

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

Hearing, Day 2
July 21, 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 :
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- - - - -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

Tuesday, July 21, 2020

10:01 a.m.

(Alexander Loos, Registered Diplomat Reporter)

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I N D E X

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E X H I B I T S

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E X H I B I T S, Continued

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

2 THE HEARING OFFICER: We're on the record
3 now.

4 It is two minutes after 10:00. We'll be
5 opening the courtroom doors, so to speak, in a
6 moment.

7 And in the interim, let's see. Mr. Loos,
8 of course, is present. Ms. Cosgrove, Mr. Neff and
9 Mr. Angelini are all present.

10 The matter was just raised with me as to
11 the number of people who wanted to be able to
12 observe the proceedings yesterday reaching 100,
13 Mr. Neff said, or nearly. I monitored it quite
14 closely, and it never, in my viewing of it, reached
15 more than, I think, 97.

16 MR. NEFF: And I agree we got pretty close,
17 higher than I thought we might have, actually, but
18 we never really hit the limit.

19 THE HEARING OFFICER: If we find that it
20 becomes a problem, we'll address it. But the same
21 as in a physical courtroom, there are limitations.
22 And particularly under COVID protocols, having 100
23 people able to be in a courtroom, were we in an
24 actual courtroom, would be quite an accomplishment.

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1 So I'm comfortable. I know that there
2 would -- there was some delay -- not significant
3 delay, I don't think -- about people coming in any
4 more than -- certainly no more than there would have
5 been with, again, a physical courtroom where a court
6 officer may have just, you know, been monitoring the
7 egress and entrance of people, depending on
8 availability of space and so on.

9 So it's been open to the public, and
10 there's been no one that I have seen who has wanted
11 to come in, was unable to come in, aside from the
12 two situations that I mentioned on the record
13 yesterday.

14 So I think we can -- if there's nothing
15 else, why don't we open the courtroom doors, so to
16 speak, and let those who are waiting in.

17 Any objection to that from anyone?

18 MR. NEFF: Nope. Nope. Not at all.

19 THE HEARING OFFICER: Mr. Angelini?

20 MR. ANGELINI: None, your Honor. Thank
21 you.

22 THE HEARING OFFICER: Okay. Great.

23 Shall I do the honors, I guess.

24 Admit all.

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1 There they all go.

2 And at this point we have 41 people, so --
3 42, 43. Okay.

4 All right. We'll get underway.

5 It is 10:04, and my name is Bertha
6 Josephson. I am the Hearing Officer conducting the
7 hearing in this matter.

8 Before we begin, I would ask anyone who is
9 not a participant -- meaning who is not a witness or
10 one of the attorneys engaged in this matter, or who
11 otherwise has arranged in advance to be able to have
12 their video accessible and their audio accessible --
13 to kindly disable your video so that you will not
14 appear on the screen, and we will not -- we will not
15 be allowing the audio portion, either, from
16 non-hearing participants.

17 So with that, let me -- let me just say
18 that this is the hearing on the Commission on
19 Judicial Conduct complaint Number 2019-27 in re
20 Judge Paul M. Sushchyk.

21 And counsel representing each party, if you
22 would kindly identify yourself and the party you're
23 representing so that the record is clear in that
24 regard.

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1 MR. NEFF: Let's see.

2 So we have to maximize our screen so we can
3 actually see everyone.

4 There we go. Okay.

5 THE HEARING OFFICER: If you would
6 kindly --

7 MS. COSGROVE: Good morning.

8 Audrey Cosgrove on behalf of the Commission
9 on Judicial Conduct.

10 THE HEARING OFFICER: Thank you.

11 MR. NEFF: And Howard Neff on behalf of the
12 Commission on Judicial Conduct.

13 MR. ANGELINI: Good morning, your Honor.

14 Michael Angelini, counsel for Judge
15 Sushchyk.

16 THE HEARING OFFICER: All right.

17 The hearing will be conducted according to
18 the protocols that were promulgated by the
19 Commission's temporary emergency order on protocol
20 for remote formal hearing.

21 Again, I will remind everyone because we
22 are proceeding by this virtual means, please be
23 mindful of not talking over anyone. Please make
24 sure that when you're speaking, no one else is

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1 speaking.

2 Let me just -- before we have the
3 presentation of evidence, let me just give a summary
4 of where we are right now. We had yesterday the
5 opening statements from both parties. The party
6 with the burden of production and the burden of
7 proof began its presentation in the case-in-chief
8 with its first witness, Ms. Deines. It was a full
9 day of hearing, with Ms. Deines' testimony
10 concluding yesterday at 3:30. Both direct,
11 cross-examination and redirect was conducted, and
12 she was excused from any further testimony.

13 There was a motion for reconsideration that
14 I had mentioned earlier in the day that was filed by
15 Mr. Angelini, and I indicated in the morning that I
16 would give Mr. Angelini an opportunity to make an
17 offer of proof on the record at the end of the day
18 to preserve his rights, but we ran out of time to do
19 that.

20 So I will just mention that I will afford
21 that opportunity to Mr. Angelini at the end of
22 today's proceedings, and if anybody wants to remind
23 me about it at the end of the day, that's fine with
24 me.

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1 MR. NEFF: Yes. Yes.

2 THE HEARING OFFICER: Okay. So with that,
3 let me ask you, Mr. Neff, as the -- as the party, as
4 I said, with the burden of production and the burden
5 of proof, are you ready to present your next
6 witness?

7 MR. NEFF: We are, your Honor. If everyone
8 else is ready, we are ready to call our next
9 witness, yes.

10 THE HEARING OFFICER: All righty.

11 MR. NEFF: And that next witness would be
12 Chief Justice John Casey, who I now see in his
13 window is -- is with us.

14 THE HEARING OFFICER: I don't see him.

15 THE REPORTER: I'll let him...

16 MR. NEFF: If I could just step back for
17 one moment, your Honor.

18 THE HEARING OFFICER: Sure.

19 MR. ANGELINI: I see Judge Casey.

20 THE REPORTER: Shall I unmute him?

21 THE HEARING OFFICER: Please.

22 Good morning, Judge Casey.

23 THE WITNESS: Good morning, Judge.

24 THE HEARING OFFICER: We're just waiting

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1 for Mr. Neff and Ms. Cosgrove to come back onto the
2 screen, and then I'll begin.

3 Mr. Neff, are you --

4 MR. NEFF: Yes.

5 THE HEARING OFFICER: -- ready?

6 Okay. Let me just say, as I have with --
7 with other witnesses --

8 First I'll need to swear you in, Judge
9 Casey. If you would raise your right hand.

10 (JOHN D. CASEY, sworn)

11 THE WITNESS: Yes.

12 THE HEARING OFFICER: Okay.

13 And as with every witness who is
14 testifying -- because I'm required to under the
15 protocols that have been promulgated by the
16 Commission -- I'm going to ask you a series of
17 questions at the beginning of your testimony and at
18 the end, if necessary. And so I'm asking this of
19 all witnesses.

20 First, may I ask, where you -- first if you
21 would kindly state your full name.

22 THE WITNESS: Sure.

23 John Dennis Casey.

24 THE HEARING OFFICER: Thank you.

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1 And where are you physically located?

2 THE WITNESS: 3 Center Plaza in Boston,
3 Mass.

4 THE HEARING OFFICER: And who is physically
5 in the room with you at this time?

6 THE WITNESS: No one.

7 THE HEARING OFFICER: And what materials
8 and devices do you have with you?

9 THE WITNESS: So I have a laptop. I have
10 two screens. I have a cell phone, printer, land
11 line, speakers, all located here on my desk.

12 THE HEARING OFFICER: Okay. Thank you.
13 And what is currently on your screen or
14 screens?

15 THE WITNESS: Just this hearing.

16 THE HEARING OFFICER: Thank you.

17 And I also need to ask you whether you are
18 in communication with any persons other than those
19 conducting the examination.

20 THE WITNESS: No.

21 THE HEARING OFFICER: Okay. If you would
22 kindly let me know if any of your answers to those
23 questions change or would change during the course
24 of the hearing. Thank you.

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1 Mr. Neff.

2 THE WITNESS: You're welcome. I will.

3 THE HEARING OFFICER: Thank you.

4 MR. NEFF: May I inquire, Judge Josephson?

5 THE HEARING OFFICER: Yes.

6 MR. NEFF: Great. Thank you.

7 DIRECT EXAMINATION

8 BY MR. NEFF:

9 Q. Good morning, Chief Justice Casey. Thank
10 you for taking the time to join us. I appreciate
11 that it's a very busy time for all the court
12 departments, including the Probate and Family Court
13 department. Thank you for being here.

14 As part of our record could you please just
15 tell us your name and spell your last name for the
16 record?

17 A. My name is John Dennis Casey, C-a-s-e-y.

18 Q. Okay. And what city or town do you live
19 in?

20 THE REPORTER: I couldn't hear that, sorry.

21 THE HEARING OFFICER: I couldn't, either.

22 THE WITNESS: Judge, would you mind if I
23 use the headset?

24 THE HEARING OFFICER: Not at all.

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1 THE WITNESS: Okay.

2 So I live in Scituate, Mass.

3 BY MR. NEFF:

4 Q. Great.

5 And what is your educational background?

6 A. High school graduate, college graduate, law
7 school graduate.

8 Q. And if I could ask, where did you go to law
9 school?

10 A. I went to Suffolk University and graduated
11 in 1982.

12 Q. Great. Great. Local.

13 And what was your first legal position
14 after graduating from law school?

15 A. I was the assistant city solicitor/police
16 prosecutor for the city of Attleboro.

17 Q. And how long were you in that position?

18 A. Approximately one year.

19 Q. Okay. What year did you begin your first
20 position with the Massachusetts Probate and Family
21 Court?

22 A. December of 2006.

23 Q. Okay. And what position did you hold with
24 the Massachusetts Probate and Family Court when you

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1 began in December of 2006?

2 A. I was appointed as an associate justice of
3 the Probate and Family Court assigned to the Essex
4 division.

5 Q. Great.

6 And so my math is bad. I know you said the
7 year, but so how long would that mean you have been
8 serving as a -- as a judge here in Massachusetts?
9 13 years or so, is that --

10 A. Yes.

11 Q. 13, 14 years?

12 A. Yes.

13 Q. Okay. And what are your job
14 responsibilities as -- well, what is your current
15 position within the Probate and Family Court?

16 A. I am the Chief Justice of the Probate and
17 Family Court.

18 Q. And what are your responsibilities as the
19 Chief Justice of the Probate and Family Court?

20 A. Well, there are numerous.

21 I am involved in setting policy for the
22 department. I'm responsible for all of the
23 employees of the Probate and Family Court: Judges,
24 registers, all staff. I make assignments of judges.

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1 I investigate any types of complaints that are
2 brought against judges or registers. And again,
3 just involved in lots of policy decisions.

4 Q. So many, many hats.

5 A. Yes.

6 Q. Okay. And do you know an employee of the
7 Probate and Family Court by the name of Ms. Emily
8 Deines, or Deines?

9 A. I do. I do.

10 MR. NEFF: And for purposes of this -- I
11 know we discussed this at the outset, but for
12 purposes of this, can we stipulate that Chief
13 Justice Casey's testimony with respect to Ms. Emily
14 Deines is the witness who has already testified in
15 this matter, in this particular set of formal
16 charges?

17 THE HEARING OFFICER: Mr. Angelini, you had
18 stipulated previously.

19 MR. ANGELINI: I think he's asking me to
20 stipulate Ms. Deines testified yesterday; and if he
21 is, I certainly stipulate to that.

22 THE HEARING OFFICER: I think it was the
23 identification.

24 MR. NEFF: I'm asking -- I'm going to ask

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1 Chief Justice Casey a series of questions about a
2 woman by the name of Ms. Emily Deines who he is not
3 in a position to physically point out for anyone for
4 purposes of an official court record.

5 So I'm asking, can we stipulate that the
6 person Chief Justice Casey is going to be referring
7 to as "Ms. Emily Deines," or "Emily," or
8 "Ms. Deines" is, indeed, Ms. Emily Deines, the
9 witness in this matter who testified yesterday in
10 this hearing?

11 MR. ANGELINI: Without question. Yes.

12 THE HEARING OFFICER: Thank you.

13 MR. NEFF: Okay. Thank you.

14 Q. And how do you know Ms. Deines?

15 A. I think I first met her when I became a
16 judge back in December of 2006. I think at some
17 point I met her at conferences, and she may have
18 provided training to me and other judges.

19 That's how I first met her.

20 Q. Okay. And what kind of training did she --
21 was she providing to judges, new judges, at that
22 particular point in time?

23 A. Yep. I'm not sure that it was part of the
24 new judge training. It could have been. It was a

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1 long time ago.

2 But Emily's very involved in --

3 MR. ANGELINI: Objection.

4 A. -- you know, providing training to judges.

5 MR. ANGELINI: Objection.

6 THE HEARING OFFICER: Sustained.

7 MR. NEFF: So I'll ask a better question,
8 which is:

9 Q. What kind of training did she provide that
10 you described she provided you several years ago?

11 MR. ANGELINI: Objection, relevance.

12 THE HEARING OFFICER: Overruled.

13 MR. ANGELINI: Your Honor, I'm just -- may
14 I say I'm having -- trying to adjust my laptop here
15 so I can stand and be seen, and I'm having a little
16 difficulty. So let me just ask your indulgence for
17 a moment --

18 THE HEARING OFFICER: No problem.

19 MR. ANGELINI: -- so I can be seen when I'm
20 sitting and be seen when I'm standing.

21 Let's see here.

22 Close.

23 THE HEARING OFFICER: Yeah. That looked
24 good.

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1 MR. ANGELINI: All right. I think that's
2 it.

3 Thank you very much.

4 THE HEARING OFFICER: Okay. Great.
5 Thanks, Mr. Angelini.

6 Go ahead, Mr. Neff.

7 MR. NEFF: Okay.

8 Q. And did you meet or interact with
9 Ms. Deines, Emily Deines, at all before she came to
10 work for the Probate and Family Court or you came to
11 work for the Probate and Family Court?

12 A. No, I don't believe so.

13 Q. Okay. Do you know how long she has -- and
14 when I say "she," Ms. Emily Deines, has worked for
15 the Probate and Family Court?

16 A. I watched the hearing yesterday, and I
17 believe she testified she had worked in the court
18 for approximately 16 years. I can't recall.

19 But I don't know -- I don't know exactly
20 how long she's worked for the court.

21 Q. To ask you a different question, Ms. Deines
22 was working for the Probate and Family Court at the
23 point at which you were first appointed as a judge
24 of the Probate and Family Court, was already -- was

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1 already working for the Probate and Family Court at
2 that point?

3 A. Yes.

4 Q. Okay. And what is Emily Deines' current
5 position with the Probate and Family Court?

6 A. I think she's a field coordinator
7 covering -- part of her duties are to cover and
8 provide support to the courts in west of Worcester
9 and to -- also she is the person responsible for
10 operation of the conferences and also she supports
11 our education committee. And, as I mentioned, she
12 also provides sort of generalized training in
13 MassCourts or, you know, could be Zoom technology,
14 other emerging matters that come up that we need to
15 help educate our staff about.

16 Q. And how often do you have to work -- work
17 with Ms. Deines in your capacity as Chief Justice,
18 or in her capacity as a field coordinator who has
19 the job responsibilities you just described?

20 A. It depends. You know, it's -- the contact
21 is greater as we approach, for example, a conference
22 where there may be some decisions that I have to
23 make and we interact. There are periods of time --
24 before the pandemic, Emily would be in the office, I

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1 would say, probably twice a month is my guess, so we
2 would interact then.

3 And again, there are often issues that come
4 up on a weekly basis that we communicate via e-mail
5 or -- or telephonically.

6 Q. Okay. Great.

7 And did you -- did you know Emily at all
8 before she and you started working for the Probate
9 and Family Court?

10 A. No.

11 Q. And to the extent that you have worked with
12 her on trainings and -- new trainings for -- well,
13 trainings for judges, and conferences for judges,
14 and the varieties of professional interactions
15 you've described you've had to collaborate with her
16 on as Chief Justice of the Probate and Family Court,
17 would you describe her to be a reliable employee of
18 the Probate and Family Court?

19 MR. ANGELINI: Objection.

20 THE HEARING OFFICER: Sustained.

21 MR. ANGELINI: Objection.

22 THE HEARING OFFICER: Sustained.

23 Q. Have you had any issues with Ms. Deines'
24 work as a -- as an employee of the Probate and

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1 Family Court?

2 MR. ANGELINI: Objection.

3 THE HEARING OFFICER: Sustained.

4 Q. Well, then, let me ask you a different
5 question.

6 Other than the present complaint she's made
7 against Judge Sushchyk, have you known her,
8 Ms. Deines, to make other complaints -- to have made
9 any other complaints against any other employees of
10 the Probate and Family Court?

11 MR. ANGELINI: Objection.

12 THE HEARING OFFICER: Sustained.

13 Q. Do you know if she has any friends among
14 her fellow employees of the Probate and Family
15 Court?

16 MR. ANGELINI: Objection.

17 THE HEARING OFFICER: Sustained.

18 Q. Okay. Is she required to work with any
19 other people to fulfill her job responsibilities for
20 the Probate and Family Court?

21 A. Yes.

22 Q. How many people -- how many different
23 Probate and Family Court employees, other than
24 yourself, would you say Ms. Emily Deines is required

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1 to work with and coordinate with in order to
2 successfully perform her job as a field coordinator
3 for the Probate and Family Court?

4 A. It might be 100.

5 Q. Okay. And have -- and have you had any
6 problems with her or her work as a field coordinator
7 for the Probate and Family Court?

8 MR. ANGELINI: Objection.

9 THE HEARING OFFICER: Sustained.

10 MR. ANGELINI: Objection.

11 THE HEARING OFFICER: Sustained.

12 Q. Well, it's safe to say that she is still
13 employed as a field coordinator for the Probate and
14 Family Court?

15 A. She is.

16 Q. Okay. Do you know a Probate and Family
17 Court judge by the name of Paul M. Sushchych?

18 A. I do.

19 MR. NEFF: Okay. And I don't want to
20 belabor stipulations. I'm just -- in my early days
21 as a lawyer I learned to be picky about
22 identifications.

23 And can we similarly stipulate the
24 testimony that Chief Justice Casey is about to give

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1 about a person named Judge Paul Sushchyk, or Judge
2 Sushchyk is, indeed, the Judge Sushchyk who's a
3 party to this matter?

4 THE HEARING OFFICER: Yes. That was
5 stipulated to.

6 Mr. Angelini?

7 MR. ANGELINI: Yes. Of course.

8 THE HEARING OFFICER: Thank you.

9 BY MR. NEFF:

10 Q. How do you know Judge Sushchyk?

11 A. Well, first of all, I know him from being a
12 colleague of his and now being the Chief of the
13 court where he works.

14 Q. Okay. And did you meet or interact with
15 him at all before he became a judge of the Probate
16 and Family Court?

17 A. Yes.

18 Q. Okay.

19 A. I'm sorry. I'm sorry. I thought -- no, I
20 didn't know him before he became a judge. I'm
21 sorry.

22 Q. Did you work with him on any cases or was
23 he opposing counsel on any cases before his
24 assignment as a judge on the Probate and Family

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1 Court?

2 A. I don't believe so.

3 Q. To your knowledge, were you listed as an
4 attorney or as a reference anywhere in Judge
5 Sushchuk's most recent application to become a judge
6 or in any of his prior four applications to become a
7 judge?

8 MR. ANGELINI: Objection.

9 THE HEARING OFFICER: Well, overruled.
10 I'll allow it.

11 A. Certainly not that I'm aware of.

12 Q. Were you a reference and did you provide a
13 letter of recommendations in support of any of his
14 five applications to become a judge?

15 MR. ANGELINI: Objection.

16 There is no evidence of any five
17 applications. I ask that -- I object to the
18 question.

19 THE HEARING OFFICER: The objection is
20 sustained, and --

21 MR. NEFF: Well, I can --

22 THE HEARING OFFICER: -- it's not a matter
23 that has been the area of testimony at all, nor
24 should it be.

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1 BY MR. NEFF:

2 Q. Well, have -- I don't need to use a number.

3 Have you provided a reference or a letter
4 of recommendation in support of any prior
5 application, or any application Judge Sushchyk has
6 submitted in support of an application to become a
7 judge in Massachusetts?

8 A. No.

9 Q. Okay. Did you offer any testimony in
10 support of his nomination when he appeared before
11 the Governor's Council as part of the nomination
12 process for his current position as a Probate and
13 Family Court judge?

14 A. No.

15 Q. Do you know Judge Sushchyk personally or
16 have you spent time with him socially outside of
17 work?

18 A. So I have not -- go ahead. I'm sorry.

19 Q. No, no. Don't let me interrupt.

20 A. It's -- I don't -- I've never -- other than
21 the conferences, educational conferences, I have
22 never interacted with Judge Sushchyk outside of
23 work-related functions and programs.

24 In terms of personal, do I know him

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1 personally? I'm not sure what you mean by that.
2 I -- I have spoken to him. I know a little bit
3 about his family. I know a little bit about his
4 background. So I -- I don't know how else to answer
5 that question.

6 MR. NEFF: Well, I think that's sufficient.

7 I am looking at some exhibits. Give me one
8 moment, please.

9 THE HEARING OFFICER: Certainly.

10 BY MR. NEFF:

11 Q. Does the Probate and Family Court conduct
12 any kind of organized trainings for its judges?

13 A. Yes.

14 Q. Okay. And what -- what kind of trainings
15 does the Probate and Family Court conduct for its
16 judges?

17 A. Typically we have a two-day educational
18 conference in the spring, and we have a one-day
19 educational conference in the fall.

20 Q. And what is the general content of -- of
21 those trainings?

22 A. Frankly, it depends. We try to cover a
23 variety of topics. We have different programs
24 broken up throughout the day.

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1 On occasion we might have, for example, in
2 the fall, a conference. We may pick one particular
3 subject matter and have programs throughout the day,
4 for example, regarding domestic violence, regarding
5 other subject matters.

6 Q. Okay. I wanted to direct your attention
7 now, if I could, specifically to the Probate and
8 Family Court's spring conference in April of 2019, a
9 little over a year ago.

10 Do you recall having a conference in the
11 spring of April of 2019 in Brewster, Massachusetts
12 for judges?

13 A. I do.

14 I'm sorry. I do.

15 Q. And was attendance at the particular
16 conference mandatory for all judges of the Probate
17 and Family Court?

18 A. Yes.

19 Q. Okay. And do you recall specifically where
20 that conference took place?

21 A. I do.

22 Q. Okay. And where did it take place?

23 A. The Ocean Edge Resort.

24 Q. Okay. And do you know what town that

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1 was -- or city that was in?

2 A. I think it's Brewster.

3 Q. Okay. And how was that particular spring
4 2019 conference organized?

5 A. I'm not sure what you mean by that.

6 Q. Well, as you've already testified, there's
7 a series of trainings that take place at these
8 conferences, and there's a location where this
9 conference takes place.

10 How are the arrangements made for trainings
11 and location and so forth in order to hold a
12 conference like this?

13 A. Okay.

14 The -- as I mentioned, we have an education
15 committee made up of maybe 10 or 12 of our judges
16 out of 51, and they work on the content of the
17 trainings, and for the conferences. And Emily
18 Deines is, again, the liaison from our office to
19 that committee. And she works with Michelle Hynes
20 from the Judicial Institute and together, in
21 consultation with me or previous chiefs, they will
22 identify possible locations for the conference.
23 Certainly they'll discuss invitees for the
24 conferences, in addition to the mandatory

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1 participation by the judges, and that's how the
2 conferences come together.

3 Q. Great.

4 And when -- well, at least this particular
5 conference in the spring of 2019, how was that
6 funded?

7 A. I believe it's through budgetary
8 allocation; that each department is afforded a
9 certain amount per judge for the entire fiscal year
10 for educational programs. So in this case that --
11 go ahead.

12 Q. Great.

13 And as part of the conference, do judges
14 stay at the resort where the training is to take
15 place overnight?

16 A. Yes.

17 Q. Okay. And how many days was the spring
18 2019 conference in Brewster at the Ocean Edge -- how
19 long did it last?

20 A. It was two days.

21 Q. Okay. And for day one, to the extent you
22 can remember, at least generally, could you describe
23 for us the -- the sort of general itinerary of day
24 one of a conference -- of that particular conference

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1 back in spring of 2019? Were there any particular
2 topics of the day that were being presented on, that
3 sort of thing?

4 A. There were certainly topics. I just can't
5 recall all of them.

6 I remember that typically the chair of the
7 education committee, Judge Richie Simons, welcomes
8 people on behalf of the education committee. I'm
9 afforded an opportunity to also address the
10 individuals who are present, and then typically
11 there are two or three programs before lunch.

12 Typically -- and I believe we did in this
13 case -- during lunch we presented some gifts to and
14 recognized retirees from our court. And then we
15 had, again, programs in the afternoon. I don't
16 remember all of the subject matters. I mean, I
17 could guess, but I just don't remember.

18 Q. Generally just trainings and topics of the
19 day and awards for people who sound like they are
20 well-earned by -- by certain parties, that sort of
21 thing?

22 MR. ANGELINI: Objection.

23 THE HEARING OFFICER: Sustained.

24 Q. At least approximately do you recall the

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1 hours of the -- the official functions of the first
2 day of the spring 2019 conference on April 25th,
3 2019? Approximately when did it start, when did it
4 end that day?

5 A. I believe it may have started at 9:00 a.m.
6 on Thursday, the first day of the conference, to
7 allow people the opportunity to get there. We have
8 people, judges coming from western Mass. to Cape
9 Cod, so I believe it was a little later start at
10 9:00.

11 And I believe that we were supposed to
12 finish by 3:30 or three o'clock that day, and the
13 next day it would have started earlier and probably
14 ended around the same -- same time.

15 Q. Okay. And you touched on this a little
16 bit, but what, generally speaking, would be your
17 role at a conference -- well, what was your role at
18 the spring 2019 conference you just described?

19 A. Other than speaking to the judges and
20 invitees, and being there to answer any questions
21 that Emily and Michelle, Judge Simons, Judge
22 Fidnick, the co-chair of the education committee, or
23 vice-chair, just trying to provide support.

24 That's pretty much my -- it's a limited

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1 role at the conference.

2 Q. Fair enough.

3 And what would you say Emily's role was at
4 the spring 2019 conference?

5 A. As I mentioned, she worked with Michelle
6 Hynes. She was really responsible for all of the
7 logistical issues that had to be attended to, making
8 sure that they were prepared to have the materials
9 to provide to all the judges, make sure that, you
10 know, the matters ran timely.

11 That's one of the most difficult jobs she
12 has is to kind of keep everybody on track from a
13 time perspective, make sure that people get back
14 after breaks, those kind of things. Just make sure
15 that it all runs as smoothly as possible.

16 Q. As best you know, do most or all of the
17 attendees of the conference, generally speaking,
18 stay at the conference, in the rooms at the
19 conference when these things take place?

20 A. I would say a majority do. Two-thirds do.
21 There's always some exceptions.

22 Q. To ask a different, maybe more pointed
23 question, did you stay at the conference overnight
24 that time from April 25th to 26th?

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1 A. I did. In fact, I stayed the night before
2 and the night after.

3 Q. Okay. Great.

4 And do you know how long Judge Sushchyk had
5 been a judge of the Probate and Family Court as of
6 the time of the training in Brewster at Ocean Edge
7 in spring of 2019?

8 A. I don't know exactly, but I thought it was
9 approximately one year.

10 Q. And was he present at the spring 2019
11 conference in Brewster --

12 A. Yes.

13 Q. -- Judge Sushchyk?

14 As far as you know, was he present for the
15 entirety of the spring 2019 conference in Brewster,
16 Judge Sushchyk? As far as you know.

17 A. I -- again, I don't keep track of every
18 judge every hour, but my recollection is that he was
19 there for the programs both days. He was there, I
20 believe, for -- I -- I know he was at the dinner,
21 and I know he was at the pub after the dinner.

22 Q. And I think we already covered this a
23 little bit, but attendance at this particular
24 conference is mandatory for judges of the Probate

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1 and Family Court; is that not true?

2 A. That is true.

3 Q. Okay. Do you know if Judge Sushchuk was
4 coming from any other trip or place prior to his
5 arrival at the Ocean Edge training for the Probate
6 and Family Court? Do you know where he was coming
7 from?

8 A. I don't --

9 Do I know where he was coming from?

10 Q. Do you know where he was coming from?

11 A. No.

12 Q. Okay. Do you know if this was the first
13 time Judge Sushchuk attended a training overnight as
14 a Probate and Family Court judge?

15 A. I don't know that for certain.

16 Q. And we've basically covered this, since she
17 was involved in the organization of it.

18 But Emily -- was Emily Deines present for
19 the spring 2019 Probate and Family Court conference?

20 A. Yes.

21 Q. And was she the only non-judge employee of
22 the Probate and Family Court at the conference?

23 A. No.

24 Q. Okay. And what other non-judge employees

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1 of the Probate and Family Court were present for
2 that conference?

3 A. I believe it was our four staff attorneys
4 at the time.

5 Q. And --

6 A. I think four or five.

7 Q. Do you remember who they were --

8 A. I do.

9 Q. -- by name?

10 And who were they?

11 A. Yep.

12 Jocelyne Welsh, Christine Yurgelun, Evelyn
13 Patsos, and Denise Fitzgerald.

14 Q. And did they have any role at this
15 conference, that you were aware of? Or were they
16 there for their -- for another reason?

17 A. They were there for another reason.

18 Q. Okay. What was -- what was the other
19 reason?

20 A. Well, I decided to invite them because I
21 wanted -- when I became Chief, I thought there was a
22 disconnect between the administrative office and the
23 field, and I thought it was important for the judges
24 and for our staff attorneys to just kind of connect

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1 in that setting. I thought it might build stronger
2 relationships. So I invited them.

3 Q. Understood. Fair enough. Kind of like a
4 rapport-building exercise.

5 After the trainings were -- I don't know if
6 you told me this already, but approximately what
7 time did the sort of official training part of the
8 conference on April 25th get completed? That day.
9 Approximately.

10 A. Yeah. I think it was between 3:30 and four
11 o'clock that day.

12 Q. And were there any other official Probate
13 and Family Court functions later in the day on
14 April 25th, 2019?

15 A. Just a -- a dinner was offered, and I know
16 we took photographs on the deck of the facility.
17 So...

18 Q. I understand.

19 A. Just the dinner.

20 Q. Okay. Do you know if there were any non --
21 non -- or events not organized by the Probate and
22 Family Court, social events arranged by judges
23 between the time of the end of the trainings and the
24 beginning of the dinner later that night in what

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1 might be called a hospitality suite at the Ocean
2 Edge Resort?

3 A. I believe there was.

4 Q. Okay. And -- and when you say you believe
5 there was, what -- what facts do you know, or what
6 information do you know that causes you to -- to say
7 that you believe that there -- there was a
8 hospitality suite event after the training but
9 before the dinner?

10 A. Well, because I received numerous text
11 messages from judges asking me to go to a particular
12 location prior to the dinner.

13 Q. And this was basically an invitation to
14 a -- you know, just a social gathering of the judges
15 to get together and chitchat and so forth in between
16 the training but before -- before the dinner
17 actually took place.

18 Is that what your understanding was?

19 A. Generally, yes.

20 Q. Okay. Do you know who was hosting the --
21 this particular -- if we can call it a hospitality
22 suite event, who was hosting it?

23 A. I don't recall. I don't know for certain.

24 Q. Okay. Do you know how many judges attended

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1 the hospitality suite event?

2 A. I don't.

3 Q. Okay. Do you know if -- well, did you
4 attend any part of the hospitality suite event?

5 A. I did not.

6 Q. Okay. Do you know if Judge Sushchyk
7 attended the hospitality suite event?

8 A. I don't know -- I don't know for certain.
9 I don't know.

10 Q. Okay. Do you know if alcohol was available
11 at the hospitality suite event?

12 A. I don't know.

13 MR. ANGELINI: Objection.

14 Withdrawn.

15 Q. Do you know how long the hospitality suite
16 event lasted?

17 A. No.

18 Q. Okay. And you may have already told me,
19 but approximately what time did the Probate and
20 Family Court's dinner that it arranged for begin on
21 April 25th of 2019?

22 A. I think it was 7:00 p.m.

23 Q. Okay. And did you attend that dinner?

24 A. I did.

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1 Q. And when you say dinner was arranged for
2 judges participating in this event, where did that
3 dinner take place?

4 A. It took place at the main resort in one of
5 the, I guess, ballrooms.

6 Q. And -- and for those who maybe have not had
7 the benefit of being to Ocean Edge, could you, as
8 best you can, kind of just describe what we're
9 talking about when we say the "Ocean Edge Resort
10 space," so that we can sort of visually imagine what
11 we're talking about in terms of building and housing
12 and facilities that are available there.

13 A. Okay. Well, I've only -- I've only been
14 there twice, I think, but there's a main mansion
15 that houses ballrooms and guest areas, guest
16 check-in area, places -- there may be a fireplace
17 people can sit around and read. And there's a
18 pub/tavern located in the basement there.

19 Up on the -- excuse me -- higher level
20 there's a very large sort of open area with an
21 outdoor bar/restaurant overlooking the grounds that
22 roll down to the ocean, and in that area there are
23 residences, I think, that are part of the facility,
24 and there is access to the beach.

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1 And if you leave the resort and you go down
2 the road approximately half a mile or so, you'll go
3 into an area where there are, I would say, hundreds
4 of townhouses located along and around the golf
5 course and lake area.

6 Q. Great.

7 And when you make reference -- well, strike
8 that.

9 So the dinner, safe to say, was part -- was
10 at one of the facilities at this Ocean Edge Resort
11 property at approximately 7:00 p.m. on April 25th,
12 2019?

13 A. Yes.

14 Q. Okay. And did you attend the dinner?

15 A. I did.

16 Q. Okay. And how long were you there?

17 A. I think about an hour and a half or so,
18 hour and 45 minutes.

19 Q. Okay. Do you know if Judge Sushchyk was at
20 this dinner?

21 A. Yes.

22 Q. Okay. And did you speak with him at this
23 dinner?

24 A. Yes. Very briefly.

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1 Q. Okay. And how would you describe that
2 exchange between yourself and Judge Sushchyk?

3 A. I'm not sure I understand the question.

4 Q. Okay. Well, you -- you approached Judge
5 Sushchyk and spoke with him.

6 And how would you describe that
7 interaction?

8 MR. ANGELINI: I object.

9 THE HEARING OFFICER: Sustained.

10 Excuse me. Sustained.

11 MR. NEFF: Okay.

12 Q. Well, what did you talk to him about?

13 MR. ANGELINI: I object.

14 THE HEARING OFFICER: Just generally.

15 Overruled.

16 A. I think that we were both just passing. I
17 don't know if one of us was -- we were just both
18 passing by tables, and I just said "hi" to him, and
19 he said something back to me. And just it was very,
20 very brief.

21 Q. How did Judge Sushchyk seem to you when you
22 spoke to him on that particular evening?

23 MR. ANGELINI: Objection.

24 THE HEARING OFFICER: I'll sustain.

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1 Could we have something more specific?

2 Q. Well, did you -- during what you described
3 as a relatively brief interaction, but an
4 interaction with Judge Sushchyk at this dinner --
5 have any sense of -- of him having any variety of
6 impairment, or tiredness, or seeming slower than
7 normal?

8 MR. ANGELINI: My objection.

9 THE HEARING OFFICER: Let's determine first
10 if he actually had an opportunity to make any kind
11 of observation that would permit him to conclude
12 about any of those topics.

13 So I'll sustain.

14 Q. Well, how long did you interact with Judge
15 Sushchyk at the dinner?

16 Chief Justice Casey?

17 A. No. I'm just -- I'm just trying to think
18 about it.

19 It's probably about five seconds.

20 Q. Okay. And -- and do you recall that you
21 gave us some prior deposition testimony regarding
22 your interactions with Judge Sushchyk at this
23 particular dinner on April 25th, 2019? Do you
24 recall that deposition which took place on May 27th

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1 of 2020?

2 A. Yes, I remember being deposed.

3 Q. Okay. And do you recall telling us what
4 you -- you saw?

5 MR. ANGELINI: I object.

6 THE HEARING OFFICER: Sustained.

7 Q. Okay. Well, let me ask you differently.

8 Do you recall me asking whether you had any
9 sense of whether or not he might have been affected
10 by or under the influence of alcohol during your
11 conversation with him during your interaction with
12 him on that particular evening?

13 MR. ANGELINI: My objection, your Honor.

14 THE HEARING OFFICER: I'll sustain at this
15 point.

16 MR. NEFF: Okay.

17 Q. Well, again, you gave -- you do recall
18 giving this prior sworn statement on May 27th of
19 2020.

20 And so now I ask you, again, during this
21 hearing, did you, during your interaction with Judge
22 Sushchuk at this dinner on April 25th, 2019, observe
23 anything about his behavior or during your
24 conversation with him that made -- that made you

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1 think that he seemed tired or slower than normal?

2 MR. ANGELINI: I object, your Honor.

3 THE HEARING OFFICER: Sustained.

4 Q. What observations did you make of Judge
5 Sushchuk during your interaction and conversation
6 with him on April 25th, 2019?

7 MR. ANGELINI: My objection.

8 THE HEARING OFFICER: Overruled.

9 A. As I mentioned, I think -- I think we
10 passed each other as we were walking, and we spoke
11 very briefly. And I -- I thought he looked tired
12 based on, I would say -- I'm trying to recall why it
13 is that I felt he appeared tired to me, but it might
14 have been -- I just can't recall right now why, but
15 I think that was how I felt at the time.

16 Q. Do you recall making any observations of
17 his eyes?

18 A. Yeah. I thought his eyes were -- appeared
19 to be red or -- or dry or...

20 Q. And how would you describe your
21 conversation, albeit a brief one, with Judge
22 Sushchuk on April 25th, 2019, versus the nature of
23 the conversation that you've -- or conversations
24 that you've had with him at other times?

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1 MR. ANGELINI: I object, your Honor.

2 THE HEARING OFFICER: Sustained.

3 Q. Well, was there anything about the way
4 Judge Sushchuk presented to you that made it seem
5 like he was perhaps not as energetic as you had seen
6 him in the past?

7 MR. ANGELINI: I object to the question.

8 THE HEARING OFFICER: Sustained.

9 Q. Did you make any observations of Judge
10 Sushchuk's level of energy during your interaction
11 with him at the dinner on April 25th, 2019?

12 MR. ANGELINI: I object.

13 THE HEARING OFFICER: Overruled.

14 A. I did.

15 Q. Okay. And what were those observations?

16 A. He seemed tired. He seemed less energetic
17 than when I had dealt with him previously.

18 Q. Okay. Fair enough.

19 Do you know if Judge Sushchuk -- excuse me.

20 Do you know if Judge Sushchuk stayed and
21 attended the entirety of that dinner?

22 A. I believe he did.

23 Q. Okay. You did not sit with him at that
24 particular dinner?

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1 A. That's correct.

2 Q. Was alcohol available at this dinner for
3 free or for purchase?

4 A. Yes.

5 Q. Okay. And what type of alcohol was
6 available at this dinner? Was it beer and wine?
7 Was it mixed drinks and liquor? Or a combination
8 thereof?

9 A. I'm not certain.

10 Q. Okay. Did you observe Judge Sushchuk
11 drinking any alcohol during the course of this
12 dinner on April 25th, 2019?

13 A. I -- I can't recall.

14 Q. Okay. Fair enough. Fair enough.
15 I can't remember if you testified to this,
16 but you stayed -- the dinner lasted about an hour
17 and a half and ended about 7:30. I'm sorry, you
18 said the dinner lasted about an hour and a half and
19 started at 7:00 p.m. on April 25th?

20 A. It was scheduled to start at 7:00 p.m., and
21 I believe that I left somewhere between probably
22 8:45 -- 8:30 and 8:45.

23 Q. Okay. And when you left the dinner, where
24 did you go?

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1 A. I think I went to the room that I was
2 staying at with my wife.

3 Q. And -- and as we've already covered, the
4 room you were staying at with your wife was a room
5 that was -- was a room provided at the Ocean Edge
6 Resort?

7 Is that true?

8 A. Well, there was -- there was one night that
9 was provided by the -- or reimbursed by the
10 Commonwealth. The other nights it was privately
11 paid. But the -- the room itself was located on the
12 main mansion property, not at the other location
13 where the townhouses were.

14 Q. Understood. Understood.

15 How long -- well, strike that.

16 Did you go anywhere else that particular
17 evening other than your room after the dinner on
18 April 25th, 2019?

19 A. Yes.

20 Q. Where did you go?

21 A. The Bayzos Pub.

22 Q. And where is Bayzos Pub in relation to the
23 locations you've already described for us?

24 A. It's in the lower level of the mansion

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1 resort.

2 Q. Okay. So it's also part of this Ocean Edge
3 Resort complex, yes?

4 A. Yes.

5 Q. Okay. And were -- were -- were you the
6 only employee of the Probate and Family Court at
7 Bayzos Pub when you arrived there? Or were there
8 other employees of the Probate and Family Court
9 already present at Bayzos Pub at that point in time?

10 A. There were others there.

11 Q. Okay. And you may have said it, but
12 approximately what time would you say you arrived at
13 Bayzos Pub?

14 A. It was just a one-minute or so walk to my
15 room. I met up with my wife. She and I walked over
16 to the pub.

17 So it would have been probably five minutes
18 in total, so I would say it would be somewhere
19 before nine o'clock or so, 10 of 9:00.

20 Q. And when you went to Bayzos Pub, it was
21 really just you and your wife walking over.

22 Did you go over with anyone other than --
23 than her?

24 A. Not that I recall.

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1 Q. Okay. Did you see Judge Sushchyk at Bayzos
2 Pub that evening?

3 A. I did.

4 MR. NEFF: And forgive me for not entirely
5 keeping up, Mr. Loos. I want to try to start with
6 what was marked by us as Exhibit 7 for
7 identification, I suppose, and submit it to you all,
8 which is a photograph which I would like to show to
9 Chief Justice Casey, with your permission, Judge
10 Josephson.

11 THE REPORTER: I don't know if that's
12 Exhibit 7.

13 THE HEARING OFFICER: Is it already -- it's
14 already an exhibit.

15 THE REPORTER: I believe that's Exhibit 3,
16 though.

17 MR. NEFF: It's Exhibit 3?

18 THE HEARING OFFICER: Exhibit 7 is the
19 text.

20 MR. NEFF: Okay. Great.

21 So --

22 THE REPORTER: I can forward that if you
23 give me a moment.

24 MR. NEFF: I'm sorry.

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1 THE REPORTER: I can forward that to
2 everyone if you give me a moment.

3 MR. NEFF: Okay. I was going to say my
4 logistical question, which I'm embarrassed to ask,
5 just because it's so new, Mr. Loos, is since it was
6 already introduced, how do I sort of get it out of
7 the pile and let Chief Justice Casey take a look at
8 it?

9 THE REPORTER: I can send the link.

10 MR. NEFF: If you can do that, that would
11 be very much appreciated.

12 MR. ANGELINI: If I can ask what exhibit is
13 being called for, please.

14 THE HEARING OFFICER: I have the same
15 question.

16 MR. NEFF: Well, I had made reference to
17 what we marked as Exhibit F for identification.
18 Mr. Loos had indicated that it is already in
19 evidence for purposes of this hearing as Exhibit 3.

20 THE REPORTER: That was previously Z.

21 MR. NEFF: I'm sorry?

22 THE REPORTER: That was previously Z.

23 MR. ANGELINI: That was Exhibit 1.

24 MR. NEFF: That was Exhibit 1? Okay. As

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1 Exhibit 1.

2 THE HEARING OFFICER: Okay.

3 MR. NEFF: So I would ask that Judge Casey
4 just be asked to allow -- be allowed to observe
5 Exhibit 1, which is already in evidence in this
6 case.

7 THE HEARING OFFICER: Sure.

8 MR. NEFF: May I ask a question, Judge?

9 THE HEARING OFFICER: Certainly.

10 THE WITNESS: There's -- it appears to be a
11 chat message. It says number one there, and it's
12 from Mr. Loos.

13 I just don't know if you, or Attorney Neff,
14 wish for me to look at that chat message.

15 THE HEARING OFFICER: Now, I think does --
16 it say "HTTPS."

17 THE REPORTER: That should be it.

18 THE WITNESS: Yes.

19 THE HEARING OFFICER: That's the one you
20 need to -- yeah, if you can click on it --

21 THE WITNESS: Okay.

22 THE HEARING OFFICER: -- that should bring
23 the document onto your screen.

24 THE WITNESS: Okay.

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1 I -- I don't know why it's not. I am
2 clicking on it and nothing's happening.

3 MR. NEFF: Alex, do you have an idea what
4 might be going on?

5 THE REPORTER: I'm not sure, but we can
6 screen share it.

7 THE HEARING OFFICER: That would be great.
8 Thank you.

9 MR. NEFF: So are we at a point where we
10 can, with your permission, ask questions, Judge
11 Josephson?

12 THE HEARING OFFICER: Go ahead.

13 BY MR. NEFF:

14 Q. Okay. So, Chief Justice Casey, on this
15 particular photograph -- which is exhibit -- I'm
16 sorry, I need you to repeat yourself, Mr. Loos.
17 This is Exhibit 1 for purposes of this hearing, even
18 though you see "Exhibit F" there.

19 Can you describe for us approximately where
20 in that photograph you were located in the bar when
21 you -- when you went to that bar that night,
22 April 25th, 2019.

23 A. So it's a little difficult, because I can't
24 tell where this picture's taken from. I don't -- I

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1 don't recall if -- how many seats, for example, were
2 at the bar, but I believe that my wife was seated to
3 the far left end of the bar and I was standing to
4 her right. I just --

5 Q. Okay. Let me -- I'm going to try to help
6 you. I know photographs are proving to be one of
7 the harder aspects of this video hearing, but I'm
8 going to try to help you out a little bit and ask if
9 I can show you what has been marked as Exhibit M.

10 Is that in evidence at this point,
11 Mr. Loos?

12 THE REPORTER: I don't believe so.

13 THE HEARING OFFICER: Okay.

14 MR. NEFF: And with Judge Josephson's
15 permission, I would like to show --

16 MR. ANGELINI: M is not in evidence.

17 THE HEARING OFFICER: I'm not seeing M in
18 evidence.

19 Is there a number attached to it?

20 MR. NEFF: It's -- like with all of the
21 exhibits that we prepared in preparation for the
22 hearing, it's -- it's in the group that is
23 alphabetic.

24 THE HEARING OFFICER: I know.

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1 MR. NEFF: That's in alphabetical sequence.

2 THE HEARING OFFICER: Right. It's only
3 when the exhibit has been entered in evidence that
4 it gets a number. So if --

5 MR. NEFF: Okay. I -- I'm just trying to
6 be very careful about protocol, and I don't want to
7 put a photo in front of a witness unless I'm sure I
8 have your permission to at least do that. And of
9 course I'll ask for authentication, et cetera, but
10 with your permission I'd like to present --

11 MR. ANGELINI: I'll make this easy.

12 We have no objection to Exhibit M coming
13 into evidence as an exhibit.

14 THE HEARING OFFICER: Are you offering it,
15 Mr. Neff?

16 MR. NEFF: I am.

17 THE HEARING OFFICER: Okay. Then that will
18 be 8.

19 (Document marked as Commonwealth's
20 Exhibit 8 admitted into evidence)

21 MR. NEFF: That will be marked as
22 Exhibit 8.

23 And do you have the ability to display
24 that, Mr. Loos? Or do I need to send it to -- the

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1 link that you provided?

2 THE REPORTER: I'll -- I'll take care of
3 it. Just give me one moment.

4 MR. NEFF: Thank you.

5 THE REPORTER: There you go.

6 MR. NEFF: With your permission, can I --
7 can I now inquire?

8 THE HEARING OFFICER: Sure.

9 BY MR. NEFF:

10 Q. So from this perspective, Judge Casey, I
11 don't know if this helps you very much, but can you
12 describe for us on this exhibit -- which I think
13 we're now up to 9 (sic) -- where you and your wife
14 were standing?

15 Well, strike that.

16 Would you say this is a fair and accurate
17 representation of at least a portion of the Bayzos
18 Pub at the Ocean Edge Resort in Brewster,
19 Massachusetts?

20 A. It appears to be.

21 Q. Okay. And can you describe for us where,
22 approximately at least, you and your wife decided to
23 situate yourself or spend time in the bar on
24 April 25th, 2019?

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1 A. Yes.

2 So on the right-hand side of this exhibit
3 it appears to show the bar area, and there is a lamp
4 down at the end of the bar. And I think that my
5 wife was situated probably in that last chair, and I
6 was standing, again, to the right of her.

7 Q. I'm frozen out for some reason here.

8 And dealing with photos, I may have
9 forgotten. But can I ask, did you see Judge
10 Sushchyk at the Bayzos Pub that evening?

11 A. I did.

12 Q. Okay. And where was he when you -- when
13 you saw him first? Was he anywhere in the picture
14 that's currently before us as Exhibit I (sic)?

15 MR. ANGELINI: On this question, please, I
16 object.

17 THE HEARING OFFICER: Overruled.

18 A. I think I first saw him approaching one of
19 the high tops located in that exhibit.

20 Q. When you say "one of the high tops," are
21 you referring to those two round tables to the --
22 sort of towards the left of that particular
23 photograph?

24 A. I believe so. Although there could be

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1 another one. I don't know from this angle.

2 Q. Okay. And are you able to tell from this
3 angle which one you observed Judge Sushchuk
4 approach?

5 A. No.

6 Q. Okay. Maybe if we revert back -- and I'm
7 terrible with numbers, so I apologize. If I could
8 revert back to what was Exhibit F and is now
9 Exhibit 1.

10 Can I -- can we display that one for Chief
11 Justice Casey, please?

12 THE HEARING OFFICER: Okay.

13 MR. NEFF: Great. Thank you.

14 Q. So from that vantage point where you can
15 see that there are -- there are basically just those
16 two tables over there, can you tell us which of
17 those two tables you observed Judge Sushchuk
18 approach on the evening of April 25th, 2019?

19 A. I think it was the first table on the
20 right, sort of in the foreground.

21 Q. Okay. And was there anyone already seated
22 at that table at that time?

23 A. That he approached?

24 Q. Yes.

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1 A. Yes. Yes.

2 Q. And what direction did Judge Sushchuk
3 approach that table from, from your perspective?

4 A. From the right-hand side.

5 Q. Meaning sort of from off screen, like from
6 a -- from an area that is to the right of where this
7 visual depiction ends? If that's the direction he
8 approached from.

9 A. Yes. Yes.

10 Q. Okay. And do you recall who was seated at
11 that table at that time?

12 A. I do.

13 Q. Okay. And who was seated at that table at
14 that time?

15 A. I believe that Emily Deines was seated at
16 the stool to the far right of the photograph,
17 adjacent to the brick wall. I believe Evelyn Patsos
18 was to her left. I -- I'm not sure if it was
19 Jocelyne Welsh in the next seat and then Christine
20 Yurgelun, but I believe the two of them were located
21 at that table.

22 Q. Okay. So for -- you saw Emily Deines at
23 the -- at the stool next to the brick post,
24 Christine Yurgelun was next?

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1 A. No. Evelyn Patsos was to her left.

2 Q. Okay.

3 A. To Evelyn's left I'm not 100 percent sure
4 if it was Jocelyne Welsh or if that was Christine
5 Yurgelun. But I -- I believe the two of them were
6 seated at the table with Evelyn and Emily.

7 Q. Okay. And did you notice anything in
8 particular about Christine at that table that night?

9 A. No -- no. I -- no.

10 Q. Did you see what they were doing at the
11 table as Judge -- as Judge Sushchyk approached the
12 table?

13 A. It appeared that they were talking.

14 Q. And I seem to get frozen with these photos.

15 THE REPORTER: Do you want me to pull it
16 down?

17 MR. NEFF: No. I'm good. Once I -- once I
18 enlarge them, they seem to not want to go away at
19 all.

20 Q. At that -- at the point at which Judge
21 Sushchyk entered Bayzos bar that night,
22 approximately what time would you say that was?

23 MR. ANGELINI: Objection.

24 THE HEARING OFFICER: Overruled.

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1 A. I don't believe I saw him enter the pub.

2 Q. Okay. Well, at the time you first saw him
3 in Bayzos Pub, what time was it?

4 A. Shortly after I arrived with my wife.

5 Q. Okay. And approximately what time had you
6 arrived with your wife?

7 A. Sometime before nine o'clock, between --
8 maybe 8:50 p.m.

9 Q. And this was following a dinner that had
10 lasted to approximately 7:30 p.m., earlier that
11 evening?

12 MR. ANGELINI: Objection, asked and
13 answered twice.

14 THE HEARING OFFICER: Sustained.

15 MR. NEFF: Let me ask.

16 Q. Did the -- did the dinner hosted by the
17 Probate and Family Court on April 25th, 2009, end as
18 planned at approximately 7:30 p.m. that night?

19 MR. ANGELINI: Objection.

20 A. No.

21 MR. ANGELINI: Asked and answered.

22 THE HEARING OFFICER: I'm sorry. It didn't
23 sound like it was a question. It was a statement.

24 Are you still maintaining your objection,

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1 Mr. Angelini?

2 MR. ANGELINI: Yes, your Honor.

3 Yes, your Honor.

4 THE HEARING OFFICER: Sustained.

5 MR. NEFF: Okay.

6 Q. So can you bring me back, help my poor
7 memory?

8 What time did you first see Judge Sushchyk
9 in Bayzos Pub on April 25th, 2019?

10 MR. ANGELINI: I object. Asked and
11 answered.

12 THE HEARING OFFICER: Overruled.

13 A. I think it was somewhere between 8:50 and
14 9:00 p.m. that evening.

15 Q. Okay. And when you made observations of
16 Ms. Deines and Ms. Welsh and others sitting at the
17 table he was approaching, you said you could see
18 them talking amongst themselves?

19 A. They appeared to be, yes.

20 Q. Okay. And could you see anything about how
21 Ms. Deines was -- was seated on her stool as she was
22 attempting to participate in a conversation with
23 parties from across that high-top table?

24 MR. ANGELINI: I object to the form of the

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1 question.

2 THE HEARING OFFICER: Yeah. Sustained.

3 Q. Could you see anything about how Judge --
4 could you see anything about how Ms. Emily Deines
5 was seated on her stool as she was attempting to
6 speak to -- or while she was speaking to parties
7 that were at that high-top table with her?

8 MR. ANGELINI: My objection.

9 THE HEARING OFFICER: Well, the question
10 contains a statement that isn't in evidence, so
11 maybe something broader, please.

12 MR. NEFF: Okay.

13 Q. Did you -- among the parties you saw at the
14 table Judge Sushchuk was approaching, who were the
15 parties who were -- who were occupying the
16 bar-height stools you mentioned?

17 MR. ANGELINI: Objection, asked and
18 answered.

19 THE HEARING OFFICER: That was. Sustained.

20 Q. Well, was Ms. Deines in her bar-height
21 stool for the entire time you observed her at that
22 table that night?

23 A. I'm just -- I'm not sure what you mean by
24 "bar-height stool," but she was seated on the stool

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1 I believe that is depicted in this exhibit to the
2 far right against the brick wall.

3 Q. And did you see her moving at all while she
4 was sitting on that stool?

5 A. I would have to say that during the course
6 of my time there I would have seen her move.

7 Q. As you saw Judge Sushchuk approach this
8 table, did you observe him forced to make any kind
9 of sharp turns or acrobatic movements to get past
10 groups of people or to get over to the location
11 where Ms. Deines and Ms. Patsos were seated at that
12 table that night?

13 MR. ANGELINI: I object to the question.

14 THE HEARING OFFICER: I'll allow it.

15 A. I -- I would say no.

16 Q. Okay. And -- and you did not see any
17 variety of physical contact, improper or otherwise,
18 take place between Judge Sushchuk and Ms. Deines on
19 the evening of April 25th, 2019?

20 A. That's correct.

21 Q. Okay. While you were at the Bayzos Pub,
22 did you observe Judge Sushchuk consuming any
23 alcohol?

24 A. Not consuming.

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1 Q. Did you see Judge Sushchyk purchase any
2 alcohol?

3 A. I saw him walk from the high-top table that
4 Mr. Deines was sitting at with the others, go to the
5 bar to the left in this exhibit, and then return
6 with some glasses with liquid in them, returning to
7 that table.

8 Q. And what was the color of the liquid in
9 those glasses?

10 MR. ANGELINI: I'm sorry, I didn't hear the
11 question.

12 Could you restate?

13 MR. NEFF: I'm sorry. I'm not sure where
14 the microphone is, to be honest.

15 But my question was, what -- what color
16 is -- or was the -- well, what color or colors were
17 the liquids in the two glasses Judge Sushchyk
18 returned from the bar with?

19 MR. ANGELINI: I object.

20 THE HEARING OFFICER: If he could see.

21 A. I don't recall.

22 Q. Okay. Do you recall whether it was
23 something other than clear?

24 MR. ANGELINI: I object.

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1 THE HEARING OFFICER: Sustained.

2 Q. Do you recall whether there was any ice in
3 either of those two glasses?

4 MR. ANGELINI: I object.

5 THE HEARING OFFICER: Well, I'll allow it.

6 A. I don't recall.

7 Q. Okay. And do you recall what Judge
8 Sushchuk did with those two glasses when he returned
9 to the table?

10 A. I'm not sure if it was two or three
11 glasses. I don't recall. I know there were more
12 than one. And I -- he placed one or two on the
13 table, and he had one in his hand.

14 Q. Okay. Did you see him consume any of the
15 liquid in the glass that was in his hand?

16 MR. ANGELINI: Object, asked and answered.

17 THE HEARING OFFICER: Overruled.

18 MR. NEFF: I'm not sure when I asked that.

19 THE HEARING OFFICER: I overruled it.

20 THE WITNESS: I -- I don't -- I don't know
21 if I actually -- I can't recall if I actually saw
22 him bring the glass to his lips and -- and consume
23 the alcohol, but it was in his hand --

24

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1 BY MR. NEFF:

2 Q. Okay.

3 A. -- whatever was in the liquid that was in
4 the glass.

5 Q. Understood.

6 Did you see Judge Sushchuk consume any
7 variety of liquid from a flask in his possession
8 that night on the evening of April 25th, 2019?

9 A. No.

10 Q. Okay. Did you see Judge Sushchuk in
11 possession of a flask at the Bayzos Pub on the
12 evening of April 25th, 2019?

13 A. No.

14 Q. Did you see anything in Judge Sushchuk's
15 behavior from your observations up to that point
16 that suggested he was impaired at all due to alcohol
17 or for any other reason whatsoever?

18 A. Well, as I mentioned earlier, my initial
19 observation when we passed briefly, in a very brief
20 conversation, was that he appeared tired to me.
21 When I observed him walk toward the table and when I
22 observed him walk toward the bar and back, I didn't
23 notice anything unusual.

24 Q. Okay. So when you saw Judge Sushchuk at

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1 the Bayzos Pub later that night, whatever length of
2 time after you had initially seen him at the dinner,
3 you did not continue to see the same observations of
4 him that he seemed tired and maybe was moving a
5 little more slowly than you were used to, or less
6 energetically?

7 A. Well, again, for a majority of the time he
8 had his back to me.

9 Q. Okay.

10 A. And he was quite a bit further away from me
11 in the pub than he was at the dinner.

12 Q. If you had to approximate in feet, let's
13 say, how far away from Judge Sushchuk -- and
14 basically, really, the whole table -- were you
15 during your time at the Bayzos Pub on April 25th,
16 2019?

17 You can use yards if that's easier. Just
18 whatever -- whatever is easiest for you.

19 A. Thank you.

20 I would say 10 -- 10, 12 feet.

21 Q. Okay. Do you recall saying good-night to
22 Ms. Deines at some point that evening, the evening
23 of April 25th, 2019?

24 A. Yes.

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1 Q. Okay. And do you recall approximately what
2 time you said good-night to her?

3 A. I don't really -- I don't know an exact
4 time.

5 Q. Well, maybe working from reverse, about --
6 about how long after you arrived at Bayzos Pub would
7 you say you said good-night to Emily Deines?

8 A. I don't mean to be picky, but --

9 Q. That's fine.

10 A. -- at some point she approached my wife and
11 I, and she said good-night to us. And I would say
12 that we were probably at the pub maybe ten minutes
13 before that occurred.

14 Q. Okay. So she left about ten minutes after
15 you arrived?

16 A. That's my estimate.

17 And we did, in fact, say good-night to her.

18 Q. How did -- how did Ms. Deines' demeanor or
19 emotions seem to you when you said good-bye to her
20 that night?

21 MR. ANGELINI: Objection.

22 THE HEARING OFFICER: Overruled.

23 A. I'm just trying to -- she -- again, she
24 was -- I thought it was very considerate of her to

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1 come up and to say good-night to my wife and I. And
2 it had been a long day, but she didn't seem tired.
3 And we had a very -- it was just a very brief
4 conversation.

5 Q. So would you describe your experiences with
6 Ms. Deines that night in general as generally being
7 pretty pleasant and polite, then?

8 MR. ANGELINI: Objection.

9 THE HEARING OFFICER: Sustained.

10 Q. Well, you would describe your interaction
11 as a pleasant and polite one?

12 MR. ANGELINI: I cannot hear what Mr. Neff
13 is saying, your Honor.

14 THE HEARING OFFICER: Okay.

15 I'm sustaining the objection.

16 MR. NEFF: I'm not sure where the
17 microphone is, but...

18 THE HEARING OFFICER: I think you just
19 dropped off in your voice, Mr. Neff.

20 MR. NEFF: Okay. All right. Maybe that's
21 all I did. Okay. I will do my best not to.

22 Q. Okay. Did you see Ms. Deines again on the
23 night of April 25th, 2019?

24 A. After she said good-night to us?

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1 Q. Yeah. Yeah.

2 A. No, I did not.

3 Q. Okay. And do you recall seeing Judge
4 Sushchyk leave Bayzos Pub on either late April 25th,
5 2019, or early April 26th, 2019?

6 A. No.

7 Q. Do you recall approximately what time you
8 and -- and your wife left Bayzos Pub on April 25th?

9 A. I would say shortly after nine o'clock.

10 Q. Okay. And did you speak with Judge
11 Sushchyk before you left Bayzos Pub on the evening
12 of April 25th, 2019?

13 A. Not that I recall.

14 Q. When did you first become aware of
15 Ms. Deines' complaint that Judge Sushchyk had
16 touched her buttocks inappropriately at the Bayzos
17 Pub during the evening of April 25th, 2019?

18 A. It was the following week when she called
19 me.

20 Q. Okay. Do you recall what date that was?

21 A. I -- I think it was May 2nd. I think it
22 was -- yeah. I just know it was the next week.

23 Q. And was that contact in person or by phone?

24 A. It was by phone, and I was in my vehicle at

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1 the time.

2 Q. Okay. And when you received a phone call
3 from Ms. Deines, did you continue driving or pull
4 over?

5 A. I pulled over.

6 Q. And in connection with the complaint that
7 Ms. Deines made to you beginning on that day,
8 May 2nd, 2019, you prepared a written report, did
9 you not?

10 MR. ANGELINI: I'm sorry. Would you mind
11 repeating that, Mr. Neff?

12 MR. NEFF: I'm sorry.

13 Q. In connection with Ms. Deines' complaint,
14 the one that she started to make to you by phone
15 call on May 2nd, 2019, you prepared a written
16 investigative report regarding her allegations, did
17 you not?

18 A. I did.

19 MR. NEFF: And at this point I would like
20 to present what would be the attested copy that I
21 have provided of Exhibit A, which is the adjusted
22 recorded copy of Chief Justice Casey's investigation
23 of this matter.

24 THE HEARING OFFICER: Exhibit 8 is the

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1 photograph.

2 MR. NEFF: A. I'm sorry, the -- the
3 exhibit that has been marked as Exhibit A, I
4 would --

5 THE HEARING OFFICER: A. Okay.

6 MR. NEFF: I would like to use that and ask
7 that it be introduced as an attested business copy
8 relating to his investigation of Ms. Deines'
9 complaint against Judge Sushchyk.

10 MR. ANGELINI: My objection.

11 THE HEARING OFFICER: I'll sustain.

12 MR. NEFF: Okay. Well --

13 Can I have a moment, please?

14 THE HEARING OFFICER: Sure.

15 Mr. Neff, we need to unmute you.

16 I'm sorry, Mr. Neff?

17 MR. NEFF: Yes.

18 THE HEARING OFFICER: Can you hear me?

19 MR. NEFF: I can hear you now.

20 THE HEARING OFFICER: Now we can hear you.

21 I couldn't hear anything you said before that. I'm
22 sorry.

23 MR. NEFF: Okay. I'm sorry, I was really
24 just saying thank you for your patience in giving me

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1 a little bit of time to confer and wait for me.

2 Q. So when you spoke to Ms. Deines by phone on
3 May 2nd, was anyone else present or did anyone else
4 take part in your phone conversation with Ms. Deines
5 at any point during that conversation on May 2nd,
6 2019?

7 A. Not on my part.

8 Q. Okay. And what was the nature of
9 Ms. Deines' complaint against Judge Sushchyk?

10 MR. ANGELINI: My objection.

11 THE HEARING OFFICER: Sustained.

12 MR. NEFF: Okay. Well, I have to be heard
13 on this, Judge Josephson.

14 THE HEARING OFFICER: Sure. Let's go
15 sidebar.

16 MR. NEFF: This is a complaint being
17 made --

18 THE HEARING OFFICER: Hang on. Mr. Neff,
19 I'm asking to go to sidebar, which means that we go
20 into the -- let's see.

21 THE REPORTER: I'll make the breakout room.

22 THE HEARING OFFICER: Okay. Great. Thank
23 you very much, Mr. Loos.

24 (Meeting in private breakout room. Hearing

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1 Officer Josephson, Mr. Neff, Ms. Cosgrove,
2 Mr. Angelini, and Mr. Loos present)

3 THE HEARING OFFICER: And we're on the
4 record, Mr. Loos?

5 THE REPORTER: Yes.

6 THE HEARING OFFICER: Okay. Great.

7 Go ahead, Mr. Neff.

8 MR. NEFF: Okay. Well, directing my
9 attention first to the -- the issue I was suggesting
10 I needed to address, which was my questions about
11 the subject matter of Ms. Deines' complaint.

12 There really has to be testimony here about
13 the report that Chief Justice Casey received and the
14 nature of that report and what the contents of that
15 report were, because that provides the context for
16 every action he and others took in connection with
17 the investigation of this matter. There's --
18 there's nothing left to say if --

19 We're not -- we're not putting any of that
20 in front of anyone, including you, to prove that
21 Mr. Deines told the truth because she said this to
22 Chief Justice Casey. But under the Trial Court's --
23 and it's one of the exhibits that I don't think has
24 actually been introduced yet, but I'm going to seek

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1 to introduce -- the Trial Court's policy regarding
2 sexual and gender harassment that was in effect in
3 May of 2019 required that in response to certain
4 reports by certain parties who are employees of the
5 Trial Court required that a supervisor -- in this
6 case, Chief Justice Casey -- take certain actions in
7 connection with that. And he's going to testify,
8 not to establish the truth of the allegations, but
9 he's going to testify about the course of his
10 investigation and what he did to appropriately
11 follow through on -- on the report that he received.

12 THE HEARING OFFICER: How is that relevant?
13 How is what the Trial Court did relevant at all to
14 whether or not --

15 MR. NEFF: Because that's all the evidence
16 that was asked --

17 THE HEARING OFFICER: Let me finish,
18 Mr. Neff. Let me please finish.

19 How is that relevant to whether or not
20 Judge Sushchuk committed the acts that he's alleged
21 to have committed that constitute the complaint
22 against him?

23 Go ahead.

24 MR. NEFF: Because, like with any

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1 allegation made against anyone, this investigation
2 was going to be interviews with parties who were
3 percipient witnesses to some of or all of the events
4 that are being complained of; who are going to tell,
5 from their own perspective, what they saw and
6 remember happening. And that is going to form the
7 basis for developing evidence to make a decision, at
8 least in that context, regarding what to do about
9 this.

10 This -- it's the investigation. So it's
11 relevant because everything that Chief Justice Casey
12 does, every question he asks, every response he gets
13 is -- is relevant to the investigation that gave
14 rise to the charges in this complaint.

15 THE HEARING OFFICER: Mr. Angelini?

16 MR. ANGELINI: Yes, your Honor.

17 Your Honor, Judge Casey has given testimony
18 with respect to percipient knowledge of his.

19 THE HEARING OFFICER: Uh-huh.

20 MR. ANGELINI: Beyond percipient knowledge
21 this plays -- this report has no place in these
22 proceedings.

23 There is one question -- actually there are
24 two questions, and two questions only, before this

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1 inquiry. The first is whether Judge Sushchuk
2 intentionally, without justification or excuse, and
3 without invitation or consent from Ms. Deines,
4 placed one of his hands under Ms. Deines' buttocks
5 or buttock and pinched or squeezed her buttock or
6 buttocks. The second relates to whether, indeed, he
7 removed a silver flask from his coat pocket.

8 Now this report is hearsay. It is as
9 classically hearsay as it could be. And it is not
10 relevant to whether, indeed -- to what your
11 responsibility is, which is to determine whether or
12 not there are -- there is proof, sufficient proof,
13 clear and convincing proof, that Judge Sushchuk
14 committed either of these acts. That's the issue.

15 And this is, I say, classically hearsay.
16 It is hearsay. There's no other way to describe it.
17 It is not based on percipient knowledge. It's based
18 on a separate investigation.

19 That's my position, your Honor.

20 THE HEARING OFFICER: Thank you.

21 Is there any allegation before me that
22 Judge Sushchuk engaged in misconduct during the
23 investigation?

24 MR. NEFF: In connection with the

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1 investigation of the -- investigation?

2 THE HEARING OFFICER: Correct.

3 MR. NEFF: I suppose it depends on your
4 perspective. I mean, the current set of rules do
5 require judges to comply and be honest with those
6 who investigate complaints of judicial misconduct
7 against a judge. So to the extent that there's a
8 belief that the evidence supports a finding that he
9 was not honest, that would constitute a violation of
10 the Code.

11 THE HEARING OFFICER: And that would be
12 entirely based on whatever he said?

13 MR. NEFF: It could be. Or it could be
14 that -- yeah. I think that's the most likely
15 scenario. I don't want to say that's the only
16 scenario on the -- on the spur of the moment.

17 But, I mean, this investigation -- again,
18 I'm not trying to get in and suggest to you -- I'm
19 trying to make these things fair. I'm not trying to
20 get in this report and have you look at it and say,
21 "These things must be true because they're written
22 down by the Chief Justice of the Probate and Family
23 Court as part of his investigation."

24 But it is part of a narrative of what

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1 happened after she made her report, who was talked
2 to, what evidence was -- was discovered that may or
3 may not corroborate what -- what she has already
4 testified took place that day, and in the subsequent
5 days.

6 This investigation is going to include
7 interviews with Judge Sushchyk where he makes a
8 number of statements in response to the allegations
9 Ms. -- Ms. Deines made against him that she reported
10 to Chief Justice Casey, and I'm going to
11 respectfully suggest that there will come a point at
12 the end of this hearing where I will suggest that
13 the nature of his responses to those allegations,
14 and the inconsistent nature of his responses to
15 those allegations, go to his credibility and suggest
16 that Ms. Deines -- well, go to his credibility and
17 are relevant in that sense, not in the sense that
18 they establish the truth of anything.

19 THE HEARING OFFICER: Okay. Well, let's
20 look at this from the perspective of evidentiary
21 rulings and what is admissible and what isn't, and
22 what is hearsay and what is an exception to hearsay.

23 There is nothing that I've been told so far
24 that convinces me that this is not hearsay. It is

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1 not an exception to hearsay, and I'm not persuaded
2 that it is admissible. So I am sustaining the
3 objection.

4 If we get to a point in the proceedings
5 where any of that changes, by all means then we'll
6 revisit it. But at this point the objection is
7 sustained, and we can leave the sidebar, which is, I
8 guess, the break room here.

9 MR. ANGELINI: Thank you, your Honor.

10 MR. NEFF: If I could get a little
11 guidance, because I do -- while I respectfully
12 disagree, but I do want to abide by your decision.
13 I do want to --

14 THE HEARING OFFICER: Thank you.

15 MR. NEFF: I -- in terms of sort of
16 presenting a narrative at this point in Chief
17 Justice Casey's testimony that may make some sense,
18 I still -- without getting into the specifics of
19 questions or -- or her responses, I would like to be
20 able to ask him questions about, "After you received
21 a report from her, who did you contact? What kind
22 of investigation did you initiate? Who did you
23 involve in that investigation? How long did that
24 investigation last?"

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1 All of that, I would respectfully suggest,
2 are not hearsay. They're just --

3 THE HEARING OFFICER: I understand. I
4 understand.

5 Any objection to that, Mr. Angelini,
6 insofar as what was done, not what was said, who was
7 spoken to, period?

8 MR. ANGELINI: I believe -- I believe, your
9 Honor, that we should take the questions as they
10 come.

11 THE HEARING OFFICER: That's fine.

12 MR. NEFF: That's fine. I -- I really am
13 only asking it because I don't --

14 MR. ANGELINI: I haven't finished.

15 MR. NEFF: I like to be careful and,
16 believe it or not, I really do try to be as
17 respectful as I can. And I just don't want you to
18 say one thing and then have me immediately do the
19 wrong thing, and -- and --

20 THE HEARING OFFICER: Hang on, Mr. Neff.

21 Hang on.

22 I'm sorry. I don't think Mr. Angelini was
23 done.

24 MR. NEFF: I'm sorry. Go ahead.

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1 MR. ANGELINI: I would just say that I -- I
2 don't think it's appropriate, your Honor, to reach
3 some blanket understanding as to the nature of the
4 questions that Mr. Neff should ask. That's my
5 position.

6 THE HEARING OFFICER: Okay. That's fine.
7 We'll take them as they come, and we'll
8 leave the break room -- breakout, excuse me, room
9 now, and go back to the witness.

10 Thank you.

11 MR. ANGELINI: Thank you, your Honor.

12 (Return to the open proceedings)

13 MR. NEFF: Thank you all for your patience.

14 With your permission, Judge Josephson, if I
15 could continue to inquire of Chief Justice Casey.

16 THE HEARING OFFICER: Yes, please.

17 BY MR. NEFF:

18 Q. So when we left off, on Thursday, May 2nd,
19 2019, you received a phone call from a Probate and
20 Family Court employee by the name of Emily Deines.
21 When you received that call, you pulled over and
22 stopped your car in order to have that conversation.

23 Is that correct?

24 A. Sorry. I muted myself during the break,

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1 and I apologize for that.

2 And so yes, I received a call from Emily
3 Deines, and I pulled my vehicle over.

4 Q. And how would you describe her demeanor,
5 temperament during that phone call that day?

6 MR. ANGELINI: Object.

7 THE HEARING OFFICER: Well, to the extent
8 that you were able -- well, first let's determine
9 whether or not there was -- the conversation was one
10 in which the witness was able to make any
11 determination.

12 MR. NEFF: I'm not sure -- I'm not trying
13 to be dense, Judge.

14 THE HEARING OFFICER: I know you're not.

15 MR. NEFF: Reach any determination
16 regarding the witness' -- make any determination
17 regarding what?

18 THE HEARING OFFICER: The demeanor you just
19 asked about.

20 MR. NEFF: Okay. All right.

21 Q. Well, let's -- maybe I'll just ask the
22 question better.

23 During your phone call with Ms. Deines on
24 May 2nd, 2019, did you note -- well, strike that.

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1 Had you ever spoken to Ms. Deines on the
2 phone before May 2nd of 2019?

3 A. Yes.

4 Q. Okay. And when you spoke with Ms. Deines
5 on May 2nd of 2019, did you notice anything in that
6 conversation regarding her demeanor or emotional
7 state?

8 MR. ANGELINI: Object.

9 THE HEARING OFFICER: Overruled.

10 MR. ANGELINI: May I be heard, your Honor?

11 THE HEARING OFFICER: Yes. Go ahead.

12 MR. ANGELINI: So the reason for my
13 objection is clear, we're talking about an event
14 which occurred more than one week beyond the event
15 which is the subject matter of these proceedings.

16 I would suggest to you respectfully that
17 they are -- demeanor on that date is irrelevant to
18 whether or not anything occurred on April 25th, or
19 April 26th, and that is the basis of my objection.

20 THE HEARING OFFICER: Okay. Thank you,
21 Mr. Angelini.

22 The objection is overruled. The witness
23 may answer.

24 THE WITNESS: Yes.

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1 BY MR. NEFF:

2 Q. You can answer, Chief Justice Casey.

3 A. Will you ask the question again?

4 Q. I'm sorry. Certainly.

5 Did you -- did you -- during that May 2nd,
6 2019, phone call, where you pulled your car over to
7 talk to Emily Deines, did you notice anything about
8 her demeanor or emotions during that conversation
9 that you remember?

10 A. My answer was "yes."

11 Q. And what do you remember about that?

12 A. She sounded different than the previous
13 conversations that I had had with her on the
14 telephone.

15 Q. And -- and what were the differences, if
16 you had to describe them? What were the differences
17 in how she sounded on that particular day?

18 A. She was -- was sort of talking faster.
19 She -- her voice was different. She seemed to be
20 upset.

21 Q. Did she make mention of anything related to
22 her -- anything she had done with respect to her
23 work for the Probate and Family Court during that
24 phone conversation?

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1 MR. ANGELINI: My objection.

2 THE HEARING OFFICER: Sustained.

3 Q. During your conversation with Ms. Deines on
4 May 2nd, without getting into the specifics of what
5 you discussed with her, did -- did any names come up
6 during that conversation?

7 MR. ANGELINI: My objection.

8 THE HEARING OFFICER: Sustained.

9 Q. During that conversation with Ms. Deines on
10 May 2nd, did she suggest to you any persons that you
11 might want to speak to --

12 MR. ANGELINI: My objection.

13 Q. -- following her May 2nd call?

14 MR. ANGELINI: My objection.

15 THE HEARING OFFICER: Sustained.

16 Q. After Ms. Deines stated to you what she had
17 to say to you on May 2nd, 2019, what did you say
18 back to her in terms of what you planned to do --

19 MR. ANGELINI: My objection.

20 Q. -- in response?

21 MR. ANGELINI: Excuse me.

22 THE HEARING OFFICER: Sustained.

23 MR. NEFF: Okay. Well, can we go to
24 sidebar? This is -- this is --

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1 MR. ANGELINI: I apologize for interrupting
2 you. I thought you had finished your question. I
3 apologize.

4 THE HEARING OFFICER: That's all right.

5 MR. ANGELINI: Thank you, your Honor.

6 MR. NEFF: I am asking what Chief Justice
7 Casey said to Ms. Deines --

8 THE HEARING OFFICER: I know.

9 MR. NEFF: -- on May 2nd.

10 THE HEARING OFFICER: I know.

11 I'm sustaining the objection.

12 MR. NEFF: Okay.

13 Q. Well, what did you do following receiving
14 that phone call and what Ms. Deines said to you on
15 May 2nd of 2019?

16 MR. ANGELINI: I object to the form of the
17 question.

18 THE HEARING OFFICER: No. I'll allow it.

19 MR. ANGELINI: Okay.

20 A. I -- I called the Chief Justice of the
21 Trial Court, Paula Carey.

22 Q. And why did you call her?

23 MR. ANGELINI: Objection.

24 THE HEARING OFFICER: Sustained.

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1 Q. Without getting into any particular subject
2 matter, were you calling to inform her of something?
3 Seek advice about something? Report something to
4 her? Calling her about normal court matters?

5 What was the purpose of the call?

6 MR. ANGELINI: I object.

7 THE HEARING OFFICER: Sustained.

8 Q. Okay. Were you -- were you contacting
9 Chief Justice Carey pursuant to any protocols or
10 policies that were required by the Trial Court of
11 Massachusetts?

12 MR. ANGELINI: My objection.

13 THE HEARING OFFICER: Overruled.

14 A. Not at that time.

15 Q. Okay. Did Chief Justice Carey say anything
16 to you about what you should do after speaking to
17 her on the phone?

18 MR. ANGELINI: My objection.

19 THE HEARING OFFICER: Sustained.

20 MR. NEFF: Let me try something a little --
21 a little bit differently here.

22 I'd like to -- and I don't believe this is
23 in evidence for purposes of the hearing yet, but
24 show Chief Justice Casey what we have marked as

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1 Exhibit B, which is the Massachusetts Trial Court
2 policy and procedure for the elimination of sexual
3 and gender harassment to the workplace.

4 And with your permission.

5 THE HEARING OFFICER: Okay. Exhibit B for
6 identification, Mr. Loos.

7 THE REPORTER: One moment.

8 THE HEARING OFFICER: Sure.

9 THE REPORTER: All right.

10 MR. NEFF: Okay.

11 Q. And do you have that in front of you now?

12 Okay.

13 That -- what I have presented is an
14 attested copy of the policy of the Trial Court
15 regarding sexual and gender harassment that was in
16 effect as of the time of the alleged incident in
17 this matter, April 25th, 2019. I'd ask that it be
18 admitted for purposes of this hearing as Exhibit
19 Number -- I'm sorry. I don't know what we're up to.

20 MR. ANGELINI: 9.

21 MR. NEFF: 9? Okay.

22 MR. ANGELINI: In any event, I have no
23 objection, your Honor.

24 THE HEARING OFFICER: All right.

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1 Exhibit 9 is in evidence.

2 (Document marked as Commonwealth's
3 Exhibit 9 admitted into evidence)

4 MR. NEFF: Thank you, Mr. Angelini. I'm
5 sorry. I'll try to be better with the numbers. I
6 have a lot of things to keep focus on.

7 Mr. Loos is a master. I have no idea how
8 he, or some of the others of you, are doing it.

9 Q. I'm going to back you up just slightly,
10 Chief Justice Casey. And I'm going to ask you, if I
11 can -- using a bigger copy, if you happen to have
12 one, or an electronic copy of -- it would have to be
13 the same document -- look at Page 8 of that policy.

14 A. So are you asking me to retrieve a certain
15 document and then look at Page 8?

16 I'm just a little unclear.

17 MR. NEFF: I'm not sure. I'll confess, I'm
18 a little new with the limits and what's happening in
19 terms of the technology.

20 But Mr. Loos, are you able to not just show
21 but maybe send or make available to Chief Justice
22 Casey a complete copy of Exhibit, did we say 10 --

23 THE REPORTER: 9.

24 MR. NEFF: -- for purposes of -- 9.

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1 THE REPORTER: If he clicks on the link, it
2 should open and he should be able to go through it.

3 MR. ANGELINI: Your Honor, may I
4 respectfully request a sidebar?

5 THE HEARING OFFICER: All right.

6 MR. ANGELINI: Thank you.

7 THE REPORTER: Just go to the breakout
8 room, Mr. Angelini.

9 MR. ANGELINI: Thank you.

10 (Meeting in private breakout room. Hearing
11 Officer Josephson, Mr. Neff, Ms. Cosgrove,
12 Mr. Angelini, and Mr. Loos present)

13 MR. ANGELINI: I requested a sidebar
14 because I want to make it clear to the Court that
15 there is no assertion by or on behalf of Judge
16 Sushchuk that the policy and procedures with respect
17 to this matter have not been carried out.

18 THE HEARING OFFICER: Sure.

19 MR. ANGELINI: There's no assertion of any
20 violation of that policy.

21 Of course we strongly reject the claim of
22 any underlying bad conduct by Judge Sushchuk, but
23 aside from that, with respect to the policy, whether
24 Judge Casey did what he may have been required or

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1 not, I want to make it clear to the Court that there
2 is absolutely no assertion that anything improper
3 took place.

4 THE HEARING OFFICER: Okay.

5 MR. ANGELINI: And I thought that making
6 that clear at a sidebar may be helpful to our
7 process going forward, and that's the reason I
8 requested a sidebar.

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

11 Mr. Neff, you can make whatever use you
12 care to of what Mr. Angelini is stipulating to.

13 MR. NEFF: Understood. Thank you.

14 THE HEARING OFFICER: Yep.

15 MR. NEFF: Well, I mean obviously the
16 testimony from yesterday is that there was a report
17 made to the Probate and Family Court of sexual
18 harassment.

19 And I -- as I said, I -- while I object to
20 them, I respect your rulings to -- to keep out
21 anything that's even approaching hearsay relating to
22 what Chief Justice Casey may have done following
23 Ms. Deines' report to him, but I do feel like if I
24 am going to present a comprehensible narrative

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1 regarding the events that took place and the people
2 that were involved and what happened afterward, I
3 want to, as creatively as I can -- using things that
4 I would suggest are not hearsay, but are relevant --
5 try to do my best to paint that picture.

6 So -- so, for instance, I forget exactly
7 what I was going to say, but I think Page 8
8 basically gives -- gave Chief Justice Casey some
9 direction regarding first steps --

10 THE HEARING OFFICER: Okay.

11 MR. NEFF: -- in response to that kind of
12 report. And so then he made a phone call, and then
13 he has a meeting.

14 He doesn't have to talk about the meeting,
15 and I'm not going -- I don't want to mislead. He
16 does have a meeting at some point with Judge
17 Sushchuk, and I'll obviously leave it to you and
18 respect your decisions regarding admissibility, but
19 Judge Sushchuk, of course, made statements during
20 the course of the investigation. I'm probably going
21 to ask what those were.

22 THE HEARING OFFICER: Okay. Then we can go
23 back, unless there's something else, Mr. Angelini.

24 MR. ANGELINI: No, nothing at all, your

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1 Honor.

2 THE HEARING OFFICER: Okay. Then let's --
3 okay. Great.

4 Then let's go back to where we left off,
5 Page 8 of Exhibit Number 9.

6 (Return to the open proceedings)

7 MR. NEFF: So if we were now ready?

8 THE HEARING OFFICER: We are.

9 MR. NEFF: Thank you very much.

10 And with your permission, Judge Josephson,
11 I'll continue to inquire of Chief Justice Casey.

12 THE HEARING OFFICER: Sure.

13 BY MR. NEFF:

14 Q. And when we left off -- I don't know if
15 you've had a chance to locate it, but I was about to
16 ask you about some contents on Page 8 of the Trial
17 Court's then in effect, at least, policy regarding
18 sexual and gender harassment in the workplace.

19 Have you found that page?

20 A. I didn't look for it because I thought
21 there was a sidebar relative to that issue.

22 So -- and Mr. Loos had sent me a link. And
23 I'm not that technologically savvy, but I can click
24 on a link, and it's not working.

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1 So if you -- if, with the Judge's
2 permission, if you want me to try to locate that
3 document, or if he wants to send it to me some other
4 way, I'm happy to do whatever the Judge instructs me
5 to do.

6 THE HEARING OFFICER: Great. Thanks.

7 Mr. Loos, you had provided the document, a
8 different document in some other -- some other
9 means.

10 Can you do that again?

11 THE REPORTER: I can screen share Page 8.

12 THE HEARING OFFICER: That's great. Thank
13 you.

14 THE REPORTER: One moment.

15 THE HEARING OFFICER: Okay. Thank you.

16 BY MR. NEFF:

17 Q. On that page, I would just like to direct
18 your attention to --

19 THE REPORTER: Tell me where you'd like to
20 be.

21 Is this it?

22 BY MR. NEFF:

23 Q. So I'll direct your attention to Section F
24 of Page 8, which basically says -- and I won't

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1 belabor it too much, and read the whole thing:

2 "A manager who becomes aware of
3 conduct that may constitute a violation of
4 the policy, could potentially lead to a
5 violation of the policy, whether or not a
6 complaint has been made, must take
7 appropriate action to stop the conduct."

8 Going ahead a little bit further:

9 "In a situation where an employee has
10 not come forward with a specific complaint,
11 but the manager is aware of the incident
12 that might be in violation of the policy,
13 the manager has a range of options:"

14 Including -- including, and then it says:

15 "The manager may decide to conduct an
16 investigation on his/her own initiative and
17 take remedial action, possibly including
18 disciplinary action, to ... eliminate the
19 conduct."

20 In particular --

21 MR. ANGELINI: If this is a question, I
22 object to it, your Honor. The document speaks for
23 itself.

24 MR. NEFF: I'm no sure I'm even done asking

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1 a question.

2 THE HEARING OFFICER: It does. And reading
3 the whole thing, I don't know if it's necessary.

4 Where are you headed with this, Mr. Neff?
5 Are you going to ask Chief Justice Casey about
6 something?

7 BY MR. NEFF:

8 Q. Well, let me ask you this:

9 Did you consult your policy after your
10 conversation with Ms. Deines?

11 A. Again, I just want to understand, is this
12 the policy that was in effect at the time that the
13 incident was reported to me?

14 Q. Well, I'm not sure I'm allowed to answer
15 your questions, Mr. Angelini (sic), but I will tell
16 you what has been submitted as an exhibit here is an
17 attested copy that was actually signed by you on the
18 17th saying that this report was in effect as of
19 April 25th, 2019.

20 A. You're asking me about a policy of the
21 Trial Court. Isn't that what this document is
22 that's in front of me?

23 Q. Right. Correct.

24 A. Okay. And so again, I just -- I just want

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1 to be clear. I'm being asked to confirm that I
2 referred to a provision of a document, policy. I
3 just want to make sure it's the one that was in
4 effect at the time, that May 2nd, 2019.

5 If that's the case, yes, I did refer to the
6 policy that was in effect at that time --

7 Q. Okay.

8 A. -- in May of 2019.

9 Q. And at the very bottom of Page 8, it
10 says -- it makes reference to managers being
11 encouraged to:

12 "... contact the CGI about any
13 situations that involve this policy..."

14 Do you know what a CGI is?

15 A. I just -- at this moment I can't -- I
16 don't -- I can't recall what it stands for.

17 Q. Well, I -- I just don't want to make this
18 very hard.

19 MR. ANGELINI: Your Honor, I object to
20 questions regarding this, on this subject, as
21 irrelevant to the preceding that is taking our
22 attention here.

23 The question before you is whether or not
24 these charges against Judge Sushchyk should be

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1 sustained by clear and convincing evidence. This is
2 not relevant to that inquiry.

3 THE HEARING OFFICER: I'm not seeing how it
4 is, but -- and it doesn't seem as though it's been
5 even endorsed by the witness, so I'll sustain.

6 If we need to come back to this, Mr. Neff,
7 we will; but let's move on to another area. And, of
8 course, I'll give you a chance to -- to make a
9 record concerning this, but let's move on for now.

10 MR. NEFF: Well, I mean, I'm really just
11 trying to -- I understand your position, Judge. I'm
12 really just trying to build a narrative, without
13 getting into any hearsay, that at least makes sense.

14 So --

15 THE HEARING OFFICER: I really --

16 MR. NEFF: I wonder if we can agree and
17 stipulate Judge Casey received a call from Emily
18 Deines on May 2nd, 2019, and, as a consequence,
19 contacted other people and conducted an
20 investigation, then -- which is basically what
21 different portions of this policy say to do -- then
22 I think we can just move on.

23 THE HEARING OFFICER: Great. Let's do
24 that.

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1 MR. NEFF: Okay.

2 THE HEARING OFFICER: Thank you.

3 MR. NEFF: Thank you.

4 Q. Who did you or your office contact
5 following Ms. Deines' report to you?

6 A. Who did I contact relative to my
7 conversation with Ms. Deines?

8 Q. Yeah.

9 And I probably should be more specific and
10 say, who did you or someone from your office contact
11 in response to Emily Deines' May 2nd, 2019,
12 conversation with you?

13 A. I'm not sure what other people in my office
14 may or may not have done or contacted, but in terms
15 of I contacted Chief Justice Carey --

16 Q. Uh-huh.

17 A. -- as I mentioned. I spoke with the deputy
18 court administrator for our department, Attorney
19 Linda Medonis.

20 Q. Okay. Did someone from your office speak
21 with a woman by the name of Maggie Pinkham?

22 A. I ultimately spoke to Maggie Pinkham.

23 Q. Okay. And who is she and what is her role
24 in the Trial Court?

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1 A. Yep. She's basically -- it's a relatively
2 new position. It had been new at the time of this
3 situation. And she's, I think, director of
4 compliance with the policy that you referred to.

5 Q. Okay. So did you get any advice of any
6 kind from Ms. Medonis, Chief Justice -- I should say
7 Chief Justice of the Trial Court Paula Carey, or
8 from Maggie Pinkham, regarding anything you should
9 be doing next after receiving that report?

10 MR. ANGELINI: My objection. My objection.

11 THE HEARING OFFICER: Only to the extent
12 the answer is "yes" or "no," the witness may answer.

13 A. Okay. Yes.

14 Q. As of the point when Ms. Pinkham,
15 Ms. Medonis and Chief Justice Carey, and you knew
16 about Ms. Deines' conversation with you, do you know
17 if anyone else within the probate court was aware of
18 what she had said to you?

19 MR. ANGELINI: "Yes" or "no," please.

20 THE HEARING OFFICER: Right.

21 A. Yes.

22 Q. You do know.

23 And who else was aware?

24 MR. ANGELINI: Objection.

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1 THE HEARING OFFICER: Sustained.

2 MR. NEFF: Okay.

3 Q. Following your conversations with
4 Ms. Medonis, Chief Justice Carey and Ms. Maggie
5 Pinkham, did you make arrangements to interview
6 Judge Paul Sushchyk?

7 A. Yes.

8 MR. NEFF: Okay. And I apologize, Judge,
9 but I -- I could actually use just a very, very
10 brief restroom break.

11 THE HEARING OFFICER: Sure. Of course, of
12 course.

13 Let's -- we'll take a five-minute recess.
14 Everybody will reconvene -- let's do that without
15 delay.

16 MR. NEFF: Okay. Thank you. Thank you
17 very much.

18 THE HEARING OFFICER: Yes.

19 MR. ANGELINI: Thank you.

20 (Recess taken)

21 THE HEARING OFFICER: Okay.

22 BY MR. NEFF:

23 Q. Okay. I believe my last question before we
24 took the break, if I am correct, is did you make

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1 arrangements to speak with Judge Paul Sushchyk about
2 a matter after -- after all of this?

3 A. Yes.

4 Q. Okay. And how did you make arrangements to
5 have that interview take place with Judge Paul
6 Sushchyk?

7 A. I think I asked my administrative assistant
8 to schedule a meeting for, I believe, 8:00 a.m. on
9 Friday, May 10th, to take place at the Worcester
10 lobby where Judge Sushchyk was sitting.

11 Q. Okay. And not any -- any content that may
12 have caused you to do so, but did any person suggest
13 that he may be a person that you would want to speak
14 to in -- in connection with a matter?

15 MR. ANGELINI: I object.

16 THE HEARING OFFICER: Sustained.

17 MR. ANGELINI: I object.

18 THE HEARING OFFICER: Sustained.

19 Sustained. Thank you.

20 Q. Let me ask you a different question:

21 How many days after your phone conversation
22 with Ms. Deines on May 2nd did you arrange for a
23 meeting with Judge Sushchyk in his lobby in
24 Worcester to discuss a matter?

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1 A. I think it was eight days later.

2 Q. Okay. And you said you had your assistant
3 make arraignments to make that appointment?

4 A. That's my recollection.

5 MR. ANGELINI: Objection.

6 Q. Okay. And it was -- it was to happen at
7 8:00 a.m., first thing, on Monday morning?

8 THE HEARING OFFICER: I'm sorry.

9 Mr. Angelini, are you objecting.

10 MR. ANGELINI: I'm objecting. These are
11 asked and answered. He's testified that the meeting
12 was set up for 8:00 a.m. on Friday, May 10th.

13 Yes, your Honor.

14 THE HEARING OFFICER: Okay. Okay.

15 MR. NEFF: Part of this is me just trying
16 to move things along. I'm really trying to create
17 testimony, but...

18 THE HEARING OFFICER: Okay.

19 BY MR. NEFF:

20 Q. Do you know when your assistant placed that
21 phone call and made that arrangement with Judge
22 Sushchuk for the meeting to take place on May 10th
23 of 2019?

24 MR. ANGELINI: I object, relevance.

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1 THE HEARING OFFICER: I'll sustain.

2 Let's move along.

3 MR. NEFF: Well, if I can be heard at
4 sidebar, then, Judge.

5 THE HEARING OFFICER: Let's --

6 MR. ANGELINI: To avoid sidebar -- to avoid
7 sidebar, I'll withdraw my objection.

8 THE HEARING OFFICER: Thank you.

9 Go ahead, Mr. Neff.

10 BY MR. NEFF:

11 Q. So you can -- you can answer then, Chief
12 Justice Casey.

13 A. I don't remember exactly when I asked my
14 assistant to do that, but I think it was closer to
15 the scheduled appointment. I think it was within a
16 few days of the 10th.

17 Q. And the 10th was a Monday, so --

18 A. I'm sorry. It was a Friday. I thought it
19 was a Friday.

20 Q. Maybe I got it wrong. It was a Friday. I
21 should probably double-check that.

22 The 10th -- oh, actually, no. Let's see.
23 10th. The 10th was a Friday.

24 So you would say either the 8th or 9th of

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1 May your assistant called Judge Sushchuk and asked
2 him to meet with you in his lobby at 8:00 a.m. in
3 Worcester?

4 A. I don't know if she called him or not. I
5 know that she arranged for me to meet with him on
6 that Friday morning at 8:00 a.m. in Worcester.

7 Q. And was the situation in terms of your
8 calendar and so forth such that you felt comfortable
9 actually going out and attending that meeting in
10 Worcester?

11 MR. ANGELINI: I object.

12 THE HEARING OFFICER: Sustained.

13 Q. Well, you did go to the meeting? Yes?

14 A. Yes.

15 Q. Okay. And where in the courthouse did the
16 meeting take place?

17 A. In Judge Sushchuk's lobby in the Worcester
18 Judicial Center.

19 Q. Okay. And was Judge Sushchuk present for
20 this meeting?

21 A. Yes, he was there when I arrived shortly
22 before 8:00 a.m.

23 Q. He was there before you or after you got
24 there?

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1 A. No. He was there before I arrived.

2 Q. And without discussing the exact purpose of
3 the meeting, is it safe to say that this was
4 actually the second time you had made arrangements
5 to discuss a serious matter with Judge Sushchuk?

6 MR. ANGELINI: I object.

7 THE HEARING OFFICER: Sustained.

8 MR. NEFF: All right. Well, then I'll ask
9 more generally.

10 Q. Was this the first time you had made
11 arrangements to discuss a matter with Judge Sushchuk
12 in his lobby in Worcester since --

13 MR. ANGELINI: I object.

14 Q. -- he became a judge?

15 THE HEARING OFFICER: Sustained.

16 MR. ANGELINI: I object.

17 THE HEARING OFFICER: Sustained.

18 MR. NEFF: Okay.

19 Q. Well, let me ask you this:

20 Is it -- how long have you been Chief
21 Justice of the Probate and Family Court?

22 THE HEARING OFFICER: We've already gone
23 over this. We've already gone over this, Mr. Neff.
24 I'm going to ask you to move along.

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1 I'm sustaining the objection.

2 MR. NEFF: Okay. All right. We'll ask it
3 a different way.

4 Q. In the time you've been the Chief Justice
5 of the Probate and Family Court, on how many
6 occasions have you felt it was necessary to arrange
7 private one-on-one meetings with judges of the
8 Probate and Family Court to discuss a particular
9 matter?

10 MR. ANGELINI: My objection.

11 THE HEARING OFFICER: Sustained.

12 Q. How long did your interview with Judge
13 Sushchuk on May 10th last?

14 A. My meeting lasted, I think, about half an
15 hour.

16 Q. And what did you tell him was the purpose
17 of the meeting?

18 THE WITNESS: So I'm allowed to answer
19 that, Judge?

20 THE HEARING OFFICER: Yeah.

21 THE WITNESS: Okay. Sorry. I didn't see
22 Mr. Angelini.

23 THE HEARING OFFICER: Okay. That's okay.

24 THE WITNESS: So you want me to -- you want

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1 me to testify as to what I explained to Judge
2 Sushchuk as the purpose of my meeting with him?

3 BY MR. NEFF:

4 Q. Yes, please.

5 A. Is that true? Sure.

6 I told him -- well, I -- I asked him to
7 read something and to respond to it, and -- and that
8 was relative to my phone conversation with
9 Ms. Deines that occurred the week before.

10 MR. NEFF: Okay. Mr. Loos, if I could ask
11 what would -- what exhibit number was Ms. Deines'
12 statement entered into as?

13 MR. ANGELINI: Exhibit Number 6.

14 MR. NEFF: Can I then ask that Chief
15 Justice Casey be shown Exhibit Number 6 that has
16 been admitted during this hearing.

17 THE HEARING OFFICER: Can we agree that was
18 shown to your client, Mr. Angelini?

19 MR. ANGELINI: Yes, we can agree to that,
20 your Honor.

21 THE HEARING OFFICER: Okay. Let's get it
22 that way.

23 MR. NEFF: Okay.

24 Q. So that statement said what it said, and

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1 did you give Judge Sushchyk a chance to review the
2 entirety of that statement?

3 A. Yes.

4 Q. Okay. Was anyone but Judge Sushchyk and
5 you present in his lobby while this was going on?

6 A. No. I -- I think his sessions clerk may
7 have been there when I first entered the lobby, but
8 she left shortly thereafter. So there was no one
9 else present when I asked the judge to review that
10 exhibit.

11 Q. Okay. And how long, approximately, would
12 you say it took him to review that exhibit?
13 Seconds? Minutes? How long did he look it over
14 before he finished?

15 A. It was very short. So maybe 10 or
16 15 seconds.

17 Q. Okay. And how would you describe Judge
18 Sushchyk's demeanor or temperament after he read
19 what's been marked as Exhibit 6 in -- in this
20 hearing, Ms. Deines' statement regarding events of
21 April 25th?

22 A. He appeared visibly upset by it. He -- I
23 believe he stood up from his desk. He took his
24 glasses off. I think he rubbed his eyes and started

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1 to kind of pace a little bit in his -- by his desk.

2 Q. Did he say anything to you at that
3 particular point in time?

4 A. Yes.

5 Q. What did he say?

6 A. He said, "I couldn't have" -- "I couldn't
7 have done something like that. I" -- "I wouldn't do
8 something like that. I would never hurt anyone,
9 especially a woman."

10 I think that was the gist of his initial
11 comments.

12 Q. Did you, during your May 10th, 2019,
13 interview with Judge Sushchuk, discuss his alcohol
14 consumption on April 25th of 2019?

15 MR. ANGELINI: Objection.

16 THE HEARING OFFICER: Overruled.

17 A. Yes.

18 Q. And what was -- what did you ask him and
19 what did he say?

20 A. I asked him if it was possible that he was
21 impaired by the consumption of alcohol such that it
22 would affect his memory of the events of that
23 evening as alleged by Ms. Deines.

24 Q. And is that a question you asked him, by

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1 the way, before or after he said he would be able to
2 recall this type of incident, if anything like that
3 had happened?

4 A. Afterwards, I believe.

5 Q. Did he -- did he, during this May 10th,
6 2019, interview reveal to you that at the time of
7 the alleged incident he was carrying with him a
8 flask containing whiskey?

9 MR. ANGELINI: Objection.

10 THE HEARING OFFICER: Sustained.

11 Q. Did you have any conversation with him
12 during your May 10th, 2019, interview with Judge
13 Sushchuk about your observations of him earlier
14 during the dinner that he seemed tired -- tired
15 than normal and that his energy level seemed lower
16 than normal?

17 A. I don't recall. It's -- I don't recall.

18 Q. Okay. Do you recall during a deposition
19 you gave in this matter on May 27th of 2020 being
20 asked basically the question, "Did you bring up with
21 Judge Sushchuk your observations of him earlier in
22 the dinner on April 25th that he seemed tired and
23 sort of slow during" -- "during" -- "during the
24 May 10th interview with him?"

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1 Do you recall me asking you that question?

2 MR. ANGELINI: I object. It was just
3 asked. The witness said he did not recall.

4 THE HEARING OFFICER: Sustained.

5 MR. ANGELINI: Asked and answered.

6 THE HEARING OFFICER: Sustained.

7 If you want to refresh the witness'
8 recollection because you believe it's exhausted,
9 then you'll have to follow that procedure, Mr. Neff.

10 MR. NEFF: Okay. Okay. Well, if I could
11 be permitted to refresh his memory.

12 THE HEARING OFFICER: You don't start
13 there.

14 I'm sorry. You have to start a different
15 place than that. I'm sorry. I'm sustaining the
16 objection.

17 MR. NEFF: Well, as Mr. Angelini knows, I
18 have provided with -- I have provided both him and
19 Chief Justice Casey with a copy of the deposition
20 transcript of May 27th, 2020 --

21 THE HEARING OFFICER: Right.

22 MR. NEFF: -- deposition.

23 THE HEARING OFFICER: Not a problem.

24 MR. NEFF: So to refresh his memory I would

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1 like to ask him to review that portion of the
2 deposition transcript which is -- all right.

3 Well, yeah.

4 Q. Is your memory exhausted at this point as
5 to whether or not you had that conversation or had a
6 conversation with him about your concerns about him
7 seeming tired or low energy during the dinner on
8 April 25th, 2019?

9 A. I don't think so.

10 Q. Okay. Do you -- after talking about it a
11 little bit, do you recall whether you may have,
12 indeed, brought up with Judge Sushchyk that you had
13 noticed as early as during dinner on April 25th,
14 2019, that he -- that he seemed a little tired and
15 low energy during the dinner?

16 MR. ANGELINI: I object.

17 THE HEARING OFFICER: Sustained.

18 Q. Well, did you bring it up with him during
19 your --

20 THE HEARING OFFICER: Mr. Neff. Mr. Neff.
21 I'm sorry to interrupt.

22 I sustained the objection.

23 Let me just -- let me just help out a
24 little bit by saying that you're going to need to

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1 move to a different area. The witness has answered
2 the question, and that's the answer.

3 MR. NEFF: Okay. All right.

4 Q. Well, then, I'd like to refresh your memory
5 with your deposition testimony if I can. And, as I
6 said, I provided a copy of that deposition to
7 Mr. Angelini and, of course, to Chief Justice Casey.

8 MR. NEFF: And I'd like to direct his
9 attention to Page 76 of that deposition, ask him to
10 take a look at that and ask him if it refreshes his
11 memory as to what he discussed with Judge Sushchuk
12 on May 10th of 2019.

13 MR. ANGELINI: I object, your Honor, based
14 on the testimony of the witness with respect to his
15 recollection.

16 THE HEARING OFFICER: It's sustained. It's
17 sustained.

18 Mr. Neff, this is -- this has already been
19 answered. The witness has confirmed that his memory
20 does not need to be refreshed and has already stood
21 by the testimony that he just gave in answer to your
22 question. So I'm going to ask you to move to a
23 different area, please.

24

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1 BY MR. NEFF:

2 Q. Did Judge Sushchuk, during the May 10th,
3 2019, interview with him, say anything to you about
4 being up late on the evening of April 24th or early
5 morning of April 25th and being compromised before
6 he arrived at the conference on that first day of
7 the conference on April 25th, 2019?

8 A. He may have mentioned -- I know he
9 mentioned it was a long drive; he had to get up
10 early that morning, the Thursday of that first day
11 of conference.

12 I don't recall him saying that he was up
13 late the night before. It's possible. And I -- I
14 don't recall him saying that he was compromised when
15 he arrived at the conference.

16 Q. Okay. Well, let me ask you this:

17 After confronting Judge Sushchuk with
18 Ms. Deines' allegations against him regarding
19 improper touching on April 25th, what did you
20 understand Judge Sushchuk's response to that, to
21 those allegations to be?

22 MR. ANGELINI: I object, your Honor.

23 THE HEARING OFFICER: Sustained.

24 MR. NEFF: Okay. All right.

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1 Q. Well, let me ask you this:

2 During your May 10th, 2019, interview with
3 Judge Sushchyk, did he ever specifically deny
4 touching Ms. Deines?

5 THE HEARING OFFICER: Mr. Angelini?

6 MR. ANGELINI: I object, your Honor.

7 THE HEARING OFFICER: Sustained.

8 Q. At the conclusion of your interview with
9 Judge Sushchyk on May 10th of 2019, did you have any
10 concerns about his status?

11 MR. ANGELINI: Objection.

12 THE HEARING OFFICER: Sustained.

13 Q. As -- at the conclusion of your May 10th,
14 2019, interview with Judge Sushchyk did you have any
15 concerns or feelings that, for whatever reason,
16 Judge Sushchyk did not have a clear recollection of
17 whether or not he had, in fact, done the things, or
18 done the thing that Ms. Deines alleged he had done
19 to her on April 25th of 2019?

20 MR. ANGELINI: My objection, your Honor.

21 THE HEARING OFFICER: Sustained.

22 MR. NEFF: Okay. All right.

23 Q. Well, I would then like to ask you about
24 your deposition.

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1 This is something Mr. Angelini has, and I
2 have provided --

3 THE HEARING OFFICER: May I ask, Mr. Neff,
4 your purpose for directing the witness to his
5 deposition?

6 MR. NEFF: Because he -- he -- he does have
7 an -- he did state an opinion.

8 THE HEARING OFFICER: Yeah. But I said he
9 can't say it. It's not admissible whether he said
10 it in a deposition or you're asking him now.

11 I sustained the objection, so I -- I just
12 don't want to see you needlessly going down a road
13 that's not going to prove fruitful.

14 Q. All right.

15 Well, let me ask you this, then:

16 During your May 10th, 2019, meeting did
17 Judge Sushchyk disclose to you some intimate
18 personal medical information about himself?

19 MR. ANGELINI: I object.

20 THE HEARING OFFICER: That's a "yes" or a
21 "no."

22 A. Yes.

23 Q. And what did that relate to?

24 MR. ANGELINI: I object, your Honor.

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1 THE HEARING OFFICER: What's the basis,
2 Mr. Angelini?

3 MR. ANGELINI: Well, I must say it's -- I
4 understand the rules of evidence, your Honor. I
5 also understand that we are all humanistic, and, as
6 described by Mr. Neff, it's personal medical
7 information.

8 I would ask Mr. Neff to respect that
9 privacy and not to disclose it.

10 THE HEARING OFFICER: Well --

11 MR. NEFF: I certainly am not -- I'm sorry.
12 Go ahead.

13 MR. ANGELINI: I have no further objection,
14 your Honor.

15 THE HEARING OFFICER: Okay. I understand
16 it.

17 Go ahead, Mr. Neff. It's in your court, so
18 to speak.

19 MR. NEFF: Well, I will preface this by
20 saying I have no desire to embarrass anyone,
21 including Judge Sushchyk. This is information
22 that's actually part of the public charges.

23 MR. ANGELINI: If you're going to do it, do
24 it.

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1 BY MR. NEFF:

2 Q. So what is it that Judge Sushchuk told you
3 was his health condition during -- during that
4 May 10th, 2019, meeting with him?

5 A. He indicated that he had had a previous
6 medical condition which negatively impacted his
7 sexual drive.

8 Q. Did Judge Sushchuk ever explain to you why
9 he thought his medical condition was a relevant
10 response to Ms. Deines' allegations against him?

11 MR. ANGELINI: I object, your Honor.

12 THE HEARING OFFICER: Overruled.

13 Go ahead.

14 A. I'm sorry. The question was did the judge
15 explain to me what his -- why he was telling me
16 that?

17 Q. Yeah. Why he thought that this medical
18 condition he had was a relevant response to
19 Ms. Deines' allegations against him?

20 A. I think so, yes.

21 Q. All right. Okay.

22 Well, then what did he say?

23 A. Yeah. I think he was -- when he said, "I
24 would never do anything like that," meaning what was

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1 alleged, "and here's part of my basis for telling
2 you that."

3 Q. Okay. After Ms. -- Judge Sushchyk, during
4 his interview with you, also volunteered that he had
5 only one drink while at the Bayzos Pub as of the
6 time of the alleged incident with Ms. Deines, did he
7 not?

8 MR. ANGELINI: I object. It's a leading
9 question.

10 THE HEARING OFFICER: Well, it is, but I'll
11 allow it.

12 A. Yeah. I believe that's what he said, yes.

13 Q. Okay. And did -- did he, at any point
14 during this May 10th, 2019, interview, also tell you
15 that he was carrying a flask of whiskey with him at
16 the time of the incident?

17 MR. ANGELINI: Objection, asked and
18 answered, your Honor.

19 THE HEARING OFFICER: I don't think it was.

20 MR. ANGELINI: Okay.

21 THE HEARING OFFICER: I sustained the
22 objection because of the form of it before.

23 So go ahead. Overruled. You may answer,
24 Judge Casey.

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1 A. No, he did not tell me that he had a flask.

2 Q. And if you know, was Bayzos Pub open to the
3 general public at the time of the incident at issue
4 on April 25th, 2019?

5 A. I believe it was, yes.

6 Q. So in your view as Chief Justice, would it
7 be appropriate for a judge to have a flask out
8 containing alcohol at a bar where he may or may not
9 be recognized by a member of the public if it's open
10 to the public?

11 MR. ANGELINI: My objection.

12 THE HEARING OFFICER: Sustained.

13 Q. During your interview with Judge Sushchuk
14 on May 10th, 2019, did you question him about his
15 alcohol consumption at the hospitality suite event?

16 A. I -- I don't know if I knew he was at that
17 event at that time. I did question him about how
18 much he had consumed -- how much alcohol he had
19 consumed over the course of the night, of the
20 Thursday night of the conference.

21 Q. And how much alcohol did he tell you he
22 consumed over the course of the Thursday night of
23 the conference?

24 A. Yeah. My recollection was that he said he

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1 had had one drink before the dinner, and then one
2 drink at the pub.

3 Q. So he was telling you that over the course
4 of the entire evening he had had two alcoholic
5 beverages?

6 A. Yes.

7 Q. Okay. During your May 10th, 2020,
8 interview with Judge Sushchuk, did you ask him to
9 prepare a written statement regarding the alleged
10 incident between him and Ms. Deines on April 25th,
11 2019?

12 A. I didn't ask him to. I just told him that
13 it might be advisable for him to do so.

14 Q. And did he do so?

15 A. Yes.

16 MR. NEFF: Okay. And all right.

17 Give me one moment. I'm sorry.

18 THE HEARING OFFICER: Mr. Neff --

19 MR. NEFF: Give me one moment, please.

20 THE HEARING OFFICER: Mr. Neff, where are
21 we?

22 MR. NEFF: I'm sorry. Just give me one
23 moment, and I -- okay. All right.

24 Well, I'd like to direct your -- I'd like

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1 to go back to Exhibit A, then, and at least ask
2 Chief Justice Casey to look at the final page of
3 Exhibit A, which is -- excuse me. Not the final
4 page -- well, yeah, the final page of Exhibit A,
5 which in the top right-hand corner is marked
6 Exhibit 2.

7 MR. ANGELINI: If the question is the
8 admissibility of Judge Sushchuk's statement of
9 May 20, 2019, I have no objection, your Honor, if we
10 locate it and put it into evidence.

11 MR. NEFF: And obviously, I thought I had
12 provided a separate redacted copy, and I will submit
13 to the Court and to Mr. Loos a copy of just that
14 statement so that --

15 THE HEARING OFFICER: All right.

16 MR. NEFF: -- so I don't have the full
17 report.

18 THE HEARING OFFICER: Send to Mr. Angelini
19 the redacted copy that you're submitting.

20 MR. NEFF: Okay. Actually, I'll just do an
21 e-mail to everyone to make sure that it's all --
22 that everyone sees what I do and is in agreement
23 with it.

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

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1 That will be Exhibit 10.

2 (Document marked as Commonwealth's
3 Exhibit 10 admitted into evidence)

4 THE HEARING OFFICER: And at this point how
5 much longer do you expect you'll be with --

6 MR. NEFF: Gosh. You know, I'm doing my
7 best to -- some of my questions are -- are not going
8 quite as planned and some are, but I'm -- I'm doing
9 my best.

10 I am on Page 15 of 20 of a list of direct
11 examination questions I had prepared for Judge --
12 excuse me, Chief Justice Casey. So I would say
13 there's a little bit longer to go.

14 THE HEARING OFFICER: Well, then, if
15 there's no objection from anyone, why don't we take
16 that half hour lunch break. It's 1:00 -- a
17 little -- it's actually one o'clock on the button,
18 and we'll resume at 1:30, please, everyone.

19 MR. ANGELINI: Thank you, Judge.

20 THE HEARING OFFICER: Okay. Thank you all.

21 MR. NEFF: Okay. Thank you.

22 THE HEARING OFFICER: Have a good lunch.

23 (Luncheon recess taken
24 at 1:00 p.m. to 1:38 p.m.)

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1 AFTERNOON SESSION

2 THE HEARING OFFICER: Okay.

3 MR. NEFF: So I can send it privately to
4 Mr. Loos -- or I can just send it to everyone --
5 well, I don't want to do that given the nature of
6 how we're handling this hearing. But I could send
7 you the PDF of that one exhibit that I was supposed
8 to kind of redact and present.

9 Can I send it to Mr. Loos and Mr. Angelini
10 both through this chat window?

11 THE HEARING OFFICER: I think --

12 MR. NEFF: No, not really. Should I just
13 e-mail it then? Is that satisfactory? I'm -- I'm
14 not working on my normal computer, so I'm not sure
15 what I've got here.

16 THE HEARING OFFICER: Is it necessary,
17 Mr. Neff, in order for you to continue with your
18 examination?

19 MR. NEFF: No, no, no. I just didn't know
20 if there was any urgency for me to kind of get that
21 issue out of the way?

22 THE HEARING OFFICER: No. Let's then
23 resume, please.

24 MR. NEFF: Okay.

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1 MR. ANGELINI: Before we do, your Honor,
2 could I just ask Mr. Loos to mute Judge Sushchyk.
3 We're getting some echo and apparently we can't shut
4 it off from his -- can you do that, Mr. Loos?

5 THE REPORTER: Let me see.

6 MR. ANGELINI: Okay. Thank you very much.

7 THE HEARING OFFICER: Go ahead, Mr. Neff.

8 BY MR. NEFF:

9 Q. Okay. All right. Let's see.

10 A. Hello?

11 Q. No. I'm just trying to reorient myself to
12 where we were when we left off with the questioning
13 so I don't repeat too much or miss anything, I
14 suppose, although I -- I know I've gone on for a bit
15 of time, so...

16 MR. ANGELINI: Can I say something, your
17 Honor?

18 THE HEARING OFFICER: Yes. Please.

19 MR. ANGELINI: My understanding is the last
20 question was whether the pub was open to the members
21 of the public. The witness answered that question.

22 THE HEARING OFFICER: Thank you.

23 MR. NEFF: Okay. All right.

24 Q. And I think my follow-up then would have

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1 been in Chief Justice Casey's view, would it have
2 been appropriate for a judge to be openly displaying
3 a flask while in such a situation where he might be
4 recognized -- or she might be recognized as a judge.

5 MR. ANGELINI: I objected to that question.

6 THE HEARING OFFICER: I know, and I
7 sustained it.

8 Q. Chief Justice Casey, in your view, would --
9 after reviewing -- do you know when Judge Sushchuk
10 provided you with the written statement that he
11 prepared that's dated May 20th? Was it actually
12 provided on May 20th or on a different date?

13 A. I don't recall.

14 Q. Okay. And would you say that, in your
15 view, his description of the events of April 25th
16 between him and Ms. Deines, as he's described them
17 in that written statement, are consistent with what
18 he told you in your interview on May 10th?

19 MR. ANGELINI: My objection.

20 THE HEARING OFFICER: Sustained.

21 Q. After you completed your interview with
22 Judge Sushchuk, did you circle back and speak with
23 Chief Justice Carey and Ms. Medonis and follow up
24 with them in terms of the process that followed

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1 Ms. Deines' report?

2 MR. ANGELINI: "Yes" or "no," please.

3 THE REPORTER: What was that? I'm sorry.
4 I didn't catch that, Mr. Angelini.

5 MR. ANGELINI: Yes. May the witness be
6 required to answer the question either "yes" or
7 "no"?

8 THE HEARING OFFICER: Yes. Thank you,
9 Mr. Angelini. I didn't hear you, either.

10 Yes.

11 A. I conferred with those two individuals
12 throughout the course of these events, so I just
13 don't recall the exact timing, but --

14 Q. Okay. Were you coordinating with anyone
15 else, besides Chief Justice Carey and Ms. Medonis,
16 as you followed procedures relating to Ms. Deines'
17 report to you?

18 MR. ANGELINI: Objection, relevance.
19 Objection.

20 THE HEARING OFFICER: Overruled.

21 A. So, I'm sorry. The question was, was I
22 conferring with anyone besides Chief Carey and
23 Deputy Medonis?

24 Q. Right.

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1 THE HEARING OFFICER: Were you
2 coordinating?

3 THE WITNESS: Coordinating? I'm sorry.

4 THE HEARING OFFICER: Coordinating with
5 anyone else.

6 THE WITNESS: Other than maybe my assistant
7 helping me to schedule appointments to meet with
8 individuals, then no.

9 BY MR. NEFF:

10 Q. Okay. Did you discuss the course -- did
11 you discuss this matter with Maggie Pinkham at any
12 point at the beginning, during or at the end of
13 your -- your handling of Ms. Deines' report?

14 MR. ANGELINI: "Yes" or "no," please, your
15 Honor.

16 THE HEARING OFFICER: Yes. Just a "yes" or
17 "no," please, Judge Casey.

18 A. I know she was involved, and I just don't
19 recall if I had a direct conversation with her or
20 whether it was somebody else, either -- it might
21 have been Attorney Medonis. I just can't recall
22 today --

23 Q. Okay.

24 A. -- who spoke to Maggie Pinkham.

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1 Q. But one person or the other was in contact
2 with her regarding events as they progressed?

3 A. Yes.

4 Q. Just not you?

5 Did you interview anyone else in connection
6 with Ms. Deines' report to you, other than Judge
7 Sushchyk?

8 A. Yes.

9 Q. Who did you interview?

10 A. Attorney Evelyn Patsos.

11 Q. Okay. And do you remember when you
12 interviewed her?

13 A. I do.

14 Q. Okay. And when did you interview her?

15 A. I believe it was May 14th.

16 Q. Okay. And where did that take place?

17 A. At our administrative office here at 3
18 Center Plaza, Boston.

19 Q. Okay. And was anyone else present for that
20 interview?

21 A. No. Not in the room, no.

22 Q. Okay. And I already asked, was there
23 anyone else, and you say Evelyn Patsos.

24 Evelyn Patsos is the third and last

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1 person -- third and -- the third person that you
2 interviewed in connection with this matter? There's
3 no one else that you interviewed in connection with
4 Ms. Deines' report to you?

5 MR. ANGELINI: I object to the question.

6 THE HEARING OFFICER: Objection sustained.

7 MR. NEFF: Okay.

8 Q. Well, did you -- other than Ms. Patsos,
9 Ms. -- and Judge Sushchyk, did you interview anyone
10 in connection with Ms. Deines' report to you?

11 A. Just Ms. Deines a second -- an in-person
12 meeting preceding my meeting with Attorney Patsos on
13 the 14th.

14 Q. Okay. And where did you meet with
15 Ms. Deines before you met with Ms. Patsos?

16 A. Here in our administrative office, just the
17 two of us alone in the room.

18 Q. And what was the purpose of that meeting?

19 MR. ANGELINI: Objection.

20 THE HEARING OFFICER: Overruled.

21 Just the purpose.

22 A. To speak with her in person about our --
23 our phone call from the previous week.

24 Q. Okay.

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1 A. Two weeks, roughly.

2 Q. Okay. Did you discuss with her or
3 summarize Judge Sushchuk's May 20th -- May 20, 2019,
4 statement regarding the events of April 25th with
5 her?

6 MR. ANGELINI: Objection.

7 THE HEARING OFFICER: Sustained.

8 Q. Did she see that statement or hear anything
9 about the contents of that statement on that date?

10 MR. ANGELINI: My objection.

11 THE HEARING OFFICER: Sustained to the
12 form.

13 Q. Well, did -- was Ms. Deines made aware of
14 any information in connection with what steps you
15 had taken following her report to you on May 2nd
16 during your interview with -- excuse me -- during
17 your second meeting with her prior to your interview
18 with Ms. Patsos?

19 MR. ANGELINI: "Yes" or "no," please, your
20 Honor.

21 THE HEARING OFFICER: All right.

22 A. I'm sorry, I just want to make sure I
23 understand.

24 Are you --

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1 Q. It was a complicated question. I'm sorry.
2 Did you advise Ms. Deines of the steps you
3 had taken, or any steps that you had taken in
4 connection with following up or following her report
5 to you on May 2nd -- yeah, regarding her report to
6 you on May 2nd?

7 MR. ANGELINI: Objection.

8 THE HEARING OFFICER: "Yes" or "no,"
9 please, Judge.

10 A. Yes.

11 Q. Okay. Did you advise her that you had
12 conducted an interview with Judge Sushchuk at that
13 point?

14 MR. ANGELINI: Objection.

15 THE HEARING OFFICER: "Yes" or "no."

16 A. Yes.

17 Q. Did you make her aware of the contents of
18 Judge Sushchuk's responses or statements during your
19 interview with him?

20 MR. ANGELINI: "Yes" or "no," please.

21 THE HEARING OFFICER: Yes.

22 A. Yes.

23 Q. You did? Okay.

24 And did Ms. Deines react to your

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1 description of Judge Sushchuk's responses during
2 your interview with him?

3 MR. ANGELINI: I object.

4 THE HEARING OFFICER: Just a -- just in
5 terms of what you observed, not anything she may
6 have said.

7 Q. Judge Casey?

8 A. No. I'm sorry. I'm thinking.

9 Q. I'm sorry. I didn't mean to rush you. I
10 just wanted to make sure --

11 A. No, thank you. I'm just reflecting on the
12 question and...

13 She appeared to me to react?

14 MR. ANGELINI: I object, your Honor. The
15 question calls for a "yes" or "no" answer.

16 THE WITNESS: I'm sorry.

17 THE HEARING OFFICER: In terms of what you
18 observed, overruled to that extent.

19 Judge --

20 MR. ANGELINI: Thank you.

21 THE HEARING OFFICER: -- you can tell us
22 what you observed.

23 A. I observed her face to become a little
24 flushed and to observe her shake her head side to

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1 side.

2 THE HEARING OFFICER: Thank you.

3 Q. Did you make any observations of her
4 temperament in response to what you told her Judge
5 Sushchuk's response was?

6 MR. ANGELINI: I object.

7 THE HEARING OFFICER: I'll sustain. I
8 don't understand, actually, "temperament."

9 Q. Did you make any observations regarding her
10 demeanor or emotions following your description of
11 what Judge Sushchuk's response was?

12 MR. ANGELINI: I object. He was asked.

13 THE HEARING OFFICER: If there's anything
14 further regarding demeanor that you observed, Judge
15 Casey, you can answer that.

16 A. Yeah. I don't think so. I don't think
17 there was anything further that I observed about her
18 demeanor at that time.

19 Q. Did you discuss with Ms. Deines during this
20 meeting the steps that would follow after -- well,
21 the steps that would follow -- the steps you took in
22 response to her report to you?

23 MR. ANGELINI: I object.

24 THE HEARING OFFICER: I'm sorry. I'm

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1 distracted for a moment here.

2 And I'm sorry to interrupt, but I'm going
3 to say that anyone who engages in any private
4 conversation with me concerning the proceedings is
5 going to be excluded.

6 MR. NEFF: Okay.

7 THE HEARING OFFICER: And that individual
8 has just provided some sort of directive to me is
9 going to be excluded now, Mr. Loos. I will not
10 engage in conversations coming toward me while this
11 hearing is underway.

12 So if you would kindly remove that person.

13 THE REPORTER: Which person?

14 MR. NEFF: And I'm sure I don't need to ask
15 this about anyone that I work with, but is there
16 anything I should know about?

17 THE HEARING OFFICER: Mr. Neff?

18 MR. NEFF: Because if there's no --

19 THE HEARING OFFICER: Mr. Neff. Mr. Neff.

20 MR. NEFF: Yes.

21 THE HEARING OFFICER: Excuse me. I'm
22 talking to Mr. Loos. I'll get back to you in a
23 minute.

24 Mr. Loos, can you see what I'm talking

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1 about?

2 THE REPORTER: No. With whom? Whom?

3 You can go there -- go to that person, and
4 you go more --

5 THE HEARING OFFICER: I'm going to -- I'm
6 going to private text you.

7 THE REPORTER: Sure.

8 THE HEARING OFFICER: Okay. No, it's
9 nothing -- I'll put it on the record at the end of
10 the day.

11 MR. NEFF: Okay. Nothing I need to respond
12 to, though, I guess is my question.

13 THE HEARING OFFICER: No, it's not.
14 Go ahead.

15 MR. NEFF: Okay. Okay.

16 Q. I'm sorry. And I think my question at that
17 point -- which I don't know; you may or may not have
18 ruled on; I apologize if it was and I had just
19 forgotten -- was did you discuss with Ms. Deines
20 during this meeting any additional steps that would
21 be taken after the steps you took in response to the
22 report she made to you on May 2nd?

23 A. Yes.

24 Q. Okay. And how did she respond to you

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1 telling her that -- about the additional steps that
2 would be taken following the results of your steps
3 into your report?

4 MR. ANGELINI: My objection, your Honor.

5 THE HEARING OFFICER: Overruled.

6 A. Well, she made certain statements to me, if
7 am I allowed the repeat those statements?

8 THE HEARING OFFICER: You can tell us that
9 she made certain statements, and that's enough for
10 now, please.

11 THE WITNESS: Okay. Okay.

12 BY MR. NEFF:

13 Q. And what did she have to say then?

14 MR. ANGELINI: I object.

15 THE HEARING OFFICER: Sustained.

16 Q. Well, how would you describe her emotional
17 response or demeanor in response to you explaining
18 to her what steps were going to be taken, or could
19 be taken after you had finished the steps that you
20 were going to take in response to her report to you?

21 MR. ANGELINI: I object.

22 THE HEARING OFFICER: Sustained.

23 MR. NEFF: Okay.

24 I'm sorry. Just give me a moment. I'm

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1 going to do my best to ask questions that conform
2 with the -- the evidentiary rulings that have been
3 made up until this point.

4 If I could have just one moment, please.

5 THE HEARING OFFICER: Mr. Neff, I need us
6 to get underway. I'm sorry. We can give you some
7 time --

8 MR. NEFF: I'm fine. I'm sorry, Judge.
9 I'm just conferring a little bit, and I'm trying
10 to --

11 THE HEARING OFFICER: You don't need to
12 apologize.

13 MR. NEFF: -- with all proper respect to
14 your -- your evidentiary rulings to date, see if
15 there was anything, anything left in the questions
16 that I had planned to ask that -- that might be
17 possible, and at this point I don't have any further
18 questions for Chief Justice Casey.

19 THE HEARING OFFICER: Okay. Thank you very
20 much.

21 Cross-examination, Mr. Angelini.

22 MR. ANGELINI: Yes, your Honor.

23 Just one minute, please, and I'll be very
24 short.

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1 CROSS-EXAMINATION

2 BY MR. ANGELINI:

3 Q. Judge Casey, good afternoon. I'll stand so
4 you can see me.

5 Was Judge Sushchyk cooperative with your
6 investigation?

7 A. Yes.

8 Q. And is it the case that when he spoke with
9 you at the meeting at his office -- in his lobby, I
10 should say, on May 5th, he -- he said to you, "I
11 didn't do anything like that. I would never do
12 anything like that. I did not do that."

13 Are those the words that he used?

14 MR. NEFF: Objection.

15 THE HEARING OFFICER: Overruled.

16 A. First of all, I think you're referring to
17 the meeting which I think was on May 10th, that
18 first time that I met with him.

19 Q. Absolutely. You're absolutely right. My
20 apologies.

21 A. Just to be clear.

22 And --

23 Q. Yes. Thank you.

24 A. -- yeah, I -- I don't remember -- I don't

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1 recall him using those exact words.

2 Q. Was it clear to you from that -- was it
3 clear to you from that session that he denied the
4 allegations made by Ms. Deines?

5 MR. NEFF: Objection.

6 THE HEARING OFFICER: Overruled.

7 A. No.

8 Q. I'm sorry?

9 A. No. The answer is no.

10 Q. He did not deny the allegations?

11 A. No.

12 Q. Did you not tell us he said, "I couldn't do
13 something like that. I didn't do anything like
14 that"?

15 Isn't that what you told us on direct
16 examination?

17 A. I don't believe so. I think he said words
18 to the effect --

19 Q. I asked you a question.

20 Is it your recollection that you did not
21 tell us on direct examination that Judge Sushchuk
22 said to you, "I couldn't do anything like that. I
23 didn't do anything like that"?

24 MR. NEFF: Objection.

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1 A. I don't recall.

2 MR. NEFF: Objection. That was not the
3 testimony.

4 THE HEARING OFFICER: Overruled.

5 A. I don't recall -- I'm sorry, I don't recall
6 that being -- I tried to use my words, choose them
7 very carefully. That's not my recollection of what
8 I testified to earlier today.

9 Q. All right. The record will speak for
10 itself.

11 A. Right.

12 MR. ANGELINI: One moment, please, your
13 Honor.

14 THE HEARING OFFICER: Yes.

15 BY MR. ANGELINI:

16 Q. Did he say to you, "I would never do
17 anything like that. I am not that kind of person.
18 I would never intentionally hurt anyone, but
19 especially a woman"? Did he use those words?

20 A. I believe so, yes.

21 MR. ANGELINI: Thank you. I have no
22 further questions.

23 THE HEARING OFFICER: All right, then.

24 Anything else, Mr. Neff?

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1 MR. NEFF: Just one thing, your Honor,
2 since we've been able to go there.

3 REDIRECT EXAMINATION

4 BY MR. NEFF:

5 Q. Judge, Chief Justice Casey, would you agree
6 that there's a difference between someone who says,
7 "I would never do that," and someone who says, "I
8 did not do that"?

9 MR. ANGELINI: I object, your Honor.

10 THE HEARING OFFICER: Sustained.

11 MR. NEFF: I have nothing further.

12 THE HEARING OFFICER: All right, then.

13 Thank you very much, Judge Casey. If
14 there's nothing else --

15 I'm sorry, Mr. Angelini. Was there
16 anything else?

17 MR. ANGELINI: No, your Honor. Thank you.

18 THE HEARING OFFICER: Okay.

19 Judge Casey, thank you very much. I do
20 have to ask you -- because I am required to under
21 the protocol on completion of your examination --
22 have any of the answers that you gave me at the
23 commencement of your examination regarding where you
24 were located, what devices you had with you, and any

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1 communications with other people, have any answers
2 changed in any way?

3 THE WITNESS: Yes, Judge. Yes.

4 THE HEARING OFFICER: Okay.

5 And which?

6 THE WITNESS: So -- and again, just so I'm
7 clear, during an earlier break when Attorney Neff
8 asked for a brief recess, I left the office and I
9 went out to the men's room across the hall and
10 returned. And during that period of time I did not
11 encounter anyone and didn't have a conversation with
12 anyone.

13 And then during -- I did not access e-mail,
14 text, phone, anything else, other than just this
15 Zoom hearing in front of me.

16 And I just would note that there are two
17 other staff members who are here in the offices
18 today, one of them being Attorney Evelyn Patsos, and
19 the three of us -- and Dom DiCenso is the assistant
20 deputy court administrator, and we had lunch.

21 And Attorney Patsos just -- I think she
22 said something about, "There are five questions
23 left?" And I said, "I think it's five pages of
24 questions. I'm not sure." And she indicated that

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1 she was going to be the next witness.

2 And so that's the extent of the changes.

3 THE HEARING OFFICER: Okay. Thank you very
4 much for telling us.

5 I don't have any other questions.

6 Any questions regarding this from you,
7 Mr. Neff?

8 MR. NEFF: No, your Honor. That is --
9 that's -- as I've mentioned, it's consistent with
10 what I've been trying to do, which is to let
11 everyone know when they're kind of on deck, and
12 that's -- I think that's what Ms. Patsos was meaning
13 to say.

14 THE HEARING OFFICER: Any questions,
15 Mr. Angelini?

16 MR. ANGELINI: No, your Honor.
17 Thank you.

18 THE HEARING OFFICER: Okay. Thank you.
19 Thank you, Judge Casey.

20 THE WITNESS: Thank you.

21 THE HEARING OFFICER: You're excused.

22 THE WITNESS: Thank you, Judge.

23 THE HEARING OFFICER: And, Mr. Neff, your
24 next witness, please.

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1 MR. NEFF: My next witness is Ms. Evelyn
2 Patsos, Esq.

3 THE HEARING OFFICER: Okay.

4 MR. NEFF: Who hopefully is here.

5 THE HEARING OFFICER: There she is.

6 And Mr. Loos -- there we go.

7 Okay. Thank you.

8 Ms. Patsos, can you hear me all right?

9 THE WITNESS: Yes, I can, your Honor.

10 THE HEARING OFFICER: Okay. Your -- your
11 audio is a little delayed from your video, so I
12 don't know if my audio is delayed from my video with
13 you.

14 Is it?

15 THE WITNESS: Just a little bit, yes.

16 THE HEARING OFFICER: Oh.

17 Mr. Loos, might you be able to remedy that?

18 THE REPORTER: It's probably her
19 connection. It's not us.

20 THE HEARING OFFICER: Okay. All right.

21 Well, Ms. Patsos, so long as it's not
22 distracting to you and you're able to follow along
23 despite the two -- the two communications being
24 delayed, we'll continue on.

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1 Is that all right with you?

2 THE WITNESS: Yes. Definitely.

3 THE HEARING OFFICER: Okay. All right.

4 I have -- first let me swear you in.

5 Please raise your right hand.

6 (EVELYN PATSOS, sworn)

7 THE WITNESS: I do.

8 THE HEARING OFFICER: All right.

9 And I'm going to ask you a couple of
10 questions that I have to ask everyone before they
11 testify in this matter.

12 And would you start by telling us your name
13 for the record, please.

14 THE WITNESS: Evelyn Patsos.

15 THE HEARING OFFICER: And where are you
16 physically located?

17 THE WITNESS: I'm at 3 Center Plaza in
18 Boston at the administrative office of the Probate
19 and Family Court.

20 THE HEARING OFFICER: Okay. Would you
21 kindly tell us who is physically in the room with
22 you right now?

23 THE WITNESS: No one.

24 THE HEARING OFFICER: Okay. And what

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1 devices or materials do you have with you now?

2 THE WITNESS: Just my computer. I have my
3 cell phone in front of me, not in -- not near me,
4 and nothing else.

5 THE HEARING OFFICER: Okay. And would you
6 tell me what is currently on your screen or screens?

7 THE WITNESS: On the screen I'm looking at
8 I have this hearing. On the other screen there's
9 nothing. I have my e-mail, but it's minimized.

10 THE HEARING OFFICER: Okay. And are you in
11 communication with any people other than those who
12 are conducting this hearing?

13 THE WITNESS: No.

14 THE HEARING OFFICER: Okay. If your
15 answers to any of those questions change at any
16 time, I would ask you to report that to me. And I
17 will be asking you, at the conclusion of your
18 testimony, to confirm that nothing has changed; or,
19 if it has, what that is.

20 Okay?

21 THE WITNESS: Okay.

22 THE HEARING OFFICER: All right. Thank
23 you.

24 Mr. Neff, when you're ready.

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1 MR. NEFF: Thank you very much, Judge.

2 DIRECT EXAMINATION

3 BY MR. NEFF:

4 Q. Good to see you again, Ms. Patsos.

5 Can you just start off by, for the record,
6 telling us your name and spelling your last name for
7 the record.

8 A. Evelyn Patsos, P-a-t-s-o-s.

9 Q. And what city or town do you live in?

10 A. I live in Lynnfield, Massachusetts.

11 Q. And what's your date of birth?

12 A. 3/20/64.

13 Q. Okay. And what is your current employment?

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

16 Q. What's your position with the
17 administrative office of the probate court?

18 A. My official title is case manager.

19 Q. Okay. And what -- what are the roles and
20 responsibilities associated with that job?

21 A. I'm involved in developing policies,
22 procedures, conducting research. My area of
23 specialty is actually the Massachusetts Uniform
24 Probate Code, Massachusetts Uniform Trust Code,

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1 guardianship law.

2 Q. Are we good, Mr. Loos?

3 And what is your educational background?

4 A. I have a law degree.

5 Q. Okay.

6 A. Bachelor's degree.

7 Q. And can I ask you where you went to law
8 school?

9 A. Massachusetts School of Law.

10 Q. Great.

11 And when did you graduate from law school?

12 A. In 2003, I believe.

13 Q. So what was your first employment after law
14 school?

15 A. I worked for -- I spent a year volunteering
16 for various public service -- well, for Neighborhood
17 Legal Services, Volunteer Lawyers Project.

18 After I year I worked for a law firm in
19 Chelmsford by the name of Gallant & Ervin. And
20 thereafter -- I was there for about a year and a
21 half, and then I joined the Probate and Family Court
22 in 2007.

23 Q. Okay. Great.

24 So if I'm doing my math right, you've

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1 worked for the Probate and Family Court for about
2 13 years?

3 A. Correct.

4 Q. Okay. Great.

5 And do you know of someone by the name of
6 Emily Deines as part of your work for the Probate
7 and Family Court?

8 A. Yes, I do.

9 Q. And how do you know her?

10 A. She works in the administrative office as
11 well as a field coordinator.

12 Q. Okay. And do you have any work interaction
13 or work collaboration with -- with Emily Deines, as
14 a part of your -- part of your role in the Probate
15 and Family Court?

16 A. Yes. We work on several projects together,
17 most related to changes to forms as a result of the
18 Massachusetts Uniform Probate Code and Massachusetts
19 Uniform Trust Code implementation.

20 Q. Great.

21 And if you had to -- well, over the course
22 of how many years would you say you've -- you've
23 worked on and off with Emily Deines during your time
24 at the Probate and Family Court?

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1 A. About -- for about the last, I would say,
2 seven years.

3 Q. Okay. And do you -- are you involved in
4 any preparation for trainings or present training
5 materials for judges as part of your role in working
6 with -- with Emily Deines for Probate and Family
7 Court?

8 A. Not with Emily. On training materials, no.
9 I mean, I do a lot of training materials.
10 I do a lot of training in general, both the bar and
11 court staff.

12 Q. Okay. I would like to direct your
13 attention to the Probate and Family Court conference
14 that took place last spring in 2019.

15 Do you recall attending that -- that
16 Probate and Family Court conference?

17 A. I do.

18 Q. Okay. And do you recall where it was?

19 A. Yes.

20 Q. Okay. And where was it?

21 A. It was down in Brewster at the Ocean Edge
22 Resort.

23 Q. Okay. And was Emily there as well? Emily
24 Deines.

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1 A. Yes, she was.

2 Q. And what dates were you there for that
3 conference?

4 A. I was there on April 25th and the morning
5 of April 26th.

6 Q. Great.

7 And what was your role at this conference?
8 Were you attending to learn from the trainings? Or
9 did you have a role in producing the event? Or some
10 other role?

11 A. I was invited just to attend trainings as
12 an attorney of the administrative office.

13 Q. Great.

14 And do you recall attending any trainings
15 on the first day of the conference, on April 25th?

16 A. Yes. Oh, no. I'm sorry. I don't believe
17 there was training on --

18 Honestly, I don't remember at this point.

19 Q. Okay. No. That's fine. It was over a
20 year ago. Just whatever you remember.

21 Let me ask you this:

22 Do you recall approximately what time on
23 April 25th, on that first day of the conference,
24 maybe all the trainings on that first day were

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1 completed?

2 A. I don't know.

3 Q. Okay. Well, let me ask you this:

4 Did you stay at the Ocean Edge Resort as
5 part of your attendance at the conference?

6 A. Yes.

7 Q. Okay. And on the first day of the
8 conference was there a Probate and Family
9 Court-sponsored dinner?

10 A. Yes.

11 Q. Okay. And did you attend that dinner?

12 A. I did.

13 Q. Do you remember approximately when the
14 dinner started?

15 A. I -- I think somewhere around 6:00 or 7:00,
16 somewhere around there.

17 Q. Okay. And did you go with anyone to the
18 dinner?

19 A. I did. I did.

20 Q. Who did you go with?

21 A. I went with other attorneys in this office
22 that were also invited to this program. Their names
23 are Christine Yurgelun, Attorney Christine Yurgelun,
24 Attorney Jocelyne Welsh, and Attorney Denise

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1 Fitzgerald.

2 Q. Okay. Did you go to that dinner with Emily
3 Deines? Or did she go separately?

4 A. She was working the event, so she was
5 separate.

6 Q. And approximately what time would you say
7 dinner concluded and/or you left that dinner?

8 A. I believe the dinner lasted for about, I
9 want to say, an hour and a half.

10 Q. Okay. So -- so would you say approximately
11 8:30 p.m. on April 25th you left the dinner?

12 A. I would say approximately 8:30, yes.

13 Q. And where did you go after the dinner?

14 A. The dinner -- everybody left the room where
15 the dinner was held and walked up a little -- I
16 don't know, several, maybe couple of feet -- to the
17 pub that was attached.

18 Q. Okay. And when you -- when -- and when you
19 say "everyone walked up," was it your sense that --
20 that virtually everyone who was at the dinner,
21 including the people you were with, left the dinner
22 and then proceeded onward to -- to a pub that was
23 nearby and continued to socialize?

24 A. Yes.

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1 Q. And do you recall the name of that pub?

2 A. Brazos, or Brizos (sic).

3 Q. And how far away was that from where the
4 dinner took place?

5 A. It was in the same building. So it was
6 just leaving the ballroom and walking up a little,
7 you know, like a small hallway, I should say, where
8 the pub entrance was.

9 Q. Okay. Great.

10 And if I can show you a picture and ask you
11 if you recognize where you went.

12 And I'm sorry, Mr. Loos, to ask, keep
13 asking you this, but if I were to ask Ms. Patsos to
14 look at what we have marked as F, what exhibit
15 number is that for purposes of the -- of not the
16 deposition, but this hearing at this point?

17 THE REPORTER: Exhibit 1.

18 MR. NEFF: Exhibit 1? Okay. Great.

19 So if I can, with your permission, Judge
20 Josephson, I would like to ask Ms. Patsos to look at
21 Exhibit 1 --

22 THE HEARING OFFICER: Sure.

23 MR. NEFF: -- to this deposition which
24 is --

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1 THE REPORTER: Shall I screen share it?

2 THE HEARING OFFICER: Please.

3 Q. Okay. And do you, Ms. Patsos, recognize
4 this location?

5 A. I do.

6 Q. Okay. And do you recognize this location
7 as being at least a portion of the Bayzos Pub at the
8 Ocean Edge Resort?

9 A. Yes. It looks like it, yes.

10 Q. And would you say it fairly and accurately
11 represents at least that portion of that particular
12 venue?

13 A. It appears so.

14 Q. Okay. And incidentally, would you say that
15 fairly and accurately represents the appearance of
16 the furniture, including the tables and chairs and
17 benches and stools, when you visited there on
18 April 25th of 2019?

19 A. Yes.

20 Q. Okay. And if you recall, when you arrived
21 at the Bayzos Pub, approximately what time did you
22 get there?

23 A. Like I said, it was -- we had exited the
24 dinner and everybody walked into the pub.

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1 Q. So --

2 A. Quarter of 9:00, somewhere.

3 Q. Okay. And within the frame of this
4 picture, do you see where you and anyone you were
5 with may have decided to stand or sit once you
6 arrived in the pub?

7 A. Not -- not necessarily from that picture.
8 We -- I can tell you where we sat at a pub table,
9 but I -- it's hard to tell from this picture which
10 one it was.

11 Q. Okay. Okay. No. That's fine. I've got a
12 few more to show you. Let's see if I can -- let's
13 see if I can do a little better.

14 MR. NEFF: Okay. Actually, again, I
15 apologize, Mr. Loos, has exhibit, what we've marked
16 as Exhibit AA been introduced as an -- as an exhibit
17 in the hearings at this stage?

18 THE REPORTER: I don't believe so.

19 MR. NEFF: Okay.

20 Well, with your permission, Judge, if I --
21 if I could, I'd like to show Ms. Patsos a photograph
22 that has been marked as Exhibit AA for purposes of
23 this hearing.

24 THE REPORTER: It's in the chat.

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1 THE HEARING OFFICER: Thank you.

2 MR. NEFF: And that's next up, the photo,
3 Judge Josephson.

4 THE HEARING OFFICER: I'm trying to access
5 it.

6 MR. NEFF: I'm sorry.

7 THE HEARING OFFICER: Okay.

8 MR. NEFF: It's Exhibit AA in what would of
9 course, be in the list of links. And I can send --
10 well, I can send it to you privately. I'm happy to
11 send a link of the photo to -- it looks like I can
12 only send to either you or Ms. Loos.

13 THE REPORTER: I've sent it to everyone.

14 THE HEARING OFFICER: I have it. Thank
15 you.

16 Do you have it, Mr. Angelini?

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

18 THE HEARING OFFICER: Okay. Great.

19 MR. ANGELINI: And I have no objection to
20 it being introduced if that's the intention.

21 THE HEARING OFFICER: All right.

22 Is that the intention, Mr. Neff?

23 MR. NEFF: That is the intention, Judge
24 Josephson. If we can introduce that as -- what are

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1 we up to, 11?

2 THE HEARING OFFICER: Yep.

3 (Document marked as Commonwealth's
4 Exhibit 11 admitted into evidence)

5 MR. NEFF: I would ask that we do that.

6 And if we can, when you have a moment,
7 Mr. Loos, if you could show it to us.

8 THE HEARING OFFICER: I think we have it in
9 front of us.

10 MR. NEFF: We do. Oh.

11 THE HEARING OFFICER: Attorney Patsos, is
12 it in front of you?

13 THE WITNESS: Would that be on the chat
14 button?

15 THE HEARING OFFICER: Yes.

16 THE WITNESS: Yes. Yep.

17 THE HEARING OFFICER: Great.

18 BY MR. NEFF:

19 Q. In any event, looking at now what has been
20 marked as Exhibit -- Ms. Patsos, do you see in that
21 photo any portion of the Bayzos Pub where you and
22 others may have decided to spend time either
23 standing or sitting on the evening of April 25th?

24 A. Yes.

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1 Q. Okay. And -- and as best you can, just
2 describing for now, on that photo, where would you
3 say you and the people you were with decided to
4 stand or sit?

5 A. At that first pub table --

6 Q. Okay.

7 A. -- to the left.

8 Q. Okay. And when you say "the first pub
9 table," you mean the pub table that is closer to the
10 foreground of the photo, basically a little off to
11 the left of the second -- second pub table that is
12 further back in the foreground -- in the background
13 of the photo?

14 MR. ANGELINI: I object. I don't have any
15 sense of -- object to the form of the question.

16 MR. NEFF: Okay. All right. Again, as
17 usual, I am just trying to do my best not to
18 mislead, but if we -- I'll try again to see if I can
19 ask Ms. Patsos to describe before -- rather than
20 start marking up photos.

21 THE HEARING OFFICER: Okay.

22 Q. And so you say -- so you said the closer of
23 two pub tables.

24 When you say "pub tables," can you describe

1 in this particular exhibit what -- what you mean by
2 a "pub table"?

3 A. It appears to be a tall table, and it's the
4 first one. It looks like the larger one of the two.
5 I see two in that photo, and I'm referring to the
6 first, what appears in the photo to be the larger
7 table, the closer. It has two brown barstools in
8 front of it.

9 That's -- that's the table I'm referring
10 to.

11 Q. Okay. And -- and again, that -- that is --
12 that's a round pub table or a square pub table?

13 A. It's round.

14 Q. Okay. And around that, those two -- well,
15 and there are two round pub tables in this photo.

16 Would you agree with that?

17 A. Yes.

18 Q. Okay. And the closer of the two round pub
19 tables is the one that you and others sat at on that
20 evening of --

21 A. Yes.

22 Q. -- April 25th?

23 A. Yes.

24 Q. And would you say on that particular

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1 evening, at least initially there were stools
2 similar to or that appeared like the ones depicted
3 in this particular exhibit surrounding that pub
4 table on the evening of April 25th, 2019?

5 A. Yes.

6 Q. Okay. Okay. And if you can -- and again,
7 we're going -- I'll try to -- try to do this without
8 asking you to mark up the photo. But can you, as
9 best we can, tell us where at this table you sat
10 when you sat down there that night?

11 A. I sat -- so in that photo, in the table I
12 was referencing --

13 Q. Uh-huh.

14 A. -- there are two barstools in the front,
15 two -- the brown leather -- looks like leather tops.
16 I sat to the one to the right, not the one closest
17 to the wall.

18 Q. Okay. Meaning one of the -- the one toward
19 the front on the right-hand side in that photo?

20 A. Yes.

21 Q. Okay. And who -- was there anyone sitting
22 in the or sitting on the barstool immediately to the
23 left of you in that particular photo?

24 A. Yes.

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1 Q. Who was sitting there?

2 A. Emily Deines.

3 Q. Okay. And was there anyone seated --
4 seated in either of the two remaining bar stools at
5 this particular table?

6 A. Yes. To my right I recall would be
7 Christine Yurgelun --

8 Q. Uh-huh.

9 A. -- being seated, and Jocelyne Welsh was
10 also -- was basically across from me.

11 Q. Okay. Okay. And so when you say Jocelyne
12 Welsh was across from you, was she across from
13 you -- oh, gosh. How do we do this with a picture?

14 When you say Jocelyne Welsh was across
15 from you, was she on the barstool on the other side
16 of this pub table closer to the brick pillar? Or
17 further away from the brick pillar?

18 A. Further away. I don't recall if she was --
19 if she was actually seated or standing.

20 Q. Okay.

21 A. But I just recall that she was across from
22 me.

23 Q. Okay. And Christine Yurgelun, she was
24 seated in the barstool -- this is somewhat

1 repetitive, but I'll ask.

2 Christine Yurgelun was seated in the
3 barstool on the opposite side of this table that
4 was -- that was closer to the brick pillar or
5 further away the brick pillar on that opposite side
6 of that table?

7 A. Further away.

8 Q. And do you recall whether Christine
9 Yurgelun had any injuries on this particular
10 evening?

11 A. She did.

12 Q. Okay. And what injuries did she have?

13 A. She had a foot -- a foot injury. I'll just
14 leave it at that.

15 Q. Okay. And to accommodate that foot injury,
16 was she sitting normally with the three of you? Or
17 did she sit in some other different way on -- on
18 that barstool?

19 A. Well, at what point during the night?

20 Q. Well, was there a point during the night
21 where she sat differently than the -- than the three
22 of you on those barstools in light of her foot
23 injury?

24 A. Yes.

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1 Q. Okay. And how did she sit differently?

2 A. Later on in the night, towards the end of
3 the night, I recall her putting her foot up. But
4 I -- but I believe she had moved out of -- I can't
5 recall at that point where she was seated exactly,
6 but I know she put her foot up on a barstool because
7 her foot hurt her.

8 Q. Okay. And did you -- if you remember, did
9 you bring over a fifth barstool or was There just an
10 unoccupied barstool by the time she put her foot up
11 at night?

12 A. I believe there was another barstool
13 brought over, about I really couldn't say for sure.

14 Q. Now, at some point on this particular
15 evening did you see someone -- strike that.

16 MR. NEFF: And I don't mean to keep being
17 picky, but we've all agreed that -- that there's a
18 sort of general stipulation that people who are
19 being referred to by names are the people we're
20 talking about? I don't need to keep addressing
21 this, Judge Josephson?

22 THE HEARING OFFICER: No. Not at all.
23 Thanks, Mr. Neff.

24 MR. NEFF: Okay.

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1 Q. So was there a point in the evening on
2 April 25th of 2019 that you saw at Bayzos Pub
3 someone who you know to be Judge Paul M. Sushchyk?

4 A. Yes.

5 Q. Okay. Okay. And where were you when you
6 first saw him?

7 A. I saw him at dinner.

8 Q. Okay.

9 A. That's where I first saw him.

10 Q. Did you speak to him at dinner?

11 A. No.

12 Q. Okay. How did he seem to you at dinner?

13 A. I -- I'm sorry. Can you repeat that
14 question?

15 Q. Well, did you make any observations of how
16 he appeared when you saw him at the dinner? Did
17 he -- was he just attending dinner and eating or --
18 did you notice anything about him at all?

19 A. No. Nothing. Just he was eating.

20 Q. Okay. And when did you next see Judge
21 Sushchyk that day?

22 A. When we left the dinner to go into Bayzos
23 Pub, as we were exiting we were in the same
24 vicinity, and we started talking as we did that

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1 short walk up into the pub.

2 Q. Okay. So you actually walked into the pub
3 with Judge -- Judge Sushchyk or --

4 MR. ANGELINI: Objection.

5 MR. NEFF: Or at least --

6 MR. ANGELINI: Objection, leading.

7 THE HEARING OFFICER: It is leading.

8 MR. NEFF: I'm sorry.

9 THE HEARING OFFICER: I'll allow it.

10 MR. NEFF: All right.

11 A. Yes.

12 Q. Okay. Okay. And did you have any
13 conversation with him at that time?

14 A. Yes.

15 Q. Okay. And what did you talk to him about?

16 A. I don't remember. I don't remember, but it
17 was just chitchat. Nothing.

18 Q. Okay. And did you notice anything about
19 Judge Sushchyk or -- Judge Sushchyk at that point in
20 time?

21 A. No.

22 Q. Okay. And among -- okay.

23 And so when you arrived in Bayzos Pub and
24 sat down with Emily Deines and Christine Yurgelun,

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1 and the third person is -- Jacqueline Campbell, no?

2 A. Denise Fitzgerald.

3 Q. Denise Fitzgerald.

4 Where did Judge Sushchuk go?

5 A. Well, when I walked into the pub -- or when
6 we walked into the pub, there were a lot of people
7 in the pub at that point. I had seen the people
8 that I hadn't seen in a while, judges. So I said
9 "hello" -- I stopped and said "hello," I believe, to
10 Chief Justice Carey, one other judge, and -- and
11 then approached the table.

12 I don't know -- so at that point I don't
13 know where Judge Sushchuk went. That's where we
14 parted.

15 Q. Okay. And when -- or excuse me. I should
16 ask.

17 Where were you when you next saw him?

18 A. At the table.

19 Q. Okay. So -- and when you're saying "at the
20 table," you're referring to the -- the table in the
21 foreground in Exhibit 11 -- excuse me, the
22 bar-height round table in the foreground in
23 Exhibit 11 that we've been talking about earlier
24 today?

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1 A. Yes.

2 Q. Okay. Okay.

3 And where was Judge Sushchyk when you saw
4 him at that point?

5 A. He approached the table. He approached the
6 table. So if you see in that photo there's a brick
7 wall. He approached from behind the brick wall, so
8 it would have been across from me.

9 Q. Okay. Okay. Meaning on the opposite side
10 where -- if I remember correctly -- you said
11 Jocelyne and maybe Christine were sitting
12 initially, at least?

13 A. Yes. Or at least in that area, yes.

14 Q. Okay. And how did Judge Sushchyk seem to
15 you at that particular point in time? Did he seem
16 okay or did you see him at all under the influence
17 of alcohol?

18 A. He seemed fine.

19 Q. Okay. Did he seem tired to you at all that
20 day, at any point?

21 A. I don't know if I could say. Nothing --
22 nothing out of the usual.

23 Q. And how long have you known Judge Sushchyk?

24 A. I had -- well, I've known him, I would say,

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1 six years. I mean, I've known of him. I don't know
2 him, but when I worked for the Worcester Probate and
3 Family Court, I covered the lawyers line of the
4 counter in the registry, and that's how I first met
5 him.

6 Q. So -- so if you had to say how many years
7 you've had some sort of variety of professional
8 contact with him, how long have you known him at
9 least in a professional capacity?

10 MR. ANGELINI: Sorry. Your Honor, excuse
11 me. Excuse me.

12 THE HEARING OFFICER: Yes.

13 MR. ANGELINI: I can't hear either Mr. Neff
14 or the witness very clearly. I catch some of the
15 words.

16 Mr. Loos -- I'm sorry --

17 MR. NEFF: Okay. I didn't realize.

18 MR. ANGELINI: -- is there any way we can
19 help this?

20 MR. NEFF: I'm moving a lot, but I -- I do
21 have a set of headphones I can put on.

22 THE HEARING OFFICER: May I?

23 MR. NEFF: Let me step away for a moment.
24 I do have a set of headphones that --

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1 THE HEARING OFFICER: Mr. Neff. Hang on,
2 Mr. Neff.

3 MR. NEFF: Yes. Oh, okay. No?

4 THE HEARING OFFICER: Let me see if I can
5 handle this, okay?

6 Mr. Loos, is there a way of being able to
7 up the audio from either end for Mr. Angelini?

8 THE REPORTER: He could turn up the volume
9 on his computer, perhaps.

10 MR. ANGELINI: It's not the -- it's not the
11 volume. It's the words become garbled.

12 THE HEARING OFFICER: Okay. Okay.

13 Well, if you want to put on a headset,
14 Mr. Neff, that's entirely up to you, but I don't
15 think that that will help with Ms. Patsos' answers.

16 THE REPORTER: Just speak up, I think.

17 THE HEARING OFFICER: I'm sorry, Mr. Loos.

18 THE REPORTER: Just speak up and make sure
19 you're one at a time.

20 THE HEARING OFFICER: Yeah.

21 MR. NEFF: Okay. I will do my -- I will
22 leave off the headphones for now, but let's -- I
23 will see what I can do about making sure I speak up.

24 THE HEARING OFFICER: Great.

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1 BY MR. NEFF:

2 Q. I'm not sure exactly where we left off, but
3 you saw Judge Sushchyk -- excuse me.

4 I asked you about seeing Judge Sushchyk a
5 second time while you're sitting at the table.

6 Approximately what time did you see him
7 that second time?

8 MR. ANGELINI: Objection.

9 THE HEARING OFFICER: Overruled.

10 Well, Mr. Angelini, what's the basis?

11 MR. ANGELINI: The last question I asked --
12 I heard was for how many years she has known of
13 Judge Sushchyk. I didn't -- if there was a question
14 about a second time, I didn't hear it. I'm sorry.

15 THE HEARING OFFICER: Okay. I don't
16 think -- I think you're right.

17 I think, Mr. Neff, I don't think we got a
18 second time, but...

19 MR. NEFF: That's fine. No. That's a good
20 reminder, because, you're right, that's not where I
21 left off.

22 Q. I left off with asking how long have you
23 known Judge Sushchyk professionally as of now,
24 Ms. Patsos?

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1 A. I would say about six, seven years.

2 THE HEARING OFFICER: Can you hear Attorney
3 Patsos, Mr. Angelini?

4 MR. ANGELINI: Yeah. I can, your Honor.
5 Thank you very much for asking.

6 THE HEARING OFFICER: Okay. Thank you.

7 MR. NEFF: I apologize, again, Judge. Can
8 we take one -- I just need to take a brief bathroom
9 break.

10 THE HEARING OFFICER: All right. Fine.

11 MR. NEFF: I'm the one who's keeping us
12 hear so long already, but if you don't mind.

13 THE HEARING OFFICER: Let's -- let's do
14 five minutes at most and we'll get underway whenever
15 everyone's back.

16 MR. NEFF: Great. Thank you.

17 THE HEARING OFFICER: Yep.

18 (Recess taken)

19 MR. NEFF: Okay. Okay. So thanks, again,
20 for the break. I'm sorry to keep asking. No matter
21 how much air conditioning we put in this room, it
22 just seems to be very, very hot, and it makes me
23 thirsty.

24 Q. In any event, as Mr. Angelini reminded me,

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1 I was asking about -- Ms. Patsos, I was asking you
2 about how long you've known Judge Sushchyk. You
3 said you've known him for about seven years.

4 How did you first get to know Judge
5 Sushchyk professionally?

6 A. When I was a deputy assistant register at
7 the Worcester Probate and Family Court.

8 Q. And -- and in what capacity doing that job
9 did you get to know Judge Sushchyk?

10 A. I worked at the front counter, covered the
11 lawyers' line --

12 Q. Uh-huh.

13 A. -- and I assisted lawyers with procedural
14 questions and reviewing filings and things like
15 that.

16 Q. And how long did you do that job in
17 Worcester?

18 A. I did -- that's actually where I started,
19 and then after about three years I -- I became --
20 well, I was on loan to the administrative office to
21 work on the implementation of the MUPC and the MUTC.

22 Q. Did you continue to have professional
23 contact with Judge Sushchyk after -- after you left
24 that initial role or --

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1 A. No.

2 Q. -- was after those three years basically
3 the end; you just kind of reunited eventually, if
4 not -- well, actually I shouldn't -- I shouldn't
5 assume.

6 You did that job for three years, and then
7 you moved on to a new job.

8 Did you interact with Judge Sushchyk
9 professionally again at all? Or -- or was the --
10 the next time you saw him at this conference in
11 spring of 2019?

12 A. I may have received an e-mail on an MUPC,
13 Massachusetts Uniform Probate Code, procedural
14 question while he was a lawyer. I did a lot of
15 trainings, as I said.

16 But no, I didn't really see him again until
17 he became a judge.

18 Q. Okay. Great.

19 Okay. And I think I've asked you, but you
20 know someone by the name of Emily Deines?

21 A. Yes.

22 Q. Okay. And did you see any contact,
23 physical contact of any kind between Emily Deines
24 and Judge Sushchyk while you all were seated at a

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1 table at Bayzos Pub on April 25th, 2019?

2 A. No.

3 Q. Okay. While you were seated at the table
4 with Ms. Deines and others, and Judge Sushchyk --
5 well, strike that.

6 At a certain point in that evening you were
7 seated at that table at Bayzos Pub that you pointed
8 out in the exhibit. Ms. Deines was seated there.
9 Judge Sushchyk --

10 I'm sorry. You saw Judge Sushchyk a second
11 time on April 25th; is that true? Like after --

12 MR. ANGELINI: Objection. Leading. I
13 object.

14 MR. NEFF: I'm trying to expedite a little
15 bit.

16 MR. ANGELINI: It's still leading, and I
17 object.

18 THE HEARING OFFICER: I'll sustain it.

19 MR. NEFF: I'm trying to move it along.

20 Q. So you already said that you walked in and
21 did not sit with Judge Sushchyk initially.

22 Did you see Judge Sushchyk again at Bayzos
23 Pub on the evening of April 25th?

24 A. Yes.

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1 Q. Okay. And where were you when you saw him
2 a second time at Bayzos Pub on April 25th?

3 A. I was seated at that pub table.

4 Q. Okay. And who -- who was still -- or who
5 was at that table with you at that point in time?

6 A. Emily was seated to my left, and Christine
7 and Jocelynn were there as well.

8 Q. Okay. And so Emily is seated to your left.
9 Jocelynn, would you describe, as, like, diagonally
10 across from Emily, or directly across from Emily at
11 the table at this point in time?

12 A. I honestly I would say diagonally across
13 from her, I would say.

14 Q. Okay. No. That's fine.

15 And from that -- you said that Judge
16 Sushchuk approached the table from your -- as far as
17 you saw, approached the table coming from basically
18 the left-hand side of that photo around one of the
19 brick pillars and kind of toward your table.

20 Is that true?

21 A. Correct.

22 Q. Is that an accurate way to put it?

23 A. Yeah. Yeah.

24 Q. And as he passed Ms. Deines, you did not

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1 see any contact, physical or otherwise, between
2 Ms. Deines and Judge Sushchyk?

3 A. No, I did not.

4 Q. Okay. And once Judge Sushchyk arrived at
5 the table, did you have any conversation with him?

6 A. Yes.

7 Q. Okay. And what did you talk to him about?

8 A. He offered to buy us a drink.

9 Q. Okay. And when you said "he offered to buy
10 us a drink," who was he offering to buy drinks for?

11 A. The table.

12 Q. Everyone at the table? Okay.

13 A. Yes.

14 Q. Okay. And did everyone take him up on that
15 offer or only some people?

16 A. I don't know who did, but a few of us did.

17 Q. Okay. Did you -- did you take him up on
18 his offer to buy you a drink?

19 A. I did.

20 Q. Did he buy you a drink?

21 A. Yes.

22 Q. And did he buy himself a drink at the same
23 time?

24 A. I don't -- I don't know. I don't remember.

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1 No.

2 Q. Okay. And how -- how -- how did the
3 mechanics of buying those drinks work? Did he leave
4 the table and go to the bar and buy the drinks and
5 come back? Or did a waiter come by and he just
6 placed an order on all your behalf?

7 A. He went up to the bar.

8 Q. Okay. And when he came back, how many
9 drinks did he come back with?

10 A. I don't honestly recall.

11 Q. Okay. But there was one for you?

12 A. Yes.

13 Q. Okay. And there was one for -- was there
14 one for Jacqueline (sic)?

15 A. Jocelynnne?

16 Q. Jocelynnne, I should say.

17 A. I believe Jocelynnne, yeah. I believe
18 Jocelynnne had a drink, yeah.

19 Q. And do you recall what anyone drank that
20 night?

21 A. No. Just what I drank.

22 Q. Do you recall at a certain point discussing
23 with Judge Sushchuk that he had a particular type of
24 whiskey that he liked to drink?

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1 A. Yes.

2 Q. And what was that whiskey? Do you recall?

3 MR. ANGELINI: I didn't hear the question.
4 I'm sorry.

5 Q. What was the type of whiskey that Judge
6 Sushchuk told you that he -- he preferred to drink?

7 A. I don't -- I don't remember the brand, but
8 I just recall that he said that he enjoyed these
9 particular type of Irish whiskey, but I don't
10 remember particular brand.

11 Q. Do you recall at any point having a
12 discussion with him about a flask he liked to carry
13 containing that particular type of whiskey he was
14 fond of?

15 A. I remember the -- the -- the idea of a
16 flask, or the issue of a flask coming up in
17 conversation, yes.

18 Q. Do you recall seeing a flask?

19 A. I did not see a flask, no.

20 Q. You did not see a flask.

21 A. I did not, no.

22 Q. Okay. Okay.

23 At a certain point in time while you
24 were -- while you were having a conversation with

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1 Judge Sushchuk, did you observe anything about Emily
2 Deines -- well, was Emily Deines -- did you observe
3 anything about Emily Deines?

4 A. Yes.

5 Q. Okay. And what did you observe about her?

6 A. At one point I remember looking at her, and
7 she gave me a particular look with her eyes. You
8 know, very wide-eyed is how I would describe it.

9 Q. If you had to ascribe an emotional state or
10 demeanor to her at that particular moment or time,
11 how would you describe her?

12 MR. ANGELINI: My objection. My objection.

13 THE HEARING OFFICER: I'll allow it.

14 Overruled.

15 Go ahead.

16 A. She -- I guess I would describe it as,
17 like, trying to get my attention. Basically she did
18 this with her eyes (indicating), like wide-eyed.

19 Q. Did you know why she was trying to get your
20 attention?

21 A. No, I didn't.

22 Q. Okay. And did she say anything to you
23 about why she was trying to get your attention?

24 A. No.

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1 Q. Okay. And for what length of time did you
2 observe her trying to get your attention?

3 A. It was very quick. Five seconds. It
4 wasn't too long. It was very quick.

5 Q. And while she was trying to get your
6 attention, what, if anything, else were you doing?

7 A. Gabbing with everybody at the table.

8 Q. Okay. Was Judge Sushchuk still present?

9 A. Yes.

10 Q. Okay. And where was he in relation to you
11 while Emily Deines was looking at you in that
12 particular way?

13 A. Across from me at the table.

14 Q. Okay. And when you say "across from you at
15 the table," was he on the other side of the table?
16 Was he diagonal -- well, what do you mean by
17 "across" from you?

18 A. Just across from the table -- I guess that
19 would be diagonal -- towards the brick -- that
20 brick -- I don't know what you call that -- that
21 brick part of the wall.

22 Q. Was he on your side of the table or on the
23 other side of the table at that point?

24 A. Across from me. The other side.

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1 Q. And how long after Emily stopped looking at
2 you in that particular way -- well, strike that.

3 Was there a point in time that Emily Deines
4 eventually left the bar and left you behind at the
5 bar with your friends?

6 A. Yes.

7 Q. Okay. And how long after the point in time
8 when she was looking at you in that particular way,
9 how long afterward was it that she left?

10 A. No more than 15 minutes.

11 Q. Okay. Did she say anything to you as she
12 left?

13 A. No.

14 Q. Okay.

15 A. Not that I recall.

16 Q. She just left.

17 Do you recall having lunch with her, or
18 trying to have lunch with her the second day of this
19 conference?

20 A. No.

21 Q. Okay. Do you recall trying to have a
22 conversation with her about a -- about a subject you
23 needed to catch up on --

24 MR. ANGELINI: Objection.

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1 Q. -- on the second day of the conference?

2 MR. ANGELINI: Objection.

3 THE HEARING OFFICER: Overruled.

4 A. Can you repeat the question?

5 Q. Do you recall having a conversation with
6 her about -- about a subject that you needed to
7 catch up on on the second day of the conference?

8 A. No -- I don't think I understand your
9 question. I'm sorry.

10 Q. All right.

11 Well, let me ask you it differently.

12 On the second day of the conference in your
13 interactions and observations of Ms. Deines, did she
14 give you any reason to believe that there was
15 something that she wanted to discuss with you?

16 A. Yes.

17 Q. Okay. And what did she do or say that
18 caused you to believe that she had something that
19 she wanted to discuss with you?

20 MR. ANGELINI: I object.

21 THE HEARING OFFICER: Overruled.

22 A. She told me she wanted to talk to me about
23 something.

24 Q. And did you have an opportunity to have a

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1 discussion with her on that day, April -- Friday,
2 April 26th, during the second day of the conference?

3 A. No. Actually, no, I did not.

4 Q. Did you eventually -- not what you spoke
5 with her, but were you able to eventually catch up
6 with Emily and have a conversation about what she
7 wanted to discuss with you on that day?

8 A. I did have a conversation with her the
9 following Monday.

10 Q. So approximately, let's say, two to
11 three days after -- after the Friday night you
12 eventually did speak with Emily about what she
13 wanted to tell you?

14 A. Yes.

15 Q. Okay. And was that -- where did that
16 conversation take place?

17 A. I was in my office over -- at the time our
18 office was at the John Adams courthouse, so I was in
19 my office there. She was, I believe, in her office
20 in Northampton when she called me.

21 Q. She called you. Okay.

22 And, again, not what she said at all, but
23 how would you describe her temperament or emotions
24 during this phone call?

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1 A. I would say flabbergasted would probably be
2 the best way to describe it.

3 Q. Was she seeking any advice from you?

4 A. No, not necessarily. No. I would say no.

5 Q. Did you offer her any advice during this
6 phone conversation on what would have been Monday
7 April 20th -- excuse me, 30th?

8 A. No. I think it was the 29th.

9 Q. Did you offer any advice on that day?

10 A. Yes.

11 Q. Okay. I'm sorry. Just give me one moment,
12 please.

13 At some point after your conversation with
14 Ms. Deines you ultimately were asked by Chief
15 Justice Casey to also have a conversation with him
16 about a particular subject matter, were you not?

17 A. Yes.

18 Q. Okay. And when in relation to -- or how
19 long after your conversation with Ms. Deines did you
20 have a conversation with Chief Justice Casey?

21 A. I don't remember the exact date, but I
22 would say a couple of weeks after; somewhere around
23 there.

24 Q. And again, not what was said, or

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1 necessarily the specifics, but was the subject
2 matter of your conversation with Emily Deines and
3 with Chief Justice Casey basically the same?

4 A. I think they were a little different. Same
5 topic, but...

6 Q. And did the topic involve something
7 relating to April -- something that had happened on
8 April 25th of 2019?

9 A. Yes.

10 Q. After Emily left the Bayzos Pub on
11 April 29th of 2019 (sic), how long did you remain?

12 A. I would say maybe a couple of hours.

13 Q. And did you basically stay until the bar
14 was about to close? Or did you leave before the bar
15 closed?

16 A. It was closing.

17 MR. ANGELINI: Objection. My objection,
18 your Honor. Relevance.

19 THE HEARING OFFICER: Overruled.

20 Q. Okay. Well, let me ask you, when you made
21 your decision to leave the bar on April 25th, or
22 maybe the early morning hours of April 26th, 2019,
23 did anyone offer you a ride from the bar back to the
24 room or lodging where you were staying that evening?

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1 A. Yes.

2 Q. Okay. And who made that offer to you?

3 A. Judge Sushchyk.

4 Q. And did he make that offer to any other
5 people, or just to you?

6 A. No. It was -- I was there. It was
7 probably, I would say, like around 11:00, and it was
8 myself, Jocelyne Welsh, Christine Yurgelun and
9 Denise Fitzgerald.

10 Q. Okay. And as of that point in time, if you
11 know, how many -- between the time you had seen
12 Judge Sushchyk join you at the table that night
13 until the time he then offered to leave with you and
14 drive you home, how many alcoholic beverages did he
15 consume?

16 MR. ANGELINI: Objection.

17 A. I have no idea.

18 Q. If you know.

19 MR. ANGELINI: My objection.

20 THE HEARING OFFICER: I couldn't hear
21 whether the question was how many did the witness
22 consume or was it how many your client,
23 Mr. Angelini, consumed.

24 MR. NEFF: My question was about the

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1 client, Judge.

2 THE HEARING OFFICER: Okay. Well, I'll
3 sustain what the answer -- I'll sustain. I'm not --
4 I don't understand that Ms. Patsos was in a position
5 to know how many were consumed, so that's the reason
6 I'm sustaining it. If there's -- if you can offer
7 evidence that she would be in a position to know
8 that, I'll hear it.

9 MR. NEFF: Okay.

10 Q. Well, did you, over the course of that
11 evening, Ms. Patsos, observe how many drinks Judge
12 Sushchuk had at Bayzos Pub?

13 A. I saw -- I only saw him have one drink.

14 Q. Throughout the entire evening?

15 A. Yes.

16 Q. Okay. Did you see him consume any alcohol
17 from a flask over the course of that evening?

18 A. No.

19 Q. Okay. Did he, at any point or points
20 during the course of that evening, excuse himself to
21 use the restroom?

22 A. I don't -- I don't remember.

23 Q. Did you have, when -- I appreciate that you
24 took a ride from Judge Sushchuk from a bar on the

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1 Cape in a relatively quiet area back to your room,
2 but did you have any concerns whatsoever about his
3 state of impairment or sobriety as a consequence of
4 consuming alcohol that night when he was driving you
5 and others home -- not home, but to your rooms on --
6 after leaving Bayzos Pub?

7 A. No.

8 MR. NEFF: Okay. If I could have one
9 moment.

10 THE HEARING OFFICER: Yes.

11 MR. NEFF: I have no further questions.

12 THE HEARING OFFICER: All right.

13 Mr. Angelini?

14 MR. ANGELINI: Yes.

15 CROSS-EXAMINATION

16 BY MR. ANGELINI:

17 Q. Good afternoon, Attorney Patsos.

18 A. Good afternoon.

19 Q. Let me just ask a very few questions, and
20 I'll try to keep my voice up. And if you would do
21 the same, I'd appreciate it.

22 Are you friendly with Ms. Deines?

23 A. Yes, I am.

24 Q. And have you and she socialized from time

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1 to time?

2 A. Yes, we have.

3 Q. Have -- over what period of time have you
4 been social friends as well as colleagues at work?

5 A. I would say over the last, I would say,
6 five or six years.

7 Q. Okay. Have you -- and would you describe
8 that socialization, please?

9 A. Well, we were more social when she was
10 working in the admin office here in Boston, but we
11 have gone out after work to have dinner. I went to
12 her -- I think it was a 30th birthday party that her
13 family gave. When her son was born, I got him a
14 present. I believe I was invited to a birthday
15 party -- I don't know, but I believe I was also
16 invited to his birthday party.

17 Less social once she moved out west.

18 Q. But have you remained friends with her even
19 as of today?

20 A. Yes. Yes.

21 Q. And I just want to be clear about your
22 relationship with Judge Sushchuk.

23 A. Uh-huh.

24 Q. I understood from your question that you

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1 met him when you were staffing a responsibility at
2 the Worcester probate court.

3 Is that right?

4 A. Correct.

5 Q. And he was then a lawyer who -- who, as
6 part of his practice, was probate law, I take it?

7 A. Correct.

8 Q. And what was the nature of your
9 interaction? Was it purely professional, or did it
10 have a social aspect to it?

11 A. Purely professional.

12 Q. And has that -- and I think you said -- and
13 I had a little trouble hearing you, so I'm going to
14 risk pursuing this again -- that that was -- that
15 stint of yours ended about three years ago.

16 Am I right?

17 A. No. Longer than that. Longer than that.

18 Q. Okay. Then I misheard.

19 How long ago did you leave the Worcester
20 probate court?

21 A. After about three years of working there, I
22 became -- I went on loan to the Chief's office. It
23 was then Chief Justice Carey. She was the Chief
24 Justice of the Probate and Family Court, but I still

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1 would go back to Worcester a couple of days. It
2 wasn't -- I wasn't officially in that office until
3 Chief Justice Ordonez. So about, I'm going to say,
4 seven years ago.

5 Q. Okay. And during that seven years, I take
6 it your testimony to be that the only contact you've
7 had with Judge Sushchik was perhaps some question
8 about the Massachusetts Uniform Probate Code or
9 something of that nature?

10 A. Correct.

11 Q. Aside from this session of the Bayzos Pub,
12 have you ever socialized with him?

13 A. No. Never.

14 Q. Okay. Now, when Judge Case -- Sushchik
15 came to the table that night, I think you said you
16 were all there -- that is, you and your -- the other
17 lawyers and your colleagues were there.

18 Is it fair to say that you were engaging in
19 maybe you used the phrase "chitchat," talking to
20 each other?

21 A. Yes. Yes.

22 Q. And was that a friendly sociable occasion?

23 A. Yeah. Definitely.

24 Q. Did it continue that way during the entire

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1 period that Judge Sushchuk was there?

2 A. Yes.

3 Q. And did you observe Judge Sushchuk having
4 any conversation with Ms. Deines?

5 A. Well, we were all at the table at one point
6 together, all gabbing.

7 Q. Okay. And that included Judge Sushchuk and
8 you and Christine and Emily, all of you?

9 A. Yes.

10 Q. Okay. Thank you.

11 Did you see anything that happened that
12 night while you were there which struck you as, in
13 any way, unusual?

14 A. No.

15 Q. And when Judge Sushchuk later offered you a
16 ride home, I take it from your testimony that he
17 gave the group of you a ride -- not home, but back
18 to your -- the area where you were staying; is that
19 right?

20 A. Correct.

21 Q. And was that a -- how long a distance was
22 that from the pub to where -- to where the
23 residences that you were all staying at were
24 located?

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1 A. I'd have to say, if I were to make just an
2 educated guess, I would say about half a mile at
3 least. It was very, very dark. It would have been
4 a dangerous walk.

5 MR. ANGELINI: It would have been a
6 dangerous walk. All right. Thank you.

7 I have no further questions. Thank you
8 very much.

9 THE HEARING OFFICER: All right.
10 Anything else, Mr. Neff?

11 MR. NEFF: Nothing further, Judge.

12 THE HEARING OFFICER: All right.

13 Would you mind if I ask Attorney Patsos a
14 couple of questions?

15 MR. NEFF: No.

16 MR. ANGELINI: I don't mind.

17 MR. NEFF: Of course not.

18 THE HEARING OFFICER: Okay.

19 Attorney Patsos --

20 THE WITNESS: Yes.

21 THE HEARING OFFICER: -- regarding the
22 testimony that you've given concerning the night of
23 the conference when you were at the -- at the table,
24 and -- and Ms. Deines, you testified, seemed to be

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1 looking at you to get your -- to get your attention
2 in some manner.

3 Is that right?

4 THE WITNESS: Correct.

5 THE HEARING OFFICER: Okay. I'm going
6 to -- hang on one second. I'm sorry. There is
7 someone whose video is on right next to your picture
8 on this, and it's very distracting.

9 Mr. Loos, please exclude that individual.

10 THE REPORTER: He left.

11 THE HEARING OFFICER: Thank you very much.
12 That's the second time with that same
13 individual.

14 MR. ANGELINI: No, I can still see it.

15 THE HEARING OFFICER: I'm sorry to
16 interrupt.

17 THE REPORTER: One second.

18 THE HEARING OFFICER: At the time when you
19 saw Ms. Deines moving her eyes in a way that -- or
20 "wide-eyed" I think was how you described it --
21 where was Judge Sushchyk?

22 THE WITNESS: Across the table from me.

23 THE HEARING OFFICER: Where was he located
24 in relationship to Ms. Deines?

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1 THE WITNESS: Across -- it would have been
2 across from her.

3 THE HEARING OFFICER: Across the table from
4 her.

5 THE WITNESS: Right.

6 THE HEARING OFFICER: Where had he been
7 immediately prior to that?

8 THE WITNESS: I don't recall. I don't
9 know.

10 THE HEARING OFFICER: Was there any time
11 that you observed him behind Ms. Deines' barstool?

12 THE WITNESS: The only time I vaguely
13 remember was when we first sat down. I believe he
14 went by her.

15 THE HEARING OFFICER: Okay. And when was
16 that in relationship to when you saw her eyes widen?

17 THE WITNESS: I would say five minutes
18 before or somewhere around there.

19 THE HEARING OFFICER: And during the time
20 that you saw Judge Sushchyk behind Ms. Deines'
21 barstool, did you observe any point at which he was
22 not in motion, in other words moving behind her
23 barstool?

24 THE WITNESS: No. No.

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1 THE HEARING OFFICER: Did you observe him
2 stop at any point in that location?

3 THE WITNESS: No.

4 THE HEARING OFFICER: All right.

5 Are there any objections to any of the
6 questions that I've asked?

7 Mr. Neff?

8 MR. NEFF: No, your Honor.

9 THE HEARING OFFICER: Mr. Angelini?

10 MR. ANGELINI: No, your Honor.

11 THE HEARING OFFICER: Any follow-up
12 questions?

13 MR. ANGELINI: No, your Honor.

14 THE HEARING OFFICER: Mr. Neff?

15 MR. NEFF: No. No, your Honor.

16 THE HEARING OFFICER: Okay.

17 Ms. Patsos, thank you very much. I do have
18 to ask you, again, concerning the questions that I
19 asked at the beginning.

20 Have any of your answers changed?

21 THE WITNESS: No.

22 THE HEARING OFFICER: Okay. Again, thank
23 you very much. You're welcome to stay and observe,
24 but you're excused as a witness.

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1 THE WITNESS: Thank you.

2 MR. NEFF: Sorry. I'm sorry, your Honor.
3 I was just making sure I knew who we had -- we
4 wanted to go next.

5 THE HEARING OFFICER: Okay. Great.

6 MR. NEFF: And I believe the witness we are
7 calling is Jocelyne Welsh who is ready and
8 hopefully in the room.

9 THE HEARING OFFICER: Okay.

10 MR. NEFF: I think she goes by the name
11 Debb Welsh. So in our chat room -- and this is, I
12 guess, for you, Mr. Loos, because I did not know
13 that when we gave you a witness list.

14 THE REPORTER: One moment. I'll find her.

15 MR. NEFF: She may not -- you may not be
16 letting her in because she -- she has the name Debb
17 Luce -- Welsh, not Jocelyne Welsh.

18 Is Debb a middle name or something?

19 THE HEARING OFFICER: Shall I unmute her?
20 I see her on the -- on the screen.

21 MR. ANGELINI: I see it.

22 THE HEARING OFFICER: Okay. Great.

23 Before we get to Ms. Welsh's testimony, I
24 would just like to state not only for the record,

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1 but for any individuals who are viewing this by
2 Zoom, that there have been a number of occasions
3 where I've asked people to please make sure that
4 their video feed is off; and everyone, almost, has
5 complied with that. And I will say, if you do not
6 comply with it, we will exclude you, because part of
7 what we're doing here requires everyone's attention,
8 and we cannot have the kind of distraction that we
9 wouldn't allow in a courtroom.

10 The second thing I'm going to say is,
11 anyone who is observing engages in a chat or uses
12 the chat feature and it comes to my attention that
13 it is chatting with any of the participants,
14 including me, you will be excluded. The same as we
15 would not allow someone to stand up in court and
16 make comments, we will not allow it in this format,
17 either. And if that's not acceptable to -- to you,
18 and you're viewing it, I suggest that you find
19 another way to watch the proceedings, because you
20 won't be able to watch them through this mechanism.
21 You might be able to view them later on, but viewing
22 them live will not be an option that's available to
23 you.

24 Mr. Loos, is there anything that I've said

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1 that doesn't comport with your understanding of how
2 the platform, number one, works; and number two,
3 with what has transpired occasionally over the past
4 two days?

5 THE REPORTER: No, that's fair.

6 THE HEARING OFFICER: Okay. I don't mean
7 to put you on the spot, but I just did. I'm sorry.

8 But no, if there is anything, by all means,
9 just jump right in, because your -- you're the guy
10 who knows about this.

11 THE REPORTER: Great. I will.

12 THE HEARING OFFICER: Okay. All right.
13 Thank you. All right.

14 Then, Mr. Neff, your next witness is
15 present, and this is Ms. Welsh.

16 MR. NEFF: Welsh, and we said Debb.

17 THE HEARING OFFICER: Okay. Let me...

18 Ms. Welsh, good afternoon.

19 THE WITNESS: Good afternoon, Judge.

20 THE HEARING OFFICER: My name is Bertha
21 Josephson, and obviously I'm the Hearing Officer.

22 I need to ask you, as I have with everyone,
23 a series of questions according to the protocol that
24 the Commission is following. So bear with me. And

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1 I'll ask these again, or at least refer to them
2 again, at the end of your testimony or at any
3 breaks.

4 So if you would, kindly just state your
5 name for the record.

6 THE WITNESS: Jocelyne Deborah Welsh.

7 THE HEARING OFFICER: Okay. And,
8 Ms. Welsh, where are you physically located now?

9 THE WITNESS: In my home in Hanson,
10 Massachusetts.

11 THE HEARING OFFICER: Okay. And who's in
12 the room with you?

13 THE WITNESS: No one.

14 THE HEARING OFFICER: And what materials or
15 devices do you have with you?

16 THE WITNESS: I have my laptop with the
17 hearing on it. I have my cell phone, which is set
18 to vibrate.

19 And that's it.

20 THE HEARING OFFICER: Okay. And you
21 mentioned that you have the hearing on your laptop.

22 Is there anything else on any of your other
23 screens?

24 THE WITNESS: No.

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1 THE HEARING OFFICER: Okay. And are you in
2 communication with any persons other than those
3 conducting the examination in this matter --

4 THE WITNESS: No.

5 THE HEARING OFFICER: -- at this moment?

6 THE WITNESS: Right.

7 THE HEARING OFFICER: Okay. All right.

8 The answer is no, and thank you very much.
9 I'll turn it --

10 THE REPORTER: She needs to be sworn in.

11 THE HEARING OFFICER: Oh, thank you very
12 much, Mr. Loos. You did jump in.

13 I need you to raise your right hand,
14 Ms. Welsh.

15 (JOCELYNNE D. WELSH, sworn)

16 THE WITNESS: I do.

17 THE HEARING OFFICER: Thank you.

18 Thank you very much, Mr. Loos.

19 MR. NEFF: And if I can -- if I may
20 inquire, Judge?

21 THE HEARING OFFICER: Yes.

22 DIRECT EXAMINATION

23 BY MR. NEFF:

24 Q. Okay. Good afternoon, Ms. Welsh. Thank

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1 you for taking the time to join us.

2 I wanted to start out by asking if you
3 could just for the record tell us your name and
4 spell your last name?

5 A. Jocelynnne Deborah Welsh, W-e-l-s-h.

6 Q. Okay. And what city or town do you live
7 in?

8 A. Hanson, Massachusetts.

9 Q. And what is your date of birth?

10 A. February 28, 1950.

11 Q. What is your current employment?

12 A. I have retired from the Commonwealth of
13 Massachusetts, the Trial Court, as of July 5th,
14 2019. And since that time, I have been working on a
15 per diem basis, helping the administrative office by
16 being in the field.

17 Q. Excellent. Well, congratulations on your
18 retirement.

19 A. Thank you.

20 Q. Thank you for coming back and -- and
21 testifying for us despite the fact that you are
22 retired.

23 Can I ask, when you were fully employed by
24 the Probate and Family Court, what was your role for

1 the Probate and Family Court?

2 A. I was the administrative attorney for the
3 department.

4 Q. And what does that mean? What kind of --
5 what kind of roles do you serve as administrative
6 attorney for the Probate and Family Court
7 department?

8 A. Having worked in that same department and
9 in the administrative office for 34 years, I have
10 worked with six chief justices, and they each have
11 their own interests and priorities. Therefore, my
12 jobs have changed.

13 Q. And how long did you work for the Probate
14 and Family Court before you retired?

15 A. 34 years.

16 Q. Wow. That's very, very good.

17 Did you work in a particular area, like
18 geographic area, one of the geographic offices of
19 the Probate and Family Court? Or did you work in
20 Boston, at the Boston office?

21 A. I was in Boston in the administrative
22 office, but I also occasionally went into the field,
23 depending on what I was being asked to do.

24 Q. Can I ask you, what is your educational

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1 background?

2 A. I am a high school graduate, college
3 graduate. I went to Suffolk University Law School.

4 Q. Great. Good for you. Wonderful.

5 And after you left law school, what was
6 your first legal employment, or first employment?

7 A. As a law clerk for Chief Justice Podolski
8 several years after my graduation from law school.

9 Q. Okay. And how many years after law school
10 was it that you first started working -- it couldn't
11 have been that long -- for the Probate and Family
12 Court?

13 A. Six years.

14 Q. Okay. Great. Great. Great. Great.

15 And in your time working for the Probate
16 and Family Court, did you get to know someone who
17 also worked for Probate and Family Court by the name
18 of Ms. Emily Deines?

19 A. Yes.

20 Q. Okay. And how did you get to know her?

21 A. I have known Emily since she first became
22 employed by our department and I worked with her on
23 some matters. And sometimes she was in our office,
24 and other times she was located elsewhere.

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1 Q. Okay. Were -- were you in a position where
2 you would collaborate with little frequency, some
3 frequency, or lots of frequency -- or something
4 different -- on projects with her in -- in
5 your roles?

6 A. A lot of frequency, such as working with
7 forms creation for the Probate and Family Court
8 department. I would create them. She would fix
9 them and post them.

10 Q. And did you have a positive working
11 relationship with her?

12 A. Yes.

13 Q. And over what period of time would you say
14 you worked with her that closely?

15 A. I would say at least six years.

16 Q. Okay. Great.

17 And in addition to being, it sounds like,
18 good professional counterparts, did you have any --
19 any kind of personal relationships or go to each
20 other's houses for cookouts or anything like that
21 once you got to know her?

22 A. We did not have that sort of a
23 relationship. We did participate in things -- for
24 example, a baby shower the office had when she was

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1 expecting her son. So we were friendly, but not so
2 much outside of the office.

3 Q. Understood.

4 And I wanted to -- well, do you know
5 someone by the name of Judge Paul M. Sushchuk?

6 A. Yes.

7 Q. Okay. And how do you know him?

8 A. I met Judge Sushchuk when he was appointed
9 to the Probate and Family Court as a new justice.

10 Q. And why did you meet him immediately then?
11 Were you at a ceremony? Or was he appointed to a
12 court that you were working at for a period of time?

13 A. At that time I would participate in new
14 judge training, and he was one of the new judges.

15 Q. Okay. Great.

16 And -- and how long ago was that?

17 A. I believe less than two years. About a
18 year and a half, I believe.

19 Q. And so what did you train him in two years
20 ago? What kinds of training did you provide him?

21 A. Some of the projects that I was involved
22 in. For example, the availability of limited issue
23 settlement conferences. At the time I was managing
24 the guardian ad litem list, so we talked about that.

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1 And other -- you know, other things like that. But
2 specific tasks.

3 Q. Okay. Understood.

4 And did you have ongoing contact with him
5 after his appointment as a judge? Or once you kind
6 of trained him up on certain issues, did you -- did
7 you then move on and start training other judges?

8 A. I did not have further training
9 opportunities with him.

10 Q. So when was the last time you would say you
11 had any kind of training contact with Judge Sushchyk
12 before -- well, when was the last time?

13 A. In connection with that new judge training.

14 And it wasn't necessarily a one-on-one. It
15 was -- it could be a group of new judges, depending
16 on how many people were appointed.

17 Q. And following the end of your training
18 period, whether it was one-on-one or a group with
19 Judge Sushchyk, did you have any other variety of
20 contact, training or otherwise, with Judge Sushchyk
21 following that training period?

22 A. No.

23 Q. Okay. I would like to now ask you about
24 the spring 2019 Probate and Family Court conference

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1 in Brewster.

2 Do you recall attending that conference?

3 A. Yes.

4 Q. Okay. And do you recall where that was?

5 A. Ocean Edge Resort in Brewster.

6 Q. And did you stay for both days, April 25th
7 and 26th, 2019?

8 A. Yes, I did.

9 Q. Okay. And did you have a particular role
10 to train at that conference? Or were you there as
11 an observer or learner, or in some other capacity
12 there?

13 A. I was there as an observer/learner.

14 Q. Okay. Great.

15 And if you remember, because it was a
16 little over a year ago, do you recall the itinerary
17 of that first day of the -- the training conference,
18 generally at all?

19 A. Sure. There was probably a continental
20 breakfast, followed by a welcome by Chief Justice
21 Carey -- Casey, a couple of presentations, lunch, a
22 couple of more presentations, although we may have
23 had breakout groups for the judges, and then dinner.

24 Q. Great.

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1 On that first day of the conference, do you
2 recall attending a dinner, a Probate and Family
3 Court sponsored dinner approximately 7:00 p.m. that
4 day?

5 A. Yes.

6 Q. Okay. And did you go to that -- well, I
7 think I just asked you that. You went to that
8 dinner.

9 Did you go with someone or did you go
10 alone?

11 A. I was seated with other colleagues who were
12 non-judicial who were attending the conference.

13 Q. And who else were you -- who else were you
14 sitting with at that table?

15 A. Evelyn Patsos, Christine Yurgelun, Denise
16 Fitzgerald.

17 Q. Okay. And did the dinner start on time at
18 around 7:00 or not too long after as planned?

19 A. Yes.

20 Q. Okay. And about how long did the dinner
21 last?

22 A. Approximately an hour and 15 minutes or an
23 hour and a half.

24 Q. Okay. And after the dinner was concluded,

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1 did you return to your guest room at the Ocean Edge
2 or did you go somewhere else?

3 A. I went someplace else.

4 Q. And where did you go?

5 A. I went to the Bayzos Pub.

6 Q. Okay. And where is that in relation to
7 where you were having the dinner?

8 A. Very, very, very short walk within the same
9 building.

10 Q. And did you go with anyone?

11 A. I was, again, with my colleagues.

12 Q. Okay. Meaning Evelyn Patsos and --

13 A. Correct.

14 Q. Okay. And how many -- if you had to sort
15 of estimate, at least, for us, how -- how large a
16 group, or how many people -- at the time you did it,
17 at least -- left that dinner and started walking
18 over to the bar to kind of extend their evening
19 there?

20 A. Probably 15, although some people may have
21 come later.

22 Q. And when you arrived at that bar, did
23 you -- did you select a particular place to stand or
24 is it to enjoy yourself and chat while you were

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1 there?

2 A. Yes.

3 Q. Okay. And let me see if I can finally do
4 this a little bit better, but I'm going to show you
5 what I think was marked Exhibit AA and is now marked
6 Exhibit 1.

7 Did I get that right, Mr. Loos?

8 THE HEARING OFFICER: It's actually 11.

9 MR. NEFF: 11. Okay. All right. Well,
10 sorry. I'm getting there.

11 So with your permission, Judge, if I could
12 show her Exhibit 11, I'd like to ask her about that
13 photo.

14 THE HEARING OFFICER: Sure.

15 THE REPORTER: Do you want me to share
16 screen or link?

17 MR. NEFF: If you could put that up, that
18 would be great, Mr. Loos.

19 THE HEARING OFFICER: I still have it on
20 mine, so I didn't -- however you can get that to
21 Attorney Welsh.

22 THE REPORTER: It should be in her chat.

23 BY MR. NEFF:

24 Q. So what you may have received, Ms. Welsh in

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1 your chat box, as part of the Zoom platform, is a
2 link. And if you click that link, you will open a
3 web browser, and the web browser will display a
4 photograph, and that's the photograph I'm trying to
5 show you.

6 A. Okay. Maybe. It says "chat to Alexander
7 Loos (privately)." I'm not sure if that's what we
8 want.

9 THE REPORTER: That's it.

10 THE HEARING OFFICER: That's it.

11 THE WITNESS: Okay. And so I'm clicking
12 "chat."

13 THE REPORTER: Yes.

14 And there should be a link in the chat box.

15 THE WITNESS: There you go.

16 Sorry.

17 BY MR. NEFF:

18 Q. Can you see that now?

19 A. Not yet.

20 Q. I'm sorry. I don't mean to be riding
21 behind you. Just let me know when you can see it.

22 A. Okay. I can see it.

23 Q. Great.

24 Do you recognize that photo?

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1 A. Yes.

2 Q. Okay. And do you recognize that to be at
3 least a portion of the Bayzos Pub at the Ocean Edge
4 Resort where you visited way back last -- over a
5 year ago now -- spring of 2019?

6 A. Yes.

7 Q. Okay. And in the frame -- in the -- in
8 what -- the portion of the bar that is depicted in
9 that photo, do you see the area where you stopped or
10 stood or sat when you arrived in the bar to relax
11 and kind of enjoy yourself with your friends?

12 A. I believe it's the high-top, of the two,
13 furthest away from the front of the picture.

14 Q. So it's -- it's -- there are two high-top
15 tables.

16 A. Yes.

17 Q. And there is one that's sort of closer and
18 a little to the left, and then there's a second
19 high-top table depicted in this picture that is a
20 little off to the right and then just really, due to
21 perspective, I think --

22 A. Right.

23 Q. -- smaller.

24 And it's that smaller high-top table off to

1 the right where you believe you sat?

2 A. Yes.

3 Q. Okay. And I'm going to try to ask you to
4 do this so that we don't have to ask you to mark the
5 photos -- which we can do if you need to, but it's a
6 little trickier.

7 So if I could just ask, as best you can,
8 can you tell us where you were seated at that
9 particular table that night?

10 A. I believe I was seated either at the
11 closest to the brick wall, the brick pillar, or the
12 next one to the right, closer to the bar, on the
13 side closest to the front of the picture.

14 Q. So you were in one of the two barstools at
15 that table that are closer to the front of the
16 photo; you're just not sure whether you were -- you
17 were in the one next to the brick pillar or you were
18 in the one to the -- to the right of that particular
19 barstool?

20 A. Correct.

21 Q. Okay. And I probably should have asked you
22 this at the outset, but would you say this -- as
23 best you can remember at least -- fairly and
24 accurately represents what the Bayzos Pub looked

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1 like when you visited that day?

2 A. Yes.

3 Q. And -- and this also kind of fairly and
4 accurately represents the furniture and the
5 high-tops and the barstools that you were able to
6 use while you visited the bar that day?

7 A. Yes.

8 Q. Okay. Thank you.

9 And who else sat at that table with you
10 that day?

11 A. Denise Fitzgerald, Christine Yurgelun,
12 Emily Deines, and Evelyn Patsos.

13 Q. Okay.

14 A. I believe Denise may have been standing
15 since there are four stools.

16 Q. Okay. And as best you can -- and we're
17 going to try to have to not mark it if we don't have
18 to -- can you try to describe, as best you can,
19 where each of those four parties were either seated
20 on the remaining three stools, or maybe where that
21 fourth person, who I think you said was -- well, I
22 won't put words in your mouth. I think you said a
23 fourth person may have remained standing.

24 Can you -- can you try to describe for us

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1 where they were?

2 A. Sure.

3 I believe I was next to the pillar. Denise
4 Fitzgerald was standing next to me. Christine
5 Yurgelun was seated at the next stool, and then
6 Evelyn Patsos at the next stool, and Emily Deines
7 closest to the pillar on the other side of the
8 high-top.

9 Q. Great.

10 And do you remember whether or not
11 Christine Yurgelun had any kind of foot injury on
12 this particular date?

13 A. She did.

14 Q. Okay. And was she able to sit in one of
15 those stools normally? Or did she require any kind
16 of special assistance?

17 A. I believe she was able to sit on it, but
18 she had to support her leg at some point because it
19 was throbbing, I believe.

20 Q. Okay. And I'm sorry if I missed it, but
21 who is it that you said also joined you at that
22 table but really just kind of stood and maybe kind
23 of circled around and socialized?

24 A. I believe that was Denise Fitzgerald.

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1 Q. Okay. Okay. And approximately what time
2 would you say you all arrived there at that table at
3 the Bayzos Pub on April 25th, 2019?

4 A. Approximately 8:45.

5 Q. Okay. And at some point in time while you
6 were at the Bayzos Pub that night did you see Judge
7 Paul Sushchyk enter?

8 A. Yes.

9 Q. Okay. And where were you when you saw him
10 enter?

11 A. I think I was seated at the stool with my
12 back to the entrance coming from the direction of
13 the restaurant.

14 MR. NEFF: I'm going to -- I'm maybe going
15 to -- I'm doing slightly -- well, with photos I'm
16 now probably going to do less well with photos, and
17 try to show you another one which was marked as
18 Exhibit F, Mr. Loos, and I do not know what number
19 it was assigned.

20 THE HEARING OFFICER: Number 1.

21 MR. NEFF: So this is the one that's Number
22 1. Right.

23 THE HEARING OFFICER: This is Number 11,
24 Mr. Neff.

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1 MR. NEFF: So AA is --

2 THE HEARING OFFICER: 11.

3 MR. NEFF: AA is 11, okay.

4 F is number 1, though.

5 THE REPORTER: Yes.

6 MR. NEFF: Okay. Okay. So that's all
7 right. I guess that's the source of my confusion.

8 So I would like, with Judge Josephson's
9 permission, to show Ms. Welsh what has been marked
10 as Exhibit 1 for purposes of this hearing.

11 THE HEARING OFFICER: Sure.

12 MR. NEFF: I'm not always able to tell if
13 someone can see the photo.

14 Q. Can you --

15 A. I'm still looking at Exhibit AA.

16 THE REPORTER: It's in the chat now.

17 THE WITNESS: You're supposed to tell me
18 what you would like me to do.

19 THE REPORTER: Go to the chat again, and
20 there's another link there for you.

21 THE WITNESS: Am I removing this picture,
22 the AA picture?

23 THE HEARING OFFICER: I think it will
24 automatically just superimpose itself.

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1 THE WITNESS: The problem is I don't see
2 chat again.

3 THE HEARING OFFICER: Okay. Look at the
4 bottom of your screen.

5 THE WITNESS: Uh-huh. And hover the mouse
6 over the screen.

7 THE HEARING OFFICER: Do you see a little
8 thing at the very bottom that says "chat"?

9 THE WITNESS: No. At the bottom it says
10 21 percent, and plus, and arrows.

11 THE HEARING OFFICER: Now we're beyond my
12 capabilities.

13 THE REPORTER: Close -- close the browser.
14 I think you'll see the chat, the Zoom.

15 THE WITNESS: Close it.

16 Okay. I think...

17 Okay. There is one that says 3:42 p.m. and
18 one that says 3:34 p.m. Am I looking at the
19 3:42 p.m.?

20 THE REPORTER: I believe so.

21 THE WITNESS: Exhibit F?

22 THE HEARING OFFICER: That's the one.

23 THE WITNESS: Okay.

24

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1 BY MR. NEFF:

2 Q. There you are.

3 And that is hopefully useful after all
4 that.

5 And it's -- and I'll ask, does that -- as
6 best as you can recall, over a year later -- fairly
7 and accurately represent that portion of the Bayzos
8 Pub which is essentially from the opposite
9 perspective of the other photo?

10 A. Yes.

11 Q. Okay. Okay.

12 And so when you were sitting at this bar
13 and saw Judge -- at some point did you see Judge
14 Sushchyk?

15 A. Yes.

16 Q. Okay. And -- and you said you were still
17 seated at the bar -- at the table at the time you
18 saw him, yes?

19 A. Yes.

20 Q. Okay. And in Exhibit now 1, can you tell
21 us where the various parties -- can you just
22 describe by seat where the various parties were
23 seated?

24 A. Okay. I think the stool closest to the

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1 front.

2 MR. ANGELINI: Object, your Honor.

3 May we have a point in time?

4 THE HEARING OFFICER: Sure.

5 MR. NEFF: I was asking when Ms. -- when
6 she saw Judge Sushchuk approach their --

7 MR. ANGELINI: Thank you.

8 MR. NEFF: -- table where each of the
9 parties were seated at the table.

10 THE HEARING OFFICER: Okay. Fair enough.

11 THE WITNESS: Okay.

12 So I believe that the stool of the four
13 which is now closest to the front of the picture
14 would be where Emily Deines was sitting, and to her
15 left would be Evelyn Patsos, to her left Christine
16 Yurgelun, and to her left would be me next to the
17 pillar on the other side.

18 Q. Okay. So your memory of looking at this
19 picture is that the four of you were kind of sitting
20 at this particular table, which is kind of, as you
21 can see, a bit of a distance away from a doorway or
22 exit to the bar down at the opposite end?

23 A. Yes.

24 Q. Okay. And since Mr. Angelini asked, I'll

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1 try to be a little more precise and ask you
2 approximately what time of day or night was it that
3 you saw Judge Sushchuk while you were at the bar?

4 A. I would say between 9:00 and 9:20.

5 Q. What were the four of you doing when you
6 saw -- when you first noticed him?

7 A. We were chatting and having a drink.

8 Q. Okay. And did you see -- what direction
9 did Judge Sushchuk come from -- using this picture
10 to help describe it at least, what direction did
11 Judge Sushchuk come from?

12 A. I believe he came around the tables which
13 were behind the pillar for food service --

14 Q. Uh-huh.

15 A. -- kind of like toward the front of the
16 picture, past Emily Deines, I believe probably to
17 chat with Evelyn Patsos, who was more acquainted
18 with him than we were.

19 MR. NEFF: Understood. Understood.

20 Okay. And -- and I know it's late, so I'm
21 sorry, but I now have what's been marked as Exhibit
22 J, which I would, with permission, like to show also
23 to Ms. Welsh. I don't think this one has been
24 introduced, Mr. Loos.

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1 THE REPORTER: It has not.

2 MR. NEFF: It may have been and I missed
3 it.

4 But this -- but I just think this may be
5 germane to where she -- where some of her
6 testimony --

7 MR. ANGELINI: It's not an objection, but I
8 have no objection to it being shown.

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

11 So we can have F -- excuse me, not F. We
12 can have Exhibit Number 12 as the next one that
13 you're showing, which is?

14 THE REPORTER: J, I believe.

15 THE HEARING OFFICER: What's the letter?

16 MR. NEFF: J. I was using J.

17 THE HEARING OFFICER: J. Thank you very
18 much.

19 (Document marked as Commonwealth's
20 Exhibit 12 admitted into evidence)

21 THE WITNESS: I'm closing F as we did
22 before.

23 THE HEARING OFFICER: Thank you.

24 THE REPORTER: One moment.

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1 THE WITNESS: Okay.

2 THE REPORTER: All right.

3 THE HEARING OFFICER: Thank you.

4 BY MR. NEFF:

5 Q. And, Ms. Welsh, can you see that photo, or
6 could you at least let me know when you can?

7 A. I can see the photo.

8 Q. Great. Okay.

9 So would you say that that exhibit fairly
10 and accurately represents the area of the Bayzos Pub
11 you were just describing where on the other side of
12 the pillars from those bar-top -- high-top tables
13 there were essentially dining tables that are
14 adjacent to those brick pillars and people would
15 have to basically constitute the flow of traffic
16 throughout that particular area of the bar?

17 A. Yes.

18 Q. Okay. So I guess you can now, using any of
19 these particular photos that you feel has worked for
20 you, I'd ask you, when you first saw Judge Sushchyk
21 that night, where in any one of these three photos
22 did you first see him?

23 MR. ANGELINI: Well, I object. If she's
24 going to be referring to a photo, we should -- I

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1 respectfully request that we be able to see which
2 one it is.

3 A. I think I can use this photo, Exhibit J.

4 Q. Okay. Well, all right. Maybe that's the
5 better way for me to ask.

6 If there's a best photo for you to use to
7 point out to us where you first saw him, you would
8 say it's Exhibit J, which I think means we're up to
9 12?

10 THE HEARING OFFICER: Correct.

11 Q. And --

12 A. We were at the high-top on the right of
13 this picture.

14 Q. Okay.

15 A. And so I believe he was coming to the right
16 of the end of this picture, around toward what we
17 can see.

18 Q. So you basically just saw him walking
19 around there?

20 A. Yes.

21 Q. Okay. And as he approached the table, did
22 you see him have to do any bouncing around or
23 acrobatics in order to get around big crowds in
24 order to get to your table that particular evening?

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1 A. I did not notice that.

2 Q. Okay.

3 THE REPORTER: Excuse me, Mr. Angelini.
4 Was there something --

5 Q. Who was the first person who basically
6 passed by or was closest to as we got to the table?

7 A. I believe it would have been Emily Deines.

8 Q. Okay. And how long was he behind Emily
9 Deines before he continued moving further along --

10 MR. ANGELINI: Objection.

11 Q. -- approaching the table?

12 MR. ANGELINI: I object.

13 THE HEARING OFFICER: What's the basis,
14 please?

15 MR. ANGELINI: There's been no statement by
16 the witness that Judge Sushchuk was in her sight as
17 he moved behind Ms. Deines.

18 THE HEARING OFFICER: Overruled.

19 MR. ANGELINI: All right.

20 Q. You can answer.

21 A. I do not think there was any time element
22 that I recall with the judge stopping behind Emily.

23 Q. Okay. How close -- if you remember, how
24 close did you get to her as he passed behind her?

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1 A. I don't remember.

2 Q. Okay. And what were the four of you --
3 excuse me. Strike that.

4 How many of you were at the table when
5 Judge Sushchyk approached it?

6 A. I believe four.

7 Q. Okay.

8 A. I think Denise Fitzgerald may have been
9 chatting with one of the judges who was seated at
10 the bar.

11 Q. And as Judge Sushchyk approached the bar --
12 excuse me, approached your table on that particular
13 evening, what were the four of you doing?

14 A. Chatting.

15 Q. Just kind of chitchatting and still
16 drinking and laughing and hopefully having a good
17 time, that sort of thing?

18 A. Yes. Uh-huh.

19 Q. Great.

20 And you noticed Judge Sushchyk approaching.

21 Did you notice anything about how he
22 approached, or how he walked, or the speed at which
23 he walked, or anything like that?

24 A. I did not.

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1 Q. Okay. And as he approached your table,
2 did -- did he stop at a particular point once he
3 reached the table? Or did he continue walking
4 around the table after he arrived at it?

5 A. I believe he stopped to chat with Evelyn
6 Patsos.

7 Q. Okay. And Evelyn would have been the
8 person who was sitting directly next to Emily Deines
9 at that table?

10 A. Correct.

11 Q. Okay. Did you see any physical contact
12 between Judge Sushchuk and Emily Deines on the
13 evening of April 25th, 2019?

14 A. I did not.

15 Q. Okay. How long after Judge Sushchuk
16 left -- excuse me.

17 How long after Judge Sushchuk arrived at
18 that table that night did Ms. Deines then leave the
19 table?

20 A. Within ten minutes at the most, I believe.

21 Q. Did you notice anything about her behavior
22 during the ten minutes that immediately preceded her
23 departure from the table that day?

24 A. No.

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1 Q. Okay. And how long did you remain at the
2 bar that day?

3 A. We were probably there for another hour and
4 a half, perhaps.

5 Q. Okay. And so my math is bad. 7:00 to
6 8:30, got there at 9:00. The bar closed basically
7 around midnight-ish, then, I gather?

8 A. I think so.

9 Q. So when the bar closed, how was it that --
10 that you left the bar?

11 A. I don't believe we stayed to close the bar,
12 but when we left, it was before last call as it
13 were.

14 Q. Okay. Okay. And how -- how is it that you
15 left the bar? How did you leave the bar?

16 A. Judge Sushchuk offered to give us a ride to
17 our rooms.

18 Q. And when you said -- and when you say "us,"
19 who else was he offering rides to at that particular
20 point in time?

21 A. Everyone at the table, I believe.

22 Q. And who was -- who was still there at that
23 point?

24 A. Evelyn Patsos, Christine Yurgelun, Denise

1 Fitzgerald, and me.

2 Q. Okay. And all four of you, as far as you
3 recall, accepted rides from Judge Sushchyk?

4 A. Yes.

5 Q. What kind of vehicle did he have?

6 A. I believe he was driving a truck.

7 Q. And during the period of time that you were
8 with him that evening, did you see how many
9 alcoholic beverages he had consumed over the period
10 of time he was with you at the table?

11 A. I did not.

12 Q. Okay. Did you have any concerns at all
13 about his impairedness or his state of intoxication
14 due to alcohol on driving?

15 A. No, I did not.

16 Q. Okay. And you accepted a ride from Judge
17 Sushchyk and he drove you back to your rooms?

18 A. Yes.

19 Q. And who was the last person he dropped off
20 at one of their rooms?

21 A. That would have been Evelyn Patsos.

22 Q. And after a certain point -- well, at a
23 certain point that evening did you call Evelyn
24 Patsos to check on her?

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1 A. I did.

2 MR. ANGELINI: Objection.

3 THE HEARING OFFICER: Overruled.

4 Q. Why did you call Evelyn Patsos to check on
5 her later that evening or early morning of
6 April 26th?

7 A. It wasn't that much later, and it was
8 because I knew she was the last person to be dropped
9 off and I wanted to make sure she was okay.

10 Q. And why would you be concerned about
11 whether she was okay?

12 A. I would have done the same thing for anyone
13 else, depending on who was the last person, just to
14 make sure everyone was okay.

15 Q. Did Judge Sushchuk give you any particular
16 cause for concern?

17 A. No.

18 MR. NEFF: One moment, please.

19 THE HEARING OFFICER: Sure.

20 Mr. Neff, you are -- you are muted.

21 MR. NEFF: Got it.

22 THE HEARING OFFICER: Okay. There we go.

23 MR. NEFF: Sorry. All right.

24 Q. One thing I wanted to just quickly back up

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1 on is was there a point in time, Ms. Welsh, when you
2 were all kind of hanging out at the table and Judge
3 Sushchyk was there and he pulled out a flask that he
4 was kind of showing off to all of you?

5 A. We were -- I was aware that he had a flask,
6 but I would not say he pulled it up to show it to
7 us. I think he opened his jacket pocket and pulled
8 it up a tiny bit to support his conversation that he
9 had a flask.

10 Q. And he described it as a "flask" to you?

11 A. No.

12 Q. Okay. How did you know it was a flask,
13 then?

14 A. He said so, and I saw the top of it.

15 Q. Okay. What color was it?

16 A. Silver.

17 Q. Okay. And did you -- did he have any
18 conversation with you or say anything to you about,
19 you know, "This is the flask I carry because it
20 allows me to carry this special whiskey that I
21 really like," et cetera?

22 A. No.

23 MR. ANGELINI: I object.

24 THE HEARING OFFICER: Sustained.

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1 Q. He didn't -- well, did Judge Sushchyk offer
2 you any explanation for why he would -- he would
3 carry a flask around with him?

4 MR. ANGELINI: I object.

5 THE HEARING OFFICER: Overruled.

6 A. No.

7 MR. NEFF: Okay. I have no further
8 questions for this witness. Thank you.

9 THE HEARING OFFICER: Thank you.

10 Mr. Angelini, do you have questions for
11 Attorney Welsh?

12 MR. ANGELINI: I have no questions for
13 Attorney Welsh. Thank you.

14 THE HEARING OFFICER: Okay, Attorney Welsh.
15 Thank you. I have to ask that question.

16 Did your answers to my previous questions
17 change in any way from then to this point?

18 THE WITNESS: They did not.

19 THE HEARING OFFICER: Okay. Thank you
20 very, very much. You're excused as a witness, but
21 of course you are welcome to stay and observe if
22 you'd like.

23 THE WITNESS: Thank you.

24 THE HEARING OFFICER: Thank you.

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1 MR. NEFF: And thank you all for your time
2 and patience with me. I am still mastering the
3 exhibits, obviously.

4 THE HEARING OFFICER: Okay.

5 MR. ANGELINI: Your Honor, may I address
6 the Court?

7 THE HEARING OFFICER: Yes.

8 MR. ANGELINI: This morning you asked all
9 of us to remind you about --

10 THE HEARING OFFICER: Yeah.

11 MR. ANGELINI: -- a motion, and I'm --
12 realized during the course of the day that I had
13 left that file home this morning.

14 THE HEARING OFFICER: Okay.

15 MR. ANGELINI: So I don't think it makes
16 much difference at this stage of the proceedings,
17 but if we could do that tomorrow instead of today,
18 I'd be grateful.

19 THE HEARING OFFICER: That's fine. I think
20 we're at the end of the court day.

21 The only thing I wanted to do was to speak
22 to Mr. Loos and the two of you just regarding
23 technical matters that really are nothing to do with
24 the proceeding, the content or the manner of the

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1 proceedings. It's just these logistics having to do
2 with the technology.

3 Are you available for that, for like ten
4 minutes?

5 MR. NEFF: Absolutely. Absolutely.

6 I'm sorry to say I wasn't aware you were
7 having that much trouble.

8 THE HEARING OFFICER: Okay.

9 MR. ANGELINI: I would like to ask if
10 there's any information about the order of witnesses
11 tomorrow, that would be helpful, your Honor.

12 THE HEARING OFFICER: Sure.

13 Mr. Neff, what's your expectation for
14 tomorrow, please?

15 MR. NEFF: Well, that's a great question.

16 I -- we do have a few more witnesses lined
17 up from the list. We don't have many because it's
18 really just from the list that we provided. I think
19 it's Jacqueline Campbell -- no. I sorry. Long day.

20 Denise Fitzgerald, Judge Simons and Judge
21 Fidnick would be the remaining witnesses. But we're
22 going -- to be perfectly open and up front, in light
23 of -- and this is with all due respect, because I do
24 respect your rulings -- but in light of some of the

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1 evidentiary rulings that have been made, we may give
2 some thought to how to present them, whether to
3 present them, what order to present them in the
4 morning, but we don't really have that much left.

5 THE HEARING OFFICER: Okay. All right.

6 MR. NEFF: I mean, one question that maybe
7 I could ask now is, since Mr. Angelini, in his
8 opening statement, essentially made guarantees that
9 his client would be presenting evidence of certain
10 denials, I'm assuming that I don't need to worry
11 about calling him as a hostile witness since he'll
12 be testifying anyway.

13 THE HEARING OFFICER: I don't think
14 Mr. Angelini -- well, I'll let Mr. Angelini speak
15 for himself.

16 But at this point ordinarily, in a
17 proceeding, given that the party with the burden of
18 proof and the burden of production needs to present
19 its case, and then I turn to the party that is
20 responding to ask if the party would like to present
21 any evidence, we're not at that point yet.

22 So I don't know whether there's an answer
23 to that or not.

24 MR. ANGELINI: There is none, your Honor.

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1 We are not at that point yet.

2 THE HEARING OFFICER: Okay. Then let me --
3 if we could, if there's nothing else of a public
4 nature, other than what -- mine isn't of a public
5 nature; it's just what I want to talk to you and
6 Mr. Loos about having to do with the technology --
7 we can suspend for the day.

8 Is there anything else from anyone?

9 MR. NEFF: No, I don't think so.

10 MS. COSGROVE: Thank you, your Honor.

11 MR. NEFF: Thank you, your Honor.

12 THE HEARING OFFICER: You're welcome.

13 You're welcome.

14 We'll see everybody, I expect, at
15 ten o'clock tomorrow morning, a full day.

16 MR. NEFF: Yes.

17 THE HEARING OFFICER: Okay. Great. Then
18 if I could ask Mr. Loos, Mr. Neff and Mr. Angelini
19 to remain behind, and we'll close everyone else out.

20 Thank you.

21 MR. NEFF: Great.

22 THE REPORTER: Maybe.

23 MR. NEFF: I'm going to ask Audrey to stick
24 by, too, if it's okay, just to keep her in the loop.

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1 THE REPORTER: Off the record?

2 THE HEARING OFFICER: No. On the record,
3 please.

4 THE REPORTER: Okay. Maybe we can go to a
5 breakout room.

6 THE HEARING OFFICER: That's great. I'm
7 going.

8 MR. NEFF: Even better.

9 (Meeting in private breakout room. Hearing
10 Officer Josephson, Mr. Neff, Ms. Cosgrove,
11 Mr. Angelini, and Mr. Loos present)

12 THE HEARING OFFICER: Yeah. These are very
13 minor issues in a way.

14 First, I just wanted to ask Mr. Neff --
15 this is a sensitivity that I have regarding asking
16 the witnesses for their dates of birth. That's, as
17 far as I'm concerned, not necessary, and I'm
18 concerned with privacy having to give their actual
19 full dates of birth, which really makes no
20 difference to the proceedings, you know --

21 MR. NEFF: Okay.

22 THE HEARING OFFICER: -- as far as I'm
23 concerned.

24 MR. NEFF: Yeah. It's a bad habit, I

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1 guess. I'll stop.

2 THE HEARING OFFICER: That would be great.
3 Thank you. It makes me --

4 MR. NEFF: I apologize for that.

5 THE HEARING OFFICER: No, not -- that's all
6 right. That's all right.

7 The other -- okay.

8 Now, regarding the people who were
9 excluded, I'll make a record of this. First there
10 was an individual who appeared under the name
11 "fathers rights," and that individual communicated
12 in a private chat to me stating something like "let
13 them answer" -- "let them answer questions.
14 Embarrassing. Let them answer."

15 And so I asked Mr. Loos to exclude him, or
16 her, from the proceeding. It was a private -- I
17 don't know if it appeared on anybody else's screen,
18 but I don't want...

19 MR. NEFF: No, I didn't -- I didn't see it.

20 THE HEARING OFFICER: The other person who
21 I excluded was -- came -- came in -- Mr. Loos,
22 please correct me, or add anything -- there was one
23 that came in under the name "guilty."

24 THE REPORTER: We never let him in -- we

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1 never let him in from the waiting room.

2 THE HEARING OFFICER: Right. That one I
3 just -- again, it's in the nature of essentially
4 wearing something that would not be allowed in the
5 courtroom.

6 And the other was an individual who I think
7 name included "Pixel" something who had appeared
8 with his -- I could see it was a gentleman, with his
9 video on. And Mr. Loos noticed it initially, and I
10 think you -- before you get a chance to tell him to
11 turn it off, he left. Is that right, Mr. Loos?

12 THE REPORTER: We ended up kicking him out
13 at the end.

14 THE HEARING OFFICER: Okay. And then he
15 appeared -- he appeared anyway, where I could see
16 him as I was asking the questions of Ms. Patsos, and
17 it was right in the screen next to him, despite
18 having been told before to turn it off. So there's
19 that.

20 And finally, regarding the issue of the
21 number of attendees and whether or not the room is
22 big enough for them, Mr. Loos, I did not give you an
23 opportunity this morning to say what your indication
24 of numbers had been for the day before, just so that

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1 we have an accurate record and information for the
2 Commission if they wish to change anything.

3 THE REPORTER: Yesterday I saw either 96 or
4 97.

5 Today we did hit, briefly, 100.

6 THE HEARING OFFICER: We did, and we hit
7 briefly 100 -- let me just get my notes on this.
8 What did I do with it? Excuse me.

9 We hit -- just to make a complete record
10 here, we were hovering -- let's see. We hit 100
11 at -- at -- at 2:33. By 2:39 it had dropped down --
12 nobody had asked to get in. It had dropped down to
13 99. We took a break, and it dropped down to 96 at
14 that point, and when we came back from the break, we
15 were at 97 and stayed below 100 for the remainder of
16 the day that I saw.

17 I don't know if there's a record of that
18 somewhere, Mr. Loos, but again, I just don't want
19 there to be a concern that someone who wanted to get
20 in wasn't able to get in. I did not see even when
21 we were at 100 anyone waiting to come in.

22 Did you?

23 THE REPORTER: I did not. But I'm not sure
24 if we would.

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1 THE HEARING OFFICER: Okay. I wasn't sure
2 about that.

3 But we were at 100, just from my view, very
4 briefly. I don't know if you have different
5 information than that, Mr. Loos, but I'll be happy
6 to hear it.

7 THE REPORTER: That comports with my
8 observation.

9 THE HEARING OFFICER: Okay. All right.
10 Well, thank you.

11 Is there anything that we're doing that
12 would make your -- anybody's life here easier in
13 terms of the technology?

14 Mr. Loos, let's start with you, because
15 you're really doing yoeman's duty.

16 THE REPORTER: I think I would it's say
17 going very well overall.

18 THE HEARING OFFICER: Oh, I didn't expect
19 that. Thank you.

20 Okay. Let's just end it there.

21 THE REPORTER: All things considered.
22 We're working through it.

23 THE HEARING OFFICER: Mr. Angelini, is
24 there anything that you're concerned about that is

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1 of a technical nature?

2 MR. ANGELINI: No. There may be something,
3 depending upon the trail of testimony, that will
4 come up tomorrow, but I may ask for a short break to
5 talk about it then. But as I see it now, we'll be
6 fine.

7 THE HEARING OFFICER: Okay. Great.
8 Mr. Neff?

9 MR. NEFF: The only thing I'd say is while
10 it's clear I have a few different faults -- one of
11 them has been the -- keeping track of exhibit
12 letters versus numbers -- I don't know if there's
13 anyway I can, at some point, if Mr. Loos is able to
14 PDF a copy of the exhibits as they've been admitted
15 so far so I can at least work from a starting point
16 and not have to keep slowing us down by asking those
17 questions. But if not, I don't -- I don't foresee
18 any problem beyond that.

19 THE HEARING OFFICER: Okay. All right.
20 You know what I'll do is I will -- well,
21 here. You can have this. I don't think that will
22 help you.

23 But you know what I could -- what I could
24 do is, why don't I just, if you don't -- if you

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1 don't mind, I'm doing it by hand. I can take a
2 picture of this and send it to each, text it to each
3 of you on your cell phones if that would help.

4 MR. ANGELINI: That would be great, your
5 Honor. Thank you.

6 THE HEARING OFFICER: All right.
7 Anything else?

8 MR. NEFF: Last thing to remind you of, I
9 guess because I realized I haven't done it yet, is
10 I'm going to e-mail you, Judge Josephson, you Ms. --
11 I don't mean to point -- you, Judge Josephson, you,
12 Mr. Loos, and you, Mr. Angelini, a one-page PDF copy
13 of Judge Sushchuk's statement --

14 THE HEARING OFFICER: Okay.

15 MR. NEFF: -- which hopefully will be to
16 your satisfaction. I'll get that done before I --
17 as soon as we get off the call, actually. I'm
18 realizing I didn't quite get to that.

19 THE HEARING OFFICER: Great.

20 MR. NEFF: Because I don't think I know
21 how -- I don't think I can e-mail from this machine.

22 THE HEARING OFFICER: All righty.

23 Well, thank you, everyone. I hope you have
24 as pleasant an evening as possible, and we'll see

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1 you tomorrow. If we assemble just a little earlier,
2 you know, a few minutes earlier as we have been,
3 I'll see you a little before 10:00 then.

4 MR. NEFF: Sounds great.

5 MR. ANGELINI: Very good.

6 THE HEARING OFFICER: All right.

7 Thank you all very much.

8 MR. NEFF: Thank you. Have a great night.

9 THE HEARING OFFICER: You, too. Bye-bye.

10 (Whereupon, the proceedings were
11 adjourned at 4:19 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 II, is a true and accurate transcription of my stenographic notes taken on July 21, 2020.



Alexander K. Loos
Registered Diplomate Reporter

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