
13 tables were sort of larger.

14 There were two -- if I'm remembering  
15 correctly, two rows of tables, so there were  
16 probably, I would say, probably eight tables of, you  
17 know, six or eight people. Six people each,  
18 probably, around that.

19 Q. All right.

20 And you -- and you -- you sat at lunch at  
21 one of those tables --

22 A. I did.

23 Q. -- right?

24 And you saw Judge Sushchuk also in the

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1 lunch, right? Having lunch?

2 A. Yes. Yes.

3 Q. He didn't sit at your table, did he?

4 A. No.

5 Q. He sat at a different table?

6 A. Correct. Yes.

7 Q. And you had no interaction with him  
8 whatsoever at that table -- I'm sorry, at that  
9 lunch?

10 A. No verbal, correct. No verbal interaction,  
11 yes.

12 Q. Well, did you have any physical contact  
13 with him?

14 A. No.

15 Q. Okay. And you said on direct examination  
16 that, "I thought that he sat too close to me at  
17 lunch."

18 Do you remember saying that?

19 A. Yes. Yes. That's correct.

20 Q. He sat at a separate table, though, right?

21 A. He was at a separate table, but there was a  
22 retirement presentation, and so everyone was -- had  
23 sort of moved their chairs to watch the retirement  
24 presentation.

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1 Q. And he moved his -- are you saying he moved  
2 his chair to watch the retirement presentation?

3 A. Yes, I believe so.

4 Q. So going back to your exhibit, and that was  
5 the last time -- strike the question.

6 That's the last time you saw Judge Sushchyk  
7 that day --

8 A. Yes.

9 Q. -- right?

10 A. I believe so, yes, at lunch.

11 Q. And that was the only time you saw him  
12 other than having seen him from a distance earlier  
13 in the morning, right?

14 A. Yes.

15 Q. But on the 26th, on that afternoon, at  
16 4:05 p.m., you wrote to your sister -- or you wrote  
17 to your two friends and you say:

18 "Kinda thought maybe it was a  
19 mistake..."

20 Referring to the physical contact with you?

21 MS. COSGROVE: Your Honor, I would just ask  
22 that the exhibit be brought back up if he's going to  
23 refer to it.

24 MR. ANGELINI: Of course. Of course. I

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1 apologize for --

2 MR. NEFF: That's okay. With this whole  
3 process, it's a little confusing. So I just  
4 wanted -- I just thought it would be better if it's  
5 up on the screen.

6 MR. ANGELINI: When it's up. When it's up.

7 THE WITNESS: Would you like me to do that?

8 THE REPORTER: I don't know if it's been  
9 identified as an exhibit yet.

10 MR. NEFF: It's not been identified as an  
11 exhibit. It is Exhibit Y on the Commissions's list  
12 of potential --

13 THE HEARING OFFICER: Okay. Well, then  
14 let's get Exhibit Y instead of Ms. Deines having to  
15 find it and --

16 MR. ANGELINI: Sure.

17 THE HEARING OFFICER: I think it's going to  
18 be offered at some point.

19 THE REPORTER: I've sent the link already.

20 THE HEARING OFFICER: Thank you.

21 MR. ANGELINI: Are we up?

22 THE REPORTER: Not yet.

23 MS. COSGROVE: I have it.

24 THE HEARING OFFICER: Yes.

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1 MR. ANGELINI: Okay.

2 Q. In the first paragraph of that message you  
3 said:

4 "I just attended a conference for  
5 judges and while at the bar after dinner  
6 one of the newer judges full palmed my  
7 ass."

8 MS. COSGROVE: Objection, your Honor. I  
9 believe this has not been entered as an exhibit yet.

10 THE HEARING OFFICER: No, it hasn't.

11 MR. ANGELINI: All right. I offer it.

12 THE HEARING OFFICER: All right.

13 No objection?

14 MS. COSGROVE: No objection.

15 THE HEARING OFFICER: Okay. Then we're up  
16 to Exhibit 7, I believe.

17 (Document marked as Commonwealth's  
18 Exhibit 7 admitted into evidence)

19 THE HEARING OFFICER: Okay.

20 BY MR. ANGELINI:

21 Q. All right.

22 That's how you described what you say had  
23 occurred to your two friends:

24 "... one of the newer male judges full

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1 palmed my ass," right?

2 A. That is accurate. That's what I said.

3 Q. That's not how you described it in your  
4 testimony today, is it?

5 THE HEARING OFFICER: You're getting kind  
6 of too far away from the microphone and you started  
7 to drop out.

8 MR. ANGELINI: No one's ever asked to have  
9 a better look at me, Judge, but I appreciate it.

10 Q. That's not how you described it in your  
11 testimony today, is it?

12 A. I didn't describe it exactly as this.  
13 That's correct.

14 Q. And then you go on to say, "I kind of  
15 thought" -- strike that.

16 In the second paragraph:

17 "Kinda thought maybe it was a mistake  
18 until today. He spent the day hovering  
19 uncomfortably around me."

20 Now that statement was not true, was it,  
21 Ms. Deines?

22 A. That was my perception of what -- that was  
23 my perception after having had this happen to me.

24 Q. But you've told us -- put your perception



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1     aside.

2             You've told us what the reality was. The  
3     reality was that you saw him from a distance once in  
4     the morning and you saw him at a separate table  
5     during a luncheon, at lunch.

6             That was the reality, right?

7             MS. COSGROVE: Objection.

8             THE HEARING OFFICER: Sustained.

9             Q. That's what your testimony is, right?

10            A. My testimony is that I thought he was --  
11     you know, that my perception was an uncomfortable  
12     closeness at lunch.

13            Q. That was how you say you perceived what  
14     you've described as what happened, right?

15            MS. COSGROVE: Objection.

16            THE HEARING OFFICER: Overruled.

17            Q. You're telling us how you perceived --

18            THE HEARING OFFICER: Well, no. Now you're  
19     asking a whole other question.

20            MR. ANGELINI: No. No, I'm not.

21            I'll revert to the question. I was trying  
22     to make it easier for her. I'll stand by the  
23     question.

24            What's your answer?

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1           THE HEARING OFFICER: Do you remember the  
2 question?

3           THE WITNESS: I'm sorry, Attorney Angelini.  
4 So if you're asking me --  
5 Yeah. Can you ask me again? I apologize.

6           THE HEARING OFFICER: Okay.

7 BY MR. ANGELINI:

8 Q. What you were saying to your friends in the  
9 last two lines of the second paragraph was to  
10 describe your perception of the facts that you have  
11 given us in your testimony here today, right?

12 MS. COSGROVE: Objection.

13 A. Yeah.

14 THE HEARING OFFICER: Overruled.

15 It may stand. Thank you.

16 A. Yes.

17 Q. And so what you're also saying is that  
18 until you reached the perception that you're  
19 referring to here, until you reached that  
20 perception, on April 29th, in your words, you "kinda  
21 thought maybe it was a mistake," right?

22 MS. COSGROVE: Objection.

23 THE HEARING OFFICER: Overruled.

24 Go ahead, Ms. Deines. You can answer.

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1           A.     So, I'm sorry, your question is about my  
2 statement on April 29th or the text message on the  
3 26th?

4           Q.     I'm referring to your text message.

5           A.     Or 27th?

6           Q.     Of April 26th.

7                     To be clear --

8           A.     Okay.

9           Q.     -- what you're saying in that second  
10 paragraph was that until you perceived what you have  
11 described here as having occurred on April 26th, you  
12 kind of thought what occurred was a mistake, right?

13          A.     I think I was more hopeful that it was a  
14 mistake.

15          Q.     Now, Ms. Deines, in addition to describing  
16 whatever happens by whoever did it on the evening of  
17 April 25th in the way in which you have described it  
18 here during your testimony, you've also described it  
19 in other ways, have you not?

20          A.     Probably, yes.

21          Q.     In fact, you -- you told Ms. Stern that you  
22 were about to sit down and that Judge Sushchyk, as  
23 you were about to sit down, reached out and very  
24 forcibly grabbed your ass.

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1           That's what you told Ms. Stern, isn't it?

2           A.    I don't remember telling her that.

3           Q.    Well, we'll ask her.

4           And how about Ms. Patsos? Do you remember  
5 telling Ms. Patsos that Judge Sushchyk grabbed your  
6 ass as you were about to sit down? Do you remember  
7 saying that to her?

8           A.    I actually don't remember saying that to  
9 her.

10          Q.    Do you remember saying that to anybody?

11          A.    No.

12          Q.    As this person -- I'm just about done.

13                As this person, to use your word, slid his  
14 or her hand under your left buttocks and squeezed or  
15 grabbed it, were you lifted off the barstool?

16          A.    Not -- not standing, not -- no.

17          Q.    Your answer is "no"?

18          A.    My answer is "no."

19          MR. ANGELINI: All right.

20                Let me just have one minute, your Honor;  
21 check my notes.

22          THE HEARING OFFICER: Sure. Sure.

23          MR. ANGELINI: Thank you.

24                A couple of more questions, Ms. Deines.

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1           Q.    You had been working, I take it, on  
2 preparing this conference for some period of time;  
3 is that right?

4           A.    Yes.

5           Q.    And would it be fair to say that at the end  
6 of the first day of the conference, that day ended  
7 and you went down with your friends to have a drink  
8 in the Bayzos Pub, that you were tired after a long  
9 day and after a long experience?

10           MS. COSGROVE:  Objection.

11           A.    Yes.

12           MS. COSGROVE:  I don't believe that was her  
13 testimony, your Honor.

14           THE HEARING OFFICER:  Overruled.

15           A.    I think that's accurate, yes.

16           MR. ANGELINI:  I have no further questions,  
17 your Honor.  Thank you very much.

18           THE HEARING OFFICER:  All right.

19           Redirect?

20           MS. COSGROVE:  Yes.  Thank you.  Just a few  
21 brief questions, your Honor.

22           May I inquire, your Honor?

23           THE HEARING OFFICER:  Yes, please.

24           MS. COSGROVE:  Thank you.



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1 exhibit that hopefully is probably still up. It's  
2 now, I believe, marked as Exhibit 7. The text  
3 message to your friends that was sent out on April  
4 26th, 2019.

5 A. Yes.

6 Q. For completeness, could I just have you  
7 read the entire thing so that we're all on the -- we  
8 all know what it says?

9 A. Yes.

10 You just may have to give me a second.

11 Q. Sure.

12 Are you okay? Do you need a moment?

13 A. Sorry. Just give me one second.

14 Q. Take your time.

15 THE HEARING OFFICER: Do you need a moment?

16 THE WITNESS: I think so.

17 THE HEARING OFFICER: Okay. Take your time

18 and --

19 MS. COSGROVE: I'm almost done, Ms. Deines.

20 THE WITNESS: Okay. Just give me two

21 seconds.

22 Okay.

23 So it starts with:

24 "All right guys. I just attended a

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1 conference for judges, and while at the bar  
2 after dinner one of newer male judges full  
3 palmed my ass.

4 "I'm still reeling a bit today from  
5 it. Kinda thought it was a mistake until  
6 today he spent the day hovering  
7 uncomfortably around me.

8 "Ugh. My sister wants me to report  
9 it. I'm reluctant for a million reasons.  
10 What are your thoughts?"  
11 And my friend responds:

12 "Oh, Lord. Let me chew on this one.  
13 I'm sorry, Deines. Did you tell Lawrence?"  
14 And I said:

15 "I'm still on the fence about  
16 reporting it. I did write down all the  
17 details just in case."

18 Q. When you -- as you were reviewing the  
19 document that Mr. Angelini put into evidence, when  
20 you say "I'm reluctant for a million reasons"  
21 concerning reporting it, can you please tell us what  
22 your reluctance was?

23 MR. ANGELINI: My objection.

24 THE HEARING OFFICER: I'll sustain.



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1           Q.     Drawing your attention to the next -- the  
2 second-to-the-last paragraph, the first line:

3                     "I am still on the fence about  
4 reporting."

5           Could you tell us what your state of mind  
6 was when you wrote that text message?

7           MR. ANGELINI:   My objection.

8           THE HEARING OFFICER:   Sustained.

9           Q.     Emily, could you tell us what factors you  
10 were weighing as you were considering reporting this  
11 incident to Judge Casey?

12          MR. ANGELINI:   My objection.

13          THE HEARING OFFICER:   Well, tell me -- tell  
14 me how that's admissible, Ms. Cosgrove.

15          MS. COSGROVE:   I believe it goes to her  
16 state of mind, some of the decision -- the thought  
17 process that went into -- the exact state of mind  
18 what she -- what she was thinking when she made that  
19 report.

20          THE HEARING OFFICER:   Well, I had  
21 previously ruled that state of mind was not  
22 relevant, and if something has changed because of  
23 the testimony, I'll hear you regarding it.  But if  
24 you don't have more than that, I'll stick with my

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1 original ruling.

2 MS. COSGROVE: Just one more brief question  
3 as to this text message.

4 Q. I note that in the first paragraph, as  
5 Mr. Angelini pointed out, that you wrote that:

6 "... one of the newer male judges full  
7 palmed my ass."

8 There's been some speculation about -- some  
9 concern about the terms you've used as far as, you  
10 know, "full palmed."

11 Can I ask you, as you sit here today, what  
12 did you feel on the night of April 25th, 2019?

13 A. I felt someone slide their hand under my  
14 left buttock and grab -- grab upwards (indicating).

15 Q. And you're making a full gesture, a full  
16 hand motion.

17 Is that with your full hand?

18 A. Yes.

19 Q. So why in the past have you used different  
20 terms as "pinched" or "squeezed," or -- as opposed  
21 to "grabbed"?

22 A. I think that -- I think in retelling it,  
23 you're just -- you know, it's a grab. I don't  
24 know -- I'm not -- I'm so sorry.

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1           I'm not sure what else to say. It was a  
2 grab. And "full palm to my ass" and "grab" I  
3 consider very close. You know, "squeezed," that was  
4 definitely a squeezing. "Pinched," I think I was  
5 probably using with my sister to just sort of denote  
6 that it was intentional; that I did not believe it  
7 was a mistake.

8           MS. COSGROVE: Thank you.

9           I don't believe I have any further  
10 questions, your Honor.

11          THE HEARING OFFICER: All right. Thank  
12 you, then, Ms. Deines. Thank you very much.

13          We don't have any more reason why you need  
14 to be here, but if you did want to, obviously you're  
15 welcome to stay and be part of any public viewing.

16          Okay?

17          THE WITNESS: Thank you, Judge Josephson.

18          THE HEARING OFFICER: Okay. All right.

19          We really have run right up to the time  
20 that we said we would be suspending, and I don't  
21 think it would make any sense to have another  
22 witness right now.

23          So we'll -- if there's no -- nothing else  
24 for us to address, and if it's agreeable to

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1 everyone, we'll suspend for the day.

2 Any problem with that, Mr. Angelini?

3 MR. ANGELINI: None whatsoever, your Honor.

4 Thank you.

5 THE HEARING OFFICER: Thank you.

6 Ms. Cosgrove?

7 MS. COSGROVE: Just trying to get -- it's  
8 just about scheduling. I think just for our  
9 purposes we're -- we're not going to be calling  
10 Mr. Lawrence George or Alison Deines.

11 And then we will start tomorrow what time?  
12 Just for scheduling, once again. It was a ten  
13 o'clock start?

14 THE HEARING OFFICER: Ten o'clock works for  
15 me if it works for everyone else. If you want to  
16 adjust that -- it seemed to work well, but...

17 MS. COSGROVE: Yes.

18 THE HEARING OFFICER: Okay. All right.  
19 Then let's start at 10:00 tomorrow.

20 Thank you all very much. We'll see you  
21 then.

22 MS. COSGROVE: Thank you, your Honor.

23 Thank you, Mr. Angelini. Thank you very  
24 much, Mr. Loos. Cheers.

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THE REPORTER: Off the record.  
THE HEARING OFFICER: All right.  
(Whereupon, the proceedings were  
adjourned at 3:26 p.m.)

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C E R T I F I C A T E

I, Alexander K. Loos, Registered Diplomate Reporter, do hereby certify that the foregoing transcript, Volume I, is a true and accurate transcription of my stenographic notes taken on July 20, 2020.



Alexander K. Loos  
Registered Diplomate Reporter

- - - -

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D I S C L A I M E R

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<p><b>8:00 (5)</b> 46:3,6;97:22;99:5; 122:4 <b>8:15 (3)</b> 99:5;122:4;125:21 <b>8:30 (3)</b> 11:12;95:22;99:5 <b>8:45 (3)</b> 95:22;99:7,7 <b>85 (1)</b> 181:20 <b>87 (5)</b> 180:23;181:10,12, 13;182:15</p>	<p><b>8:00 (5)</b> 46:3,6;97:22;99:5; 122:4 <b>8:15 (3)</b> 99:5;122:4;125:21 <b>8:30 (3)</b> 11:12;95:22;99:5 <b>8:45 (3)</b> 95:22;99:7,7 <b>85 (1)</b> 181:20 <b>87 (5)</b> 180:23;181:10,12, 13;182:15</p>			
<p><b>9</b></p>	<p><b>9</b></p>			
<p><b>9:00 (4)</b></p>	<p><b>9:00 (4)</b></p>			