

STATE OF NEW YORK
COMMISSION ON JUDICIAL CONDUCT

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

THOMAS E. RAMICH,

STIPULATION

a Judge of the Elmira City Court,
Chemung County.

IT IS HEREBY STIPULATED AND AGREED by and between Robert H. Tembeckjian, Esq., Administrator and Counsel to the Commission on Judicial Conduct (hereinafter "Commission"), the Honorable Thomas E. Ramich ("respondent"), and his attorney, Thomas E. Reilly, Esq., as follows:

1. This stipulation is presented to the Commission in connection with a formal proceeding pending against respondent.
2. Respondent was admitted to practice law in New York in 1976. He has been a Judge of the Elmira City Court, Chemung County, since 1982. Respondent's current term expires December 31, 2016.
3. Respondent announced his retirement by letter dated March 12, 2013. His retirement will become effective May 1, 2013. A copy of respondent's retirement letter is annexed as Exhibit 1.
4. Respondent was served with a Formal Written Complaint dated April 30, 2012, a copy of which is annexed as Exhibit 2.

5. Respondent filed an Answer, dated May 7, 2012, in which he denied the allegations of misconduct. A copy of the Answer is annexed as Exhibit 3.

6. A hearing was held before a Commission-appointed referee, the Honorable Gary Muldoon, at the Schuyler County Courthouse, in Watkins Glen, New York, from October 16, 2012, through October 18, 2012. A copy of the hearing transcript is annexed hereto as Exhibit 4.

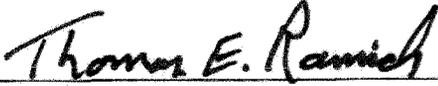
7. Respondent affirms that, having vacated his judicial office, he will neither seek nor accept judicial office or a position as a judicial hearing officer, at any time in the future.

8. Respondent understands that, should he abrogate the terms of this Stipulation and hold any judicial position at any time, the present proceeding before the Commission will be revived.

9. Upon execution of this Stipulation by the three signatories below, this Stipulation will be presented to the Commission with the joint recommendation that the matter be concluded, by the terms of this Stipulation, without further proceedings.

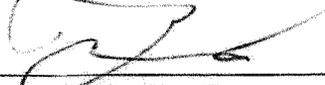
10. Respondent waives confidentiality as provided by Section 45 of the Judiciary Law, to the extent that: (1) this Stipulation will become public upon being signed by the signatories below, and (2) the Commission's Decision and Order regarding this Stipulation will become public.

Dated:



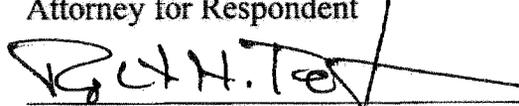
Honorable Thomas E. Ramich
Respondent

Dated:



Thomas E. Reilly, Esq.
Attorney for Respondent

Dated: *March 12, 2013*



Robert H. Tembeckjian
Administrator and Counsel to the
Commission

March 12, 2013

Mr. Andrew Cuomo
Governor, State of New York

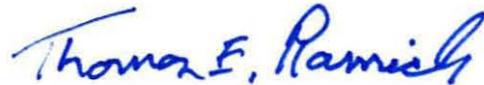
Mrs. Sue Skidmore
Mayor, Elmira, New York

Dears Sirs:

For over 31 years, I have had the pleasure and responsibility of being the City Judge of Elmira, New York. During that time I have tried to help maintain a good quality of life in Elmira. I have helped some people and wish I could have helped more.

It is now time for a new person to perform those duties. I have, for personal reasons, decided to retire as City Court Judge effective, May 1, 2013.

Very truly yours,



Thomas E Ramich

STATE OF NEW YORK
COMMISSION ON JUDICIAL CONDUCT

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

THOMAS E. RAMICH,

a Judge of the Elmira City Court,
Chemung County.

**NOTICE OF FORMAL
WRITTEN COMPLAINT**

NOTICE is hereby given to respondent, Thomas E. Ramich, a Judge of the Elmira City Court, Chemung County, pursuant to Section 44, subdivision 4, of the Judiciary Law, that the State Commission on Judicial Conduct has determined that cause exists to serve upon respondent the annexed Formal Written Complaint; and that, in accordance with said statute, respondent is requested within twenty (20) days of the service of the annexed Formal Written Complaint upon him to serve the Commission at its Rochester office, 400 Andrews Street, Suite 700, Rochester, New York 14604, with her verified Answer to the specific paragraphs of the Complaint.

Dated: April 30, 2012
New York, New York

ROBERT H. TEMBECKJIAN
Administrator and Counsel
State Commission on Judicial Conduct
61 Broadway, Suite 1200
New York, New York 10006
(646) 386-4800

To: Thomas E. Reilly, Esq.
Learned, Reilly, Learned
& Hughes, LLP
449 East Water Street
Elmira, New York 14901

EXHIBIT

STATE OF NEW YORK
COMMISSION ON JUDICIAL CONDUCT

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

THOMAS E. RAMICH,

a Judge of the Elmira City Court,
Chemung County.

**FORMAL
WRITTEN COMPLAINT**

1. Article 6, Section 22, of the Constitution of the State of New York establishes a Commission on Judicial Conduct (“Commission”), and Section 44, subdivision 4, of the Judiciary Law empowers the Commission to direct that a Formal Written Complaint be drawn and served upon a judge.
2. The Commission has directed that a Formal Written Complaint be drawn and served upon Thomas E. Ramich (“respondent”), a Judge of the Elmira City Court, Chemung County.
3. The factual allegations set forth in Charges I through IV state acts of judicial misconduct by respondent in violation of the Rules of the Chief Administrator of the Courts Governing Judicial Conduct (“Rules”).
4. Respondent was admitted to the practice of law in New York in 1976. He has been a Judge of the Elmira City Court, Chemung County, since 1982. Respondent’s current term expires December 31, 2016.

CHARGE I

5. From in or about July 2003 through in or about August 2009, respondent lent the prestige of judicial office to advance his own and others' private interests by directing Frederick Cerio, his part-time court attorney, to represent respondent and his relatives and friends in various legal matters, for which Mr. Cerio was not compensated, and to perform personal tasks on respondent's behalf.

Specifications to Charge I

Legal Representation

People v. Fred S. Seither, Jr.

6. On or about July 5, 2003, respondent, while in his chambers, gave Mr. Cerio a Uniform Traffic Ticket and told him to represent Fred S. Seither, Jr., respondent's brother-in-law, with regard to a charge of Speeding, 56 mph in a 30 mph zone, in the Town of Walworth. Mr. Cerio wrote to the Wayne County District Attorney's Office to request a reduction. When Mr. Cerio received the District Attorney's plea offer, he gave it to respondent to have Mr. Seither sign and mail to court. Mr. Cerio had no contact with Mr. Seither. Mr. Cerio was never compensated.

People v. Amanda M. Ramich

7. In or about June 2006, respondent, while in his chambers, gave Mr. Cerio a Uniform Traffic Ticket and told him to represent Amanda M. Ramich, respondent's daughter, with regard to a charge of Speeding, 74 mph in a 55 mph zone, in the Town of Erwin. Mr. Cerio wrote to the Steuben County District Attorney's Office to request a reduction. Mr. Cerio received a plea offer to Parking on Pavement and

delivered it to respondent to have Ms. Ramich sign. Mr. Cerio returned the signed plea offer to the Erwin Town Court. On or about August 4, 2006, Mr. Cerio received from the Erwin Town Court a \$150 fine notice which he gave to respondent. Mr. Cerio had no contact with Ms. Ramich. Mr. Cerio was never compensated.

People v. Cynthia J. Greger

8. In or about April 2009, respondent, while in his chambers, gave Mr. Cerio a Uniform Traffic Ticket and told him to represent Cynthia J. Greger, respondent's girlfriend at that time, with regard to a charge of Speeding, 72 mph in a 55 mph zone, in the Town of Starkey. Respondent told Mr. Cerio to take care of the ticket immediately and if necessary, to take the case to trial.

9. Mr. Cerio wrote to the Yates County District Attorney to request a reduction.

10. On or about May 12, 2009, Mr. Cerio received a written plea offer from the Yates County District Attorney's Office, offering a reduction to 62 mph in a 55 mph zone. Mr. Cerio met with respondent in his chambers and showed him the plea offer. Respondent told Mr. Cerio to reject the offer and demand a trial. Mr. Cerio showed respondent Ms. Greger's driving abstract and recommended that Ms. Greger accept the offer.

11. On or about May 28, 2009, Mr. Cerio went to Ms. Greger's office, where she signed the plea offer. Mr. Cerio forwarded the accepted plea offer to the Town Court of Starkey.

12. Mr. Cerio subsequently received a fine notice for \$135. Respondent directed him to give it to Ms. Greger. Mr. Cerio was never compensated.

Respondent's Real Estate Transactions

13. Some time before May 1, 2008, respondent, while at court, told Mr. Cerio that he wanted to make a purchase offer on a house. He told Mr. Cerio to call respondent's realtor, Mary Clark, at Coldwell Banker, and have her fax the required documentation to respondent. Mr. Cerio contacted Ms. Clark. Respondent thereafter gave the offer to Mr. Cerio and told Mr. Cerio to represent him in the matter and to fax the offer immediately to the seller's realtor. Mr. Cerio represented respondent in the real estate transaction for the purchase of the home and represented respondent at the closing on May 1, 2008. Respondent did not compensate Mr. Cerio for his legal services.

14. On or about April 28, 2009, at a time when Park Outdoor Advertising ("Park") was doing business with a corporation owned and operated by respondent's family, respondent, while at court, told Mr. Cerio to call Park's vice president, Kerry Leipold, in order to obtain a new lease agreement from Park regarding a building it was leasing from respondent's family corporation. Mr. Cerio represented the corporation in the transaction with Park, including preparing and negotiating the new lease. Respondent did not compensate Mr. Cerio for his legal services.

Personal Tasks

15. In or about August 2006, respondent told Mr. Cerio to contact Empire Blue Cross/Blue Shield, his health care provider, to ensure that respondent's daughter, Amanda Ramich, would be covered while she was attending Mansfield College. Mr.

Cerio obtained Ms. Ramich's school transcript, made various calls and filled out the necessary paperwork to ensure continuing coverage for Ms. Ramich.

16. On December 24, 2008, respondent told Mr. Cerio to retrieve a Christmas present for respondent's daughter from FedEx. Mr. Cerio, with respondent's identification, went to the local FedEx office but found no package there. He reported this to respondent who yelled, "No, you idiot, it's at the holding dock," or words to that effect. Mr. Cerio drove to the FedEx distribution warehouse where he retrieved the package and delivered it to respondent at court.

17. In or about April 2009, respondent told Mr. Cerio to go to the Department of Motor Vehicles (DMV) to obtain the forms needed for respondent to register a dump trailer he had purchased and to complete the forms for respondent to sign. On or about April 27, 2009, respondent told Mr. Cerio to take the completed forms to the DMV office and to register the trailer on respondent's behalf. Mr. Cerio paid the \$19.25 registration fee from his personal funds and left the receipt on respondent's desk. Respondent never reimbursed Mr. Cerio the registration fee.

18. On or about August 17, 2009, respondent told Mr. Cerio to handle, on his behalf, a "Cash for Clunkers" automobile purchase and trade-in, at an automobile dealership in Pennsylvania. Mr. Cerio made the calls necessary to complete the deal and filed the paperwork required by DMV.

19. By reason of the foregoing, respondent should be disciplined for cause, pursuant to Article 6, Section 22, subdivision (a), of the Constitution and Section 44, subdivision 1, of the Judiciary Law, in that respondent failed to uphold the integrity

and independence of the judiciary by failing to maintain high standards of conduct so that the integrity and independence of the judiciary would be preserved, in violation of Section 100.1 of the Rules; failed to avoid impropriety and the appearance of impropriety, in that he failed to respect and comply with the law and failed to act in a manner that promotes public confidence in the integrity and impartiality of the judiciary, in violation of Section 100.2(A) of the Rules, allowed a family relationship to influence the judge's judicial conduct and judgment, in violation of Section 100.2(B) of the Rules, and lent the prestige of judicial office to advance his own private interest and the private interest of another, in violation of Section 100.2(C) of the Rules; failed to perform the duties of judicial office impartially and diligently, in that he failed to be faithful to the law and maintain professional competence in it, in violation of Section 100.3(B)(1) of the Rules, and failed to be patient, dignified and courteous to a lawyer with whom he deals in his official capacity, in violation of Section 100.3(B)(3) of the Rules; and failed to so conduct his extra-judicial activities as to minimize the risk of conflict with judicial obligations, in that he failed to conduct his extra-judicial activities so they do not detract from the dignity of judicial office, in violation of Section 100.4(A)(2) of the Rules, and so that they do not interfere with the proper performance of judicial duties, in violation of Section 100.4(A)(3) of the Rules.

CHARGE II

20. On or about April 26, 2009, respondent publicly told a sexually graphic and demeaning joke about a co-judge when addressing the audience at a law enforcement officers' award dinner.

Specifications to Charge II

21. On or about April 26, 2009, respondent attended the annual dinner for the Elmira Police Benevolent Association (PBA) during which he told a sexually graphic joke about his co-judge, Elmira City Court Judge Steven Forrest, concerning a fictional sexual encounter between Judge Steven Forrest and an alien. The punch line of the joke was that Judge Forrest is referred to as the “small” claims judge because his genitalia are small.

22. Respondent and Judge Forrest were not on speaking terms, except as needed for official court business. Respondent had arrived at the PBA dinner annoyed at Judge Forrest and prefaced the off-color joke with an explanation that he was late for the PBA dinner because he had to conduct an arraignment in place of Judge Forrest.

23. By reason of the foregoing, respondent should be disciplined for cause, pursuant to Article 6, Section 22, subdivision (a), of the Constitution and Section 44, subdivision 1, of the Judiciary Law, in that respondent failed to uphold the integrity and independence of the judiciary by failing to maintain high standards of conduct so that the integrity and independence of the judiciary would be preserved, in violation of Section 100.1 of the Rules; failed to avoid impropriety and the appearance of impropriety, in that he failed to respect and comply with the law and failed to act in a manner that promotes public confidence in the integrity and impartiality of the judiciary, in violation of Section 100.2(A) of the Rules; failed to perform the duties of judicial office impartially and diligently, in that he failed to be patient, dignified and courteous to those with whom he deals in his official capacity, in violation of Section 100.3(B)(3) of

the Rules; and failed to so conduct his extra-judicial activities as to minimize the risk of conflict with judicial obligations, in that he failed to conduct his extra-judicial activities so they do not detract from the dignity of judicial office, in violation of Section 100.4(A)(2) of the Rules.

CHARGE III

24. From in or about October 2008 through in or about November 2009, respondent improperly required twenty-five defendants to make financial payments to local charities as a condition of receiving an Adjournment in Contemplation of Dismissal or a Conditional Discharge.

Specifications to Charge III

25. From in or about August 2008 to in or about November 2009, in twenty-five criminal cases as set forth in Exhibit 1, respondent required that the defendants make financial payments to local charitable organizations as a condition of disposing their cases by means of a Conditional Discharge or Adjournment in Contemplation of Dismissal.

26. In connection with this practice, respondent made recommendations to the defendants and their attorneys, while presiding over their cases, as to which charities their money should be paid.

27. Respondent took no action to determine the legal status of any of the organizations to which these payments were made, including whether they were registered as charitable organizations with the appropriate authorities.

28. By reason of the foregoing, respondent should be disciplined for cause, pursuant to Article 6, Section 22, subdivision (a), of the Constitution and Section 44, subdivision 1, of the Judiciary Law, in that respondent failed to uphold the integrity and independence of the judiciary by failing to maintain high standards of conduct so that the integrity and independence of the judiciary would be preserved, in violation of Section 100.1 of the Rules; failed to avoid impropriety and the appearance of impropriety, in that he failed to respect and comply with the law and failed to act in a manner that promotes public confidence in the integrity and impartiality of the judiciary, in violation of Section 100.2(A) of the Rules, and lent the prestige of judicial office to advance private interests, in violation of Section 100.2(C) of the Rules; and failed to conduct his extra-judicial activities so as to minimize the risk of conflict with judicial obligations, in that he used the prestige of judicial office for fund-raising for charitable organizations in violation of Section 100.4(C)(3)(b)(iv) of the Rules.

CHARGE IV

29. On or about June 1 and 2, 2010, while presiding over a jury trial in *People v. Joseph Piper*, in which the defendant was charged with Resisting Arrest, respondent empanelled Jessica Ramich, his daughter, as a juror, and met privately with her during the pendency of the trial and discussed the trial with her during the period between the defendant's conviction and sentencing.

Specifications to Charge IV

30. On or about June 1, 2010, while respondent was presiding over a jury trial in *People v. Joseph Piper*, in which the defendant was charged with Resisting Arrest, respondent's daughter, Jessica Ramich, appeared in the pool of prospective jurors.

31. During jury selection, respondent disclosed to Assistant District Attorney John Thweatt and defense attorney Clark Zimmerman, both in chambers and in open court, that Jessica Ramich was his daughter. Neither attorney objected to her being on the jury. Respondent did not disqualify his daughter from jury service and empanelled her as a juror in the *Piper* case.

32. On or about June 1, 2010, the first day of the trial in the *Piper* case, respondent had lunch with Ms. Ramich. At the lunch recess, respondent asked Ms. Ramich to go into his chambers, excused the rest of the jurors and asked if either counsel objected to his taking his daughter to lunch. Respondent assured counsel that there would be no discussion of the trial during lunch. Neither counsel objected.

33. On or about June 1, 2010, after the first day of trial concluded and while the trial was still pending, respondent spent the evening with Ms. Ramich at his home.

34. On or about June 2, 2010, the trial in the *Piper* case concluded and the jury returned a verdict of guilty. Sentencing was scheduled for July 19, 2010.

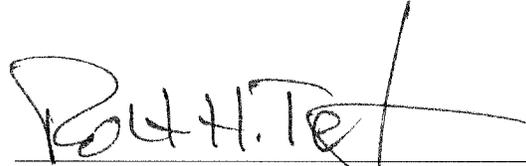
35. Respondent continued to meet regularly with Ms. Ramich during the six weeks from the defendant's conviction on or about June 2, 2010, to sentencing on or

about July 19, 2010. During that period, they discussed the case, and Ms. Ramich expressed her personal views about the testimony and the defendant.

36. By reason of the foregoing, respondent should be disciplined for cause, pursuant to Article 6, Section 22, subdivision (a), of the Constitution and Section 44, subdivision 1, of the Judiciary Law, in that respondent failed to uphold the integrity and independence of the judiciary by failing to maintain high standards of conduct so that the integrity and independence of the judiciary would be preserved, in violation of Section 100.1 of the Rules; failed to avoid impropriety and the appearance of impropriety, in that he failed to respect and comply with the law and failed to act in a manner that promotes public confidence in the integrity and impartiality of the judiciary, in violation of Section 100.2(A) of the Rules, and allowed a family relationship to influence his judicial conduct and judgment, in violation of Section 100.2(B) of the Rules; failed to perform the duties of judicial office impartially and diligently, in that he failed to be faithful to the law and maintain professional competence in it, in violation of Section 100.3(B)(1) of the Rules, and permitted or considered ex parte communications, or considered other communications made outside the presence of the parties concerning a pending proceeding, in violation of Section 100.3(B)(6) of the Rules; and failed to so conduct his extra-judicial activities as to minimize the risk of conflict with judicial obligations, in that he failed to conduct his extra-judicial activities so that they do not interfere with the proper performance of judicial duties, in violation of Section 100.4(A)(3) of the Rules.

WHEREFORE, by reason of the foregoing, the Commission should take whatever further action it deems appropriate in accordance with its powers under the Constitution and the Judiciary Law of the State of New York.

Dated: April 30, 2012
New York, New York

A handwritten signature in black ink, appearing to read "R.H. Tembeckjian", written over a horizontal line.

ROBERT H. TEMBECKJIAN
Administrator and Counsel
State Commission on Judicial Conduct
61 Broadway
Suite 1200
New York, New York 10006
(646) 386-4800

STATE OF NEW YORK
COMMISSION ON JUDICIAL CONDUCT

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

VERIFICATION

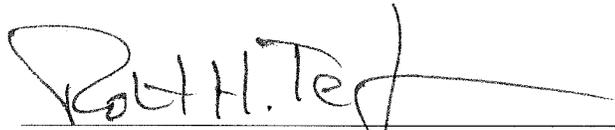
THOMAS E. RAMICH,

a Judge of the Elmira City Court,
Chemung County.

STATE OF NEW YORK)
 : ss.:
COUNTY OF NEW YORK)

ROBERT H. TEMBECKJIAN, being duly sworn, deposes and says:

1. I am the Administrator of the State Commission on Judicial Conduct.
2. I have read the foregoing Formal Written Complaint and, upon information and belief, all matters stated therein are true.
3. The basis for said information and belief is the files and records of the State Commission on Judicial Conduct.



Robert H. Tembeckjian

Sworn to before me this
30th day of April, 2012



Notary Public

LATASHA Y. JOHNSON
Notary Public, State of New York
No. 01JO6235579
Qualified in New York County
Commission Expires February 14, 2015

**Thomas E. Ramich
Elmira City Court
Chemung County**

Schedule A- Case Listing

Defendant	Offense	Date of Offense	Sentence/Charitable Contribution	Date of Sentence	Recipient of Contribution
David Oshann	Petit Larceny	08/01/08	\$350 Contribution	08/18/08	Shelter Helpers
Edward Bassler	Issuing Bad Check	05/13/07	1 year CD; \$160 Surcharge; \$100 Contribution	08/26/08	Chemung County SPCA
David Ortiz	DWI; Unlawful Poss of Marihuana	08/19/08	1 year CD; \$895 Fine; \$150 Contribution	09/19/08	Catholic Charities
William Krazinski	Unlawful Dealing with Minor; Prohibited Sale of Alcohol	08/30/08	6 month ACD; Contribution (amt not indicated)	10/02/08	Not indicated
Scott Place	Criminal Poss of Controlled Substance; Unlawful Poss of Marihuana	01/11/08	1 year CD; Time Served; \$250 Contribution	11/17/08	Friends of the Animal Shelter

Ryan McGough	Aggravated DWI; DWI; Failed to keep Right	09/17/08	1 year CD; \$1,395 Fine; \$200 Contribution	11/21/08	Friends of the Animal Shelter
Matthew Cleary	Petit Larceny	11/03/08	6 month ACD; \$300 Contribution; Restitution	11/25/08	City of Elmira
John Silver	Criminal Poss of Weapon	11/21/08	1 year CD; \$150 Contribution (waived in Interest of justice)	03/31/09	Contribution to Friends of the Animal Shelter waived in the Interest of Justice
Dylan Danko	DWI; AUO3rd; Speeding	01/24/09	1 year CD; \$895 Fine; \$150 Contribution	03/31/09	Shelter Helpers
Matthew Zimmer	DWI; Following too Closely	01/10/09	1 year CD; \$895 Fine; \$150 Contribution	04/10/09	Friends of the Animal Shelter
Mary Szustak	Unlawful Poss Marihuana	04/02/09	6 month ACD; \$150 Contribution	04/24/09	City of Elmira Animal Shelter
Katrina Cramer	Disorderly Conduct	01/01/09	6 month ACD; \$100 Contribution	04/30/09	Friends of the Animal Shelter
Zachary McCarthy	Criminal Trespass 2nd	07/03/08	1 year CD; \$120 SC; \$250 Contribution	05/29/09	Shelter Helpers
Cevin Crowley	Disorderly Conduct	01/01/09	6 month ACD; \$100 Contribution	06/19/09	United Way
Andres Guzman	Endangering Welfare of Child	04/11/09	6 month ACD; \$150 Contribution	06/24/09	City of Elmira Animal Shelter

Thomas Earley	Prohibited Sale of Alcohol	06/05/09	6 month ACD; \$150 Contribution	06/24/09	Not indicated
Sharyel Strobel	Prohibited Sale of Alcohol	06/05/09	6 month ACD; \$150 Contribution	06/24/09	City of Elmira
Tiffany Pagano	Prohibited Sale of Alcohol	06/05/09	6 month ACD; \$150 Contribution	06/24/09	City of Elmira-Dog Park
Nanu Shrestha	Prohibited Sale of Alcohol	06/05/09	6 month ACD; \$150 Contribution	06/24/09	City of Elmira
Kenneth Stradley	Prohibited Sale of Alcohol	06/05/09	6 month ACD; \$250 Contribution	06/24/09	City of Elmira
Terry Miller	Prohibited Sale of Alcohol	06/05/09	6 month ACD; \$150 Contribution	07/08/09	Chemung County Humane Society
Jeffery Gush	Prohibited Sale of Alcohol	06/05/09	6 month ACD; 100 hours community service; \$150 Contribution	08/07/09	City of Elmira Animal Shelter
Irene Williams	Prohibited Sale of Alcohol	06/05/09	6 month ACD; \$150 Contribution	09/24/09	American Red Cross
Edith Riley	Prohibited Sale of Alcohol	06/05/09	6 month ACD; \$75 Contribution	11/10/09	A Voice for all Animals, Inc.
Jesa Scott	Harassment 2nd	09/14/09	6 month ACD; \$100 Contribution	11/19/09	City of Elmira-Dog Park

LEARNED, REILLY, LEARNED & HUGHES, LLP

ATTORNEYS AT LAW

PHILIP C. LEARNED
THOMAS E. REILLY
SCOTT J. LEARNED
DIANA L. HUGHES*

MATTHEW C. GAGLIARDO

449 EAST WATER STREET
ELMIRA, NEW YORK 14901-3410
607-734-1519

WWW.LEARNEDREILLYLEARNED.COM

FAX 607-734-1880
Fax and e-mail not for service

*ALSO ADMITTED IN
CONNECTICUT

May 7, 2012

Clerk of the Commission
NYS Commission on Judicial Conduct
61 Broadway (Suite 1200)
New York, NY 10006

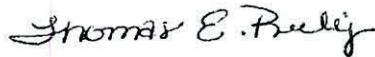
In RE: Thomas E. Ramich

Dear Sir/Madam:

On behalf of the Respondent, enclosed please find original Verified Answer to Formal Written Complaint.

Thank you for your consideration in this matter.

Very truly yours,



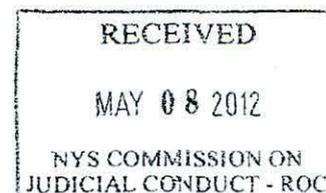
THOMAS E. REILLY
EMAIL: treilly@stny.rr.com

TER/Im
Enclosure

Cc w/encl:
John J. Postel, Esq., Dep. Administrator
Commission on Judicial Conduct
400 Andrews Street
Rochester, NY 14604

EXHIBIT

3



STATE OF NEW YORK
COMMISSION ON JUDICIAL CONDUCT

In the Matter of the Proceeding Pursuant to
Section 44, Subdivision 4, of the Judiciary Law
In Relation to

THOMAS E. RAMICH,

A Judge of the Elmira City Court
Chemung County

**VERIFIED ANSWER
TO FORMAL WRITTEN
COMPLAINT**

Respondent, Thomas E. Ramich, through his attorneys, Learned, Reilly, Learned & Hughes, LLP, as and for his verified Answer to Formal Written Complaint dated April 30, 2012 in the instant action, herein alleges as follows:

1. **ADMITS** the allegations set forth in paragraphs numbered "1", "2", and "4" of the Formal Written Complaint dated April 30, 2012.
2. **DENIES** the factual allegations set forth in Charges I - IV and denies that there have been any acts of judicial misconduct by the respondent in violation of the Rules of the Chief Administrator of the Courts Governing Judicial Misconduct.

WHEREFORE, respondent respectfully demands judgment dismissing the instant complaint, together with such other and further relief as the Court deems just and proper.

Dated: May 7th, 2012

Yours, etc.



Thomas E. Reilly, Esq.
**LEARNED, REILLY, LEARNED
& HUGHES, LLP**

Attorneys for Defendant
Office and Post Office Address
449 E. Water Street
Elmira, New York 14901
Telephone: 607 734-1519

LEARNED, REILLY, LEARNED & HUGHES, LLP
449 E. Water Street
Elmira, NY 14901
Telephone: (607) 734-1519 Fax: (607) 734-1880

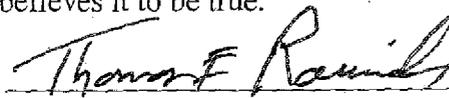
TO:
Clerk of the Commission
NYS Commission on Judicial Conduct
61 Broadway (Suite 1200)
New York, NY 10006

Cc:
John J. Postel, Esq., Dep. Administrator
Commission on Judicial Conduct
400 Andrews Street
Rochester, NY 14604

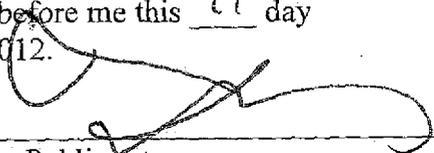
INDIVIDUAL VERIFICATION

STATE OF NEW YORK :
COUNTY OF CHEMUNG :ss.:

THOMAS E. RAMICH, being duly sworn, deposes and says that deponent is the Respondent in the within action; that deponent has read the foregoing **Answer To Formal Written Complaint** and knows the contents thereof; that the same is true to deponent's own knowledge, except as to the matters therein stated to be alleged on information and belief, and that as to those matters deponent believes it to be true.


Thomas E. Ramich

Sworn to before me this 24 day
of May, 2012.


Notary Public
THOMAS E. REILLY
Notary Public, State of New York
No. 02RE4623426, Reg. in Chemung County
My Commission Expires Nov. 30, 2012

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

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

THOMAS E. RAMICH :

a Judge of the Elmira City Court, :
Chemung County. :
-----X

Schuyler County Courthouse
105 9th Street
Watkins Glen, NY 14891
October 16, 2012
9:53 A.M.

Before:

GARY MULDOON, ESQ.,
Referee

Present:

For the Commission

JOHN J. POSTEL, ESQ.,
Deputy Administrator

KATHLEEN MARTIN, ESQ.,
Senior Attorney

For the Respondent

THOMAS E. REILLY, ESQ.,
Attorney for Respondent
Learned, Reilly, Learned, & Hughes, LLP
449 East Water Street
Elmira, NY 14901

Also Present:

HON. THOMAS E. RAMICH,
Respondent

REBECCA ROBERTS,
Investigator

BETSY SAMPSON,
Investigator and FTR Operator

EXHIBIT

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(Colloquy)

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THE REFEREE: Good morning. My name is Gary Muldoon, and I'm the referee in a hearing pursuant to the Judiciary Law, Matter of Thomas E. Ramich. Today is Tuesday, October 16th, and this hearing is being held in the family court--

MR. POSTEL: --No--

THE REFEREE: --I'm sorry, is this the--

MR. POSTEL: --county court--

MR. REILLY: --This is the Supreme Court.

MR. POSTEL: Supreme Court, yeah--

THE REFEREE: --Supreme Court, I'm sorry.

MR. REILLY: No, county court, it's actually--

MR. POSTEL: --It is county court--

MR. REILLY: --there is--

MR. POSTEL: --county--

MR. REILLY: --no Supreme Court judge here except--

THE REFEREE: --Okay--

MR. REILLY: --sitting temporarily.

THE REFEREE: Okay, please, sit down. It's fine. At the Schuyler County Courthouse, 105 9th Street, Watkins Glen. This hearing is being audio recorded. There are several people present in the room, and I would ask that each of them, if you would state your name. Do you, do you have a mic there? Okay. If you could state your name.

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RESPONDENT: Thomas Ramich.

THE REFEREE: Okay, in, into the microphone.

RESPONDENT: Thomas Ramich.

THE REFEREE: Okay.

MR. REILLY: I'm Thomas Reilly, representing
Thomas Ramich.

MR. POSTEL: John Postel, Deputy Administrator
for the Commission.

MS. MARTIN: Kathleen Martin, Senior Attorney for
the Commission.

MS. ROBERTS: Rebecca Roberts, Senior
Investigator with the Commission.

THE REFEREE: Very good, thank you all. Just
want to make sure that the microphone recognizes each
person's voice and all are working. Fine. Okay, yesterday,
on Monday, October 14th--

MR. REILLY: --15th--

MS. ROBERTS: --15th.

THE REFEREE: --15th, I'm sorry, my, on the 15th,
the attorneys and I had a conference call to discuss logistics
for this hearing. I understand that the attorneys for the
Commission have several witnesses and that the
Commission will present its case today, and assuming that
the Commission finishes its case this afternoon, respondent
would present its case and call witnesses tomorrow

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morning. That is both sides understanding?

MR. POSTEL: Correct--

MR. REILLY: --That's correct.

THE REFEREE: Very good. This hearing being confidential in nature, witness sequestration is in a sense superfluous. There is one witness who is waiting to be called, the first witness for the Commission, as I understand it. There will be no opening statements per agreement earlier in the, in our discussions, and at this point, Mr. Postel, Ms. Martin, do you have any exhibits that you wish to offer into evidence?

MS. MARTIN: Yes, we do, Your Honor.

THE REFEREE: Very good.

MR. REILLY: Judge, I think with regard to sequestration, we're going to request that that occur because witnesses are here to testify.

THE REFEREE: There will, I mean, witness of, sequestration is--

MR. POSTEL: --There will be no--

THE REFEREE: --is ordered--

MR. POSTEL: --one in this room besides--

THE REFEREE: --those present--

MR. POSTEL: --seven of us.

THE REFEREE: Okay.

MR. POSTEL: Took me a while, but just the seven

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of us, and no one, and other than any Commission employees. Commission employees and respondent's counsel's team are all that's permitted.

THE REFEREE: Okay, very well, and after a witness is, completed their testimony--

MR. POSTEL: --They're out--

THE REFEREE: --they will be excused.

MR. POSTEL: Yes.

THE REFEREE: Very good. One suggestion, just for clarification, in, in addressing me, you can call Mr. Muldoon or Your Honor for purposes of this. I'd rather that you not call me judge, since there may be several different people who will be testifying or as the respondent, who is named judge, and just for, just to make things a little bit more clear on that.

MR. POSTEL: Thank you, judge, I mean, Your Honor. Are we ready to roll?

THE REFEREE: Yes.

MR. POSTEL: Alright, the Commission, at this point, will identify exhibits that have been pre-marked, and it's my understanding with Mr. Reilly that there will be no objection. The first is a stipulation, Commission Exhibit 1, a stipulation of facts. It's three pages in length. It's executed by Mr. Reilly on behalf of respondent, and myself on behalf of the Commission.

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(Commission Exhibit 1 was marked for identification)

MR. REILLY: No objection.

THE REFEREE: That's going to be received into evidence, correct?

(Commission Exhibit 1 was received into evidence)

MR. POSTEL: In connection with Charge I, the specification relating to Fred Seither, am I pronouncing that right?

RESPONDENT: Yes.

MR. POSTEL: Thank you. Fred Seither, Commission Exhibit 2, is a copy of the records relating to the matter, a Uniform Traffic Ticket charge of speeding in zone. The first page is a traffic ticket, second page is a letter from Mr. Cerio, dated July 14, 2003, followed by the Walworth Town Court Case History printout, and a Certificate of Disposition, four pages in length. All of the documents that I'm indicating have been previously provided to Mr. Reilly.

(Commission Exhibit 2 was marked for identification)

MR. REILLY: No objection.

THE REFEREE: Good, received in evidence.

(Commission Exhibit 2 was received into evidence)

MR. POSTEL: With regard to the specification in Charge I, relating to the individual identified as Amanda Ramich, to whom the stipulation, Commission Exhibit 1

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relates, I have Commission Exhibit 3 marked. It includes the Uniform Traffic Ticket front and back, a Supporting Deposition, a letter from the Assistant District Attorney for the County of Steuben to Fred, Frederick M. Cerio, a copy of a letter from, his name is Mr. Ronald A. Yorio, a second letter from Mr. Yorio to Mr. Cerio, excuse me, to the Erwin Town Court identifying the agreement for a plea reduction, plea disposition, followed by a letter from Mr. Cerio to the Erwin Town Court, dated July 17, 2006, a letter from Mr. Yorio to the Erwin Town Court, dated July 11, 2006. In fact that's superfluous, actually, I, sorry, the first one, dated July 11th is the bail, is the fine notice and plea, the second one is simply the plea without the fine notice, and the last page is from Mary Claire Donovan Frank, the judge in the Erwin Town Court, which is a copy of the fine notice, August 4, 2006.

(Commission Exhibit 3 was marked for identification)

MR. REILLY: No objection.

(Commission Exhibit 3 was received into evidence)

MR. POSTEL: With regard to the specification concerning a woman named Cynthia Greger, Commission Exhibit 4, first page is the Uniform Traffic Ticket, second page is the Supporting Deposition, third page is a letter, dated May 12, 2009, to Frederick Cerio, from Jason L. Cook, the First Assistant District Attorney, and the offer

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acceptance execution, followed by an abstract of Ms. Greger's driving record, a letter dated May 28, 2009, from Mr. Cerio to the judge of the Town of Starkey, and the Starkey Town Court Fine Notice, Commission Exhibit 4.

(Commission Exhibit 4 was marked for identification)

MR. REILLY: No objection.

(Commission Exhibit 4 was received into evidence)

MR. POSTEL: With regard to the specification concerning Mr. Cerio's representation of respondent in connection with his house closing in Charge I, I have a copy of the HUD Settlement Statement, two pages in length.

MR. REILLY: No objection.

THE REFEREE: That one is 5?

MR. POSTEL: 5.

(Commission Exhibit 5 was marked for identification)

MS. ROBERTS: Are they being received, Your Honor?

MR. POSTEL: They're all received--

THE REFEREE: --All of these are being received into evidence. Fine.

(Commission Exhibit 5 was received into evidence)

MS. ROBERTS: But it has to be state--

MR. POSTEL: --Any time there's no objection, they're automatically received.

MS. ROBERTS: It should be stated on the record as

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well.

THE REFEREE: Very well.

MR. POSTEL: Ms. Roberts is chastising you, Your Honor.

MR. MULDOON: We'll take judicial notice of that.

MR. POSTEL: Commission Exhibit 6 relates to the specification concerning Mr. Cerio's representation of respondent for Ramich Realty Corporation. Respondent and Ramich have joined in one in my mind apparently. The first page is the lease agreement, second page is an email from Ramich to Cerio, dated April 4, 2009, followed by an email from Ramich to, from Leipold to Ramich, dated April 23, 2009, two pages, and email from Mr. Ramich, excuse me, Judge Ramich, handed to Fred Cerio with handwritten notations from Fred Cerio, dated April 28, 2009, an email, dated May 5, 2009, from Mr. Leipold to Mr. Cerio, Commission Exhibit 6.

(Commission Exhibit 6 was marked for identification)

THE REFEREE: Received.

MR. REILLY: No objection.

(Commission Exhibit 6 was received into evidence)

MR. POSTEL: With regard to Commission Exhibit 7, a check drawn on the account of Frederick M. Cerio, HSBC, dated April 27, 2009, in the amount of \$19.25, Commission Exhibit 7.

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(Commission Exhibit 7 was marked for identification)

MR. REILLY: No objection.

THE REFEREE: Received.

(Commission Exhibit 7 was received into evidence)

MR. POSTEL: With regard to the so called "Cash for Clunkers," specification in Commission Exhibit, the Formal Written Complaint, Charge I, an email, dated August 17, 2009, from respondent to Mr. Cerio.

(Commission Exhibit 8 was marked for identification)

MR. REILLY: No objection.

(Commission Exhibit 8 was received into evidence)

MR. POSTEL: With regard to Charge II of the Formal Written Complaint, there are no, there is no documentary evidence. With regard to Charge III--

THE REFEREE: --Just one moment, I've not had the opportunity to review any of the, any item of evidence that has been offered and received before this, are all Exhibits 1 through 8 essentially relating to Charge I?

MR. POSTEL: Correct.

THE REFEREE: Okay.

MR. POSTEL: And they've all been received, is that correct?

THE REFEREE: That is correct.

MR. REILLY: That is correct.

THE REFEREE: Very good.

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MR. POSTEL: With regard to Charge III of the Formal Written Complaint, the allegations of, relating to charitable contributions, the first matter identified on the schedule is *People v David L. Oshann*. Commission Exhibit 9 consists of court records from the Elmira City Court relating to *Oshann*, first page of which is the cover of the folder, second page of which is the court information, the third page of which is a receipt for a contribution.
(Commission Exhibit 9 was marked for identification)

MR. REILLY: No objection.

THE REFEREE: Received.

(Commission Exhibit 9 was received into evidence)

MR. POSTEL: Commission Exhibit 10 is a copy of the transcript of the proceeding on September 15, 2008, two, it's actually just one page.

(Commission Exhibit 10 was marked for identification)

MR. REILLY: No objection.

(Commission Exhibit 10 was received into evidence)

THE REFEREE: Is that, is that David Ortiz, or is that--

MR. POSTEL: --Oshann, O-S-H-A--

THE REFEREE: --Okay--

MR. POSTEL: --N-N.

THE REFEREE: Thank you.

MR. POSTEL: Second specification listed on the

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schedule is *Edward S. Bassler*, B-A-S-S-L-E-R.

Commission Exhibit 11 is the cover sheet from the file, two pages in length, a court Information for Warrant, dated July 27, 2007, a handwritten letter from Mr. Bassler to respondent, and a receipt for \$100 from the Chemung County SPCA, dated August 26, 2008.

(Commission Exhibit 11 was marked for identification)

MR. REILLY: No objection.

THE REFEREE: Received.

(Commission Exhibit 11 was received into evidence)

MR. POSTEL: Commission Exhibit 12 is a copy of a transcript of a proceeding in *Bassler* on August 26, 2008, one page in length.

(Commission Exhibit 12 was marked for identification)

MR. REILLY: No objection.

THE REFEREE: Received.

(Commission Exhibit 12 was received into evidence)

MR. POSTEL: With regard to the specification in Charge III relating to *David Ortiz*, Commission Exhibit 13 is the cover sheet from the Elmira City Court file, two pages in length, copies of two Simplified Traffic Informations, copy of a third Simplified Traffic Information, copy of the court information, copy of a receipt, dated February 25, 2009, two pages in length. It's front and back.

(Commission Exhibit 13 was marked for identification)

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MR. REILLY: No objection.

THE REFEREE: Received.

(Commission Exhibit 13 was received into evidence)

MR. POSTEL: Commission Exhibit 14 is the transcript in *Ortiz* on September 19, 2008, five pages in length.

(Commission Exhibit 14 was marked for identification)

MR. REILLY: No objection.

(Commission Exhibit 14 was received into evidence)

MR. POSTEL: With regard to the specification concerning *William Krazinski, K-R-A-Z-I-N-S-K-I*, Commission Exhibit 15 is the cover sheet from the folder. Followed by an Appearance Ticket, two Appearance Tickets, an Information, two Informations.

(Commission Exhibit 15 was marked for identification)

MR. REILLY: No objection.

THE REFEREE: Received.

(Commission Exhibit 15 was received into evidence)

MR. POSTEL: Commission Exhibit 16 is the transcript in *Krazinski*, October 2, 2008, six pages in length.

(Commission Exhibit 16 was marked for identification)

THE REFEREE: There being no objection, that will be received.

MR. REILLY: No objection, I'm sorry.

(Commission Exhibit 16 was received into evidence)

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MR. POSTEL: With regard to the specification of *Scott Place*, Commission Exhibit 17 is the cover sheet, two pages in length, from the file, the Information, two pages, separate charges.

(Commission Exhibit 17 was marked for identification)

MR. REILLY: No objection.

THE REFEREE: Received.

(Commission Exhibit 17 was received into evidence)

MR. POSTEL: Commission Exhibit 18 is a transcript of the proceeding, four pages in length.

(Commission Exhibit 18 was marked for identification)

MR. REILLY: No objection.

MR. POSTEL: And that's November 24, 2008.

THE REFEREE: Received.

(Commission Exhibit 18 was received into evidence)

MR. POSTEL: With regard to the specification *Ryan J. McGough*, M-C-G-O-U-G-H, Commission Exhibit 19, the file cover, an Appearance Ticket, a Simplified Traffic Information, a second Simplified Traffic Information, a third Simplified Traffic Information, and, the Orders of a Conditional Discharge.

(Commission Exhibit 19 was marked for identification)

MR. REILLY: No objection.

THE REFEREE: Received.

(Commission Exhibit 19 was received into evidence)

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MR. POSTEL: Commission Exhibit 20 is the transcript of the proceeding in *McGough*, November 21, 2008, five pages in length.

(Commission Exhibit 20 was marked for identification)

MR. REILLY: No objection.

THE REFEREE: Received.

(Commission Exhibit 20 was received into evidence)

MR. POSTEL: With regard to the specification *Matthew E. Cleary*, Commission Exhibit 21, cover of the file sheet, two pages in length, Appearance Ticket, court information, correspondence dated March 30, 2009, a handwritten correspondence to respondent from Mr. Cleary, two pages in length, correspondence from the Elmira City Court, dated April 10, 2009. The March 30th is Elmira City Court correspondence as well. Final page is a copy of a City of Elmira receipt stamp.

(Commission Exhibit 21 was marked for identification)

MR. REILLY: No objection.

THE REFEREE: Received.

(Commission Exhibit 21 was received into evidence)

MR. POSTEL: With regard to Commission Exhibit 22 is a transcript of various dates in the matter of *Matthew E. Cleary*, 11/5/08, 11/25/08, 4/21/09, 5/14/09, 21 pages in length.

(Commission Exhibit 22 was marked for identification)

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MR. REILLY: No objection.

THE REFEREE: Received.

(Commission Exhibit 22 was received into evidence)

MR. POSTEL: With regard to the specifications of *John K. Silver*, Commission Exhibit 23, the cover of the file sheet, the file sheet cover, two pages in length, Appearance Ticket, Information, letter from, letter dated October 29, 2009, from Spring to Judge Ramich, and the Local Court Criminal Disposition Report.

(Commission Exhibit 23 was marked for identification)

MR. REILLY: No objection.

THE REFEREE: Received.

(Commission Exhibit 23 was received into evidence)

MR. POSTEL: This is 23, thank you. 24 is a copy of the transcript of proceedings on March 31, 2009, in *People v Silver*, seven pages in length.

(Commission Exhibit 24 was marked for identification)

MR. REILLY: No objection.

THE REFEREE: Received.

(Commission Exhibit 24 was received into evidence)

MR. POSTEL: With regard to the *Dylan J. Danko*, D-A-N-K-O specification, Commission Exhibit 25, is the file sheet cover, two pages, a DWI Supporting Deposition, and a receipt dated March 31, 2009.

(Commission Exhibit 25 was marked for identification)

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MR. REILLY: No objection.

THE REFEREE: Received.

MR. POSTEL: Back up, excuse me, back up, 25.

You put the wrong label on it.

(Commission Exhibit 25 was received into evidence)

MR. POSTEL: 26 is a transcript of various proceedings, 1/26/09, 2/18/09, 3/21/09, in *Dylan Danko*, that's with an O, 17 pages in length.

(Commission Exhibit 26 was marked for identification)

MR. REILLY: No objection.

THE REFEREE: Received.

(Commission Exhibit 26 was received into evidence)

MR. POSTEL: I certainly should have known it was *Danko*, since the witness we're calling is the attorney in the *Danko* case. How could I have gotten that wrong? *Zimmer* specification, *Matthew P.*, well now then, there's some hesitation, file cover sheet, Commission Exhibit 27, two pages in length, Appearance Ticket, two Simplified Traffic, copy of two Simplified Traffic Informations, copy of a third Simplified Traffic Information, and a Conditional Discharge Order.

(Commission Exhibit 27 was marked for identification)

MR. REILLY: No objection.

THE REFEREE: Received.

(Commission Exhibit 27 was received into evidence)

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(Colloquy)

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MR. POSTEL: Commission Exhibit 28, transcript of proceedings in *Zimmer*, 4/10/09, 20 pages in length.
(Commission Exhibit 28 was marked for identification)

MR. REILLY: No objection.

THE REFEREE: Received.

(Commission Exhibit 28 was received into evidence)

MR. POSTEL: *Mary K. Szustak*, specification S-Z-U-S-T-A-K, Commission Exhibit 29, file folder cover sheet, Appearance Ticket, two of them, court information, two of them, Local Disposition Report.
(Commission Exhibit 29 was marked for identification)

MR. REILLY: No objection.

THE REFEREE: Received.

(Commission Exhibit 29 was received into evidence)

MR. POSTEL: Commission Exhibit 30, transcript of the proceedings in *Szustak*, April 24, 2009, one page.
(Commission Exhibit 30 was marked for identification)

MR. REILLY: No objection.

THE REFEREE: Received.

(Commission Exhibit 30 was received into evidence)

MR. POSTEL: *Katrina L. Cramer*, Commission Exhibit 31, file folder cover sheet, two pages in length, Appearance Ticket, court information, correspondence from the court, dated August 6, 2009. Commission Exhibit 32, April 30, 2009, proceeding in *Cramer*, five pages in length.

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(Commission Exhibits 31 and 32 were marked for identification)

MR. REILLY: No objection.

THE REFEREE: 31, 32 received.

(Commission Exhibits 31 and 32 were received into evidence)

MR. POSTEL: Specification, *Zachary D. McCarthy*, Commission 33, file folder cover sheet, court information for warrant, Appearance Ticket, Western Union money gram.

(Commission Exhibit 33 was marked for identification)

MR. REILLY: No objection.

THE REFEREE: That's Exhibit 33?

MR. POSTEL: Correct. 34 is the transcript in *McCarthy*, 5/29/09, eight pages in length.

(Commission Exhibit 34 was marked for identification)

MR. REILLY: No objection.

THE REFEREE: Received.

(Commission Exhibit 33 and 34 were received into evidence)

MR. POSTEL: With regard to the specification concerning *Cevin*, with a C, C-E-V-I-N, *Crowley*, with an E, C-R-O-W-L-E-Y, Commission Exhibit 35, file folder cover sheet, two pages in length, Appearance Ticket, two of them, court information, correspondence from Reynolds and Associates to the Elmira City Court, July 8, 2009, correspondence dated July 2009 from the Nasa Civic, excuse me, United Way of the Southern Tier, and a Local

(Colloquy)

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Criminal Disposition Report.

(Commission Exhibit 35 was marked for identification)

MR. REILLY: No objection.

THE REFEREE: Received.

(Commission Exhibit 35 was received into evidence)

MR. POSTEL: Commission Exhibit 36 is the June 19, 2009, appearance by Mr., by *Cevin Crowley*, or *Cevin Crowley*, five pages in length.

(Commission Exhibit 36 was marked for identification)

MR. REILLY: No objection.

THE REFEREE: Received.

(Commission Exhibit 36 was received into evidence)

MR. POSTEL: Specification *Andres, Andres Guzman*, G-U-Z-M-A-N, Commission Exhibit 37, file folder cover sheet, court information, city animal shelter receipt, Local Criminal Disposition Report.

(Commission Exhibit 37 was marked for identification)

MR. REILLY: No objection.

THE REFEREE: Received.

(Commission Exhibit 37 was received into evidence)

MR. POSTEL: 38 is the transcript of appearances by *Guzman*, 4/13/09, 6/2/09, 6/24/09, four pages in length.

(Commission Exhibit 38 was marked for identification)

MR. REILLY: No objection.

THE REFEREE: Received.

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(Commission Exhibit 38 was received into evidence)

MR. POSTEL: Specification, *Thomas L. Earley*,
Commission Exhibit 39, file folder cover sheet, two pages,
Appearance Ticket, court information, handwritten note,
court correspondence, 8/5/09, Local Disposition Report.

(Commission Exhibit 39 was marked for identification)

MR. REILLY: No objection.

(Commission Exhibit 39 was received into evidence)

MR. POSTEL: Commission Exhibit 40, transcript of
proceeding in *Earley*, 6/24/09, two pages in length.

(Commission Exhibit 40 was marked for identification)

MR. REILLY: No objection.

THE REFEREE: Received.

(Commission Exhibit 40 was received into evidence)

MR. POSTEL: 41, file folder cover sheet in *People v*
Strobel, S-T-R-O-B-E-L, Appearance Ticket, court
information, receipt, screen grabber printout, court
document.

(Commission Exhibit 41 was marked for identification)

MR. REILLY: No objection.

THE REFEREE: Received.

(Commission Exhibit 41 was received into evidence)

MR. POSTEL: Commission Exhibit 42, transcript in
Strobel, 6/24/09, two pages in length.

(Commission Exhibit 42 was marked for identification)

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(Colloquy)

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MR. REILLY: No objection.

THE REFEREE: Received.

(Commission Exhibit 42 was received into evidence)

MR. POSTEL: Specification, *Tiffany Pagano*,
Commission Exhibit 43, file folder cover sheet, Appearance
Ticket, court information, screen grabber printout, Local
Criminal Court Disposition Report.

(Commission Exhibit 43 was marked for identification)

MR. REILLY: No objection.

THE REFEREE: Received.

(Commission Exhibit 43 was received into evidence)

MR. POSTEL: Transcript of proceeding in *Pagano*,
6/10/09, 6/24/09, three pages in length.

(Commission Exhibit 44 was marked for identification)

MR. REILLY: No objection.

THE REFEREE: That's number 44.

MR. POSTEL: 44, thank you.

(Commission Exhibit 44 was received into evidence)

MR. POSTEL: 45, with regard to the specification
concerning *Devi Nanu Shrestha, S-H-R-E-S-T-H-A, 45*, file
folder cover sheet, Appearance Ticket, court information,
check, 6/29/09, on the account of Shining Elmira, Inc.,
\$150.

(Commission Exhibit 45 was marked for identification)

MR. REILLY: No objection.

(Colloquy)

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MR. POSTEL: Commission Exhibit--

THE REFEREE: --Received--

(Commission Exhibit 45 was received into evidence)

MR. POSTEL: 46, transcript of proceeding, 6/10/09, 6/24/09, 7/15/09, in *Shrestha, Shrestha*, five pages in length.

(Commission Exhibit 46 was marked for identification)

MR. REILLY: No objection.

THE REFEREE: Received.

(Commission Exhibit 46 was received into evidence)

MR. POSTEL: I suppose we can simply call he or she Nanu. Regarding the specification in *Kenneth Stradley*, Commission 47, file folder cover sheet, Appearance Ticket, court information, receipt, Criminal Court Disposition Report.

(Commission Exhibit 47 was marked for identification)

MR. REILLY: No objection.

THE REFEREE: Received.

(Commission Exhibit 47 was received into evidence)

MR. POSTEL: Transcript of proceedings in *Stradley*, 6/10/09, 6/24/09, four pages.

(Commission Exhibit 48 was marked for identification)

MR. REILLY: No objection.

THE REFEREE: Received.

(Commission Exhibit 48 was received into evidence)

(Colloquy)

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MR. POSTEL: With regard to the specification concerning *Terry M. Miller*, 49, file folder cover sheet, let me guess, Appearance Ticket, let me guess, court information, handwritten notation, Elmira City Court, 8/5, excuse me, handwritten letter, 8/5/09, Chemung County Humane Society invoice/receipt.

(Commission Exhibit 49 was marked for identification)

MR. REILLY: No objection.

THE REFEREE: Received.

(Commission Exhibit 49 was received into evidence)

MR. POSTEL: Commission Exhibit 50, transcript of proceedings 7/8/10, *People v Miller*, three pages in length.

(Commission Exhibit 50 was marked for identification)

MR. REILLY: No objection.

THE REFEREE: Received.

(Commission Exhibit 50 was received into evidence)

MR. POSTEL: With regard to specification *Jeffrey A. Gush*, G-U-S-H, ultimately pronounced Gush, file folder cover sheet, Commission Exhibit 51, Appearance Ticket, court information.

(Commission Exhibit 51 was marked for identification)

MR. REILLY: No objection.

THE REFEREE: Exhibit 51 received.

(Commission Exhibit 51 was received into evidence)

MR. POSTEL: Commission Exhibit 52, transcript of

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proceedings in *Gush*, 8/7/09, three pages in length.
(Commission Exhibit 52 was marked for identification)

MR. REILLY: No objection.

THE REFEREE: Received.

(Commission Exhibit 52 was received into evidence)

MR. POSTEL: With regard to the specifications concerning *Irene Williams*, Commission Exhibit 53, file folder cover sheet, two pages, Appearance Ticket, court information, correspondence from Buck, Daneher, Ryan, and McGlin attorneys to the court, 6/24/09, American Red Cross receipt, Local Criminal Court Disposition Report.

(Commission Exhibit 53 was marked for identification)

MR. REILLY: No objection.

THE REFEREE: Received.

(Commission Exhibit 53 was received into evidence)

MR. POSTEL: With regard to the transcript of proceedings in *Irene William*, 6/10/09, three pages in length.

(Commission Exhibit 54 was marked for identification)

MR. REILLY: No objection.

THE REFEREE: That's 54?

MR. POSTEL: 54, thank you.

(Commission Exhibit 54 was received into evidence)

MR. POSTEL: Commission Exhibit 55, specification *Edith A. Riley*, file folder cover sheet, Appearance Ticket,

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court information, receipt, handwritten letter, 9/12/09.

(Commission Exhibit 55 was marked for identification)

MR. REILLY: No objection.

THE REFEREE: Received.

(Commission Exhibit 55 was received into evidence)

MR. POSTEL: Commission Exhibit 56, *Edith Riley*, various proceedings, 6/10/09, 6/24/09, 7/15/09, 8/25/09, 9/29/09, 10/21/09, 11/10/09, 14 pages, 15 pages in length.

(Commission Exhibit 56 was marked for identification)

MR. REILLY: No objection.

THE REFEREE: Received.

(Commission Exhibit 56 was received into evidence)

MR. POSTEL: With regard to, I believe, is this the final one?

THE REFEREE: I believe so.

MR. REILLY: Please.

MR. POSTEL: Yes, *Jesa Scott*, Commission Exhibit 57, file folder cover sheet, court information sheet for warrant, Criminal Summons, receipt, Local Criminal Disposition Report.

(Commission Exhibit 57 was marked for identification)

MR. REILLY: No objection.

MR. POSTEL: 58, transcript of--

THE REFEREE: --Received--

(Commission Exhibit 57 was received into evidence)

(Colloquy)

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MR. POSTEL: --proceedings in *Scott*, 10/26/09, four pages in length.

(Commission Exhibit 58 was marked for identification)

MR. REILLY: No objection.

THE REFEREE: Received.

(Commission Exhibit 58 was received into evidence)

THE REFEREE: It's my understanding that the Commission has, at this point, offered 58 exhibits, no objection to those, and they have all been received in evidence. Is that your understanding, Mr. Postel?

MR. POSTEL: That's correct.

THE REFEREE: Mr. Reilly?

MR. REILLY: Yes, that's correct.

THE REFEREE: Very good.

MR. REILLY: But I believe there are more.

MR. POSTEL: As Commission Exhibit 59, a copy of the Matter of *Joseph R. Piper*, that's, excuse me, Charge IV, is the Appearance Ticket, Elmira Police Department, front and back, file folder cover sheet, two pages, an extension sheet from the file folder, two pages, excuse me, that's three pages, *People v Piper* court records.

(Commission Exhibit 59 was marked for identification)

MR. REILLY: No objection.

MS. MARTIN: That's 59.

THE REFEREE: Received.

(Colloquy)

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MR. POSTEL: 59.

(Commission Exhibit 59 was received into evidence)

MR. POSTEL: As Commission Exhibit 60, a copy of the transcript in *People v Piper*, the first day, June 6, 2010. (Commission Exhibit 60 was marked for identification)

MR. REILLY: No objection.

THE REFEREE: Received.

(Commission Exhibit 60 was received into evidence)

MR. POSTEL: I have pre-marked, but I can't find it at the moment, I'll find it, the *voir dire* sheet prepared in connection with the jury on that date as 61, we've marked that. Is that right? I'll find that. Okay--

MR. REILLY: --If you can't find it, I have it, John.

MR. POSTEL: Alright, I'll find it somewhere, Tom. I'll put that in as soon as I locate it.

MR. REILLY: I'll have no objection, objection to that, Your Honor.

MR. POSTEL: As Commission Exhibit 62, a copy of a letter from Mr. Piper to the Commission on Judicial Conduct with an attached copy of a case, I'm sorry, I apologize. As 61, I'm out of order, that's my problem.

THE REFEREE: So to speak.

MR. POSTEL: A copy of a case, *People v Ivan Hartson*, Appellate Division, 3rd Department, Commission Exhibit 61, two pages in length with an attached copy of a

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letter from Joseph R. Piper to the Commission on Judicial Conduct.

MR. REILLY: So, those are both Exhibit 1, I mean, Exhibit 61?

MR. POSTEL: Correct.

MR. REILLY: The two of those.

MR. POSTEL: They're together. What, what (unintelligible). Commission Exhibit 61.

(Commission Exhibit 61 was marked for identification)

THE REFEREE: Exhibit 61 is the--

MR. POSTEL: --*Hartson*--

THE REFEREE: --*Hartson*--

MR. POSTEL: --case--

THE REFEREE: --case and letter--

MR. POSTEL: --from Piper.

THE REFEREE: --From Piper. Okay, and there was a *voir dire* that you're going to be offering--

MR. POSTEL: --I have to find it.

THE REFEREE: Okay--

MR. POSTEL: --I don't know where--

THE REFEREE: --is that--

MR. POSTEL: --I put it--

MR. REILLY: --*Voir dire* would be 62?

MR. POSTEL: 62, the *voir dire* will be 62.

THE REFEREE: 62 will be the *voir dire*?

(Colloquy)

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MR. POSTEL: Correct.

MR. REILLY: And there will be no--

MR. POSTEL: --But we'll--

MR. REILLY: --objection to that, Your Honor. I've seen it.

THE REFEREE: Very good.

MR. POSTEL: I couldn't say for the life of me say where I put it. I thought it was in the pack with the transcripts. You have the *Piper*. Could I get 60, please?

MR. REILLY: Got it.

MR. POSTEL: We'll mark as Commission Exhibit 62, a copy of the *voir dire*, dated June 3, 2010, dated June 1, 2010, and then finished on June 3, 2010, by Spring Strunk, who I gather is a clerk--

THE WITNESS: --Clerk--

MR. POSTEL: --in the court.

THE WITNESS: Yes.

MR. POSTEL: Thank you, Judge Ramich.

(Commission Exhibit 62 was marked for identification)

THE REFEREE: Which number is that?

MR. POSTEL: 62. I have no further exhibits.

THE REFEREE: Very good. All of them have been offered minus, do we--

MR. POSTEL: --No, we got them all.

THE REFEREE: We have them all now at this point,

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(Colloquy)

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and no objection to any of those exhibits?

MR. REILLY: No objections.

THE REFEREE: They're all received into evidence at this point.

(Commission Exhibits 61 and 62 were received into evidence)

MR. POSTEL: Thank you, Your Honor. We're prepared to call our first witness.

MR. REILLY: My exhibits will be chronologically after that, or are my exhibits going to begin with an A or--

MR. POSTEL: --A--

MR. REILLY: --or, A--

THE REFEREE: --I would prefer A, yes.

MR. REILLY: Okay.

THE REFEREE: Ready to call--

MR. REILLY: --I'm ready--

THE REFEREE: --first witness? Fine, just one other matter, I would suggest that when it comes to questioning the witness, ask at, at the, the lectern, if you're seated and wish to make objections, you can do that. Perhaps because of the audio to, to just remain seated rather than standing up.

MR. REILLY: Fine.

MR. POSTEL: The audio will pick things up.

THE REFEREE: It will?

MR. POSTEL: Yeah, the room is very well-wired.

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(Colloquy)

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Ms. Sampson, can you hear everything? Okay.

MS. SAMPSON: I can.

MR. POSTEL: The other thing I want to remind you of before we begin, with witnesses is the audio can pick everything up. If you have a conversation, it won't pick it up when the mic is covered by your hand. Alright?

MR. REILLY: Remember that.

THE REFEREE: Very good.

MR. POSTEL: Thank you.

THE REFEREE: Call your first witness.

MR. POSTEL: Steven Forrest.

THE REFEREE: Steven Forrest.

MR. REILLY: If I hit a button, will this--

MR. POSTEL: --No--

MR. REILLY: --go on and off?

MR. POSTEL: No, there's no control on the microphones for the audio reception. The only way to knock it off is to instruct the ESR operator or to cover it with your hand.

MR. REILLY: Very good.

MR. POSTEL: (unintelligible) down. Look down.

MR. REILLY: Don't, don't fall off--

MR. POSTEL: --(unintelligible)

THE REFEREE: Good morning.

THE WITNESS: Good morning. How are you?

31.

(Forrest-Direct)

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THE REFEREE: Please be seated.

THE REFEREE: Do you solemnly swear to tell the truth, the whole truth, and nothing but the truth, so help you, God?

THE WITNESS: Yes, I do.

MR. POSTEL: Swear or affirm.

THE WITNESS: Swear or--

MR. POSTEL: --or affirm.

THE WITNESS: Swear or affirm.

STEVEN FORREST,

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

EXAMINATION BY

MR. POSTEL:

Q. You don't need to lean into it. It will pick you up. We're just making sure. Would you, your name is Steven, S-T-E-V-E-N, Forrest, F-O-R-R-E-S-T, is that correct?

A. Yes, it is.

Q. Alright, Mr. Forrest, would, would you tell us, please, are you currently employed, sir?

A. Yes, I am.

Q. In what capacity.

A. I'm an Elmira City Court Judge.

Q. And in what county is that?

A. Chemung County.

Q. How long have you held the position of Elmira City Court, just--

(Forrest-Direct)

1 A. --Since July 1st of 1996, in that area.

2 Q. Was, is that an appointed or elected position?

3 A. Initially I was appointed for a half year, reappointed, and then elected by
4 the citizens of Elmira, so to answer your question, it is an elected
5 position.

6 Q. Currently?

7 A. Yes.

8 Q. And--

9 A. --And it--

10 Q. --how long is your current term?

11 A. Ten years now.

12 Q. In terms of your educational and professional background leading to your
13 first appointment, can you give us some description of, of your history,
14 please?

15 A. Yes, I am a graduate locally of Elmira Free Academy High School in
16 Elmira, 1973. I'm a graduate of Dennison University in Granville, Ohio
17 in 1977, and I'm a graduate of DePaul University College of Law in
18 1980. I was admitted to the New York State Bar Association around
19 January of '81.

20 Q. That's after having successfully passed the bar exam?

21 A. Yes.

22 Q. And your professional career upon graduation from law school, what did
23 you do, sir, and take us through it, please?

24 A. I was in private practice with a law firm, Collin, Bonsignore for
25 approximately five years through 1985, then I went out on my own, and I

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STATE COMMISSION ON JUDICIAL CONDUCT

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(Forrest-Direct)

1 established my own law firm, but I also held a position, two public
2 positions, one as Assistant Corporation Counsel for the City of Elmira,
3 and that was roughly 1984, '85, '86, and '87. I also was a Chemung
4 County Public Defender for 11 years, and that was exactly 11 years. That
5 was from 1985 to 1996, and that's when I became the Elmira City Court
6 Judge in 1996. I was in private practice, I think a total of 26 years,
7 because I was only a half-time City Court Judge for the first 11 years, and
8 I had my own private practice. It's only been in the last five and a half
9 years, roughly, that I've been a full-time City Court Judge.

10 Q. Can you explain a little bit to us what, what it meant to be a part-time City
11 Court Judge? How many hours a week? What were your responsibilities
12 and duties? How was it divided? Give us some sense of it, please, sir.

13 A. Well, basically, in 1996, both Judge Ramich and I were still half-time
14 City Court Judges, and we divided the, the caseload evenly into criminal
15 and civil terms. But beginning in January of '97, I believe, he became a
16 full-time City Court Judge, and then the caseload was divided where he
17 had two thirds of the caseload, and I had a third of the caseload, because,
18 again, I was half-time, he was full-time, and the way he and I did it, with
19 the permission, and knowledge, and consent of our Administrative Judge,
20 Montserrat, is we simply divided it into eight criminal terms to Judge
21 Ramich, four to me, and I would have eight civil terms, and he would
22 have four civil terms to roughly divide the workload two thirds and a
23 third.

24 Q. And in terms of Judge Ramich becoming the full-time court judge, it was,
25 was that an elected position--

34.

(Forrest-Direct)

1 A. --Yes--

2 Q. --Your Honor?

3 A. Ten year-term, yes, elected position. Both our positions are elected, and
4 always have been. I was only appointed because of a vacancy that
5 occurred. And then I was reappointed and had to run the following year
6 for election.

7 Q. And that was for the part-time position?

8 A. That was for a six-year term as a part-time judge, as a half-time judge.

9 Q. Alight.

10 A. That's correct.

11 Q. Did you, you subsequently though became full-time judge, is that correct?

12 A. Yes, that was on April 1st of 2007.

13 Q. How was that affected? How did it happen?

14 A. There was legislation that was passed by the New York Government,
15 signed into law by the Governor in August of '06, I believe, that made my
16 position a full-time position, and it not only effected me, it effected a
17 number of different courts. This legislation was fairly comprehensive, so
18 it wasn't just Elmira City Court that was effected, it was a number of
19 other courts throughout New York State, upstate New York, in this bill.

20 Q. After the bill was enacted, did it become law in August?

21 A. I believe it was signed by the governor, I think back then, Governor
22 Pataki, in August of 2006, but it became effective April 1st of 2007.

23 That's when, I basically had about eight months to close my private
24 practice, and then I became a full-time judge, my recollection is April 1st
25 of '07.

35.

(Forrest-Direct)

1 Q. Was your taking the position a full-time judge affected by election or was
2 it affected by appointment?

3 A. The way that worked is around New York State, again, it, it, it impacted
4 on a number of different courts. My understanding is any judges that
5 were affected by that legislation, if they were appointed, they were still
6 appointed. If they were elected, they were still elected. And what
7 happened in my situation is mine was an elected term. I had already been
8 elected to a six-year term, and therefore when I became full-time on April
9 1, 2007, I first served out my six-year term, and then I had to run for a full
10 ten-year term, which I did in 2009. So, in other words, for roughly the
11 first three, three and a half years, I was still serving my six-year term as
12 an elected judge, and then I had to run for reelection for a ten-year term as
13 a full-time judge in calendar year 2009.

14 Q. And so your current term of office ends December 31, 2018? No, 2019--

15 A. --19, I believe--

16 MR. REILLY: --19--

17 Q. --19--

18 A. --I haven't--

19 Q. --thank you--

20 A. --thought--

21 Q. --right--

22 A. --that far ahead, but it--

23 Q. --right--

24 A. --is, I think I have seven more years after this year, if I'm not mistaken,
25 seven more years after this year.

36.

(Forrest-Direct)

1 Q. When were you, now you say you ran in 2009 for this current ten-year
2 term?

3 A. Yes.

4 Q. Was that election in November 2009?

5 A. Yes, for a term beginning January 1st of 2010.

6 Q. Thank you, and in connection with your running, did you obtain the
7 endorsement of a political party?

8 A. I believe the Republican, Chemung County Republican Committee
9 endorsed me, and I received a number of other endorsements. I think the
10 city Republican--

11 Q. --But in--

12 A. --Committee--

13 Q. --terms of--

14 A. --endorsed me--

15 Q. --in terms of, you ran as a Republican?

16 A. I ran as a Republican, and--

17 Q. --Did you have--

18 A. --a Conservative.

19 Q. Did you have opposition?

20 A. I did in the general election. No opposition for a primary, but I did have
21 an opponent that was a Democrat opponent.

22 Q. Did you personally know your Democratic opponent?

23 A. Yes.

24 Q. What was his name?

25 A. His name is Paul Sartori.

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(Forrest-Direct)

1 Q. S-A-R-T-O-R-E-E?

2 A. I think it's S-A-R-T-O-R-I.

3 Q. Thank you.

4 A. I believe.

5 MR. REILLY: That's correct.

6 Q. And in connection with this current ten-year term, since taking the
7 position, the full term in, January 1, 2010, did your shift, did, did your
8 division of responsibilities with your co-judge, Thomas Ramich change in
9 any way?

10 A. Well, yes. What happened is theoretically then, I'm now responsible for
11 half the caseload, not a third of the caseload anymore. And, and so we
12 had it divided up accordingly with half the caseload as two full-time
13 judges, you've gone from one and a half judges to two full-time judges in,
14 in a court. So, now we each do half of the caseload, theoretically.

15 Q. Alright, you say--

16 THE REFEREE: --Did that--

17 Q. --theoretically--

18 THE REFEREE: --did that, let me interrupt. Did
19 that, that transition occur in April 2007?

20 THE WITNESS: I believe so, yeah. My recollection
21 is--

22 MR. POSTEL: --Right--

23 THE WITNESS: --the moment I became full-time,
24 we divided the caseload--

25 MR. POSTEL: --right--

38.

(Forrest-Direct)

1 THE WITNESS: --evenly.

2 Q. After the legislation took effect?

3 A. Yes, after the law went into effect and I was immediately upgraded to a
4 full-time judge April 1st of 2007, I believe.

5 Q. Alright, so April 1st '07, '08, the rest of '07, '08, '09, '10, you and
6 Judge Ramich were sharing responsibilities equally, would that be fair to
7 say?

8 A. Yes. Frankly, my caseload has always been a little higher, but that's not
9 Judge Ramich's fault. What you have to understand is while all this is
10 going on, I set up a drug court that became effective and operational in
11 January of '06. I set up a domestic violence court that became
12 operational in the fall of '09, and I set up a veteran's court, which I
13 believe became operational about a year later. Now, the way it works is I
14 take all those cases and then we divide in half what's, what's left. And,
15 at, at least that's my understanding. The domestic violence court
16 especially has, I think, close to 300 cases in it.

17 Q. Ongoing?

18 A. Ongoing, these are all special problem solving courts that are ongoing
19 that I took responsibility for that I set up, and that I've been the sole
20 presiding judge of the veteran's court, the drug court, and the domestic
21 violence court.

22 Q. Alright.

23 A. So, those cases were separate and apart from the caseload. After that, the
24 rest of the cases, basically were divided into terms.

25 Q. Okay, so we take the specialty courts and we put them on a shelf over

39.

STATE COMMISSION ON JUDICIAL CONDUCT

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Rochester, NY 14604

(Forrest-Direct)

1 here--

2 A. --Yes--

3 Q. --where you're doing those.

4 A. Yes.

5 Q. And at, for many years the caseload was divided, the rest of the caseload
6 was divided between the two of you, fair to say?

7 A. Yes.

8 Q. Did that change?

9 A. No. It, well, it changed in April of this year. In April of this year Judge
10 Ramich could better speak about it than I could, but in April, my
11 recollection is about April 15th of this year, I took over all the criminal
12 cases in the City of Elmira, and Judge Ramich now handles the low-stress
13 vehicle and traffic, civil cases, landlord/tenant, dog license, dog cases,
14 things of that nature. He does handle the criminal cases that he still had
15 left, and that even includes people that disappeared on us for years with
16 warrants. If he took the plea of guilty, he still would be the sentencing
17 judge. But now, since April of this year, I handle all the criminal cases,
18 which has to be, I, I haven't done the statistics on this, but it's got to be
19 80, 90 percent of the caseload at least. And that's been going on since
20 April of this year.

21 Q. Were, did you effectuate this change on your own?

22 A. No, this was Judge Mulvey. I, I should step back. I do want to make one
23 other thing clear. Years ago, I'm guesstimating ten years ago when there
24 were things going on with Judge Ramich, I had to take over the entire
25 operation of the misdemeanor cases for a two-year period of time as a

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1 half-time judge.

2 Q. That had to--

3 A. --I should mention that also. That was years ago, maybe, and that
4 occurred for approximately two years from what I remember.

5 Q. That's because the public defender was conflicted out of Judge Ramich's
6 court, is that correct?

7 A. Yes, but in all fairness to Judge Ramich, he came to me and asked me if I
8 would be willing to do this, and I told him, "Yes," and in fairness to both
9 of us, we thought it might be a two or a three-month commitment, and it
10 ended up being a two-year commitment.

11 Q. Right.

12 A. That's what happened.

13 Q. You, you used a name, Mulvey. Who is Mulvey?

14 A. Judge Mulvey is a Supreme Court Judge sitting in Tompkins County. He
15 is the Administrative Judge of the Sixth Judicial District. And the Sixth
16 Judicial District headquarters are in Binghamton. The Sixth Judicial
17 District itself is composed of ten counties--

18 Q. --Is Chemung--

19 A. --including Chemung County.

20 Q. Okay, and the Elmira City Court falls under the administrative operations
21 of the Sixth Judicial District?

22 A. That's correct.

23 Q. Alright.

24 THE REFEREE: Before we go on further, is it
25 correct that there are two full-time Elmira City Court

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1 Judges?

2 THE WITNESS: Yes, both elected. Judge Ramich
3 and I, and there are no acting judges.

4 THE REFEREE: And no part-time?

5 THE WITNESS: No part-time.

6 THE REFEREE: Okay.

7 THE WITNESS: It's two full-time judges as of April
8 1st of '07 through the present time.

9 THE REFEREE: Very good.

10 Q. Let me take a step back. I think we have a sense of, of your work.

11 Family, are you married?

12 A. Yes, I'm married. My wife's name is Linda. We've been married for 27
13 years, and we have five children.

14 Q. What are their ages, please?

15 A. They are 26, 25, 23, 15, and 12.

16 Q. Boys, girls?

17 A. Four boys and a girl. Our girl is right in the middle. She has two older
18 brothers and two younger brothers.

19 Q. In terms of your activities and participation in the Elmira Community,
20 have you served in any volunteer or charitable positions, any, any
21 significant contributions to your, your community?

22 A. Yes, I have. I believe I've been chairman or president of at least 11 or 12
23 organizations around town. I've also probably served on 20 to 30 boards.
24 I've also probably conservatively coached about 30 teams or more.
25 Because I always was careful of coaching each of my children in various

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1 sports, but never sticking with just one child, letting them have other
2 coaches, and I would go on with other kids, but so, yes, I've done quite a
3 bit of community service over the years.

4 Q. Currently, are you familiar with an organization called the Association of
5 City Court Judges?

6 A. Yes.

7 Q. What is that organization?

8 A. It's, it's an association of upstate city court judges. It doesn't represent
9 all the city courts in New York State because you also have district courts
10 in New York City, and they have their own association, but we, I think,
11 have 64 city courts in the New York State Association of City Court
12 Judges, and I just went through the chairs, as a matter of fact, and I
13 completed a two-year presidency just as earlier this, last month, October
14 2nd, I believe is when I handed over--

15 Q. --2012--

16 A. --the reins. Of this year, yes.

17 Q. Thank you.

18 A. And it was about an eight-year commitment. It should be--

19 Q. --And can you give us brief description? What does the association do?

20 A. It, it is, we pay dues. Each city court judge is sent a dues notice, and we
21 pay, I think \$100 worth of dues, and what we do as an association is we
22 hold one annual meeting for usually three days, and it's usually in the fall
23 of each year. We also hold one executive meeting where the members of
24 the executive committee, President, President-elect, Vice President,
25 Secretary/Treasurer, and other judicial liaisons are invited to an executive

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1 committee meeting. Usually it's in January of each year, and by the way,
2 the executive committee also includes the immediate Past President. I'm
3 still on the executive committee this, this year.

4 Q. That would be in the Bahamas, generally, the Bahamas?

5 A. No, no, not anything like that. Usually we tie our executive committee
6 meeting to the Judicial Section Bar luncheon in New York City.

7 Q. The Association of the Bar meeting?

8 A. Right--

9 Q. --Excuse me, the, the New York State Bar Association meeting?

10 A. Yes, and the Judicial Section, and we usually meet Friday, and then the
11 luncheon is usually on Saturday, and that, the last several years there's
12 always been in New York City.

13 Q. Now, as the part-time judge during your, your stint in that position, did,
14 were you assigned by the Office of Court Administration any specific
15 support help, such as a law secretary/court attorney, secretary, and, and/or
16 clerk?

17 A. The answer is no, as a part-time judge. As a full-time judge, Judge
18 Ramich would get a clerk and a secretary, and then when I became full-
19 time April 1st of '07, the Sixth Judicial District also allowed me to have a
20 secretary and a treasurer, I mean, I'm sorry, secretary and a law clerk.
21 But of course, I was able to use the law clerk that was there that Judge
22 Ramich had, Fred Cerio, and there was never any problem with me using
23 the staff as a secretary in, in ways that, where you occur or conduct
24 professional business.

25 Q. Right. You mentioned the name Fred Cerio. Is that Frederick Cerio an

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1 attorney in the Elmira area, in the City of Elmira who also served as a
2 part-time law secretary/court attorney for Judge Ramich?

3 A. Yes, my recollection is he joined us probably in, I would guess, like,
4 maybe September or October of '97. I remember that it was about a year,
5 a year and a half after I started as city court judge, and, and I used him as
6 our law clerk, but technically, he was Judge Ramich's law clerk because
7 Judge Ramich was the full-time judge. I got my own law clerk, a fellow
8 by the name of Paul Hart, who's also an attorney, after I was promoted to
9 full-time status as a city court judge.

10 Q. Alright. In, with regard to Mr. Cerio, Judge Ramich was kind enough to
11 advise you that you could have access to his abilities and services in
12 connection with your court position, is that correct?

13 A. Absolutely. There was no problem there.

14 Q. And did you use those abilities and services over the course of a number
15 of years?

16 A. Yes.

17 Q. About ten years?

18 A. Yes, I would say about ten years.

19 Q. Okay.

20 A. Maybe a little under until Paul Hart came on.

21 Q. Did you come to form an opinion as to his abilities and work ethic?

22 A. Yes, I thought he was a very good law clerk. He was very easy to get
23 along with, nice temperament. If he didn't know the answer, he would
24 find ways to get the answer through his research or even talking with a
25 network of people with other law clerks.

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1 Q. Had you known him in the community prior to your becoming the part-
2 time judge?

3 A. Yes, I knew him as an attorney. Again, my recollection is I think for a
4 while he was an attorney with Abe Golos, and, but I didn't really know
5 him long standing growing up. I really got to know him when he came on
6 board with Elmira City Court.

7 Q. And did you become familiar with his reputation in the community for
8 honesty?

9 A. Well, I, frankly, I don't know if I can answer that. I, I, I certainly think
10 he's got a fairly good reputation among lawyers in the community. But,
11 you know, we, we didn't--

12 Q. --What did you--

13 A. --talk a lot about Fred--

14 Q. --what did you think of him?

15 A. I thought he was a very easy person to work with, very competent, very
16 nice guy, and as I said, a kind of a joy to work with day to day.

17 Q. Did there, during the time period that you served in the part-time position,
18 how would you characterize your professional relationship with Tom
19 Ramich?

20 A. For most of those years, it was a pretty good relationship. We had an
21 ongoing dialog. We got along very, very well, and I didn't see any major
22 problems. Sometimes we'd go to meetings together, and I'm talking
23 about, like, meetings down with the Sixth Judicial District judge's spring
24 or fall meeting, but that, for, for the most part, it was not a bad
25 relationship at all.

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1 Q. Alright. Did it change?

2 A. Yes.

3 Q. Can you tell us what happened?

4 A. Well--

5 Q. --Is this an emotional matter for you, judge?

6 A. Yes, it, it, it, I, I will tell you that the relationship we had was already on a
7 decline. And frankly, I'm guesstimating on or about March of 2009, we
8 really stopped talking to each other. We didn't have a lot of dialog.
9 Things got worse.

10 Q. Can you tell us, 2009 is when you ran for office, is that correct?

11 A. Yes.

12 Q. When did you make your announcement publically that you were seeking
13 election?

14 A. I'm, again, guessing. It was probably May of '09, somewhere in that
15 area, May, maybe even June. I don't know. I think it was sometime in
16 May of '09.

17 Q. Did anything happen in April of '09 specifically, April 26th '09, which
18 caused a division between you and Judge Ramich to become significant?

19 A. Well, the, I think the divison was already significant in the sense that we
20 hadn't really been talking to each other for at least 30 days prior to that.
21 But, yes, and my recollection is I thought it was April 25th of '09. All I
22 know for sure is it was a Sunday, a Sunday night.

23 Q. That Sunday?

24 A. Yes.

25 Q. And, and there's, there's an event that occurred, is that correct?

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1 A. That's correct.

2 Q. Tell us about it, please.

3 A. Well, it was the annual PBA meeting.

4 Q. PBA?

5 A. The Police Benevolent Association meeting where the Elmira Police
6 honor their retirees and they also give out awards to membership, of their
7 membership, the Elmira Police Department, and it's an annual meeting.
8 They usually have it around April of every year. Judge Ramich and I are
9 always invited, and through 2009 my recollection is both of us went just
10 about every year too.

11 Q. Is this a dinner?

12 A. It's a, a dinner, and sometimes they have slides, and they have certainly
13 the police chief usually gives out the annual awards to each of the police
14 officers, people that excelled in that given year, and, and people that they
15 want to honor that are already retired.

16 Q. Are the retiree, is there a dais?

17 A. Yes.

18 Q. Where, where was the function held in 2009?

19 A. In 2009 it was at the Elmira Holiday Inn, and there was a dais that would
20 have fit chairs roughly of maybe ten or twelve people. It was a pretty
21 long dais, probably, yeah. Certainly longer than this table right here even.

22 Q. The, the bench?

23 A. The bench, yes.

24 Q. Alright, and in terms of the room itself, can you tell us how many people
25 were present?

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1 A. My recollection is there were anywhere from about 80 to 110, somewhere
2 in that area.

3 Q. What type of people were there in terms of participation in the
4 community? Who were these people?

5 A. Just about everybody there were law enforcement or connected with law
6 enforcement. You had a number of other dignitaries. You had, I believe,
7 the mayor, the city manager, the deputy city manager. You had former
8 police chiefs. You had at least eight women there that I remember. And
9 all of them, people from the Chemung County District Attorney's office.
10 You had a number of people that were there, you even had a priest who
11 did the opening invocation and the benediction.

12 Q. Who was that?

13 A. The priest was Father, he, he, he was the priest over at Our Lady of Lords
14 Church, and his name escapes me.

15 Q. Well, that's fine. Let me ask you this. Were there any dignitaries from
16 Washington D.C. present?

17 A. Yes, actually, now that you mention it, I think Eric Mazda, Massa, was
18 there. He gave a short speech, but he left hours before this incident
19 occurred. Because this incident occurred, my recollection is, around, oh,
20 9:30, 9:35 at night.

21 Q. What time did it start, the event?

22 A. It, the social hour, I think was roughly 6 to 7:00, and the dinner was
23 supposed to start at 7, and usually it only goes until maybe 9 or 9:15, but
24 my recollection is this went until probably 9:35, 9:40, maybe even quarter
25 of ten. It was a long dinner, but Eric Massa, the Congressman was there,

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1 and he gave a speech, and then my recollection is he left and never came
2 back.

3 Q. Alright, did you speak that night?

4 A. Yes, I did, briefly. I was the second to the last, well, second to the last
5 speaker before the benediction by the father.

6 Q. Alright. Did Judge Ramich speak that night?

7 A. Yes, he did. He was that last speaker before the Father gave the
8 benediction.

9 Q. Alright, so you spoke, then Judge Ramich spoke?

10 A. That's right.

11 Q. So, after you spoke, did you sit down at the dais?

12 A. Yes.

13 Q. And as you picture the dais on that day, and there is a center of the dais,
14 and who's at the center?

15 A. The center is an empty podium. To the right of the center is the priest,
16 then it's me, then it's Weeden Wetmore, our District Attorney, and I'm
17 not sure if we had a fourth person on the right of Weeden Wetmore. I'm
18 just not sure.

19 Q. Sure. To the left, I'm sorry, I interrupted you.

20 A. Sure, no--

21 Q. --Go ahead, please.

22 A. But on the left, my recollection is, Tommy Ryan, who is a retired police
23 officer, and was the master of ceremonies for many years, was there. I
24 believe Judge Ramich, certainly was on the left side of the podium. You
25 had Deputy City Manager, Kim Middaugh, you had the City Manager,

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1 John Burin, and I believe you had the Police Chief, Scott Drake, over on
2 that side of the podium also--

3 Q. --So, you speak, you're up.

4 A. Yeah,

5 Q. How long total comments?

6 A. Oh, probably no more than three to five minutes, you know, many times
7 we speak. This is not an unusual event. I don't know if I've spoken at
8 every single PBA dinner that I've been to. Sometimes they just kind of
9 run out of time, but most of the time, Judge Ramich and I make remarks
10 and--

11 Q. --Did you talk about Judge Ramich while you were up?

12 A. No, I did not.

13 Q. So, you're done with your remarks, would it be fair to say you turned to
14 your right to go to your seat?

15 A. That's correct. I was two or three seats over.

16 Q. Alright, and you sit down?

17 A. Yes.

18 Q. Who gets up to speak then?

19 A. Then Tom Ryan calls upon Judge Ramich, and Judge Ramich gets up
20 from the left side of the podium and comes to the podium.

21 Q. So, as you're sitting, Judge Ramich is at the podium, there's a priest next
22 to you from Our Lady of Lords, correct?

23 A. Yes.

24 Q. You have to say, yes.

25 A. Yes.

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1 Q. We don't pick up nods, remember?

2 A. And there may have been an empty seat where maybe Eric Massa was
3 before he left, but I'm not sure. I was two or three seats over, but that's
4 correct.

5 Q. Did you turn and look at Judge Ramich as he was speaking?

6 A. Yes, I did.

7 Q. What did you see, and what did you hear?

8 A. I was--

9 Q. --Please take a moment. Let's go physically through what you observed,
10 not yet telling us what you heard. Physically, what did you see?

11 A. I looked up, he was at the podium, and the first thing he did was start
12 pointing right at me. I could see the veins in the right side of his neck,
13 and he was physically pointing like this at me.

14 Q. So that we're clear, so that we're clear, and you know the right way a
15 record has to be reflected--

16 A. --Yes--

17 Q. --you are using your right hand and right arm, raising your right elbow up
18 and back toward your shoulder, and then forcefully shoving it down
19 toward the ground at a 45 degree angle, your right hand is in a fist, and
20 your index finger is pointed out. Is that fair?

21 A. That's fair.

22 Q. Is that what you observed Judge Ramich doing?

23 A. Yes.

24 Q. The, you say the veins on his right side, so that would be below his right
25 ear?

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1 A. Yes.

2 Q. And you visibly observed that?

3 A. Yes, I was actually looking up. He was elevated because he was standing
4 and I was sitting.

5 Q. Alright, were you 50 feet away, ten feet away?

6 A. I was about as far away as I am from the--

7 Q. --Mr. Muldoon, the referee?

8 A. Mr. Muldoon, not very far, maybe--

9 Q. --So, about, less than ten feet?

10 A. Oh, absolutely.

11 Q. Alright.

12 A. And, you know--

13 Q. --Was your line of sight impeded in terms of what you were observing?

14 A. Not at all.

15 Q. How many, generally, and understanding this is a couple of years ago,
16 how many thrusts of that right hand did you observe being made in your
17 direction?

18 A. It had to be at least, I would say five to ten, at least.

19 Q. Repeatedly?

20 A. Yes.

21 Q. Alright, and you used the expression, it was, was it, and correct me, I'm
22 sorry if I'm wrong "this man," "this man," what did he say?

23 A. Alright, what he started out saying was--

24 Q. --While thrusting.

25 A. "I cover for this man every day."

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1 Q. Let's stop there, please. Your tone is elevated, is that, here today?

2 A. Yes.

3 Q. Your tone is angry, is that correct?

4 A. Yes.

5 Q. Alright. Is that what you heard him say? Was he elevated and angry?

6 A. Absolutely.

7 Q. And by--

8 A. --In both instances he was elevated, he was angry, and I demonstrated
9 what I heard and saw.

10 Q. Alright, and the expression "this man" did you take that as you were
11 sitting there to mean anyone specifically? And he said, "I cover for this
12 man," who did you understand him to be referring to?

13 A. I understood him to be referring to me. He's pointing right at me
14 repeatedly.

15 Q. What happened next?

16 A. He started to, he, he told people that he was covering, that, that he always
17 had to cover for me, and that on, that he also said that on the most recent
18 occasion where he covered for me, we found out where Judge Forrest
19 was. He never answers his cell phone, we never know where he is, and
20 we found out that he was down at the at the Hazlett Building, which is
21 where the County Executive and the Supreme Court is located, and the
22 reason he was at the Hazlett Building is because Tom Santulli called him.
23 Tom Santulli is the Chemung County Executive.

24 Q. Stop, please.

25 A. Prominent Republican.

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1 Q. Okay, he didn't say, Tom Santulli is, he didn't have to tell people that, is
2 that right? You're advising us who Mr. Santulli is?

3 A. Yes, I'm advising you of who Mr. Santulli is. He did not explain to the
4 crowd who Mr. Santulli was. Everybody knows who Mr. Santulli is.

5 Q. Okay--

6 THE REFEREE: But did he use the name Tom
7 Santulli?

8 THE WITNESS: He, yes. My recollection is, yes, he
9 used the name Tom Santulli.

10 A. But what he then went on to say is, we all know Judge Forrest jumps
11 when Tom Santulli calls, because I'm part of the Santulli galaxy.

12 Q. That's the judge's, Judge Ramich said, you were part, you, Forrest, are
13 part of the Santulli?

14 A. Santulli, S-A-N--

15 Q. --Sartori--

16 A. --T-U-L--

17 Q. --Santulli--

18 A. --L-I--

19 Q. --I'm having trouble--

20 A. --I believe--

21 Q. --okay--

22 A. --Santulli galaxy--

23 Q. --you're a part of his galaxy?

24 A. That's right.

25 Q. Stepping back, who is Mr. Santulli?

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1 A. He is the Chemung County Executive, long-term for a number of years.
2 He used to be a senior probation officer for many, many years, going back
3 to the 70's, and then became County Executive a number of years ago. I
4 can't tell you what year.

5 Q. Alright, and to your knowledge at that point, you were running for office,
6 is that correct?

7 A. I certainly had not announced to the public, but I was definitely planning
8 to do so--

9 Q. --Alright--

10 A. --absolutely--

11 Q. --what did you understand the expression "Santulli galaxy" to mean?

12 A. That I was some kind of a political puppet that whenever Tom Santulli
13 called me, I'm to run over and see him because he's a very prominent
14 Republican. I happen to be a Republican and I was some kind of a
15 puppet, because whenever Tom Santulli calls, I go running.

16 Q. Alright, so that we're clear, in the City of Elmira, you were elected as a
17 Republican, correct?

18 A. Yes.

19 Q. Alright, and to your knowledge was Judge Ramich a member of the
20 Republican or Democratic Party?

21 A. He's always been a member of the Democratic Party to my knowledge.

22 Q. And he's been elected as a Democrat, right?

23 A. That's correct.

24 Q. So, the city court has elected both Republicans and Democrats?

25 A. That's correct.

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1 Q. Alright.

2 A. My predecessor was a Republican judge.

3 Q. Who was that?

4 A. Peter Buckley.

5 Q. He went up to a higher court, is that correct?

6 A. He went up to Chemung County Court--

7 Q. --Right--

8 A. --Judge.

9 Q. The Hazlett Building, as we sit here, and stand here, sit here today in
10 Watkins Glen, we're not in the City of Elmira, we can't see the Hazlett
11 Building. Can you tell us, please, what is the Hazlett Building and what
12 significance did it have to you in connection with the reference to Santulli
13 in this, these statements by Judge Ramich?

14 A. Well, the Hazlett Building roughly has six floors. It houses the Supreme
15 Court chambers, and the Supreme Court library, and a small courtroom on
16 floor number one. On floor number two, you have the county executive,
17 the deputy county executive, and a lot of staff. As you move up, the third
18 floor, I believe there is another Supreme Court courtroom. You go up to
19 the fourth and fifth floors, and now you're into the county legislative
20 chambers and room, and when you finally get to the last floor, the sixth
21 floor, that's where the clerk of the combined courts, their offices are
22 located, the jury commissioner, and--

23 Q. --Sure, that's--

24 A. --a number of--

25 Q. --that's fine--

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1 A. --other people, but--

2 Q. --okay. Generally speaking, that's, that's, that's--

3 A. --yep--

4 Q. --excellent detail. Thank you. Elmira City Court located there?

5 A. No.

6 Q. Where is the Elmira City Court located?

7 A. Elmira City Court is located on the second floor of Elmira City Hall, and
8 that's approximately two blocks away to the north.

9 Q. Do you have any familial connection to the Hazlett Building or people
10 who work there?

11 A. Only practicing in Supreme Court. The 26 years that I was in private
12 practice I would go there. Once in a while, we'd even hold a county
13 court--

14 Q. --Okay--

15 A. --trial--

16 Q. --so--

17 A. --there--

18 Q. --let's go back to that day, April 2009, that Sunday, the PBA event. Were
19 you in the Hazlett Building that day?

20 A. No.

21 Q. At, at any time?

22 A. No, it--

23 Q. --Had you ever--

24 A. --was--

25 Q. --advised Judge Ramich that you were in the Hazlett Building?

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1 A. No.

2 Q. He makes the reference to the Santulli galaxy, what happens next?

3 A. I, just so I'm clear, my recollection is Judge Ramich even said words to
4 the effect that we all know Judge Forrest jumps when Tom Santulli calls.
5 I, I get a call, I go down to the Hazlett Building and suddenly the O'Mara
6 space ship shows up.

7 Q. I'm sorry, the "O'Mara," M-A-R-A?

8 A. O-M-A--

9 Q. --M-A--

10 A. --R-A--

11 Q. --R-A--

12 A. --I believe it is. It's O, hyphenated, M-A-R-A, I believe.

13 MR. REILLY: O apostrophe.

14 A. Apostrophe--

15 Q. --Apostrophe--

16 A. --yes--

17 Q. --thank you--

18 A. --not--

19 Q. --Mr. Reilly--

20 A. --hyphenated, apostrophe.

21 Q. O'Mara is a name with political significance in the Town, City of Elmira,
22 is that correct?

23 A. Yes.

24 Q. What did you understand the Elmira spaceship to be a reference to?

25 A. To the crux of Republican politics, because John O'Mara has been a long-

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(Forrest-Direct)

1 time politician, probably the most powerful Republican politician in
2 Chemung County in, for decades, ties to Governor Pataki, ties to Senator
3 D'Amato, a very, very well known, very respected, very powerful
4 Republican politician, and his son is our current State Senator. Back
5 then, I think he was an Assemblyman.

6 Q. So, as I--

7 A. --Tom will know--

8 Q. --as I understand it, as you're painting this picture, Santulli is in the
9 Hazlett Building with his galaxy, the O'Mara spaceship is coming down,
10 according to Judge Ramich.

11 A. Yes.

12 Q. What happens?

13 A. Well, he, what I remember most about it is, I remember four separate
14 times at least he said that I was meeting an unidentified female county
15 worker at the Hazlett Building.

16 Q. Do you know, do you have any personal relationship with any female
17 county workers?

18 A. Yes, my wife is a county worker--

19 Q. --In what--

20 A. --and has been--

21 Q. --capacity--

22 A. --for many years.

23 Q. What capacity?

24 A. She is the Deputy Commissioner of the Chemung County Board of
25 Elections.

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1 Q. So, he makes reference to an unidentified female county worker, is that
2 correct, he being Judge--

3 A. --Yes--

4 Q. Ramich?

5 A. Yes. Judge Ramich said those words at least, I recall, at least four times.

6 Q. So, then he, would it be fair to say he tells a story, has a diatribe of some
7 sort?

8 A. That's correct.

9 Q. What, what did you hear from his lips?

10 A. He said that I went over to the Hazlett Building, I'm part of the Santulli
11 galaxy, the O'Mara spaceship lands, off the spaceship comes an alien. It's
12 a male alien, and the male alien has special powers, and the special
13 powers are when the male alien hits himself on the top of the head, his
14 package, which I took to mean penis, got longer and longer, and when he,
15 the male alien, hit himself on the side of the head, his, meaning the
16 alien's, package got thicker and heavier and larger.

17 Q. What did this have to do with you, sir?

18 A. He went on to say that the male alien stepped off the O'Mara spaceship
19 and was with this unidentified female county worker, and then Judge
20 Forrest got on the O'Mara spaceship where there was a female alien, and
21 I went off into the sky with a female alien.

22 Q. Pause, please. At that point, you're looking at him after he had been
23 angry at you, what is your reaction as you were sitting there listening to
24 this story?

25 A. Well, I was completely bewildered. I was absolutely crushed. I'm

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1 looking out at all these people and that's when I'm going, oh, my God.

2 There are women here. There's at least eight women in the audience.

3 There's all these people here, and he's carrying on about this alien, and I

4 honestly was completely caught off guard by this, completely.

5 Q. Did anything, any physical gestures occur that happened to catch your

6 attention to what was being said by anyone sitting near you?

7 A. Well, I, frankly, my recollection is I'm looking out and I saw a completely

8 stunned audience. There were people that were all looking at Judge

9 Ramich. There were other people looking down. There were, I don't

10 know, the whole atmosphere at that dinner completely changed at that

11 point, completely.

12 Q. You mentioned a gentleman named Weeden Wetmore.

13 A. Yes, he is the Chemung County District Attorney.

14 Q. He was seated next to you?

15 A. Yes, and he kept jabbing me with his left elbow, just gently, going, "What

16 did he just say? What did he just say?" And I go, "I don't, I don't know,

17 Weedon. I don't know." And I kept listening to unidentified female

18 county worker, and he's whispering to me, and he's jabbing me, and like I

19 said, I was completely shocked and I was completely upset about the

20 whole thing. It, you know how you get the feeling of warmness that goes

21 through your body? I think I was red-faced and my whole body was

22 extremely hot at that point, not angry, I'm talking about just stunned.

23 Q. Would humiliated be a fair word?

24 A. Absolutely humiliated.

25 Q. The unidentified female county worker, did it come to you about whom,

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1 about whom you believed this reference was?

2 A. I think he was talking about my wife. It has to be my wife, because my
3 wife has been a long-term county employee, and if it's not my wife, then
4 he thinks perhaps I'm meeting an unidentified female county worker. I
5 don't know, am I having an affair? I can tell you, I have not had any
6 affairs in 27--

7 Q. --Judge, judge--

8 A. --years--

9 Q. --judge--

10 A. --of marriage. I don't know. My, my feeling is he's--

11 Q. --we're not going there with--

12 A. --talking about--

13 Q. --that--

14 A. --Linda--

15 Q. --okay--

16 A. --my wife.

17 Q. Your, Linda is her name?

18 A. Yes.

19 Q. Linda Forrest?

20 A. Yes.

21 Q. So, you, he, he, he tells the audience that you now get on the spaceship?

22 A. Yes.

23 Q. You recall that?

24 A. Yes, that's what I recall.

25 Q. Alright. Does he continue the story from there?

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1 A. Yes.

2 Q. Tell us what he said, please.

3 A. "Judge Forrest goes off on the O'Mara spaceship with a female alien,"
4 and my recollection is "the O'Mara spaceship comes back, it lands, Judge
5 Forrest gets out, and the unidentified female county worker says, 'how
6 was it for you?'"

7 Q. You mean having sex with the alien?

8 A. That's right. "How was it for you? And Judge Forrest replies, that it was
9 fine except the female alien kept hitting me on the top of the head". And
10 he concluded by saying that "This is why we all know Judge Forrest is
11 referred to or is known as the small claims judge".

12 Q. Was there any comment about slapping you on the side of the face?

13 A. The alien can slap himself on the side of the face, I, I don't know, you
14 mean, whether Judge, all I know is Judge Ramich referred to me as "the
15 small claims judge." I do remember him saying that I supposedly told
16 this unidentified female county worker that the female alien kept hitting
17 me on the top of the head. I don't remember whether he said and also
18 slapping me on the side of the face. I just don't remember one way or the
19 other.

20 Q. When he, and I gather the reference to you being the small claims judge
21 was what one might say, say, not necessarily consider, was the punch line
22 of this story.

23 A. That's correct. I took it to refer to my anatomy.

24 Q. Your male genitalia?

25 A. Yes.

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(Forrest-Direct)

1 Q. That you were small, physically small endowed, is that--

2 A. --Yes.

3 Q. Alright. What was your reaction to that?

4 A. Frankly, my reaction was about the same reaction as almost everybody in
5 that room. There was just stunned silence. There, at some point, I
6 remember there was a smattering of applause, kind of like what you
7 would get with a polite applause and then Judge Ramich sat down, but it
8 was not, I mean, everybody, I suppose has their own reaction, but it was
9 absolute stunning. That's all I can say, and humiliating, and I think the
10 whole thing detracted from the dignity. We, we were invited guests. We
11 weren't even main speakers, I'm sorry.

12 A. You were not there as Steve Forrest, Elmira resident, were you?

13 A. No, I was there as Elmira City Court Judge Forrest.

14 Q. And you were introduced in that manner when you stood up and gave
15 your, your, your few words, is that correct?

16 A. That's correct.

17 Q. After Judge Ramich concluded his remarks, what did he do?

18 A. He sat down in the chair that he had to the left of the podium, and again,
19 when I say, left, I'm looking out, so it'd be to the left, it would be to the
20 audience's right.

21 Q. Right, I, you've testified that as you looked out, you discerned a level of
22 discomfort present in the body, is that correct?

23 A. Absolutely among the entire audience.

24 Q. What, did something occur that changed that discomfort or diffused it?

25 A. Yes, Tom Ryan, retired police officer, who was the MC, master of

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1 ceremonies, got up and he completely diffused that tension and that
2 atmosphere by saying a remark along the lines of, now we all know why
3 Judge Ramich is bald, and I think that diffused a lot of the stunned silence
4 and the, just the overall atmosphere. And then, of course, we went right
5 into the benediction with the priest, and the dinner was over. That was it.

6 Q. At the conclusion of the dinner and, and subsequently in the community,
7 did you hear any comments about, did the joke have any replay or impact
8 upon you?

9 A. Oh, absolutely. There were people throughout the community, this spread
10 like wildfire, as you can imagine in a small community. I had people
11 coming up to me and saying, gee, I heard about this dinner. I can't
12 believe it. I had, I had a retired police officer talked to both my parents
13 about what happened. And I remember in May of '09, I was going to the
14 Run for the Nuns, and I was there with my wife, and I think three of our
15 kids were running, and at the registration desk Jimmy Minchen's widow,
16 who is one of the people, Jimmy Minchen was one of the honored people
17 at that dinner, and I didn't have a personal relationship with Mrs.
18 Minchen, and frankly, I didn't really even recognize her. We're signing
19 in for this fun run that we were doing and she bent over and said to me,
20 you know, "You may not remember me, Judge Forrest, but I'm Jimmy
21 Minchen's widow, and let me tell you, I was at that dinner," which I
22 certainly knew she was. She was among the eight women there, at least
23 eight women, "and I think what happened to you was awful, and I'm
24 surprised you handled it as well as you did." You know, comments to
25 that effect, but this went on for months and months.

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(Forrest-Direct)

1 Q. In terms of your relationship with Judge Ramich before this event, had
2 you ever made comments publicly at any event demeaning his physical
3 abilities or stature?

4 A. Absolutely not.

5 Q. Subsequent to having heard these comments by the judge about, about
6 your male genitalia in a public setting, did you make any comments about
7 his physical being or stature?

8 A. No.

9 Q. Did you respond publicly castigating him or attempting to humiliate him
10 in the way you were humiliated?

11 A. No.

12 Q. At the time you made your comments at the dinner, would you believe
13 that they were dignified comments?

14 A. They, they were fun comments. It's my recollection that I picked a little
15 bit up on a former police chief, Michalko, who actually is a very good
16 friend of mine, but they were, they, they were, some were dignified,
17 where you, you, you know, maybe I recited some of the drug court
18 statistics, others were just, you know, harmless kind of comments, and it
19 seemed--

20 Q. --Benign--

21 A. --to me--

22 Q. --would benign a fair word?

23 A. But, yeah, benign, I mean, nothing, you know, just amusing kinds of
24 things.

25 Q. Right.

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1 MR. POSTEL: I have nothing further.

2 THE REFEREE: Okay, at this point, it is 11:26.

3 Should we take a break or--

4 MR. POSTEL: --We're ready to go.

5 THE REFEREE: Are you ready? Are--

6 MR. REILLY: --I'm, I'm ready to go, Your Honor.

7 I, I won't be long.

8 THE REFEREE: Okay, very good. Please continue,

9 Mr. Reilly, with cross-examination.

10 CROSS EXAMINATION

11 BY MR. REILLY:

12 Q. I'm sorry you had to go through that again. I really am sorry you had to
13 go through that again. Having heard you before, you're very funny when
14 you speak, and it's not political, it's not critical. Had you any idea that
15 Judge Ramich was upset about arraignments and your not being available
16 before this dinner?

17 A. No, I had no idea.

18 Q. So this came as a complete surprise?

19 A. This was a complete shocking surprise--

20 Q. --And--

21 A. --complete--

22 Q. --that was the end of any friendship or closeness in your relationship?

23 A. No, I would say, again, we stopped talking to each other for at least 30
24 days prior to that. That was due to something else. This, I would to use
25 the phrase, was the nail in the coffin.

(Forrest-Cross)

1 Q. Alright, and, and we'd agree that it was inappropriate to do that at that
2 function, and the joke was in totally bad taste.

3 A. I don't look at it as a joke.

4 Q. I, well--

5 A. --You want to call--

6 Q. --when I'm--

7 A. --it a presentation, yes.

8 Q. Whatever it was, it was not funny. It was insulting.

9 A. It, it absolutely was.

10 Q. And had you and him talked about running for office before the, he had
11 some hope that if he ran for office again as a judge, that he wouldn't be
12 opposed?

13 A. He, he never, I know we had conversations about the political landscape
14 and he had to run before me. My recollection is I think he ran in 2007,
15 but when we were on a very friendly basis from roughly 1996 to maybe
16 early 2009, and yeah, I'm sure we had talks about the political landscape,
17 and him running, and me running, and that sort of thing. But it was just
18 person to person.

19 Q. Do you have any idea what set that relationship off to what it became, any
20 incident or discussion?

21 A. You, are you talking--

22 Q. --What caused you to become, start becoming cool with each other and
23 not really speak before the dinner?

24 A. I can only tell you from my side. Things started declining rapidly over a
25 number of years, and they weren't as friendly in the last, I would say,

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(Forrest-Cross)

1 eight years as they were the previous eight years. And from my side, one
2 of the reasons why, frankly, our relationship started to deteriorate is
3 because as a part-time judge, I covered for him for two solid years, and
4 the man never thanked me.

5 Q. Alright.

6 A. And I let it go, and we continued to have a lukewarm relationship for a
7 number of years, but it's like one thing after another, the relationship
8 steadily deteriorated until March of '09, and then there was another event
9 that set things off.

10 A. Did, did anyone attempt to repair the relationship between the two of you,
11 like Judge Mulvey or anybody else?

12 Q. No, I think basically the repairing was Judge Ramich and I, again, before
13 this dinner, there's been absolutely no attempts to repair the--

14 Q. --Right--

15 A. --relationship since the dinner, but even as the relationship declined, there
16 were times after hours where Judge Ramich and I would talk. The staff
17 would be gone, I would tell him what was bugging me about him, he
18 would tell me what was bugging him about me, and we still had a
19 relationship.

20 Q. Right, and then after this incident, he didn't apologize to you at all?

21 A. Absolutely not, never.

22 Q. And he's never been back to the PBA dinner?

23 A. That's correct.

24 Q. And you've been to some other functions where there's, like, a clerk
25 retiree or something like that, and, like, like, in the last year, there were

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(Forrest-Cross)

1 some discussions by, by Weeden Wetmore and others about Judge
2 Ramich?

3 A. Yes--

4 Q. --There--

5 A. --and I have nothing to do with that.

6 Q. I understand that.

7 A. Yes.

8 Q. I understand that. You didn't participate in that at all, but I think
9 Weeden Wetmore made some cracks, derogatory, about, Judge Ramich.

10 A. I believe so, yes.

11 Q. Right, and--

12 A. --I was at the dinner, yes.

13 Q. And have you, since this incident, since he didn't apologize to you, have
14 you done things in court that are, in a way, could be seen to be derogatory
15 to Judge Ramich?

16 A. If you could be more specific, the answer is--

17 Q. --Well--

18 A. --no. Generally, I don't know of incidents where I have been derogatory
19 to Judge Ramich. Oh, I know what that is.

20 Q. I, I just (unintelligible). I have to ask you--

21 A. --Absolutely--

22 Q. --these questions--

23 A. --absolutely.

24 Q. I'm watching this cord so I don't fall on it. Showing you what's marked
25 as Exhibit A, will you tell me what that is?

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(Forrest-Cross)

1 A. This is my file, it's a photograph, and an accurate representation of my in-
2 box, where the staff will put files just below this label. You can see the
3 wire basket.

4 Q. Right--

5 A. --That's my wire basket where they put all the files.

6 Q. And, and it showed the staff that you did a lot more, you had a lot more
7 involvement in things than Judge Ramich did?

8 A. What was the question?

9 Q. You had a lot more involvement in things than Judge Ramich did, I mean,
10 compared to what would be going to his basket, yours was much bigger?

11 A. That's always been the case, or for a long period of time--

12 Q. --Alright--

13 A. --yes, absolutely.

14 Q. And the staff knew what would go where, correct?

15 A. Most of the time, they did. Sometimes I'd find something for Judge
16 Ramich that I'd put in his box. Sometimes, I'm sure, they would put
17 things that were meant for me in, in his box.

18 Q. Well, he did--

19 A. --But--

20 Q. --it--

21 A. --most of the time they knew. And because it'd say, they knew, I think on
22 the front that's not in this picture, it'd say "Judge Forrest," and, and the
23 wire basket for Judge Ramich would be to the left of my wire basket and
24 it'd say "Judge Ramich," so for the most part--

25 Q. --But--

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1 A. --they would put things in there--

2 Q. --and you, you made this sign up?

3 A. I, I did not make the cardboard sign.

4 Q. Right, the writing on the labels are yours?

5 A. Absolutely.

6 Q. Alright.

7 A. Yes.

8 MR. REILLY: I'm going to ask this to be received.

9 MR. POSTEL: No objection.

10 MR. REILLY: Now, and I don't want to go on and
11 on about this. I just want to have this marked, please.

12 THE REFEREE: That's going to be--

13 MR. REILLY: --That's A--

14 THE REFEREE: --marked and received as Exhibit

15 A.

16 (Respondent's Exhibit A was marked for identification)

17 (Respondent's Exhibit A was received into evidence)

18 MS. ROBERTS: Mr. Reilly, if you could move the
19 podium (unintelligible) so we don't--

20 THE REFEREE: --Just move it--

21 MR. REILLY: --No (unintelligible) I'm going to,
22 I'm going to--

23 MR. POSTEL: --Don't do that--

24 MR. REILLY: --I'm going to be fine. I just--

25 MR. POSTEL: --I'm afraid you're going down.

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(Forrest-Cross)

- 1 MR. REILLY: Is that because of my increased age--
2 MR. POSTEL: --Judge, can you see?
3 RESPONDENT: I can see.
4 MR. POSTEL: Here you go.
5 MR. REILLY: So, that got untaped.
6 Q. Judge, let me show you what's marked as Exhibit B and, can you identify
7 that?
8 A. It appears to be a photographic copy of a file jacket for a violation of
9 probation. The name appears to be a Patricia D. Miller, and it appears to
10 have a number of entries on that file jacket that would be normal for a
11 city court file.
12 (Respondent's Exhibit B was marked for identification)
13 Q. Okay, look at the second page.
14 A. Okay.
15 Q. And is there some writing in there referring to the Honorable Judge
16 Ramich?
17 A. Yes.
18 Q. What's it say?
19 A. It says, do you want me to read from the top?
20 Q. Yes, please, please.
21 A. "Before the Honorable Thomas E. Ramich, Jr., poor to/from memo," I
22 think it says poor, "adjourned for resentencing before the Honorable
23 Elmira City Court Judge Thomas E. Ramich, Jr."
24 Q. Is, is he Thomas E. Ramich, Jr. or not Junior?
25 A. You know, I found out when I first came in here that this issue may come

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(Forrest-Cross)

1 up. Honest to God, it must be senioritis. I thought he was a Junior. I
2 should have looked at a, our letterhead, and when I put Jr. down, I meant
3 no disrespect to him whatsoever.

4 Q. I understand.

5 A. I probably on similar files wrote Thomas E. Ramich, dozens of times.

6 Q. And you've written a lot of the files without going through all those, the
7 Honorable Thomas E. Ramich?

8 A. Absolutely, Honorable, usually in capital letters, is as representative of
9 the number of files that I have written down.

10 Q. Alright, and that's done to a lot of files?

11 A. That has been done on several files, yes, I--

12 Q. --Was that done--

13 A. --could--

14 Q. --(unintelligible)--

15 A. --I don't know how many.

16 Q. Alright, I understand. Was that done before this dinner, the PBA dinner?

17 A. No, my recollection is probably not. This has been something that I've
18 been doing more, I would say in the last couple of years anyway.

19 Q. Did--

20 A. --For the most part.

21 Q. That'd be something that people might be construed as an insult to him if
22 you would put down the Honorable Judge Thomas E. Ramich--

23 MR. POSTEL: --Well, I'm going to object to--

24 MR. REILLY: --Withdrawn.

25 A. I can tell you why I wrote that.

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(Forrest-Cross)

1 MR. POSTEL: There's an objection--

2 THE REFEREE: --Just--

3 MR. POSTEL: --proposed--

4 THE REFEREE: --wait, please, for a moment.

5 There's an objection, and the question has been withdrawn,
6 as I understand it.

7 MR. REILLY: That's correct.

8 THE REFEREE: So, the--

9 Q. --You need to tell me why you wrote it then.

10 A. Absolutely. You have to understand what's been happening between
11 Judge Ramich and I. My perception is that I simply do not exist to Judge
12 Ramich. And let me give you specific examples. For a number of times,
13 Judge Ramich, over a long period of time now has been holding meetings
14 with outside agencies. He has not invited me. He has not even told me
15 about the meetings. He has been setting policies. When he recuses
16 himself on a file, you know what he writes? This, Judge Ramich recuses
17 himself. This file must be sent to a different judge. Well, Attorney
18 Reilly, I'm the only other judge in Elmira--

19 Q. --I--

20 A. --City Court.

21 Q. I understand.

22 A. And I am emphasizing the word "Honorable" to let him know that I do
23 exist, and that I hold the same high office that he does, and that's where
24 the emphasis is.

25 Q. And the two of you work sort of together or in the same building, and you

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(Forrest-Cross)

1 have since 2009?

2 A. We have since 1996. Our chambers are right next to each other. There's
3 a large courtroom and a small courtroom down the hallway.

4 Q. If he had apologized for this comment he made at that dinner and, and
5 seemed, I mean, seemed sincere to you, if the, the, quote, joke, close
6 quote, he made would, would that have helped at all?

7 A. I think, from my perspective, absolutely, but it never happened. If--

8 Q. --I, no, I--

9 A. --and certainly from my perspective, it would have helped a lot if there
10 had been a genuine apology. There was no--

11 Q. --Directly---

12 A. --apology at all--

13 Q. --directly to you?

14 A. Directly to me. Even if he told somebody else he was apologizing.

15 Q. Didn't he tell the, someone at the PBA that he apologized, that he was
16 sorry for that statement?

17 A. My understanding is that members of the PBA, people like Robert Taft,
18 went up to him after the dinner and said, you've got to apologize to Pat
19 Pariso and Joe Marrone, because they set up this dinner. You've got to
20 apologize to the entire PBA, and most of all, you have to apologize to
21 Judge Forrest, and what I was--

22 Q. --Right--

23 A. --told, is when they got to the Judge Forrest part, he went like this,
24 shaking his--

25 Q. --Well you were--

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(Forrest-Cross)

- 1 A. --head back--
- 2 Q. --but you didn't--
- 3 A. --and forth--
- 4 Q. --did--
- 5 A. --I was not there.
- 6 Q. So, you don't know--
- 7 A. --This is all hearsay--
- 8 Q. --that's all hearsay.
- 9 A. Hearsay, I do not know that --
- 10 Q. --Do you--
- 11 A. --of my own--
- 12 Q. --do you know whether he apologized to Tom Ryan, who was heading the
- 13 PBA at the time?
- 14 A. I have no idea. I heard through the grapevine that within a week, he was
- 15 downstairs apologizing to the PBA, but again, it's hearsay.
- 16 Q. I--
- 17 A. --I do not--
- 18 Q. --I, understand--
- 19 A. --know that as fact.
- 20 Q. I understand, and, and, and he hasn't been to one of these since.
- 21 A. Judge Ramich has not been to any one since. I was told the next year they
- 22 weren't even going to allow him to speak if he--
- 23 Q. --Alright--
- 24 A. --showed--
- 25 Q. --well, that's, let's, let's--

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(Forrest-Cross)

1 A. --okay--

2 Q. --we talk about hearsay, but he hasn't been there, you know, he's, has not
3 been there, and it could be perhaps a sign of contrition for what he had
4 done--

5 MR. POSTEL: --I'm going to object--

6 Q. --But he should--

7 A. --No--

8 MR. POSTEL: --to that, Your Honor, that's
9 speculative.

10 MR. REILLY: Alright, I withdraw--

11 THE REFEREE: --(unintelligible)--

12 MR. POSTEL: --This witness is in no--

13 MR. REILLY: --withdrawn--

14 MR. POSTEL: --position to speculate as to his--

15 MR. REILLY: --withdraw it--

16 MR. POSTEL: --motives.

17 THE REFEREE: It is withdrawn. Thank you.

18 MR. REILLY: I would ask that Exhibit B be
19 received.

20 MR. POSTEL: No objection.

21 THE REFEREE: Received, Exhibit B).

22 (Respondent's Exhibit B was received into evidence)

23 MR. REILLY: I have nothing further.

24 THE WITNESS: Could I, I do want to apologize if I
25 used the word "Junior," because honestly, I must have

79.

(Forrest-Cross)

1 senioritis. He's Thomas E. Ramich, and I'll bet you there
2 are a lot of other files that just have Thomas E. Ramich on--

3 MR. POSTEL: --There's no question, Your Honor.

4 MR. REILLY: No, we, and, and I said--

5 MR. POSTEL: --There's no question.

6 THE REFEREE: It's fine, fine. Now.

7 REDIRECT EXAMINATION

8 BY MR. POSTEL:

9 Q. Showing you what's marked as Commission Exhibit A, Judge Forrest,
10 there's--

11 THE REFEREE: --Respondent's Exhibit A.

12 Q. Excuse me, thank you, Respondent's Exhibit A, there are various labels,
13 one, two, three, four, five, six, seven in number, going up and down, is
14 that correct?

15 A. That's correct.

16 Q. And this, these labels are attached to something, what is that something
17 they're attached to?

18 A. It's a cardboard that has been in our inboxes ever since I've been in
19 Elmira City Court, for many years. It's just a cardboard, blank cardboard,
20 and I believe--

21 Q. --At the back of the wire inbox?

22 A. No, it's actually in front where you put the files, and I think you can see
23 the tape so that it doesn't keep falling out of the, the wire--

24 Q. --Is it a--

25 A. --box--

80.

(Forrest-Redirect)

1 Q. --wire box?

2 A. It's a wire box.

3 Q. Black wire box?

4 A. Yes.

5 Q. And the cardboard is taped around the wires, is that correct?

6 A. That is correct.

7 Q. And the files then would be layed as my pencil is being layed at the base
8 of the exhibit in front, is that correct?

9 A. That's correct.

10 Q. As to these seven labels, what, they represent, this is your handwriting?

11 A. Yes.

12 Q. They represent certain things?

13 A. Yes.

14 Q. Starting at the top, what is the first label represent?

15 A. It says, "All criminal cases," and that's the most recent label I added
16 when I got assigned by Judge Mulvey to take over the entire criminal
17 caseload in the City of Elmira.

18 Q. Second label?

19 A. The second label is "Family Court." I was promoted to a permanent
20 acting family court judge. My recollection is that promotion started
21 January 1st of 2011, and so every Monday afternoon I have a calendar
22 down the street in family court, but I still get quite a bit of
23 correspondence, things like that get, come, and the girls are to put that
24 stuff in my basket with family--

25 Q. --By girls--

81.

(Forrest-Redirect)

1 A. --court--

2 Q. --are you referring to the clerk?

3 A. The staff, staff, generally.

4 Q. Third one down?

5 A. "Domestic Violence Court," again, I've been the sole presiding judge of
6 that specialty problem solving court, and my recollection is I opened that
7 around September or October of '09, and those, that caseload is separate
8 and apart from the rest of the caseload for city court.

9 Q. Drug cases?

10 A. The drug court is something that I flew around all over the United States
11 in 2005 for federal training and we opened up the adult misdemeanor
12 drug treatment program in 2006, and I've been running that with my drug
13 court team since January of 2006.

14 Q. Next one?

15 A. The veteran's court is another problem solving court. We were only one
16 of ten or eleven courts in the nation when we applied for this to get a
17 veteran's court in this area. And we opened that veteran's court up, I'm
18 guesstimating about two years ago, but again, we had to go through
19 federal training to be able to open up that special problem solving court
20 that we run as a subset of the drug court.

21 Q. Now, I'm asking you to pause, please, and listen to my question before
22 you answer that. The next label is "Coccoma Committee," is that correct?

23 A. Yes.

24 Q. The name Coccoma, does that have any meaning to you?

25 A. Michael Coccoma--

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(Forrest-Redirect)

1 Q. --Yes or no?

2 A. Yes, it does.

3 Q. Who do you know Coccoma to be?

4 A. Judge Coccoma is the Deputy Chief Judge for all courts outside of New
5 York City. There are two, Judge Lippman, who is the Chief Judge of the
6 New York State Court of Appeals, has two deputies. One for New York
7 City and one for all the rest of the courts, and that's Judge Coccoma. He
8 also used to be our Administrative Judge for the Sixth Judicial District.

9 Q. It says, "Committee."

10 A. Yes.

11 Q. What, what is the Coccoma Committee?

12 A. It is, the forerunner used to be the Traficanti Committee, then the
13 Plumadore Committee. It's now called the Coccoma Committee. It is a
14 committee of eight to ten people, city court judges drawn from all over
15 upstate New York, and what we do is we put together packages for the
16 legislators and the Governor to consider trying to bring vital resources to
17 upstate city court judges

18 Q. Are you a member of that committee?

19 A. I have been a member for many years.

20 Q. And lastly, "New York State Association of City Court Judges," that, you
21 addressed that, is that correct?

22 A. Yes, I went through the chairs. It took me approximately eight years, but
23 I just finished the two-year presidency of the city court judges association,
24 just in October.

25 Q. So, in your court, the court staff is expected to place the files in this

83.

(Forrest-Redirect)

1 basket, is that right?

2 A. That's correct. Anything that has to do with any of those subject matters
3 is to be placed in that basket.

4 Q. Who gets the files out of the basket?

5 A. I do.

6 Q. These are for you?

7 A. Yes.

8 Q. These are your responsibilities?

9 A. That's correct.

10 Q. When you wrote "New York State Association of City Court Judges" as
11 the label and put it on here to have the files put in there as you testified,
12 was it your intention to rub Judge Ramich's face in the fact that he is not
13 the president, had not served as a president?

14 A. No, that was not my intention.

15 Q. When you put "Coccoma Committee" on there, was it your intention to
16 embarrass, humiliate, or rub Judge Ramich's face in the fact that you
17 were doing work for the Coccoma Committee?

18 A. No.

19 Q. When you put "Drug Court" in there, was it your intention to do that in
20 order to embarrass and humiliate Judge Ramich because he was not
21 presiding in any drug court?

22 A. That's correct, no. The answer's no.

23 Q. Same for "Domestic Violence," not your intent to embarrass and
24 humiliate?

25 A. That's correct.

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STATE COMMISSION ON JUDICIAL CONDUCT

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(Forrest-Redirect)

1 Q. "Family Court," he has no involvement in family court at all, right?

2 A. He, he has no involvement in family court, no.

3 Q. Does the family--

4 A. --But I do get a lot of correspondence. Most of it goes to our chief clerk,
5 but I do get correspondence that they put in the basket.

6 Q. Did you put "Family Court" on there in the court offices to say, hey, look
7 at me, I'm a family court designate, and Ramich is not, so he must be
8 crummy?

9 A. No.

10 Q. The last I have "All Criminal Cases."

11 A. Yes.

12 Q. What's the purpose of that?

13 A. Since April 15th of this year, I suddenly get assigned all the criminal cases
14 in the City of Elmira and so now, each and every staff member must
15 know that they've got to put all the new cases, and even old cases that
16 have already been sentenced in that basket. And I have all the--

17 Q. --So, it's to remind them that it's all the cases?

18 A. That's right, very--

19 Q. --For how many years had you split cases with Judge Ramich?

20 A. Well, from 1996--

21 Q. --Until April of?

22 A. '07. There was a two thirds/one third split. He took roughly two thirds--

23 Q. --We've got that.

24 A. Yeah, okay.

25 Q. Fair to say that for, for more than, from '97 until--

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(Forrest-Redirect)

- 1 A. --Until April--
- 2 Q. --(unintelligible)--
- 3 A. --15th of, roughly of this year.
- 4 Q. Of this year--
- 5 A. --That's right--
- 6 Q. --you split the criminal cases?
- 7 A. That's right.
- 8 Q. You were reminding the clerks that now you had all of them?
- 9 A. Now I have all of them.
- 10 Q. Come on, weren't you trying--
- 11 A. --That's right--
- 12 Q. --to rub his face in it just a little bit?
- 13 A. I can tell you the human part of me, especially with the "All Criminal
- 14 Cases," as I took on more and more responsibility, as I took on more and
- 15 more cases, and they were not something I asked for, the human part of
- 16 me, especially with the "All Criminal Cases," was to dig him a little bit
- 17 because you've got to understand, I'm doing 90 percent or more of the
- 18 caseload now, and the--
- 19 Q. --How much more money--
- 20 A. --human--
- 21 Q. --are you getting--
- 22 A. --part of me, yes.
- 23 Q. How much more money are you getting?
- 24 A. I, I'm a permanent acting family court judge--
- 25 Q. --No--

86.

(Forrest-Redirect)

1 A. --so I--

2 Q. --with regard to--

3 A. --so, I do get--

4 Q. --the criminal court--

5 A. --more money--

6 Q. --cases--

7 A. --I, roughly 13,000 because I was promoted two years ago, but as a city
8 court judge, it's the same salary. I only get paid more because I'm an
9 acting--

10 Q. --take that out--

11 A. --a permanent acting family--

12 Q. --with regard to the Elmira City Court, do you get more money than Judge
13 Ramich?

14 A. No.

15 Q. Is your calendar largely larger than his?

16 A. It's a lot larger, and again, I don't have the statistics, but it's got to be 90
17 percent. It's got to be way up there. As far as the cases that I handle, the
18 stress cases, and basically, all the criminal cases.

19 Q. So, we have this basket that's yours, right?

20 A. Yes.

21 Q. Is there another basket next to it that's his?

22 A. Yes, there is?

23 Q. What does, what does it say on the outside of that basket?

24 A. It says in computer generated form it's not handwritten, it says, "Small
25 Matters," and that's a label that Judge Ramich put up.

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(Forrest-Redirect)

1 Q. Small claims matters?

2 A. "Small Matters," I believe is what it says.

3 Q. And that--

4 A. --He put on a, one big label that says, "Small Matters." And again, I can't
5 reach into the mind of another why he put that up or, or if it was a
6 reaction to not doing criminal cases any more. That's something you can
7 ask him.

8 Q. Did you understand it to mean a reference to matters that are small in
9 concept stature, whatever, or small claims matters?

10 A. Basically, generically, all of that. He does vehicle and traffic, dog cases,
11 unlicensed dogs, dogs running at large, he does small claims matters, and
12 landlord/tenant, and, and that's about it.

13 Q. So, he could--

14 A. --And when he put "Small Matters," I took it to mean, but again, it's
15 Judge Ramich's label, not mine, that he basically was handling all the low
16 stress civil matters, and not many of them. Small matters, matters that are
17 not as significant is what I took it to mean. But again, I don't know that.
18 Judge Ramich and I have not talked about that. I don't know what he
19 means by it.

20 MR. POSTEL: I have nothing else.

21 RECROSS EXAMINATION

22 BY MR. REILLY:

23 Q. Is it, well, why haven't either of you sat, tried to sit down and talk about
24 these rivals on the files, the things that I can understand upset you, the
25 things that might upset him, and this burdening of you with, with the, all

88.

(Forrest-Recross)

1 the criminal cases, that you haven't even tried to sit down and say, what
2 am I doing right, what am I doing wrong? Or do you feel it's just
3 impossible?

4 A. When I meant the nail in the coffin, from my perspective, I can't speak
5 for Judge Ramich, things were getting worse and worse and worse, and
6 for 30 days prior to that dinner, and the dinner occurred. To me it was the
7 nail in the coffin. I was determined that we were not going to have a
8 dialog unless and until he came to me with an apology. Like you said
9 earlier, a sincere apology. He hasn't even tried to apologize.

10 Q. And it's too late now for him to do that?

11 A. I would say so, yes, absolutely, from my perspective, three and a half
12 years later is not when you get a sincere apology. It would mean nothing
13 to me now, nothing.

14 Q. I understand--

15 A. --Because I know he doesn't mean it.

16 Q. I understand.

17 MR. REILLY: I have nothing further.

18 THE REFEREE: Okay, I have a couple of questions.
19 With regards to Respondent's Exhibit A in evidence, when
20 was this printed out. Was this, is this, where it says, "All
21 Criminal Cases," is this 2012?

22 THE WITNESS: That definitely is 2012, because
23 that label was not put on by me until after, sometime after
24 April 15th of this year when Judge Mulvey suddenly
25 assigned me all the criminal cases in the City of Elmira.

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Basically is, I added to it as I went along. Family court, January 1st of 2011, but my general recollection is the whole thing was done probably in the last two years or so. Certainly not before that.

THE REFEREE: Okay. Is this a basket that's open to the public, or is it open to staff, or what?

THE WITNESS: It's, it's in the common area of the staff. It is not open to the public. The public is not able to get into that area. That, we have full building security. Now, it's, it's where a lot of the staff does work. We have some people across the hall, two or three, but most of the people work in the area where those baskets are, so they can just go from their desk and put it in the basket.

THE REFEREE: Now, this doesn't show the entire basket. Does this basket have your name on it at any point?

THE WITNESS: Yes. If I could approach.

THE REFEREE: Yes, yes, please.

THE WITNESS: What it is is, as you look at the basket, the wire basket comes forward toward you.

THE REFEREE: Okay.

THE WITNESS: And on the front of the basket is another cardboard that clearly delineates Judge Forrest and on the wire basket for Judge Ramich, it clearly delineates, and again, cardboard form, Judge Ramich. So, there is an identification on the front of each basket as to who, which

(Forrest-Recross)

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basket that basket belongs to.

THE REFEREE: Okay.

THE WITNESS: Yes.

MR. POSTEL: Might I ask him to identify the, the dimensions, the three dimensional dimensions of the basket?

THE REFEREE: If you could answer that question.

THE WITNESS: They're big enough, the, the wire basket is big enough to comfortably fit a manila legal folder, much like our files. You can fit it in comfortably, but you can only go up. In other words, I don't know what a manila folder would be of--

THE REFEREE: --Okay--

THE WITNESS: --legal size, like a legal pad size--

THE REFEREE: --right--

THE WITNESS: --and you can comfortably put a file in, but you've got to go straight up after that. You cannot put them side by side. It's just simply not big enough.

THE REFEREE: Okay, so it's about the size of a breadbox?

THE WITNESS: Yes.

THE REFEREE: Okay, fine. Now, by the way, in my asking any questions, if I ask a question that either side wishes to object to, feel free to object. You've mentioned

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two or three times something that happened about 30 days before the, the PBA incident. Is there anything there that was critical in this whole matter?

THE WITNESS: From my perspective, it, what I'm referring to is something again from my perspective that led to an even further deterioration of the relationship between Judge Ramich, and I and it had to do with a letter that he wrote, and he sent it to the city manager, he sent it to the mayor, he sent it to everybody on the Cocomma Committee, and it was the contents of that letter where I, frankly again, in my mind, starting thinking, what is this guy. I, I, I could not believe the contents of the letter--

THE REFEREE: --Okay--

THE WITNESS: -- and frankly, it really was the beginning of the end of our relationship, and then 30 days later, this PBA thing happens, and that to me was the end of the relationship, period.

THE REFEREE: Okay, now, a couple of other questions regarding the PBA event itself. Is this PBA event, would it be styled, would you characterize it as kind of a stag event, or a humorous affair, or is it political in nature, or honoring, or all of those, or none of those?

THE WITNESS: I certainly wouldn't say political in nature. It, I would say it does have elements of all because the MC, the master of ceremonies, and Tommy Ryan was

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very good at this. He's not the MC anymore. I think he moved to Florida, but he did always inject humor in the dinner itself, but the focus of the dinner was mainly to not only honor retired police officers, and many times, see slide shows of their 30 or 40-year careers, but it also was there to actually honor the active police officers that had done good work for the department. They would get the Mary Bruner Award, officer of the year type thing.

THE REFEREE: Okay.

THE WITNESS: And, and the chief of police would always hand those out and tell the crowd why. As far as being stag, no, people generally dressed up, and as I said, there were male and female people there. I will tell you that I generally didn't bring my wife to one of these dinners. I just, she would be home with the kids, and I would go--

THE REFEREE: --Okay--

THE WITNESS: --as, as an invited guest.

THE REFEREE: Okay, and were these affairs, specifically the, the PBA one that, where this incident happened, was this covered at all by the media?

THE WITNESS: Not generally that I remember. Once in a while the newspaper might pick it up because they also had a habit of giving out a citizen award to a member of the community that did good things, and once in a while, maybe the paper might pick up that so and so got a

(Colloquy)

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citizen's award from the PBA, you know, for good work in the community, but it's not something where you normally would have, at least not that I remember, a lot of cameras, and, you know, media and interviews, and that sort of thing, no.

THE REFEREE: Okay.

THE WITNESS: Not usually.

THE REFEREE: Okay, okay, that's the end of my questions. Did either side wish to ask further follow-up questions based on what I have asked?

MR. POSTEL: I have nothing else.

MR. REILLY: I have nothing further.

THE REFEREE: Okay. Nothing further. The witness is excused. Thank you very, very much.

THE WITNESS: Thank you.

MR. POSTEL: Our witnesses are ready to go.

THE REFEREE: Does anyone wish to take a break?

MR. REILLY: I'm fine.

THE REFEREE: Okay, you have a witness ready at this point? Okay. Call your next witness.

MS. MARTIN: Your Honor, our next witness is Officer Erica LaPierre.

THE REFEREE: Very well. I'm sorry. If you'd come over here. Thank you.

MR. REILLY: Watch your step.

(Lapierre-Direct)

1 THE REFEREE: Please be seated.

2 THE WITNESS: Thank you.

3 THE REFEREE: Welcome. Do you solemnly or, do
4 you solemnly swear or affirm to tell the truth, would you
5 raise your right hand? Do you solemnly swear or affirm to
6 tell the truth, the whole truth, and nothing but the truth, so
7 help you, God.

8 THE WITNESS: I do.

9 THE REFEREE: Thank you.

10 **ERICA LAPIERRE,**

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

12 **DIRECT EXAMINATION**

13 **BY MS. MARTIN:**

14 Q. Please state your name.

15 A. Erica Lapierre.

16 Q. Where do you reside?

17 A. 3706 Watkins Road in Pine Valley, New York.

18 Q. Are you employed?

19 A. Yes, I am.

20 Q. Where are you employed?

21 A. The Elmira City Police Department.

22 Q. How long have you been a police officer for the City of Elmira?

23 A. Approximately five years.

24 Q. Have you had any other employment in the field of law enforcement?

25 A. Yes, I have.

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(Lapierre-Direct)

1 Q. And where was that?

2 A. With the Chemung County Sheriff's Office.

3 Q. And how long were you employed at the Chemung County Sheriff's
4 Department?

5 A. Approximately two and a half years.

6 Q. Did there come a time in April 2009 that you attended a function known
7 as the Police Benevolent Association Banquet in Elmira, New York?

8 A. Yes.

9 Q. Where was the Police Benevolent Association Banquet held in 2009?

10 A. The Riverside Holiday Inn on East Water Street in Elmira.

11 Q. And is the Police Benevolent Association commonly referred to as the
12 PBA?

13 A. Yes, it is.

14 Q. How often does the PBA put on this banquet?

15 A. Once a year.

16 Q. And what is the purpose of this banquet?

17 A. It's to honor officer actions, honorable service awards, life saving awards
18 such as that.

19 Q. How many people attended the PBA banquet in 2009?

20 A. I believe it was approximately 80 to 90 people.

21 Q. Were you the only woman there?

22 A. No, I was not.

23 Q. Did government officials also attend the 2009 PBA banquet?

24 A. Yes, they did.

25 Q. And who were some of the government officials who attended the 2009

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(Lapierre-Direct)

1 PBA banquet?

2 A. Former Congressman Eric Massa, Judge Forrest, Judge Ramich, District
3 Attorney Weeden Wetmore, the Chief of Police at the time was Drake,
4 and the Deputy Chief was Chief Robinson.

5 Q. Who was the guest speaker at the banquet?

6 A. Former Congressman Eric Massa was.

7 Q. Who sat at the head table at the banquet?

8 A. Former Congressman Eric Massa, the Chief, Chief Drake, Deputy Chief
9 Robinson, Judge Forrest, Judge Ramich, and District Attorney Weeden
10 Wetmore.

11 Q. Were people sitting at the head table invited to speak?

12 A. Yes, they were.

13 Q. Did Judge Ramich speak at the banquet?

14 A. Yes, he did.

15 Q. What did Judge Ramich talk about?

16 A. He first said, he thanked the Elmira PBA for having him as a guest, and
17 then he began with a sexually graphic joke that was intended to insult
18 Judge Forrest. But, just the joke was basically that Judge Forrest was
19 abducted by aliens and taken to the planet O'Mara in the galaxy Santulli
20 where he was taught to have sex by the female aliens, where basically the
21 females would bop their male counterpart on the head to make the penis
22 grow larger, which was basically, the punch line was that Judge Forrest
23 had a small penis.

24 MR. REILLY: Judge, Your Honor, I just object to
25 the part where she characterizes it is my client's intent.

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Rochester, NY 14604

(Lapierre-Direct)

1 Because she's talking about what was in his mind at the
2 time.

3 THE REFEREE: I will sustain that objection and,
4 and have that removed. She cannot speak to another,
5 another person's intent.

6 Q. What was the, what was your reaction to Judge Ramich's story, or Judge
7 Ramich's joke?

8 A. I thought it was very bizarre and weird, and thought it was inappropriate
9 for a judge to tell a joke like that about another judge.

10 MS. MARTIN: I don't have any further questions.
11 Thank you, officer.

12 CROSS EXAMINATION

13 BY MR. REILLY:

14 Q. Were other jokes told that night?

15 A. Just by MC Ryan, or Thomas Ryan was the MC for the evening.

16 Q. Did he tell a lot of jokes?

17 A. Not really.

18 Q. Okay.

19 MR. REILLY: Nothing further.

20 THE REFEREE: Question, if I might. This went,
21 there was a social hour, and then there was a dinner, and
22 then some speeches?

23 THE WITNESS: Yes.

24 THE REFEREE: Was there drinking at that event?

25 THE WITNESS: Yes.

(Lapierre-Cross)

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THE REFEREE: Okay. You've attended this on other occasions, other PBA annual events?

THE WITNESS: No, I have never attended that banquet again or before.

THE REFEREE: Oh, this was the only one?

THE WITNESS: That was the only one I've ever attended.

THE REFEREE: Okay, is there a reason for that?

THE WITNESS: Usually I have to work during it.

THE REFEREE: Okay. Okay, and where were you seated during the event? Were you in the front? In the back of the room?

THE WITNESS: I was in the back left corner.

THE REFEREE: Good. I have no further questions.

MS. MARTIN: Thank you, officer.

THE WITNESS: Okay.

THE REFEREE: Thank you. Thank you very much.

THE WITNESS: Thank you.

MS. MARTIN: Your Honor, would it be possible to have a ten minute break?

THE REFEREE: Yes.

MR. REILLY: I have no problem.

THE REFEREE: Fine, very good. We'll be in recess for ten minutes.

(OFF THE RECORD)

(Colloquy)

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MR. POSTEL: Witness, please.

THE REFEREE: We're back in session about 12:16,
12:17 on October 16th. Mr. Postel--

MR. POSTEL: --Call our next witness, Nancy
Cornish.

MR. REILLY: It's Nancy Eraca. Her last name is
Eraca.

MR. POSTEL: Eraca.

THE WITNESS: I'm no longer Cornish.

MR. POSTEL: Oh, right, I've got that.

MR. REILLY: Say, thank you.

MR. POSTEL: Did you represent her on this one?

MR. REILLY: No--

THE WITNESS: --(unintelligible)--

THE REFEREE: --Yes--

MR. REILLY: --No, I've just known her for--

THE REFEREE: --Your name is Nancy Cornish?

MR. REILLY: It's Eraca, E-R-A-C-A.

THE REFEREE: Okay, fine.

MR. POSTEL: Nancy Eraca.

THE REFEREE: Ms., do you solemnly swear or
affirm to tell the, I'm sorry, would you raise your right
hand, please? Do you solemnly swear to tell the truth, the
whole truth, and nothing but the truth, so help--

THE WITNESS: --I--

(Eraca-Direct)

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THE REFEREE: --you God--

THE WITNESS: --do.

THE REFEREE: Thank you very much. Please sit
down.

N-A-N-C-Y E-R-A-C-A,

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

DIRECT EXAMINATION

BY MR. POSTEL:

Q. State your full name, please.

A. Nancy Marie Eraca.

Q. And are you currently employed, please?

A. I'm self-employed.

Q. In what capacity?

A. I have a, a law practice in the City of Elmira.

Q. You're a lawyer?

A. I am.

Q. And that would mean that you graduated from law school and were
admitted to the bar.

A. That is correct. That would mean it.

Q. Can you give us a brief history of your educational background, college.
I don't need elementary school, college, law school, bar, admission,
professional history. You're experienced, you know the drill.

A. Okay. I attended, I graduated from Agnes Scott College in Atlanta,
Georgia, I have a Bachelor of Arts degree in Political Science and

(Eraca-Direct)

1 History. I then went onto the University of Tulsa School of Law for one
2 year, my first year. I then, in between my first and second year, went to
3 Oxford University in Oxford and took several law courses there,
4 including some international law.

5 Q. It's not Oxford, Mississippi?

6 A. No, it would be England.

7 Q. Thank you.

8 A. I then transferred to Pace University School of Law in White Plains in
9 1987. I finished up my last two years at the Pace University School of
10 Law. I graduated in 1989. I took the bar in July of 1989 and passed it,
11 and was admitted to practice in January of 1990.

12 Q. Professional?

13 A. I started my first position was as an Assistant District Attorney in Steuben
14 County. Specifically, I was their DWI prosecutor, although I did other
15 cases in addition to the DWI stuff. I did that for four years. I then went
16 into private practice, and, on my own, and then became a part-time public
17 defender for Chemung County in, I think it was 1995, and I got a partner,
18 Richard Moriarty, and he and I went in and started a firm, a law firm,
19 Moriarty and Eraca-Cornish. I was married at the time. Cornish was my
20 last name. I was, I stayed as a part-time public defender from, I think it
21 was 1995 until, I think it was about 2002 or 2003. I always did that part-
22 time. In addition, I was an, still am, an adjunct professor at Corning
23 Community College. I teach in their criminal law division. I, I also have
24 been teaching, or have taught at the law enforcement academy. And in
25 2006 I was offered the job as Chemung County Public Defender. Paul

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(Eraca-Direct)

1 Corradini, who was the Public Defender at the time was retiring, and he
2 recommended me for the position. I interviewed with Michael Krusen,
3 the Assistant County Legislator, and was offered the position the next
4 day. I started working in that position, it was about August of 2006. I
5 was allowed to keep my part, my private practice, but I scaled it down to
6 a shadow of what it had been prior to my taking the position as Public
7 Defender. I was also teaching at the same time, but teaching, like, a 7:30
8 in the morning class. In 2009, I think it was again, it was August of 2009,
9 I was terminated as Chemung County Public Defender.

10 Q. As Chemung County Public Defender, how many hours a week would
11 you say you put into the job?

12 A. Minimum of 40. As much as 60 if I was in trial, because as the Chief
13 Public Defender, I, in addition to running the office, I also covered one of
14 the county court judges. I was the exclusive attorney for Judge Hayden
15 for that three years, and so I did all of the felony work there. I also had a
16 night court in addition to that.

17 Q. Where was that?

18 A. Elmira Heights, Village of Elmira Heights. I did that court as well.

19 Q. Every week, once a month?

20 A. It was once a month, I believe. It could have been twice a month.

21 Q. Both judges?

22 A. The Heights--

23 Q. --One judge--

24 A. --only has one judge.

25 Q. One--

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(Eraca-Direct)

1 A. --One--

2 Q. --one full, one regular part-time judge and an acting judge.

3 A. They, yes, yes.

4 Q. Okay.

5 A. Exactly. They do.

6 Q. Could you describe the public defender staff for us, please, when you
7 were there? How many lawyers? How many secretaries? What was your
8 budget, and what were you paid? Not to pry.

9 A. Okay, when I started, they had decided, the county had decided to
10 incorporate family court into the public defender office. They had been
11 assigning family court clients to outside attorneys, and I believe when it,
12 when they raised the assigned counsel rate up to \$75 an hour, they
13 decided that they needed to think about how to keep the money from
14 going out the door, and so they decided in August of 2006 to give me a
15 staff person to handle family court, indigent clients in family court. So, at
16 the time that I started in August, I was also hiring an attorney for the
17 family court division, and we moved our offices from one side of Lake
18 Street to the other side of Lake Street . So, that happened in that year. I
19 had, I think there were three of us full-time, then with the family court
20 attorney, that was four full-time attorneys, and then we had several, two
21 or three part-time assistant public defenders. We had two secretaries. I
22 convinced the county to increase that to three secretaries full-time when
23 the family court division got up and running. And we had a full-time
24 investigator. I was paid, when I started, I was paid, I think 82,000 a year.

25 Q. Did you have responsibility for cases in the Elmira City Court?

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STATE COMMISSION ON JUDICIAL CONDUCT

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(Eraca-Direct)

1 A. Overall? Yes. I mean, (unintelligible) had--

2 Q. --What portion of your--

3 A. --attorneys--

4 Q. --docket would that have been?

5 A. Well, as responsibility in terms of my attorneys who were in that court?

6 Q. Yes.

7 A. If they were sick or on vacation, or sometimes I would, I would pitch in
8 and cover the court as I did--

9 Q. --I meant the office--

10 A. --with all the courts--

11 Q. --as public defender. Was, did, did your office have cases in the Elmira
12 City court?

13 A. Yes, we did.

14 Q. A lot of cases?

15 A. Yes, we did.

16 Q. And how many lawyers did you generally have assigned there?

17 A. I had two part-time attorneys to cover two full-time judges at the time that
18 I started.

19 Q. I, I apologize, did you say part-time attorneys?

20 A. I believe they were part-time attorneys, and then at some--

21 Q. --Who--

22 A. --point, we allowed, they allowed me to put one full-time.

23 Q. Alright, who were they?

24 A. When I started in 2006, I did some shifting around of attorneys. The first
25 person who was full-time in that court was Michael Nevins, and then, at

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1 some point, John Schwenkler was there, and then, when I started, John
2 Schwenkler was the attorney, and then I switched him with Michael
3 Nevins. Michael went back to city court, because Michael was planning
4 on retiring. I wanted John Schwenkler to get county court experience, so
5 I moved him into county court. Then Mr. Nevins went back to county
6 court at some point and I hired Liz Mannion. She had been my family
7 court attorney at one point, but then I moved her into city court.

8 Q. As a matter of practice, did you know how many judges there were in city
9 court?

10 A. Yes.

11 Q. Tell us.

12 A. There were two.

13 Q. Who were they?

14 A. Judge Thomas Ramich and Judge Steven Forrest.

15 Q. And you see Judge Ramich here today?

16 A. Yes, I do.

17 Q. Seated next to Mr. Reilly, is that correct?

18 A. Yes, he is.

19 Q. Do you know Mr. Reilly?

20 A. Yes, I do.

21 Q. Have you had occasion to practice in cases with Mr. Reilly?

22 A. Absolutely.

23 Q. For many years?

24 A. Yes.

25 Q. In addition to Ms. Mannion and the other individuals that you've

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(Eraca-Direct)

1 identified, did you personally have to appear on any, did you appear,
2 whether you had to or not, on cases in the Elmira City Court before Judge
3 Ramich?

4 A. I took private cases, because I was allowed to do that, and if I had a
5 private case that appeared in front of Judge Ramich, then I was there on
6 the private case.

7 Q. Did you ever have occasion to learn about an activity in the Elmira City
8 Court, specifically Judge Ramich's part, in which defendants in
9 connection with the disposition of their cases, were making charitable,
10 and I use the next word in quotes, "contribution" to various charities?

11 A. Yes.

12 Q. What did you learn?

13 A. I learned, I was in county court one morning--

14 Q. --Without regard to any--

15 A. --okay--

16 Q. --specific names, cases, or, or attorneys.

17 A. I, I was told by someone that it was taking place in city court in front of
18 Judge Ramich. That he was conditioning Adjournments in
19 Contemplation of Dismissal or community service on buyouts. In
20 exchange for the ACD, if you donated a certain amount of money to a
21 particular charity, you got your ACD. If you didn't want to do
22 community service, you could donate money and, to a specific charity and
23 you wouldn't have to do community service.

24 Q. Did you first hear about this through your public defender office?

25 A. No.

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(Eraca-Direct)

1 Q. You first heard about it through a private attorney, is that correct?

2 A. Well, he's a private attorney, but he's also--

3 Q. --Well, okay--

4 A. --connected with another county office.

5 Q. Right. When you heard this, did you go back to your office and do
6 anything or ask any questions?

7 A. Yes, I did.

8 Q. What did you do?

9 A. I went back and I, and I spoke to Mr. Nevins, who was in the court at that
10 time about it, and he confirmed what I had been told, that, yes, there were
11 people being offered buyouts of ACDs or community service in exchange
12 for donations to Judge Ramich's charity of choice.

13 Q. Did you ever have any personal experience in connection with such a
14 disposition?

15 A. Yes, I did.

16 Q. I'm going to show you what's marked as Commission Exhibit 25. It's the
17 court records in *People v Dylan Danko*, as well as a transcript of various
18 proceedings in Mr. Danko's case, specifically January 26, 2009, February
19 18, 2009, and March 31, 2009. By way of, of preparing for my next
20 questions, I'd ask you first just to look through 25 to see if that refreshes
21 your recollection in any way, even though I haven't established that's it's
22 been, not that you don't have it, just in terms of preparing for the next
23 question. And for the purpose of the proceeding, the *Dylan Danko* case is
24 Charge III, and it's identified on the schedule. Did you represent Mr.
25 Danko?

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(Eraca-Direct)

1 A. Yes, I did.

2 Q. In your capacity as a private attorney?

3 A. Yes, I did.

4 Q. Can you tell us about the case before you talk about the disposition?

5 A. Certainly. It was a DWI with an aggravated unlicensed operation in the
6 3rd degree. My client had been observed by a police officer, I don't know
7 if he ran a stop sign or was speeding. I can't recall exact details, but he
8 was pulled over, put through some field sobriety tests. He took a
9 breathalyzer test, and was ultimately arrested for the DWI and the
10 aggravated unlicensed operation.

11 Q. Was he charged on two DWIs, BAC and common law?

12 A. I believe so, yes.

13 Q. Okay. What did he blow?

14 A. .17.

15 Q. In your experience as you've described at that time, 2009, well, as you
16 think back, was, who was the district attorney at that point? Was it Mr.
17 Wetmore or--

18 A. --Oh, yes, I believe he was.

19 Q. Alright, and in terms of the practice, the general practice for dispositions
20 and plea offers, what was the general practice for, what was it, .19 or .17?

21 A. It was a .17--

22 Q. --.17--

23 A. --a .17 would not have been reduced down to an impaired. It would have
24 been plead to one of the DWIs in satisfaction of the charges pending, a
25 fine, a surcharge, the drinking driver program, the victim impact panel,

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1 and your driver's license would be revoked for six months. That was the
2 standard offer.

3 Q. Alright, and did you appear in the Elmira City Court on this proceeding?

4 A. I did.

5 Q. And before whom, please?

6 A. Judge Ramich.

7 Q. Looking at the next exhibit, there are appearance dates, would you take a
8 moment, please, look through it, in anticipation of my next questions?

9 Now, Ms. Eraca, as you look through that transcript, and I direct your
10 attention back to the prior exhibit as well, go over your representation of
11 this individual, the last page of 25 is something that appears to be a
12 receipt.

13 A. That's correct.

14 Q. Can you tell us, what is that?

15 A. That is the receipt that my client's mother received when she paid the
16 \$150 donation that my client was sentenced to in order not have to do
17 community service.

18 Q. Alright. Is there some type of letterhead or, or a stamp on the top of there
19 that tells you to whom the money was paid?

20 A. Yes.

21 Q. What is that?

22 A. Shelter Helpers.

23 Q. Excuse me?

24 A. Shelter Helpers with a dog face on it.

25 Q. That's a smiling dog face, isn't it?

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(Eraca-Direct)

- 1 A. It's a smiling dog face.
- 2 Q. And what is the location, and is, is it a letterhead, or is it a stamp?
- 3 A. It appears to be a stamp, and it's 311 College Avenue.
- 4 Q. Are you familiar with a restaurant called Soups On?
- 5 A. Yes, I am.
- 6 Q. Three, you know that to be on College Avenue?
- 7 A. It is, it was--
- 8 Q. --311 College Avenue?
- 9 A. It's actually, at the time, it was called Barb's Soups On--
- 10 Q. --Barb's Soups On?
- 11 A. Yeah, she has since sold it and it's now called just Soups On.
- 12 Q. Alright, the, this receipt is signed by an individual, is that correct?
- 13 A. That's correct, Barb--
- 14 Q. --Who is that?
- 15 A. Barbara McClure.
- 16 Q. And it says under that in, is handwriting?
- 17 A. Yes.
- 18 Q. Director of Shelter Helpers?
- 19 A. That's what it says, yes.
- 20 Q. Do you know that Barb to be Barb's Soups On's owner?
- 21 A. I do.
- 22 Q. Is, to your knowledge, and only to your knowledge, is Shelter Helpers a
- 23 formal charitable organization in the City of Elmira?
- 24 A. I do not think so.
- 25 Q. So, \$150 in cash American money was given to this woman, Barbara

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STATE COMMISSION ON JUDICIAL CONDUCT

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(Eraca-Direct)

1 McClure, by one of your clients, Dylan Danko, is that correct?

2 A. That is correct.

3 Q. And that was as a consequence of his case, the intoxication cases in the
4 Elmira City Court before Judge Ramich, is that correct?

5 A. That is correct.

6 Q. If you look at page 12 of the transcript, please. And right in the middle
7 where it says, "Judge Ramich," can you tell us what happened? If you
8 look at, look right in the middle on page 12, what happened?

9 A. We were there for sentencing, a pre-sentence investigation had been
10 conducted, and a report was prepared and sent to the court. The PSI was
11 recommending a conditional discharge, fine, surcharges, victim impact
12 panel, drinking driver program, and apparently, community service.

13 Q. Did he get community service?

14 A. He was told that he could, that he was going to get 40 hours of
15 community service, however, if he made a contribution to the Friends of
16 the Shelter, that he, \$150 contribution, he did not have to do community
17 service.

18 Q. Told by?

19 A. Judge Ramich.

20 Q. And do you--

21 A. --He was doing the sentencing.

22 Q. You understand that Friends of the Shelter is the same as Shelter Helpers?

23 A. Yes.

24 Q. Had you personally had experience before this case yourself before Judge
25 Ramich in connection with being told that there would be a charitable

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(Eraca-Direct)

- 1 donation?
- 2 A. I don't believe so, I think this was the first--
- 3 Q. --What was your reaction?
- 4 A. I was appalled. I mean, I, I had heard that he was doing it, but then to do
- 5 it right with me, I was, I was appalled.
- 6 Q. You didn't object though.
- 7 A. I didn't want my client going to jail.
- 8 Q. Did you consider this a good deal for your client?
- 9 A. I did.
- 10 Q. Turning to page 14, was a time scheduled as to when the donation would
- 11 be made?
- 12 A. I believe they, he wanted it made that day.
- 13 Q. Now, the word is "donation" used by Judge Ramich, is that correct?
- 14 A. That's correct.
- 15 Q. Did he ask the defendant when it could be made?
- 16 A. He did.
- 17 Q. And what did the, your client say?
- 18 A. He, as I recall, turned to his mother, who was standing next to him, who, I
- 19 believe he was getting the money from, because he was unemployed at
- 20 the time. She said, "Today," he said "Today."
- 21 Q. What do you understand the word, words "charitable donation" to mean?
- 22 A. A donation made to a licensed charity.
- 23 Q. Voluntarily?
- 24 A. Yes.
- 25 Q. Was this a voluntary donation?

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1 A. I wouldn't think so.

2 Q. But there was a choice, perhaps a Hobson's choice between community
3 service and 150 bucks, right?

4 A. Correct.

5 Q. It was your clients choice to do the \$150, right?

6 A. Yes.

7 Q. Alright, had you been told before this proceeding that you would have
8 this choice?

9 A. No.

10 Q. Did you have occasion to learn that this process involving money being
11 paid to local organizations in connection with ACDs and CDs was being
12 used in other cases involving clients of your office?

13 A. Yes.

14 THE REFEREE: Of, just a moment, of--

15 MR. POSTEL: --Public defender's office.

16 THE REFEREE: Of the public defender's office.

17 A. Of the public defender's office--

18 THE REFEREE: --yes--

19 A. --yes.

20 Q. And who did you learn that from?

21 A. Liz Mannion.

22 Q. And did you have a discussion about the propriety of that practice?

23 A. Yes, we did.

24 Q. And what did you do?

25 A. We, I asked her to take notes to keep a record of, if she could, because I,

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(Eraca-Direct)

1 it's a, it was a very busy court, and cases were called very quickly. But I
2 asked her to please try and keep a record of when these happened so that
3 we could see what we could do with it as far as stopping the practice.

4 Because I--

5 Q. --Why did you want to stop the practice if it was a good deal for your
6 clients?

7 A. I felt it was unethical.

8 Q. Did you at any time notify the New York State Commission on Judicial
9 Conduct of this practice by means of a complaint?

10 A. I did.

11 THE REFEREE: I'm sorry.

12 A. One of the things that I put in the complaint.

13 THE REFEREE: You did?

14 THE WITNESS: Yes.

15 THE REFEREE: Okay.

16 Q. Did you ever go over to court and tell Judge Ramich, son of a gun, judge,
17 you can't do this, you shouldn't be doing this?

18 A. Oh, no, no that would not--

19 Q. --Well, you have a--

20 A. --have--

21 Q. --certain tone in your voice, which is resignation.

22 A. That would not have been wise.

23 Q. Why?

24 A. In my experience, it would have been a bad idea to bring this up to his
25 attention because he had a tendency to take things out on your clients.

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(Eraca-Direct)

1 Q. You said you were terminated.

2 A. I was.

3 Q. Why?

4 A. I was told it was financial, that they were closing the public advocate's
5 office in Chemung County because it was not as financially viable as they
6 had hoped. There was still, the county had told me this, that the, the
7 assigned counsel program money was continuing to stay at a level, and, in
8 some cases, going up, and they thought that the public advocate's office
9 was supposed to take that money and be dropping it down, and it wasn't
10 working the way that they thought it was, so they were going to close the
11 public advocate's office and they were going to give contracts to certain
12 attorneys to do conflicts with the public defender's office, and they were
13 going to give Richard Rich my job as public defender.

14 Q. Did that happen?

15 A. No, it did not.

16 Q. To your knowledge, did Judge Ramich have any involvement in your
17 termination?

18 A. To my knowledge, no.

19 Q. Alright, did you have any disputes with Judge Ramich in terms of the
20 operation of the court and the conduct of your staff in his court?

21 A. Oh, regularly.

22 Q. Can you summarize it for us, please?

23 A. He was denigrating to my attorneys, didn't really matter who was there.
24 He would make sarcastic comments in, in court about my attorneys in
25 front of the attorneys, in front of the clients.

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(Eraca-Direct)

1 Q. Would it be fair to say, to summarize it, there was a tense relationship
2 between your office and Judge Ramich?

3 A. Oh, yeah, that would be fair to say.

4 Q. Is--

5 A. --But-

6 Q. --your--

7 A. --that did, when, when I was an assistant public defender, the same thing
8 happened. He, he was the same way.

9 Q. Right. In terms of your testimony here today, is it colored in any way by
10 that prior experience with the judge? Would you lie today because of
11 whatever disputes you might have had with him in the past?

12 A. No.

13 Q. Your testimony concerning this charitable contribution practice is
14 unaffected by the personal, the, excuse me, the professional interactions
15 you had with him on other matters, is that fair to say?

16 A. That is fair to say, yes. That is correct.

17 MR. POSTEL: I have nothing else.

18 CROSS EXAMINATION

19 BY MR. REILLY:

20 Q. Good morning, Nancy.

21 A. Good morning, Tom.

22 Q. You've been doing this for some time before Judge Ramich, correct?

23 A. I'm sorry?

24 Q. Practicing law before Judge Ramich for many years?

25 A. Since 1995.

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(Eraca-Cross)

1 Q. And before you were even associated with the public defender's office,
2 was there criticism of the public defender's office by Judge Ramich or
3 Judge Buckley?

4 A. I, before 1995?

5 Q. Before you got, started working for the public defender's office.

6 A. I was not, I was an assistant DA in Steuben County, so I was never--

7 Q. --Okay--

8 A. --in front of--

9 Q. --so, you didn't know. So, when you started working at the public
10 defender's office, you were aware that there was criticisms by Judge
11 Ramich of the public defender's office?

12 A. Yes.

13 Q. And were, we had Judge Castellino was a county court judge?

14 A. Yes.

15 Q. And he would occasionally get critical of the public defender's office?

16 A. Oh, yes.

17 Q. And, and critical of lawyers that weren't prepared?

18 A. Yes.

19 Q. And he would get quite irate about it, would he not?

20 A. Judge Castellino?

21 Q. Judge Castellino.

22 A. Yes--

23 Q. --Fair enough to say? I mean, you just feel like you've been yelled at and
24 criticized, embarrassed?

25 A. I never felt embarrassed in front of Judge Castellino. But, yelled--

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(Eraca-Cross)

- 1 Q. --But--
- 2 A. --at, yes.
- 3 Q. You didn't like it?
- 4 A. Pardon?
- 5 Q. You didn't like it?
- 6 A. I didn't like Judge--
- 7 Q. --Being--
- 8 A. --Castellino or--
- 9 Q. --yelling at you.
- 10 A. Oh, well, you develop a thick skin as--
- 11 Q. --Oh, yeah--
- 12 A. --a, as a trial attorney. So, you know, it, kind of goes along--
- 13 Q. --Sure, and, and in this case there was, was a no jail plea. Was that part
- 14 of the conditions of the, the plea that there would be no incarceration of
- 15 your client, Mr. Danko?
- 16 A. That's the district, that was the district attorney's offer, yes.
- 17 Q. And the judge was not even talking about putting your client in jail?
- 18 A. Correct.
- 19 Q. And he was talking about doing either community service, 40 hours or
- 20 charitable donation?
- 21 A. Yes.
- 22 Q. And you could have objected to the charitable donation on the basis that
- 23 you felt it was unethical, could you not? At least made that part of a
- 24 record that you had some question as to the legality or ethics of that.
- 25 A. Oh, I would not have done that in front of Judge Ramich.

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(Eraca-Cross)

- 1 Q. Well, don't we do that all the time in front of judges, make, make
2 objections to legal positions they take or positions they take on sentencing
3 when we feel that they're wrong? Isn't that our job?
- 4 A. To object to illegal--
- 5 Q. --Illegal--
- 6 A. --sentences--
- 7 Q. --illegal sentence, yes. I mean, if he was going to put your client in jail
8 longer than, than the charge called for--
- 9 A. --Well certainly--
- 10 Q. --you'd object to that?
- 11 A. Yes, of course.
- 12 Q. And, and you felt that the charitable contribution, well, when you did this
13 case in, in, with Mr. Danko, were you aware that there were some fines or
14 cases saying it's unethical for a judge to impose a charitable contribution
15 as part of a plea?
- 16 A. No, at the time, I was not.
- 17 Q. Okay. But you had a question as to its legality?
- 18 A. Oh, yes, I--
- 19 Q. --And you didn't, and you didn't raise it at all?
- 20 A. I didn't want my client to end up going to jail.
- 21 Q. Well, the plea bargain was no jail.
- 22 A. That's--
- 23 Q. --Or--
- 24 A. --right--
- 25 Q. --he could do 40 hours of community service.

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(Eraca-Cross)

1 A. That's correct.

2 Q. So, if he didn't take the charitable contribution of \$150, he could have
3 done 40 hours of community service. And you could have said, no, he
4 prefers to do that and told your client, you don't want him to do
5 something that you have questions as to whether it's ethical to do that.

6 A. I'm not sure what your question is.

7 Q. Well, you could have told your client, he could, instead of making a
8 contribution, he could have done 40 hours of community service?

9 A. Correct.

10 Q. There was never anything said if he didn't make the charitable
11 contribution then he would be incarcerated?

12 A. There was nothing said, no.

13 Q. Okay.

14 MR. REILLY: I have nothing further.

15 REDIRECT EXAMINATION

16 BY MR. POSTEL:

17 Q. There was a quick question about illegal sentences. If you had heard a
18 judge impose a sentence, let's strike that. You know that under the
19 Vehicle and Traffic law there are certain maximum amounts of fines that
20 can be imposed in cases, right?

21 A. That's correct.

22 Q. And there are minimum fines that have to be imposed as well?

23 A. Yes.

24 Q. And so, if a judge got a minimum fine wrong and imposed upon your
25 client a minimum sentence that saved him \$500, is that something you

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(Eraca-Redirect)

1 would stand up and say to, say to the judge, I'm sorry, judge, it's below
2 the statutory minimum?

3 A. If, yes, if it, if because I know that if they say, they didn't impose a, a
4 surcharge and a surcharge is supposed to be required, and they didn't do
5 it, I know that they're going to be brought back because somebody later
6 on is going to catch that, and you're going to go back to court and you're
7 going to have to do the surcharge. So, if--

8 Q. --So, okay--

9 A. --using your analogy, if, if a judge gave a fine that was not within the fine
10 range, I would have said that because it would have been a burden to have
11 to come back to right it later on in the future.

12 Q. Now, along the same lines, in terms of this \$150 contribution, if the
13 defendant had not made it, what would his exposure have been?

14 A. Oh, he would have violated the Conditional Discharge, and he would
15 have gone to jail for, he could have gone to jail for up to a year.

16 MR. POSTEL: Nothing else.

17 MR. REILLY: Nothing further.

18 THE REFEREE: A few questions, if I might. First
19 off, is Chemung County or the City of Elmira, it's, it's, it's
20 the Chemung County Public Advocate, is that correct?

21 THE WITNESS: We, we have two offices in
22 Chemung County. The Chemung County Public Defender's
23 Office, they take first criminal cases that come up. Then
24 you have the Chemung County Public Advocate's Office.

25 THE REFEREE: And your--

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(Eraca-Redirect)

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THE WITNESS: --They--

THE REFEREE: --position was which?

THE WITNESS: The public defender.

THE REFEREE: Okay. So, the public advocate's office is, would be analogous to a conflict defender in other counties?

THE WITNESS: Yes.

THE REFEREE: Okay. Now, which of those was, which, which of those positions was eliminated in, when your position was eliminated?

THE WITNESS: None of them were. They, they told me they were going to close the public advocate's office, but they then decided not to do so.

THE REFEREE: Okay. And the reason for my asking that question is just that I've not heard the expression "public advocate's office" used with other counties. Just a slightly different expression. The choice that you had in the *Danko* case was for your client to either get \$150 contribution or to do 40 hours worth of, of community service, correct?

THE WITNESS: That's correct.

THE REFEREE: He was not facing incarceration if he, if he chose not to make the payment?

THE WITNESS: Correct.

THE REFEREE: Okay, and is it fair to say that he

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decided that, that that was, he preferred that, to pay the \$150?

THE WITNESS: Yes.

THE REFEREE: Okay, and his mother as, was actually his mother who actually paid it?

THE WITNESS: Yes.

THE REFEREE: And you, as his attorney, chose not to object to it?

THE WITNESS: Correct.

THE REFEREE: Because your client wanted to go that way in part?

THE WITNESS: Yes.

THE REFEREE: Okay. Even though you felt that you, that there was something inappropriate about it, correct?

THE WITNESS: Correct?

THE REFEREE: Okay. Did, in your capacity as a public defender, as chief public defender, you had trials in front of Judge Ramich?

THE WITNESS: Yes.

THE REFEREE: Okay. Did you ever appeal cases from Judge Ramich?

THE WITNESS: Yes.

THE REFEREE: Okay, and you, when you were appealing you were, that was based on, typically on

(Eraca-Redirect)

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objections to things that may have occurred during the trial, correct?

THE WITNESS: Or suppression, pre-trial suppression hearings.

THE REFEREE: But in this case, you chose not to object in part because it was kind of favorable to your client in a way, correct?

THE WITNESS: Yes.

THE REFEREE: Okay. This was in a private capacity?

MR. REILLY: That's my client's daughter.

THE RESPONDENT: Wait in the hall, Jess.

THE REFEREE: Please wait one moment.

THE WITNESS: Mm-hmm.

THE REFEREE: So, you, that was in your, that was in your private capacity that you did not object?

THE WITNESS: Correct.

THE REFEREE: Okay. In your public capacity, where other attorneys were, in your office, had something similar happen, did this, this did happen with them?

THE WITNESS: Yes.

THE REFEREE: Do you know if they objected?

THE WITNESS: The one time I know when it was objected to was Ms. Mannion had a client who could, was, because they're indigent by nature, that's why we were

(Eraca-Redirect)

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assigned to them, this particular client had violated, I think he failed to go to the drinking driver program, or not the, excuse me, the victim impact panel, and because he didn't have the money, she wanted to know if he could do community service in lieu of--

THE REFEREE: --Okay--

THE WITNESS: --the donation, and it was denied.

THE REFEREE: So he had to make the donation?

THE WITNESS: Or go to jail.

THE REFEREE: Okay. Now--

MR. REILLY: --Your Honor, I'd, I'd, object, I mean, we, I mean, do we have the name of the defendant because we--

THE REFEREE: --Do you--

MR. REILLY: --got a whole bunch of transcripts here.

THE REFEREE: Do you know the, happen to know the name of that--

THE WITNESS: --I--

THE REFEREE: --client--

THE WITNESS: --don't know that particular.

THE REFEREE: Okay, okay. I'm going to overrule the objection, although you may inquire further on it. At some point you filed a complaint with the State Commission on Judicial Conduct?

(Eraca-Redirect)

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THE WITNESS: Yes.

THE REFEREE: When did that happen in relation to the *Danko* case, for example?

THE WITNESS: I believe the *Danko* case took place in March of 2009, and I believe I filed my complaint, my father died in October of 2009, and I think I filed it at the end of October or the beginning of November of 2009. I'd started preparing it in July of 2009, and then I was terminated, and I had to move my office, and then my father died, and so I was a little bit late in getting it out.

THE REFEREE: Was, did the, the letter, the complaint to the Commission on Judicial Conduct occur around the time that you left the public defender's office?

THE WITNESS: I left in August of 2009. I believe the complaint was filed in late October of 2009. So, it was a couple of months after that.

THE REFEREE: It was actually after you had left?

THE WITNESS: Yes.

THE REFEREE: Okay. Okay, I have no further questions. Mr. Postel? Mr. Reilly?

MR. REILLY: I have nothing further. I just, do, do you know if this was (unintelligible)? I have nothing further, except I just want to object to the, that testimony about Elizabeth, Attorney Mannion and that conversation taking to court. We don't have any of the, it's not in any of

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(Eraca-Redirect)

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these documents we've been given--

THE REFEREE: --Okay--

MR. REILLY: --that involve charitable contributions.

THE REFEREE: Okay, very well, and I'll, I noted your objection. I overruled it. I will consider it for what worth it might be. It may be beyond the scope of the pleadings, and so, I, I may disregard that testimony.

MR. REILLY: Thank you.

THE REFEREE: Very good. Thank you very much for coming in.

THE WITNESS: Thank you.

THE REFEREE: Yes.

MR. POSTEL: Could we go off for a moment?

THE REFEREE: Yes.

(OFF THE RECORD)

THE REFEREE: Mr. Postel, are you ready to proceed at this point?

MR. POSTEL: Thank you, Your Honor, we are.

THE REFEREE: Okay. Respondent is ready?

MR. REILLY: Yes, I am, Your Honor.

THE REFEREE: Okay, we're on. Okay, it's the afternoon session on October 16th. Does the Commission have another witness to call?

MR. POSTEL: Your Honor, I believe we're going

(J. Ramich-Direct)

1 out of turn and respondent is beginning the presentation of
2 his proof and I have agreed that, to allow him to take her
3 out of turn as a convenience to respondent personally.

4 MR. REILLY: Thank you. I appreciate that.

5 RESPONDENT: Thank you--

6 MR. REILLY: --Call Jessica Ramich.

7 THE REFEREE: Very good. Ms. Ramich, if you
8 would raise your right hand. Do you solemnly swear or
9 affirm to tell the truth, the whole truth, and nothing but the
10 truth, so help you, God?

11 MS. RAMICH: Yes.

12 THE REFEREE: Please be seated.

13 **JESSICA RAMICH,**

14 having been duly sworn was examined and testified as follows:

15 **DIRECT EXAMINATION**

16 **BY MR. REILLY:**

17 Q. Ms. Ramich, could you state your full name and address, please?

18 A. Jessica Lee Ramich, 967 Grove Street, Elmira, New York, 14901.

19 Q. And, you got to speak up a little bit.

20 MS. SAMPSON: Or could you move closer.

21 MR. POSTEL: Well, first of all, the microphone is
22 not auditory to the courtroom. So, there's two issues.
23 Whether you can hear, and whether we can hear.

24 THE REFEREE: Right.

25 MR. REILLY: Right. So, you got to speak up a little

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(J. Ramich-Direct)

1 bit.

2 THE WITNESS: Okay.

3 THE REFEREE: Okay.

4 Q. What is your date of birth?

5 A. 12/21/89.

6 Q. And is, what is your relationship with, with Thomas Ramich?

7 A. He's my dad.

8 Q. And are you going to college now?

9 A. Yes.

10 Q. Where?

11 A. Albany Pharmacy School.

12 Q. And how, when did you start going there?

13 A. In 2008.

14 Q. And you finished an undergraduate degree someplace?

15 A. It's a six-year program.

16 Q. Okay, so you left high school?

17 A. Yes.

18 Q. Elmira Free Academy?

19 A. Notre Dame.

20 Q. Notre Dame High School in Elmira, New York?

21 A. Yes.

22 Q. And then you went right to the school of pharmacy?

23 A. Yes.

24 Q. And you graduate when?

25 A. May 2014.

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(J. Ramich-Direct)

1 Q. And is your dad helping you out with college?

2 A. Yes.

3 Q. Is he paying part of the tuition and expenses?

4 A. Yes.

5 Q. Do you remember being on a jury trial in his courtroom?

6 A. Yes.

7 Q. Involving a defendant named Piper?

8 A. Yes.

9 Q. And you were selected to sit on the jury, correct?

10 A. Yes.

11 Q. And during the first day, they broke for lunch?

12 A. Yes.

13 Q. Did you go to lunch with your father?

14 A. Yes.

15 Q. Did you hear whether or not he told the lawyers, asked the lawyers if it
16 was okay he took you to lunch?

17 A. He did it in his chambers.

18 Q. Alright, and the other lawyers were there?

19 A. Yes.

20 Q. Were you in the chambers also?

21 A. No, but he, I was going to leave with the rest of the jury, and Dad said,

22 "Wait, I'm going to go to talk to the--

23 Q. --Okay--

24 A. --other attorneys."

25 Q. So, where did you go to lunch?

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(J. Ramich-Direct)

- 1 A. Horrigan's.
- 2 Q. And how long were you there?
- 3 A. Maybe 45 minutes.
- 4 Q. Alright, and did you discuss the trial at all with your dad?
- 5 A. No.
- 6 Q. And the next day, there was a verdict?
- 7 A. Yes.
- 8 Q. And the defendant was convicted?
- 9 A. Yes.
- 10 Q. And did you discuss the verdict or anything about the case with your
- 11 father after that?
- 12 A. No.
- 13 Q. What, did you talk to him about anything, like sentencing or what goes on
- 14 with that?
- 15 A. I asked him, I thought we would know the sentence that day. I'm not
- 16 familiar with anything to do with the law, and I said, "What's going to
- 17 happen to him?" And he said that he has to go through a bunch of
- 18 paperwork and loops to figure out how he's going to sentence him.
- 19 Q. Alright, and you didn't give him any opinion as to what should be done?
- 20 A. No.
- 21 Q. Alright, and did you discuss Mr. Piper at all with him?
- 22 A. No.
- 23 Q. Alright, now let's, let's turn to the Cerio family. Do you know Fred
- 24 Cerio?
- 25 A. Very well.

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(J. Ramich-Direct)

1 Q. And he has children?

2 A. Yeah, Morgan, Joe, and Lauren.

3 Q. And you've been friends with them for how long?

4 A. Probably since I was about ten, maybe younger.

5 Q. Okay, and would you do things together with the children?

6 A. A lot, yeah. I basically lived at their house in the summertimes up until
7 college. I went on vacations with them. Lauren went on vacations with
8 me and my mom.

9 Q. Did, did, did Fred Cerio drive you places on vacation?

10 A. Yes, Fred drove me all the way down to Myrtle Beach.

11 Q. With the, with his children and his wife?

12 A. Yes.

13 Q. And you stayed there for how long?

14 A. A week, I think.

15 Q. Alright, were you particularly close to one of his daughters?

16 A. Yes, Lauren.

17 Q. She's the oldest one?

18 A. Yes.

19 Q. And is she going to college now?

20 A. Yes, she goes to SUNY Albany.

21 Q. And how would you get to your, how would you two get to college? Did
22 your, did your parents share driving at all?

23 A. Yes. My mom and Fred and Kathy would split driving together.

24 Q. Kathy is Fred Cerio's wife--

25 A. --yes.

(J. Ramich-Direct)

1 Q. And would Fred ever drive you?

2 A. Yes, he drove me to school once and back once.

3 Q. Do you remember when that last time was?

4 A. Not exactly.

5 Q. A couple of years ago?

6 A. Yes, years ago.

7 Q. And did something happen with your relationship with his oldest
8 daughter?

9 A. No, nothing negative. We just kind of, we grew up. We're both busy at
10 college.

11 Q. Do you see her at college at all?

12 A. Yeah, every once in a while.

13 Q. Are you friends still?

14 A. Not very close, no.

15 Q. Do you know what happened?

16 A. No.

17 Q. Did something just change or, or did you just grow apart?

18 A. I think we just grew apart.

19 Q. Alright, she's an undergraduate at SUNY Albany?

20 A. Yes, I believe.

21 Q. Do you know what year she's in?

22 A. Like I said, I'm not very close with her anymore.

23 Q. Okay.

24 A. But she should be, actually, she should be done with undergrad.

25 Q. Alright.

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(J. Ramich-Direct)

1 A. She was in a teaching program.

2 Q. How do you get back and forth to school now?

3 A. I have my own car.

4 Q. Alright, so that's been your mode of transportation going to school for
5 how long?

6 A. This will be my third year having a car.

7 Q. Okay.

8 MR. REILLY: Your witness. Thank you.

9 CROSS EXAMINATION

10 BY MR. POSTEL:

11 Q. Hi, Ms. Ramich.

12 A. Hi.

13 Q. My name is John Postel. Just a couple of follow ups on Mr. Reilly's
14 stuff. In terms of your relationship with the Cerio girl, what was her first
15 name?

16 A. Lauren.

17 Q. Lauren?

18 A. Yes.

19 Q. Alright, and you were friends with her in high school, is that your
20 testimony?

21 A. Starting in second grade through college. We just haven't been so close
22 lately.

23 Q. Alright, when you say through college, you both went to school in the
24 same city, is that correct?

25 A. Yes.

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(J. Ramich-Cross)

1 Q. And Albany College of Pharmacy is located right next to Albany Law
2 School and across from Albany Medical Center, is that correct?

3 A. Correct.

4 Q. And Albany University is further west in the city toward the Thruway
5 exit, is that--

6 A. --Yes--

7 Q. --correct?

8 A. Yes.

9 Q. In terms of going, when you would go to begin your freshman,
10 sophomore, junior, senior, and now in your fifth year, would you and
11 Lauren begin school on the same dates every year?

12 A. No.

13 Q. Did you, did you work out with her, work your schedules together so that
14 you could arrive at school at the same time every year?

15 A. No.

16 Q. You're looking at me like I'm, I have three heads, two heads.

17 A. She, the Cerios never drove me to school, like when I moved in.

18 Q. Or when you got picked up to go home, right, in terms of moving out
19 day?

20 A. No.

21 Q. Alright, sometimes it would be holidays going back and forth?

22 A. Yes, I believe there was a winter break, which is in February, where he
23 helped out, and maybe a Thanksgiving break.

24 Q. Freshman year?

25 A. Yes.

136.

(J. Ramich-Cross)

1 Q. And in terms of when you were growing up together, you said that you
2 went on vacations together, plural, but referred to Myrtle Beach.

3 A. Yes.

4 Q. Were there other long-distance vacations besides Myrtle Beach?

5 A. Yes, Fred, the Cerio family, took me to Myrtle Beach. My mom took me
6 and Lauren to Wildwood Beach in New Jersey.

7 Q. Alright, but other than Myrtle Beach, the Cerio's didn't take you on any
8 other vacations?

9 A. Unless you would count, like, Darien Lake, an amusement park, as a
10 vacation.

11 Q. Did you stay overnight there?

12 A. No.

13 Q. Would you count it as a vacation?

14 A. No.

15 Q. In terms of going on these vacations with the Cerio's would your father
16 give you money and, say while you're down there, take the Cerio family
17 out--

18 A. --Yes--

19 Q. --out for dinner? And did you do that?

20 A. Yes.

21 Q. In terms of where you made your permanent residence, was that your
22 mother's home or your father's home?

23 A. My mom's.

24 Q. And what was that address?

25 A. 967 Grove Street.

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STATE COMMISSION ON JUDICIAL CONDUCT

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(J. Ramich-Cross)

1 Q. Elmira?

2 A. Yes.

3 Q. Alright, but you had regular visitation, I understand you regularly went to
4 see your father, is that correct?

5 A. Yes, ever since I can remember, every Wednesday, every Saturday, and
6 all day Sunday. We still do it.

7 Q. So, from the time you were, your mother and father split until even now?

8 A. Yeah.

9 Q. So, when you're home from school, it's Wednesday, Saturdays, and--

10 A. --Sundays.

11 Q. And, I'm slow. Is it all day Sunday, or part day?

12 A. I spend the night on Saturday nights and stay through Sunday.

13 Q. When you were growing up when you were a kid, you're not a kid
14 anymore, your father would sometimes get called to court on weekends or
15 he would regularly go to court on Sundays after religious services, is that
16 correct?

17 A. Yes.

18 Q. Did you have an expression for what that was called?

19 A. Saints and sinners.

20 Q. And what did that involve?

21 A. We would first go to church, which would be the saints, and then after
22 church, we would drive over to the courthouse, and he would do
23 arraignments, which we called sinners.

24 Q. Were you alone with him when you would do that, when you went over?

25 A. My sister came for a while.

138.

(J. Ramich-Cross)

1 Q. You have a sister?

2 A. Yes.

3 Q. And what's her name?

4 A. Amanda.

5 Q. She's about two years older than you?

6 A. Yes.

7 Q. And in terms of school, she was two years ahead of you?

8 A. Yes.

9 Q. So, Amanda would join you for saints and sinners?

10 A. Yes, when she was younger.

11 Q. And in terms of saints and sinners, that involved your going to the court
12 and sitting in the court while your father did the arraignments?

13 A. Yes.

14 Q. What did you do while he was working?

15 A. I colored and stuff like that.

16 Q. Did you go when you were in high school or, Mr. Reilly found that, I
17 guess, engaging. Did you go when you were in, did it stop at a certain
18 point?

19 A. No, I, know I went a few times this summer.

20 Q. And, and you drive, you said, right?

21 A. Yes.

22 Q. So, you don't have to go there, after church, I gather, you can drive home
23 yourself, is that right?

24 A. Right, but we normally go to saints and sinners, and then we go out to
25 breakfast. So, it's just part of the deal.

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STATE COMMISSION ON JUDICIAL CONDUCT

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(J. Ramich-Cross)

1 Q. It's convenient?

2 A. Yeah.

3 Q. And it's every Sunday for as long as you can remember, in terms of
4 being, your parents being apart?

5 A. Of course there's exceptions in I'm doing something. For example, back
6 when me and Lauren were friends, I'd go and spend the night at her house
7 sometimes, and then I wouldn't go with my dad in the morning.

8 Q. But as a matter of practice, that's what you--

9 A. --Yes--

10 Q. --would do? How long, how much time would this take, generally, in the
11 morning?

12 A. It usually, we go to mass at 8:00, get home, it depends on how many
13 arraignments he had, but around 10 or 11.

14 Q. And then go to breakfast?

15 A. We wouldn't go home before breakfast. We'd go straight from the
16 courthouse to breakfast at Light's--

17 Q. --Did you--

18 A. --Bakery.

19 Q. Where was it?

20 A. Light's Bakery.

21 Q. Okay, I'd ask you what you had, but that's a little bit too much. Did you
22 have the same thing every time?

23 A. Just about.

24 Q. You had a favorite meal?

25 A. Yeah.

140.

(J. Ramich-Cross)

1 Q. Alright, there came a time, well, let me ask you this, part, have you
2 learned, did you talk with your dad about one of the reasons for your
3 being here today, and one of the reasons he's here today, is because of
4 that matter in which you sat on the jury?

5 A. Yes.

6 Q. And it involved a gentleman named Joe Piper?

7 A. Yes.

8 Q. Did you know Joe Piper at all prior to the case?

9 A. No.

10 Q. Had you heard about the party at which this, this big party where all the
11 cops showed up?

12 A. No.

13 Q. Did you know anything about that?

14 A. No, I was away at school, so.

15 Q. When you went to the court, in the Elmira City Court for the jury that
16 day, did you go with your boyfriend at that time?

17 A. No.

18 Q. Do you know a gentleman named Shea?

19 A. Yes.

20 Q. Had he gone to high school with you?

21 A. Yes, I dated him in high school.

22 Q. Alright, but you weren't dating him at the time of the--

23 A. --No--

24 Q. --the jury?

25 A. No.

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(J. Ramich-Cross)

1 Q. Mr. Shea was excluded while you were there, he wasn't allowed to be

2 on--

3 A. --Yes--

4 Q. the jury? It happened, I guess, to the misfortune, that you got called for
5 jury service during the summer when you were home, right?

6 A. Yes.

7 Q. They didn't call you up on the telephone that day, and say, Jessica, come
8 down to court, right?

9 A. Correct.

10 Q. Alright, you had received a notice in the mail sometime prior to the court,
11 is that correct, June 1st?

12 A. Yes.

13 Q. How did you know to go to court on June 1st?

14 A. I had to call, like, the night before, I think, or two nights before, and--

15 Q. --You got a number?

16 A. A phone number?

17 Q. No, did they, give you a number, like, you're, like, you call and find out
18 whether you're number's come up or--

19 A. --No.

20 Q. How did you, how did they tell you that you were supposed to be in there
21 that day? When you called, did you identify yourself?

22 A. I'm pretty sure it was just an automatic recording, and it just--

23 Q. --And what did it tell you?

24 A. It said that court will be taking place, show up at such and such time.

25 Q. Alright, and it was during the summer, the date that we, we know it had

142.

(J. Ramich-Cross)

1 | happened, was June 1st--

2 | A. --Okay--

3 | Q. --which, okay, and that would have been a Wednesday, June 1, 2010.

4 | A. Okay.

5 | Q. Prior to making the telephone call, had you gotten a notice from the
6 | Commissioner of jurors saying that your name had come up, Jessica
7 | Ramich?

8 | A. I, yes, if you mean I, that I got a notice saying I was called for jury duty,
9 | yes.

10 | Q. Alright, and when you got the notice saying you were called for jury duty,
11 | how much in advance of when you went, when you made the phone call,
12 | did that notice come to you?

13 | A. I don't know exactly, but I think a couple weeks.

14 | Q. And the place you were calling to find out whether you were on jury duty
15 | or not, was the Elmira City Court, is that correct?

16 | A. Yes.

17 | Q. And the notice that had come to you a few weeks before, giving you
18 | notice that you were on jury duty, was from the Elmira City Court, is that
19 | correct?

20 | A. Yes.

21 | Q. And you knew your dad was a judge in the Elmira City Court?

22 | A. Yes.

23 | Q. You're proud of that fact, right?

24 | A. Very proud.

25 | Q. And you always have been as long as he's been on the bench?

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(J. Ramich-Cross)

1 A. Yup, and always will be.

2 Q. Okay, so, you got the notice at the address where you live, is that correct?

3 A. Yes, at 957 Grove.

4 Q. Alright. Did it strike you that you were being called to, excuse me, called
5 to sit on a juror, as a juror in your father's own courthouse, and that this
6 was a chance for you to see him in action?

7 A. Yes.

8 Q. Alright, did, and so, you showed him the jury notice and what did he say?

9 A. I didn't show him, I told him.

10 Q. And--

11 A. --But, I said, "Dad, I've been called to jury on your court," or I asked him
12 actually. I don't know if I knew. I asked him if it was going to be his
13 trial, and he said, "Yes," and I said, "What do I do?" He said you have to
14 call in because you'd be breaking the law if you didn't show up and
15 perform your duty, civic duty as a juror."

16 Q. So, you called in and perform your civic duty?

17 A. Yes.

18 Q. And it told you to show up on June 1st, right?

19 A. Yes.

20 Q. And how did you get to court on June 1st?

21 A. I drove.

22 Q. What, you drove what, a car?

23 A. Yes.

24 Q. Do you own a car?

25 A. Yes.

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(J. Ramich-Cross)

1 Q. It's in your name?

2 A. Is it under my name?

3 Q. Yes.

4 A. No.

5 Q. Whose name is it in?

6 A. My dad.

7 Q. And, so, you drove, what kind of car is it?

8 A. This was a different car, but it was a Pontiac Grand Prix.

9 Q. Different than the one you own now?

10 A. Yes.

11 Q. So, you drive to court that morning. What time do you get there?

12 A. I think 9:00, but I don't remember.

13 Q. And what do you do when you get there?

14 A. I sat down behind the barricade, like, back there.

15 Q. Alright, you, and you're waving your arm like we're in this courtroom, so
16 that's a great point. Can you describe for us the layout of the Elmira City
17 Court, and before we get there, was that the same courtroom that you'd
18 been in when you were doing "saints and sinners?"

19 A. Yes.

20 Q. So, you're, you were familiar with it?

21 A. Very familiar.

22 Q. Alright, if you take where your dad was sitting as the judge at the bench,
23 I'd say where Mr. Muldoon is sitting right now, and you look out on the
24 room, what do you see?

25 MR. POSTEL: Judge, I, are we okay? I know it's

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- 1 hard, but are we okay? You want a break? Are you sure?
- 2 Okay.
- 3 Q. Tell us, I know this is hard for both of you. I'm trying to make it as easy
- 4 as possible. Tell us, if you're sitting here where your dad was sitting,
- 5 describe the room for us, that you've seen for years. What does it look
- 6 like?
- 7 A. It's very similar to this layout. If Dad was sitting, if I was sitting right
- 8 there, straight ahead are the doors, the main doors.
- 9 Q. In the back of the room?
- 10 A. Yes, like, right where that "maximum occupancy" sign is.
- 11 Q. So, it would sort of be in the middle instead of here, we have them on the
- 12 side, right?
- 13 A. Correct.
- 14 Q. You're doing a great job, what else?
- 15 A. To the left would be where the defendants stay, like in--
- 16 Q. --So--
- 17 A. --holding cell--
- 18 Q. --I'm moving to your left, there's a table here, would this be where the
- 19 defendants--
- 20 A. --No, in the back corner.
- 21 Q. Oh, so, oh, that's where, they're , they sit there until they're called up?
- 22 A. There's a holding cell, so we cannot see them.
- 23 Q. Okay, good. Thank you. Describe the rest, what else do you see?
- 24 Counsel tables?
- 25 A. Just like they are right here.

(J. Ramich-Cross)

1 Q. Left and right?

2 A. Yes. The jury box is on, would be on this side.

3 Q. On the right side of the bench?

4 A. Yes.

5 Q. Okay, and you described it as a railing, is there a railing like there is here
6 in this court?

7 A. Yes, and there's gates.

8 Q. Okay, and on the other side is the public area, would that be fair?

9 A. Yes.

10 Q. Alright, so when you come in, and behind the benches, are there doors for
11 various parts of the staff and the judges' chambers and things?

12 A. No. The judges' chambers are, would be against that wall--

13 Q. --To the left--

14 A. --on the left.

15 Q. As you're looking out?

16 A. Correct.

17 Q. Okay, and so, I'm over here to the left of the bench looking out, the
18 judges' chamber doors would be about here?

19 A. Yes.

20 Q. And that's about, let's say about 15, 20 feet from the bench?

21 A. Yes.

22 Q. And you walk behind this door here, and when you, where do you go to?

23 A. There's two doors, one door goes directly into my dad's chambers, and
24 another door goes to the main hallway that would connect to Judge
25 Forrest's chamber and to, like, where the secretary, the clerks would

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(J. Ramich-Cross)

1 come in.

2 Q. Okay, now you, you described to us that, unlike the room we're in today,
3 the jury box is to the right?

4 A. Correct.

5 Q. And is it a jury box as big as the one here for twelve people, or would it
6 just be six or seven?

7 A. I believe it's about the same size, but I'm not positive.

8 Q. Okay. But, that day when you went in, you first sat in the gallery in the
9 back?

10 A. Correct.

11 Q. Had you gone to see your dad before you sat in the gallery in the back?

12 A. I, no, I do not think so.

13 Q. Alright, did you go to court with anybody?

14 A. No.

15 Q. When you sat in the gallery in the back, were you seated, as you, as you
16 face where your dad is seated at the bench, on the left side of the room
17 towards the jury box, or on the right side of the room?

18 A. I was, like, to the center right.

19 Q. Now, were there any, was there any paperwork you filled out in
20 connection with, when you first arrived there?

21 A. Yes.

22 Q. Can you tell us about that? What did you do?

23 A. To be honest, I don't remember what I had to sign. I know we got a little
24 sticker. It said, "I'm a juror."

25 Q. You put it on your lapel?

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(J. Ramich-Cross)

- 1 A. Yeah.
- 2 Q. Alright, you weren't the only one there that day though, right?
- 3 A. No, there were many people called, probably 20, 30.
- 4 Q. Okay, and at a certain point, correct me if I'm wrong, and I'm just trying
5 to work us through this, you moved from center right in the gallery to the
6 jury box, actually being seated is that right?
- 7 A. You mean once I was called up?
- 8 Q. Your name was called, is that correct?
- 9 A. Yes.
- 10 Q. Alright, but before your name was called, there was another group that
11 had gone ahead of you, right?
- 12 A. Correct, and there might have been two groups that went ahead of me.
- 13 Q. And what you saw there was your father asking questions of those people
14 and then the ADA and the defense counsel asking questions of them as
15 well, right?
- 16 A. Yes.
- 17 Q. And you're sophisticated from your experience in terms of the law, and
18 you understand what I mean when I say, ADA, right?
- 19 A. Assistant DA.
- 20 Q. Assistant District--
- 21 A. --Yeah--
- 22 Q. --Attorney, right?
- 23 A. Yeah.
- 24 Q. We're on the same wavelength?
- 25 A. Yes.

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(J. Ramich-Cross)

1 Q. Okay. So, you had seen this go on a couple of times, right, in terms of--

2 A. --Yes--

3 Q. --different pools, and the names for the people called up were pulled out
4 of a, is it a spinning ball, like a lottery--

5 A. --yes--

6 Q. --thing--

7 A. --my dad did it. It was kind of like a bingo ball thing.

8 Q. Alright, and so he would reach in and pull out a name?

9 A. I think it was a number, but.

10 Q. A number?

11 A. I'm not sure.

12 Q. Alright, your number came up?

13 A. Yeah.

14 Q. What happened?

15 A. Well, my dad smiled, and everybody in the courtroom knew already that I
16 was his daughter anyway, but yes, I came up in the box.

17 Q. Alright, how did they know that you were his daughter?

18 A. Dad had talked to the attorney and the, the defense and the Assistant DA
19 before the trial.

20 Q. Okay, and were you present for that discussion?

21 A. No, but my dad told me he was going to.

22 Q. Oh, he advised you before you went to court that day that he was going to
23 talk about the fact that you were going?

24 A. Yes.

25 Q. Alright, but you said, everybody in the court knew. How did, what you,

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(J. Ramich-Cross)

1 what leads you to that conclusion from the concept that he talked to the
2 ADA and the defense attorney? What, where's that jump--

3 A. --I believe--

4 Q. --coming--

5 A. --he said something. I don't know for sure, but I think when he pulled my
6 name, he said, Jessica Ramich, we have the same last name. Everybody
7 laughed and then he said something like, yeah, yeah, she's my daughter.

8 Q. Okay, so it wasn't a number that was pulled, it actually was your name?

9 A. I think there was a name attached to a number, something like that, yes--

10 Q. --Alright--

11 A. --I'm not sure--

12 Q. --in, in, in reality, you didn't see what he pulled, right?

13 A. No.

14 Q. You don't know what it said?

15 A. But I'm pretty sure it had a number.

16 Q. Okay, and so you walked into the jury box. Were you part of a group?

17 A. Yes.

18 Q. And you sat down?

19 A. Yes.

20 Q. And were you part of the group that was questioned by your dad generally
21 about the same kind of questions that he had asked the two prior groups?

22 A. Yes.

23 Q. Did you know that the process, in terms of your experience did you know
24 that the process in which the judge and the counsel talked to the jurors
25 before they're selected is called *voir dire*?

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(J. Ramich-Cross)

1 A. Yes.

2 Q. So, you were familiar with that idea?

3 A. Yes.

4 Q. You knew you were being *voir dire*?

5 A. Yes.

6 Q. And did you know that the purpose of *voir dire* was to get to the concept
7 of, to remove jurors who could be potentially impartial, lack impartiality?

8 A. Yes.

9 Q. And part of the questioning of the defense counsel and your dad was
10 directed at whether the people had feelings one way or another in terms of
11 police officer testimony, for example, is that fair?

12 A. Yes.

13 Q. Alright, and how they felt in terms of, could they convict a crime if all the
14 elements were made, but if they didn't think it was that big of a deal,
15 right?

16 A. Yes.

17 Q. And they talked about experience with and exposure to the police, is that
18 correct? What your level of respect--

19 A. --Yes--

20 Q. --was for the police, whether you knew any police?

21 A. Yes.

22 Q. --And you told them you knew, you knew the process in terms of what the
23 police were, and who they were, and you said you had great respect for
24 the police, is that--

25 A. --Yes--

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(J. Ramich-Cross)

1 Q. --right? In the group that you were with, when the questioning was done,
2 were, were you present when your dad asked the lawyers from each side
3 whether they had any objections to any of the other jurors in your group?

4 A. I believe they went into chambers when they did the objection, when
5 people chose who they wanted off the jury.

6 Q. Alright. When you were, when you were questioned, and when you came
7 up, I assume, and correct me if I'm wrong, that neither attorney for either
8 side objected to you being in that jury box, right, when you were first
9 called up?

10 A. Like when my dad called my name?

11 Q. Yes.

12 A. No one said anything.

13 Q. Alright. And when you walked up, was the defendant at his table?

14 A. Yes.

15 Q. And you didn't recognize him?

16 A. No.

17 Q. At a certain point, did it happen that your dad came out and said that you
18 were seated, or impaneled, as a member of the jury in the *Piper* case? In
19 other words, did they tell you, Jessica Ramich, you're in?

20 A. Yes.

21 Q. And how did that happen?

22 A. I think it was more of a process of elimination. They said who was out.

23 Q. And then they came to you?

24 A. Every, they said, everyone else be present at such and such time for the
25 beginning of the trial.

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(J. Ramich-Cross)

1 Q. Alright. And would it be fair to say that was about 11:30 in the morning?

2 A. Yes--

3 Q. --Just before lunch--

4 A. I think so, I think so.

5 Q. To the best of your recollection.

6 A. Yeah.

7 Q. Okay. So, you're seated in the jury box, do you know where you were in
8 terms of one, two, three, four, five, six from the bench, if one is closest to
9 the bench, two, three, four, five, six?

10 A. I was in the middle. I don't know what number.

11 Q. Okay. And you went to lunch before the actual testimony in the case
12 occurred, is that right?

13 A. Yes.

14 Q. And how did it happen that you knew you were going to go to lunch with
15 your father that day?

16 A. Well, we were seated in the box, and then the court was going into recess.

17 Q. How did you know that?

18 A. I don't know who said it. I assume my dad, but, I honestly don't
19 remember. They said the court is going to break for lunch. So, they said
20 be back at 12 or whatever time. So, I got up along with the rest of the
21 jury and started to leave, but then--

22 Q. --Would that be turning to your right or to your left to file out?

23 A. Turning to my right.

24 Q. Okay, and what happened?

25 A. And then my dad said, "Jess, wait up," like that and--

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(J. Ramich-Cross)

1 Q. --He put his hand up in the air like you just did, your right--

2 A. --Yes--

3 Q. --hand? Okay, and what--

4 A. --And then--

5 Q. --did that mean to you?

6 A. That he wanted--

7 Q. --Wait up--

8 A. --that he wanted to talk to me.

9 Q. Okay, and so, where did, did you turn and go the other way past the
10 jurors, or did you file out with them and come back to the bench?

11 A. No, I, I went and sat in the crowd area and waited--

12 Q. --In the gallery in the back?

13 A. Yes.

14 Q. Okay, and then what happened?

15 A. My dad went into chambers with the defendant and both attorneys.

16 Q. And then what happened?

17 A. My dad was in there a little while, not very long, and then he came out
18 and said that they okayed it and said I could go to lunch with him.

19 Q. And did you do that?

20 A. Yes.

21 Q. And did you drive your car and he drive his car?

22 A. No, we both went in his car.

23 Q. And he drove?

24 A. Yes.

25 Q. And you went to a place called Horrigan's Restaurant?

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(J. Ramich-Cross)

1 A. Yes.

2 Q. And you had lunch together while you were there?

3 A. Yes.

4 Q. Was anyone else with you?

5 A. No.

6 Q. And you drove back, he drove you back together, is that correct?

7 A. Yes.

8 Q. And where did he, did you exit the vehicle and walk into court together?

9 A. Yes.

10 Q. And you know there are metal detectors--

11 A. --Yes--

12 Q. --in these, these, in courtrooms, right, in the court buildings?

13 A. Yeah, yeah.

14 Q. You've had experience with that, right?

15 A. Yes.

16 Q. Did you know the guards when you entered the building in the morning?

17 Did you recognize any of them?

18 A. Yes, I don't, I couldn't tell you who they were--

19 Q. --Did they--

20 A. --now--

21 Q. --make you go through the metal detectors--

22 A. --Yes.

23 Q. They did?

24 A. Yes.

25 Q. When you came back with your dad in the afternoon, did they make you

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(J. Ramich-Cross)

1 go through the metal detectors?

2 A. I don't remember.

3 Q. Alright, so you come back in the afternoon after lunch, what happens
4 with, with where you go? Do you go back into chambers with him, do
5 you go into the court offices, do you sit in the gallery, what happens?

6 A. I went back to the gallery and he went his separate way.

7 Q. Alright, were there other jurors sitting in the gallery?

8 A. Actually, I think I went, there was a room in the back for the, for the
9 jury--

10 Q. --Called the juror room.

11 A. Yes, that's where I went.

12 Q. You went to the juror room?

13 A. Yeah.

14 Q. The jury room, right?

15 A. Yeah.

16 Q. If you look on the wall to your right, there's a door that says, "Jury
17 Room."

18 A. Yeah.

19 Q. See that?

20 A. Yeah.

21 Q. Was it something like this? Not in the courtroom, but a separate room--

22 A. --Right--

23 Q. --that said, "Jury Room"--

24 A. --it was outside, like I told you, the door, doors are right in the middle, it
25 was before you came into the courtroom.

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(J. Ramich-Cross)

- 1 Q. Alright--
- 2 A. --in--
- 3 Q. --outside the courtroom?
- 4 A. Yes.
- 5 Q. And you waited in there?
- 6 A. Yes.
- 7 Q. And you then got called up, you got told to come in, and you filed into the
- 8 jury box, and took your seat, is that right?
- 9 A. Correct.
- 10 Q. Was it the same seat you had in the morning?
- 11 A. In the juror box, yes.
- 12 Q. And then the case began, is that right?
- 13 A. Yes.
- 14 Q. There were opening statements, you know what those are?
- 15 A. Yes.
- 16 Q. Defense counsel, prosecution make openings, and they talk right to you,
- 17 right?
- 18 A. Yes.
- 19 Q. And then the prosecution, the Assistant District Attorney, puts on proof,
- 20 witnesses attempting to establish his case, right?
- 21 A. Yes.
- 22 Q. Did that happen?
- 23 A. Yes.
- 24 Q. And in terms of the course of the trial, when the prosecution put on their
- 25 case, did the defense counsel object to questions?

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(J. Ramich-Cross)

1 A. I, I think, but I'm not--

2 Q. --You know--

3 A. --sure--

4 Q. --you know what objections are--

5 A. --yeah, yeah--

6 Q. --right? Did that happen in this case?

7 A. I think so, I honestly don't remember.

8 Q. And whose job is it, as you knew as you sat there that day, to rule on
9 objections?

10 A. My dad.

11 Q. And they would follow the directions of your father, whether a question
12 could be answered or not, is that correct?

13 A. Correct.

14 Q. And at the end of the day, after you heard whatever questioning was
15 going on, your, your father said that the court was adjourned for the day,
16 is that correct?

17 A. Yes.

18 Q. And at the end of the proceeding on adjournment, did you turn right again
19 and exit the jury box?

20 A. Yes, that's the only way out, I think.

21 Q. Alright, and that's the only, that's, is it gated?

22 A. Yes, I think--

23 Q. --So, that's the way out, okay--

24 A. --Yeah.

25 Q. And when you left the jury box, did you then go to the bench to say good

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(J. Ramich-Cross)

1 bye to your father or to talk to him?

2 A. I don't remember, but I was, I'd assume yes, I did.

3 Q. Alright, and June 1st was a Wednesday?

4 A. Yes.

5 Q. And that's a visitation day for you, is that--

6 A. --Yes--

7 Q. --correct? So, it's, as a regular practice, you would have gone to his home
8 that evening, is that correct?

9 A. Yes, but that, I worked that night.

10 Q. Alright, and after work, did you go back to his house?

11 A. I worked from either 4:30 or 6 until 11:00 that night. So, no, I went back
12 to my mom's house to spend the night.

13 Q. Alright, did you, what, where did you work?

14 A. St. Joseph's Hospital in the pharmacy.

15 Q. Was that the only Wednesday you worked that summer?

16 A. Probably, because at St. Joe's, they didn't give me many hours that
17 summer. So, there's a good chance, yes.

18 Q. So, it just happened that it was June 1, 2010, that you worked on a
19 Wednesday?

20 A. Yes, actually, my boss called me during the trial.

21 Q. And what was your regular schedule working there?

22 A. Like I said, that summer I had gotten less hours than before because they
23 were going through financial problems, but--

24 Q. --But what was your regular schedule?

25 A. I didn't have one. They called me when they needed--

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(J. Ramich-Cross)

1 Q. --You were on--

2 A. --me--

3 Q. --you were on call?

4 A. Yes, I was pretty--

5 Q. --And in terms of how you left court after going to the bench at the end of
6 the case, did you go back into chambers with your father to say goodbye
7 to him, spend any time with him?

8 A. No, I believe I said goodbye to him in the courtroom. I don't remember
9 going into his chambers that day.

10 Q. Alright, as the matter happened, it went over to the next day and you
11 came back in the morning, is that right?

12 A. Yes.

13 Q. Did you see your father before you came back that morning?

14 A. No, he came, he drove separate.

15 Q. You took two cars?

16 A. Yes.

17 Q. And when you got to court that morning, what did you do?

18 A. Again, I went to the jury room.

19 Q. And again, you were called into the case, is that correct?

20 A. Yes.

21 Q. And was it at this point that there was continuing presentation of
22 witnesses, more testimony?

23 A. Yes, I think so.

24 Q. And, closing arguments, you know what those are, right?

25 A. Yes.

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(J. Ramich-Cross)

1 Q. That's where the defense and prosecution sum up their case?

2 A. Yes.

3 Q. That was made to you?

4 A. Mm-hmm.

5 Q. Now, as you're sitting there for those two days, were you watching your
6 father work?

7 A. Of course.

8 Q. You said you're proud of him. You were then, you are now, right?

9 A. Yes, but I was also doing my duty and I had to watch him.

10 Q. What, did I, was there a suggestion that you weren't doing your duty?

11 A. No.

12 Q. So, you feel compelled to tell me that you were doing your duty, although
13 I didn't ask you, is, are you concerned about that?

14 A. Well, I just don't understand.

15 Q. I'm simply asking you, did you pay attention to the way your father
16 worked?

17 A. Yes, I had to. How would I do my duty if I didn't pay attention?

18 Q. That's part of the responsibility as a juror, is that correct?

19 A. Correct, that's what I'm trying to say.

20 Q. Now, your father has told us under oath that during the course of the next
21 few weeks, he and you had discussions about the *Piper* case after the
22 verdict of guilty was in. Would it be fair to say that he was telling the
23 truth to us when he told us that?

24 A. Yes, I asked him about sentencing.

25 Q. Alright, he's also said that you said to us, that you had an opinion about

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(J. Ramich-Cross)

1 Mr. Piper's level of emotional control at the time of his arrest and the
2 party.

3 A. Yes, I thought the whole case could have, it never would have happened
4 if he didn't lose his temper.

5 Q. Right, that's what he said to us you said to him. Did you say--

6 A. --Yeah--

7 Q. --that to him?

8 A. Yes, I did.

9 Q. So, the, it's not, and the only thing, the, what you said to him is not just
10 that what you testified to on direct about it. There's more to it, isn't
11 there? That you expressed your opinion about Mr. Piper?

12 A. Yeah.

13 Q. Alright. And in explaining to your father your view of Mr. Piper, you
14 talked to him about what the general view was of the jurors in terms of
15 assessing Mr. Piper's credibility and his reaction, right?

16 A. Are you asking if I talked to him about what happened in the--

17 Q. --Yes.

18 A. In the room?

19 Q. Correct.

20 A. Maybe briefly.

21 Q. Did your father talk to you, and I want you to understand, I'm not
22 condemning this. I'm simply trying to understand what happened. Did
23 your father attempt to get a sense of what happens in the jury rooms, or
24 what the discussion involved, or how, how you reached your verdict?
25 Did you explain to him what you, what the give and take was among the

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(J. Ramich-Cross)

1 six of you?

2 A. No.

3 Q. In terms of Mr. Piper himself, you didn't know going into the trial who he
4 was, right?

5 A. Correct.

6 Q. After the trial, did you come to learn who he was or anything about this
7 party?

8 A. Yes.

9 Q. And what had you learned?

10 A. I didn't learn anything about the party, but he had, I believe it was his, his
11 child's mom, tried to friend me on Facebook, and his brother sent me
12 messages on Facebook.

13 Q. When was this?

14 A. The week of the jury trial, and it kept going for a while.

15 Q. Like, right afterwards?

16 A. Yes.

17 Q. Did you report this to your father, and say, let's stop this, or what can we
18 do, or what should I do?

19 A. No, I told my dad after I blocked them on Facebook.

20 Q. And when was that? Did you block them, let me, this made you
21 uncomfortable?

22 A. I'm used to uncomfortable situations with politics.

23 Q. But it made, if you're used to it, it did make you uncomfortable, but
24 you're used to uncomfortable situations, is that your testimony?

25 A. Yes, so I took it, I just did what I wanted to do, and I blocked them.

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(J. Ramich-Cross)

1 Q. Alright, what did your father say you should do?

2 A. I didn't ask his opinion.

3 Q. But you told him you had blocked them?

4 A. Yes.

5 Q. And what did he say?

6 A. He said I shouldn't be talking to them, but I don't remember much
7 conversation other than that.

8 Q. Alright. Well, I ask this because I'm worried, I'm concerned, did he
9 express to you his concern about your security in such a circumstance?

10 A. You mean that I was being threatened?

11 Q. That you were being harassed, or threatened that, or anything could come
12 of this?

13 A. They didn't threaten me or say anything negative.

14 Q. Were you worried?

15 A. No.

16 Q. So, it was essentially meaningless to you?

17 A. Yes.

18 THE REFEREE: Excuse me. Did this occur
19 between the time of verdict and the time of sentencing, as
20 best as you know? The, the--

21 THE WITNESS: --Yes--

22 THE REFEREE: --contact between members of the
23 defendant's family?

24 THE WITNESS: Yes.

25 THE REFEREE: Okay, and when you mentioned it

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(J. Ramich-Cross)

1 to your father, did that occur during that same time period?

2 THE WITNESS: Yes.

3 THE REFEREE: Okay, thank you.

4 Q. To your knowledge, did your father reach out to any law enforcement
5 authorities to give you assistance in connection with dealing with these
6 people?

7 A. No.

8 Q. Did you feel it necessary to reach out to law enforcement to deal with
9 these people?

10 A. Not at all.

11 Q. You handled it yourself, right?

12 A. Yeah.

13 Q. Did you talk to your sister about this case as well as your father?

14 A. No.

15 MR. POSTEL: I have nothing else.

16 THE REFEREE: Very good.

17 REDIRECT EXAMINATION

18 BY MR. REILLY:

19 Q. Just so I get it straight, Jessica, the conversation about the temper, or lack
20 of control of the temper of the defendant, Mr. Piper, did that occur before
21 the sentencing or after the sentencing?

22 A. After the sentencing.

23 Q. You're sure of that?

24 A. Yes.

25 MR. REILLY: Nothing further.

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MR. POSTEL: I have nothing further.

THE REFEREE: One question. There was a question that came up of someone named Shea. He's a friend of yours?

THE WITNESS: I dated him during high school.

THE REFEREE: Okay. Did, was he on the prospective jury pool?

THE WITNESS: Yes.

THE REFEREE: The two of you?

THE WITNESS: Yes, just coincidentally. We didn't know until we got there that day.

THE REFEREE: You were selected, but he was not selected for the jury pool?

THE WITNESS: Correct.

THE REFEREE: For, as a juror, okay.

THE WITNESS: Well, he--

MR. POSTEL: --I believe his--

THE WITNESS: --hold on--

MR. POSTEL: --first name was Brett?

THE WITNESS: Yes. He was called into the box, but they, someone objected to him being on the trial, so he was dismissed.

MR. POSTEL: I follow up on that.

THE REFEREE: Okay.

1 RECCROSS EXAMINATION

2 BY MR. POSTEL:

3 Q. Was Mr. Shea seated next to you?

4 A. We, we have not talked, we did not talk that day, and we have not talked
5 since.

6 Q. Alright, is it your recollection of the events that Mr. Shea was excluded as
7 soon as he was called up?

8 A. No.

9 Q. When was he excluded?

10 A. He knew the defendant. So, he said that during the *voir dire*, or whatever,
11 *voir dire*, whatever. And--

12 Q. --*Voir dire*?

13 A. Yes, and he was excluded after that.

14 Q. Did they tell him immediately?

15 A. No.

16 Q. Alright, he, he, he remained seated in your group until--

17 A. --He was not in my group.

18 Q. The group before you?

19 A. Yes.

20 Q. Alright. So, until when his group was dealt with as a whole was when he
21 was dealt with?

22 A. What? I'm sorry.

23 Q. When his, when they dealt with the individuals in the box in the group
24 before you, he was part of that group, right?

25 A. Yes.

(J. Ramich-Recross)

1 Q. He was dealt with in terms of being told he wasn't going to sit when the
2 other jurors in that group were told when to sit is whether they were going
3 to sit as well?

4 A. Correct.

5 Q. Thank you.

6 MR. REILLY: Nothing further.

7 THE REFEREE: Nothing further, very good. That's
8 all. Thank you very, very much.

9 THE WITNESS: Yup. Thank you. Can I say
10 goodbye to my dad?

11 THE REFEREE: What's that?

12 THE WITNESS: Can I say goodbye to my dad?

13 MR. POSTEL: Why don't we take a break?

14 MR. REILLY: Sure thing.

15 MR. POSTEL: Take a break.

16 THE REFEREE: (unintelligible) take a break. We'll
17 take a five minute break.

18 MR. REILLY: Don't get us in trouble. Just one
19 moment.

20 (OFF THE RECORD)

21 MS. MARTIN: Mr. Muldoon and Mr. Reilly, our
22 next witness, or Commission's next witness is Joseph Piper.

23 THE REFEREE: Mr. Piper, Mr. Piper, can you come
24 up here?

25 THE WITNESS: Yup.

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(Piper-Direct)

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THE REFEREE: If you could just stand for a moment. If you could raise your right hand. Do you solemnly swear or affirm to tell the truth, the whole truth, and nothing but the truth, so help you, God?

THE WITNESS: I do, sir.

THE REFEREE: Very good. Please sit down.
Proceed.

JOSEPH R. PIPER

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

DIRECT EXAMINATION

BY MS. MARTIN:

Q. Please state your name.

A. Joseph Ryan Piper?

Q. Where do you reside?

A. 319 East Miller Street.

Q. Where did you go to high school?

A. Southside High School.

Q. When did you graduate?

A. 2006.

Q. You have a son, Mr. Piper?

A. Yes, ma'am.

Q. What is your son's name?

A. Ryan Joseph Piper.

Q. How old is your son?

A. Two and a half.

(Piper-Direct)

1 Q. Did there come a time in January 2009 that you were arrested and charged
2 with harassment 2nd and resisting arrest?

3 A. Yes.

4 Q. What was your plea to each of the charges?

5 A. Not guilty.

6 Q. When was a trial on the charges first scheduled?

7 A. March 2010.

8 Q. What was the outcome of this trial?

9 A. A mistrial.

10 Q. What happened to the charge harassment 2nd?

11 A. It was dismissed.

12 Q. Did you go to trial on the charge of resisting arrest on June 1st and June 2,
13 2010?

14 A. Yes.

15 Q. Were you present during the selection of the jurors for your trial?

16 A. Yes.

17 Q. How many possible jurors were assembled in the courtroom for your
18 trial?

19 A. At least 50.

20 Q. How were the jurors selected for your trial?

21 A. On paper, pieces of paper and a turning mechanism.

22 Q. How many jurors were pulled out of the turner at a time?

23 A. Six.

24 Q. What happened after the prospective jurors were seated, what, I
25 apologize. Where did the jurors go after their names were pulled out of

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(Piper-Direct)

1 the turner?

2 A. The jury box.

3 Q. What happened after the prospective jurors were seated in the jury box?

4 A. Lawyers and judge ask questions.

5 Q. Who was the assistant district attorney assigned to your case?

6 A. Jonathan Thweatt.

7 Q. Did ADA Jon Thweatt ask the jurors questions?

8 A. Yes.

9 Q. Who was your attorney who represented you at the trial on June 1st and
10 June 2, 2010?

11 A. Clark Zimmerman.

12 Q. Did your attorney, Mr. Zimmerman, ask the jurors questions?

13 A. Yes.

14 Q. Did a woman named Jessica Ramich go into the jury box?

15 A. Yes.

16 Q. Please describe what happened when Jessica Ramich went into the jury
17 box?

18 A. The judge said it was his daughter, and he laughed.

19 Q. Did your attorney, Mr. Zimmerman, object to Jessica Ramich being on
20 the jury for your trial?

21 A. No.

22 Q. Did the Assistant District Attorney, Mr. Thweatt, object to Jessica
23 Ramich being on the jury?

24 A. No.

25 Q. Was there a break for lunch during the first day of your trial on June 1,

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(Piper-Direct)

1 2010?

2 A. Yes.

3 Q. What, if anything, did Jessica Ramich do at the break for lunch during the
4 first day of your trial on June 1, 2010?

5 A. She went behind the stand and waited for her father.

6 Q. What did the other jurors do?

7 A. Stayed in the jury box.

8 Q. And then what eventually did they do?

9 A. Left.

10 Q. They left. What, if anything, did Judge Ramich say about his daughter,
11 Jessica, at the break for lunch during the first day of your trial on June 1,
12 2010?

13 A. He asked if he could take her out to lunch.

14 Q. Did either of the attorneys object to the judge having lunch with his
15 daughter?

16 A. No.

17 Q. What was your reaction to the judge's daughter having lunch with her
18 father during your trial and also being on the, on the jury for your trial?

19 A. Uneasy, we didn't want to make the judge mad.

20 Q. Okay. Did there come a time that you spoke with your attorney, Mr.
21 Zimmerman and make a decision about Jessica's participation?

22 A. Yes.

23 Q. And what was your decision with your lawyer?

24 A. Not to say anything. We didn't want to make the judge mad.

25 Q. And you, you didn't say anything, Mr. Piper, the reason being?

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(Piper-Direct)

1 A. To not make the judge mad.

2 THE REFEREE: Would that, to say nothing, or not
3 make the judge mad, was that with regards to the, to her
4 being selected as a juror or with regards to her going to
5 lunch, or something else?

6 MR. PIPER: Both.

7 Q. What was the--

8 THE REFEREE: --Thank you--

9 MS. MARTIN: Thank you, Mr. Muldoon.

10 THE REFEREE: Continue.

11 Q. What was the outcome of your trial?

12 A. I was found guilty.

13 Q. What was your reaction to the verdict of guilty?

14 A. Disappointed. I felt I didn't get a fair trial.

15 Q. Mr. Piper, did you file a complaint with the Commission on Judicial
16 Conduct regarding your concern that you did not receive a fair trial before
17 Judge Ramich?

18 A. Yes.

19 Q. Did you submit any legal cases to support your complaint that you did not
20 receive a fair trial?

21 A. Yes.

22 Q. Mr. Piper, I hand you a three-page document. It has already been moved
23 into evidence. It is Commission Exhibit 61.

24 MS. MARTIN: Mr. Reilly, would you like to see it?

25 MR. REILLY: No, I've seen it.

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(Piper-Direct)

1 Q. Do you recognize these documents?

2 A. Yes.

3 Q. That is your complaint, Mr. Piper?

4 A. Yes.

5 Q. And there is a legal case attached to your complaint?

6 A. Yes.

7 Q. Is that the case of *People v Ivan L. Hartsen*?

8 A. Yes.

9 Q. How did you obtain that case, Mr. Piper?

10 A. My father got it.

11 Q. Is your, is your dad, is your father a lawyer?

12 A. No.

13 Q. Is your father a judge?

14 A. No.

15 MS. MARTIN: I have no further questions. Mr.

16 Reilly.

17 MR. REILLY: Yep.

18 CROSS EXAMINATION

19 BY MR. REILLY:

20 Q. Can I see that exhibit, Mr. Piper? My name is Tom, by the way. I have a
21 few questions to ask you.

22 A. Yes, sir.

23 Q. Did your dad tell you how he got this *People v Hartson* case?

24 A. No, he didn't.

25 Q. And do you have any idea as to why he would look for that case?

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(Piper-Cross)

1 A. No.

2 Q. Do you know whether he knows how to look up cases in New York
3 State?

4 A. Probably.

5 Q. Pardon me?

6 A. Yes.

7 Q. You've got to speak up a little bit.

8 A. Yep.

9 MR. REILLY: Can you see?

10 MS. MARTIN: Yes.

11 Q. You filed a notice of appeal in this case?

12 A. No.

13 Q. Your attorney didn't file a notice of appeal for you?

14 A. No.

15 Q. There is one filed. Are you aware of that?

16 A. Yeah, we didn't go through with it.

17 Q. So, you did file a notice of appeal?

18 A. Yes.

19 Q. And you, why didn't you go through with it?

20 A. Too much money.

21 Q. Your lawyer wanted money to go through the, to do the appeal?

22 A. I guess it cost money.

23 Q. Did he tell you how much it would cost?

24 A. No.

25 Q. Had you paid him to represent you in the jury trial?

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(Piper-Cross)

1 A. Yes.

2 Q. And approximately how much had you paid him?

3 A. 1,500.

4 Q. And when you, when Jessica Ramich was called to sit in the jury panel,
5 did you tell your lawyer then that you didn't like the idea of the judge's
6 daughter sitting on the jury in your case?

7 A. Yes.

8 Q. And what did he say to you?

9 A. He didn't want to make the judge mad.

10 Q. He said, how do you, had the judge gotten mad at all during the trial
11 before, while the jury was being picked?

12 A. Yes.

13 Q. Who did he get mad at?

14 A. District attorney.

15 Q. For what?

16 A. Bringing a charge against me.

17 Q. The new charge--

18 A. --On the--

19 Q. --another harassment charge, right?

20 A. Yeah, yep.

21 Q. So, he got mad in your favor?

22 A. Yep.

23 Q. And, in fact, when you had the first mistrial, do you know what caused
24 the mistrial?

25 A. A juror said he knew me.

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(Piper-Cross)

1 Q. During the course of the trial, all of a sudden realized he knew you?

2 A. Yeah, it was right before trial.

3 Q. And who was the judge at that trial?

4 A. Judge Ramich.

5 Q. And then there was another harassment charge brought after that trial?

6 A. No, before that trial.

7 Q. Before that trial?

8 A. Yep.

9 THE REFEREE: Before the first trial or before--

10 THE WITNESS: --Yep, before the first trial.

11 MR. REILLY: In what?

12 THE REFEREE: If I may, I'd just like to clarify
13 something. At the first trial, it was harassment 2nd and a
14 resisting arrest, correct?

15 THE WITNESS: Yes, sir.

16 THE REFEREE: There was also another harassment
17 charge that was brought before--

18 THE WITNESS: --That day, yes.

19 THE REFEREE: Before the first trial?

20 THE WITNESS: Yep.

21 THE REFEREE: Okay. Thank you.

22 Q. So, on the first trial, when you got there, you got a misdemeanor charge,
23 resisting arrest, and harassment charge as a violation, correct?

24 A. Yes, sir.

25 Q. There's a mistrial, then is there another charge of harassment filed before

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(Piper-Cross)

1 the second trial, or the judge, did the judge dismiss that original
2 harassment trial before the trial, the second trial started?

3 A. Yes.

4 Q. Alright, so, and the judge was mad because the district attorney was late
5 in filing those charges, and, and they, they should have been dismissed,
6 correct?

7 A. Yes.

8 Q. And again, that was in your favor, so if he's mad at anybody, he's mad
9 because they're trying to do something to you that they shouldn't have
10 done, fair enough to say?

11 A. Yes.

12 Q. And you have no idea how your father got this case?

13 A. No.

14 Q. *People v Hartson*?

15 A. No, I don't.

16 Q. In your letter filing the complaint is typed, is it not?

17 A. Yep.

18 Q. And who typed it?

19 A. My father.

20 Q. So, he's the one who put this terminology together, correct?

21 A. We both did.

22 Q. Alright, and did you feel that the judge in the first case acted collusively
23 with a John Foid orchestrated a mistrial?

24 MS. MARTIN: You know, that's not before us. I'm
25 going to object. That's not before us today, Mr.--

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(Piper-Cross)

1 MR. REILLY: --Okay, well--
2 MS. MARTIN: --Muldoon--
3 MR. REILLY: --it's, it's just in this document.
4 MS. MARTIN: It may be in the document, but it's
5 not before us. It's not--
6 MR. REILLY: --Okay--
7 MS. MARTIN: --part of our--
8 MR. REILLY: --let's--
9 MS. MARTIN: --charges, and it's not part of the
10 Formal Written Complaint. I'm going to object.
11 MR. REILLY: Alright.
12 THE REFEREE: The question is apparently
13 withdrawn, but?
14 Q. But it's in the document, so, do you know when this document was typed?
15 A. No, I don't, not exactly.
16 Q. And if you looked at the exhibit, is there any way that you could find the
17 date?
18 A. Yeah.
19 Q. Yes?
20 A. Yeah.
21 Q. And what's the date?
22 A. 3/9/2011.
23 Q. And do you know how that, that date appears in the bottom right part of
24 that case.
25 A. Yep.

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(Piper-Cross)

1 Q. Would that refresh your recollection as that being the date that you got
2 that case from your father or the date you found the case and printed it
3 out?

4 A. I don't recall.

5 Q. Do you know how you were told to file a complaint with the Commission
6 on Judicial Misconduct?

7 A. No, I don't recall.

8 Q. Did your father tell you that's what you had to do or did somebody else?

9 A. My father did.

10 Q. Do you know who he talked to--

11 A. --No--

12 Q. --before he told you to do that?

13 A. No.

14 MR. REILLY: I have nothing further.

15 THE REFEREE: May I see that exhibit, come--

16 MR. REILLY: --Yes--

17 THE REFEREE: --up--

18 MR. REILLY: --it was up there.

19 THE REFEREE: Okay, you had no further
20 questions?

21 MR. REILLY: No, Your Honor.

22 THE REFEREE: Okay. Redirect.

23 REDIRECT EXAMINATION

24 BY MS. MARTIN:

25 Q. Mr. Piper, I think you testified--

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(Piper-Redirect)

1 MR. POSTEL: --Witness, you're--

2 MR. REILLY: --Oh, yeah, it's mine. You know I
3 got it. It's nothing I can't read it.

4 Q. Mr. Piper, you testified, I believe, that you felt that your trial was unfair.

5 A. Yes--

6 Q. --Yes. So, when your dad, did your dad suggest filing the complaint with
7 the Commission on Judicial Conduct?

8 A. Yes.

9 Q. And did you agree with him that it was the right thing to do?

10 A. Yes.

11 Q. Yes.

12 MS. MARTIN: I have no further questions.

13 THE REFEREE: Further questions by the--

14 MR. REILLY: --Nothing further, judge.

15 THE REFEREE: Now, with this, the trial occurred,
16 the second trial occurred in June in 2010?

17 THE WITNESS: Yep.

18 THE REFEREE: Fine. When were you sentenced?

19 THE WITNESS: July of 2010.

20 THE REFEREE: Okay, and what kind of a sentence
21 did you receive?

22 MR. POSTEL: It's in the records.

23 THE REFEREE: I'm sorry?

24 MR. POSTEL: It's in the records.

25 THE REFEREE: I'm not aware of it.

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(Piper-Redirect)

1 MS. MARTIN: I think Mr. Muldoon, he testified
2 guilty.
3 THE REFEREE: Okay--
4 MR. POSTEL: --No sentence--
5 MR. REILLY: --No sentence--
6 THE REFEREE: --What was the sentence--
7 MS. MARTIN: --Oh, sentence.
8 MR. POSTEL: \$500 fine.
9 MS. MARTIN: Yes, that's in--
10 THE REFEREE: --Okay, \$500--
11 MS. MARTIN: --the records--
12 THE REFEREE: --fine. Okay, you were not
13 incarcerated, but you received a \$500 fine?
14 THE WITNESS: Yes, sir.
15 THE REFEREE: Okay. And so--
16 MR. POSTEL: --I believe it was a Conditional
17 Discharge, and a \$500 fine. It's Exhibit number--
18 THE WITNESS: --That's correct--
19 MR. POSTEL: 59, I think. Why don't we just pull
20 out 59--
21 THE REFEREE: --No, I, I--
22 MS. MARTIN: --Yes--
23 THE REFEREE: --well, it's, it's--
24 MR. REILLY: --No, that's correct, that's correct.
25 MR. POSTEL: Let's pull it out, let's pull out the

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(Piper-Redirect)

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exhibit. It's amazing that I got the number right.

MR. REILLY: Amazing.

MR. POSTEL: Bottom right hand corner, last, second to last page of Commission Exhibit 59, the extension sheet on the court records, \$500 fine.

THE REFEREE: Appears to say, "One year CD and fine \$500, court assessment," or something, court cost, some kind of an abbreviation. Okay, thank you.

MR. POSTEL: Ask him.

THE REFEREE: I'm sorry?

MR. POSTEL: Is that what happened?

THE REFEREE: Is that what happened?

THE WITNESS: Yes, sir.

THE REFEREE: Okay, I have no further questions.

MR. POSTEL: Thank you.

MR. REILLY: I have, I have.

THE REFEREE: Okay, yes, please do.

REXCROSS EXAMINATION

BY MR. REILLY:

Q. Were you aware that, well, strike that. Did you have to go to probation officer for a probation report before you got sentenced?

A. Yes.

Q. And were you aware that the district attorney's office was asking for you to be incarcerated at the time you were sentenced?

A. Yes.

(Piper-Recross)

1 Q. So, the judge gave you a real break, didn't he?

2 MR. POSTEL: Well, I'm going to object to that.

3 That's a matter of--

4 THE REFEREE: --As to form, I'm going to, going to
5 sustain that objection.

6 Q. Despite the fact that you felt that you were not guilty, do you think that
7 was, that he was fair to you?

8 A. No.

9 Q. Alright, and you believed that, you know that the jury verdict was
10 unanimous?

11 A. Yes.

12 Q. Do you recall how much, how long the, the district attorney wanted to
13 incarcerate you for?

14 A. I don't recall.

15 MR. REILLY: Nothing further.

16 THE REFEREE: Witness is excused. Thank you
17 very much--

18 THE WITNESS: --Thank you--

19 THE REFEREE: --for coming.

20 THE WITNESS: Yep.

21 THE REFEREE: Yes.

22 THE REFEREE: Would you please come forward?
23 Welcome. If you could raise your right hand, please. Do
24 you solemnly swear or affirm to tell the truth, the whole
25 truth, and nothing but the truth, so help you God?

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(Rajsky-Direct)

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THE WITNESS: I do.

THE REFEREE: Please sit down.

C-Y-N-T-H-I-A R-A-J-S-K-Y:

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

Q. Please state and spell your complete name for the record.

A. Cynthia Rajsky, R-A-J-S-K-Y.

Q. Have you been known by any other name?

A. Cynthia Greger, G-R-E-G-E-R.

MR. REILLY: Can you speak up just a little bit?

It's, the microphone's there but we can't hear you over here.

THE WITNESS: Sure.

Q. What caused you to change your name?

A. Marriage.

Q. Where do you currently reside?

A. In Pine City.

Q. Are you currently employed?

A. Yes.

Q. Where?

A. Elmira Psychiatric Center.

Q. What is your current job title?

A. Administrative Assistant.

Q. Do you know Thomas Ramich?

A. Yes.

Q. How did you come to know Thomas Ramich?

(Rajsky-Direct)

1 A. He was introduced to me by a friend, a former co-worker.

2 Q. How long have you, how long have you known Thomas Ramich?

3 A. Since 2008.

4 Q. And what month would that have been in 2008?

5 A. November.

6 Q. Do you know that Thomas Ramich is a City Court Judge for the City of
7 Elmira?

8 A. Yes.

9 Q. Do you know Fred Cerio?

10 A. I know of Fred Cerio. I wouldn't say I know him.

11 Q. How do you know of Fred Cerio?

12 A. He, last I knew was Mr. Ramich's law clerk.

13 Q. We have marked already into evidence Commission Exhibit 4. These are
14 copies of court records in *People v Cynthia J. Greger*, which is your
15 traffic violation case involving a speeding charge in 2009. What they are,
16 and I will show this to you, is a New York State Police Information
17 certificate, dated April 23, 2009, for a violation of Section 1180B,
18 speeding, a Supporting Deposition, dated April 23, 2009, in support of the
19 speed violation of exceeding 55 miles per hour, a letter from the office of
20 the Yates County District Attorney, dated May 12, 2009, addressed to
21 Frederick M. Cerio, Esq., regarding *People v Cynthia Greger*, speeding
22 ticket, Town of Starkey Court, and a letter from the Starkey Town Court
23 sent out on June 17, 2009, to Frederick M, Cerio "regarding your client,
24 Cynthia J. Greger." Ma'am, showing you what's been marked as
25 Commission Exhibit 4, do you recognize Commission Exhibit 4?

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(Rajsky-Direct)

1 A. Yes.

2 Q. And Commission Exhibit 4 are copies of the court records of a traffic
3 violation case in 2009 that you were the defendant in, is that correct?

4 A. Correct.

5 Q. What were your plans to resolve this traffic violation?

6 A. Pay the fine.

7 Q. Pay the fine.

8 A. Yes--

9 Q. --What did you do when you received the traffic ticket, now part of
10 Commission Exhibit 4 on April 23, 2009?

11 A. What did I do when I received the ticket?

12 Q. Yes, ma'am.

13 A. Well, it was a return trip after a visit to see my daughter, who was a
14 college student in Geneva at the time. I had my mother with me. I went
15 home and was upset.

16 Q. Now, did you tell Judge Ramich, who I believe you were seeing at that
17 time, did you tell Judge Ramich that you had received a traffic ticket on
18 or about April 23, 2009?

19 A. I did.

20 Q. And what type of a relationship did you have with Judge Ramich at the
21 time you received the ticket?

22 A. Dating.

23 Q. You were dating. What did you tell Judge Ramich about your traffic
24 ticket?

25 A. Just that I had received the ticket.

188.

(Rajsky-Direct)

1 Q. Did you tell him that, your plans to resolve the speeding ticket?

2 A. I don't remember discussing any plans of any kind. He took the ticket
3 and he put the ticket in his pocket. That's all I really remember.

4 Q. Now, did you give the ticket to him or did he take the ticket from you?

5 A. He took the ticket and looked at the ticket, and put the ticket in his
6 pocket. That's the best I can remember.

7 Q. Had you, had you written anything on the ticket before you gave it to
8 Judge Ramich?

9 A. No.

10 Q. Did you ever receive the ticket back from Judge Ramich?

11 A. I don't remember if I did or not. I do remember asking for it because I
12 knew there was information on there I, I would need.

13 Q. Do you know how many times, how many times did you ask Judge
14 Ramich to give you back the ticket?

15 A. I can't recall. At least once, maybe twice.

16 Q. What did Judge Ramich say, if anything, to you when you asked for your
17 ticket back?

18 A. I don't recall, I don't recall, really much discussion about it.

19 Q. Did Judge Ramich ever tell you that Fred, or Mr. Cerio would take care of
20 the ticket for you?

21 A. No, I don't recall anything like that.

22 Q. Did you ever ask Judge Ramich for a recommendation regarding finding
23 an attorney to represent you in this traffic violation matter?

24 A. No, I don't remember feeling that it was going to be any serious problem
25 for me. I, I don't think I would have consulted an attorney.

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(Rajsky-Direct)

1 Q. On both the letter from the Office of the Yates County District Attorney,
2 dated May 12, 2009, and on the letter from the Starkey Town Court, sent
3 out on June 17, 2009, these letters that are part of Commission Exhibit 4,
4 were addressed to Frederick M. Cerio, Esq., and Frederick M. Cerio, is
5 that correct? If you would look at that.

6 A. Yeah, they are. Yes.

7 Q. Did there ever come a time that you asked Mr. Cerio to represent you in
8 this traffic violation matter?

9 A. No.

10 Q. Do you know how it came about that Mr. Cerio represented you in this
11 traffic violation matter?

12 A. I don't know for sure.

13 Q. What is your, what is your guess of how he ended up representing you?

14 A. Well, Mr. Ramich may have asked him. It wasn't discussed with me.

15 Q. Were you included in any discussion with Judge Ramich to request Mr.
16 Cerio to represent you?

17 A. No.

18 Q. Did Judge Ramich tell you that he had asked Mr. Cerio to represent you
19 with regard to your speeding ticket?

20 A. I don't recall that he did.

21 Q. What, if anything, did you know about Mr. Cerio's employment history?

22 A. Mr. Cerio's employment history?

23 Q. Yes, ma'am.

24 A. I, I don't really think I knew much of anything, other than he had a
25 private practice and also was the law clerk there at the--

190.

(Rajsky-Direct)

1 Q. --When, if ever, did you first speak with Mr. Cerio with regard to this
2 traffic violation matter?

3 A. Mr. Cerio called me while I was at work, and he was explaining about his
4 interaction with the DA up there, and I'm, like, you know, you're going to
5 have to explain what you're talking about because it was unclear to me.
6 So he backed up and then he explained that he had written the letter, and
7 that not really much came of it, and that was the situation, so.

8 Q. Did he tell you that you needed to sign a document?

9 A. Yes.

10 Q. Did he tell you that you needed to pay a fine?

11 A. Yes.

12 Q. What arrangements did he make with, in, with, what arrangements did he
13 make with you during this phone call?

14 A. Well, he, he had explained to me about, I needed to go to the DMV and
15 get the driving record information, and he came, he came to work, he
16 came to see me at work.

17 Q. Now, were you surprised when Mr. Cerio called you?

18 A. Yes.

19 Q. And what, why were you surprised when Mr. Cerio called you?

20 A. Well, I didn't know that he was doing anything on my behalf.

21 Q. Did there come a time during Mr. Cerio's phone call with you that you
22 just mentioned that Mr. Cerio stated words to the effect, I'm to help you
23 with your ticket. Tom asked me to take care of it?

24 A. I can't remember the exact wording. That's some time ago. It must have
25 been something similar to that. I, I can't say for sure if it was exactly

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(Rajsky-Direct)

1 that.

2 Q. Do you remember him mentioning a Tom, a Tom in that conversation?

3 A. Yes.

4 Q. Who do you believe Mr. Cerio was referring to when he used the first
5 name Tom on his phone call with you?

6 A. Mr. Ramich.

7 Q. When you met with Mr. Ramich, when, I'm sorry, when you met with Mr.
8 Cerio, did you ask him how he became involved with your speeding
9 ticket?

10 A. No.

11 Q. Now, what was the purpose of Mr. Cerio's meeting with you, when he did
12 come to meet with you?

13 A. He was bringing the letter for me to sign and send in with my fine.

14 Q. And how many times did you meet with Mr. Cerio?

15 A. I think it was just that one time, yeah. I think just that one time. I'm
16 trying to remember if he came and got the driving record thing separately,
17 but it was no more than two at the most, I mean, it might just have been
18 the one. I can't--

19 Q. --So--

20 A. --remember--

21 Q. --one meeting to bring the plea form offer to you?

22 A. That was definitely one, but I can't remember if the other was the second
23 or if that all happened at the same, it was probably two.

24 Q. When he brought the--

25 A. --Probably two--

192.

(Rajsky-Direct)

1 Q. --abstract to you?

2 A. I can't remember for sure. I know he, the buildings are all locked. So, I
3 remember that specifically because I said, "Well, I'll have to go let you
4 in," and so that I remember, and he had the letter for me to sign, but I
5 can't remember if there was another one or not.

6 Q. Did you ever go to his law office?

7 A. No.

8 Q. Do you know where his law office is?

9 A. No.

10 Q. When Mr. Cerio called you and said he had documents or papers for you
11 with regard to this traffic violation, did you ask him to bring them to you?

12 A. No, he said that he was going to be going to lunch, and it would just be
13 easier for him to do it that way, and so he did.

14 Q. Did you offer to pick up the document, papers from Mr. Cerio?

15 A. I don't remember.

16 Q. What were the arrangements, if any, Mr. Cerio proposed to get these
17 documents, papers to you?

18 A. He said he was going to lunch and he would just stop by with them.

19 Q. And where did he agree to meet you?

20 A. At my place of work.

21 Q. Did you have to meet outside?

22 A. We did meet outside because he said, "I'll just pull up," because I said
23 "I'll have to let you in," he said, "Well, I'll just pull up. I'll be out in the
24 front," so.

25 Q. So, did you meet in the parking lot of your employers?

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(Rajsky-Direct)

1 A. I believe so.

2 Q. What happened when you met Mr. Cerio that time?

3 A. Well, he was just kind of apologizing because he thought that I was
4 expecting him, and I had no expectation because I didn't even know what
5 was happening, and so, I said, it's no, you know, no, it's, I was going to
6 just send it in and just pay the fine anyway, so, you know, I signed, and he
7 was on his way and--

8 Q. --Now, you said you signed something. Did you sign the plea offer?

9 A. I signed this letter that he had prepared--

10 Q. --Do you want to take a look at that letter and tell me what it says, what
11 the heading is?

12 A. I know I went to get a money order, and send it in. It's the, from the
13 Yates DA to Mr. Cerio.

14 Q. And I direct your attention to the signature at the bottom of that letter--

15 A. --Yes--

16 Q. --is that your signature?

17 A. That is my signature, yes. This is what Mr. Cerio brought and I needed to
18 send in.

19 Q. And there's a date, ma'am, on that letter.

20 A. May 28, 2009.

21 Q. Is that, is that when you signed that plea offer?

22 A. Yes.

23 Q. How did you first learn how much the fine and surcharge was to resolve
24 your speeding ticket? Did Mr. Cerio tell you?

25 A. I believe he did, yeah.

194.

(Rajsky-Direct)

1 Q. And what did you, what did you do next after meeting with Mr. Cerio and
2 receiving from him the plea reduction form and fine notice?

3 A. What did I do next?

4 Q. Yes.

5 A. I went and got a money order, and mailed everything in.

6 Q. So, you arranged for the payment and you mailed the paperwork back to
7 the court?

8 A. Yes.

9 Q. Did you receive any more phone calls from Mr. Cerio after meeting with
10 him regarding this traffic violation matter?

11 A. None that I can recall, no.

12 Q. Did you ever appear in court with regard to this traffic violation?

13 A. No.

14 Q. Do you know if Mr. Cerio ever appeared in court on your behalf with
15 regard to the speeding ticket?

16 A. Not to my knowledge.

17 Q. Who kept you informed on the status of this traffic violation matter? If
18 anyone.

19 A. That was it. There was no further--

20 Q. --No further meetings--

21 A. --No--

22 Q. --correct?

23 A. No.

24 Q. No further calls?

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

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(Rajsky-Direct)

1 Q. Was there any further correspondence from Mr. Cerio?

2 A. Not that I recall, no, mm-mm.

3 Q. What was your financial arrangement with Mr. Cerio with regard to
4 payment for his services on this matter?

5 A. There were none.

6 Q. Is it correct to say that you hadn't asked anyone to represent you in this
7 matter?

8 A. That would be correct.

9 Q. Did Mr.--

10 MR. REILLY: --I'm still having trouble hearing.

11 MS. MARTIN: I'm sorry, Mr. Reilly?

12 MR. REILLY: I'm still having trouble hearing her.

13 MS. MARTIN: Oh, ma'am, you've got to speak up
14 and speak right--

15 THE WITNESS: --Sure--

16 MS. MARTIN: --into that microphone, and, and you
17 also--

18 THE REFEREE: --The microphone--

19 MS. MARTIN: --you also have to speak a little
20 louder because this is such a big room.

21 THE WITNESS: Sure.

22 THE REFEREE: The microphone will, will, will,
23 record things, but it will not make things--

24 MS. MARTIN: --Carry your voice--

25 THE REFEREE: --actually louder.

196.

(Rajsky-Direct)

1 MS. MARTIN: --it's, it's--

2 MR. REILLY: --It's not going through the speakers.

3 MS. MARTIN: It's not going through the speakers.

4 Q. Did Mr. Cerio ever send you a bill for his work on your behalf in this
5 matter?

6 A. No.

7 Q. Did you ever ask Mr. Cerio why he had not sent you a bill for
8 representing you in this traffic violation matter?

9 A. No.

10 Q. And why is that, ma'am?

11 A. I had not retained Mr. Cerio and wasn't even aware he was doing
12 anything on my behalf, so.

13 Q. Did you ever pay Mr. Cerio for representing you?

14 A. No.

15 MS. MARTIN: I have no further questions at this
16 time. Mr. Reilly.

17 CROSS EXAMINATION

18 BY MR. REILLY:

19 Q. You received this ticket on May 27, 2009, correct?

20 A. I'd have to look at the date.

21 Q. Well, look at it. It's down there somewhere.

22 A. This looks like the appearance date.

23 Q. Okay, let me see--

24 A. --Not the date I--

25 Q. --I'm sorry--

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(Rajsky-Cross)

1 A. --received the ticket. I didn't think--

2 Q. --Maybe that was--

3 A. --that sounded--

4 Q. --(unintelligible) got it wrong--

5 A. --right. It, it's--

6 Q. --I'm sorry--

7 A. --in April sometime--

8 Q. --April 25, no, that's your date of birth. It's April 23, 2009.

9 A. That's, looks correct.

10 Q. And if you're going to plead guilty, you had to fill in Section A and mail
11 it in?

12 A. I'd have to look at it, but that's--

13 Q. --Okay, go ahead--

14 MR. POSTEL: --Well, I'm going to--

15 MS. MARTIN: --Yeah, I mean, Mr. Reilly, all she
16 had to do was appear. There wasn't any further thing she
17 had to do--

18 MR. REILLY: --Well, if she was--

19 MS. MARTIN: --it was a traffic violation matter--

20 MR. REILLY: --I know, I know, I know, I know--

21 MS. MARTIN: --she had a choice, right, Mr. Reilly?

22 Q. But, she could either, you could either fill that out and mail it in, or go to
23 court. Is that correct?

24 A. That's what I understand.

25 Q. And court was scheduled for May 27, 2009?

198.

(Rajsky-Cross)

1 A. That's what it says:

2 Q. Yeah, okay, I'm not trying to trick you with it, it's just that that's when it
3 was done, and you gave the ticket to Judge Ramich, and it was, you got a
4 letter, apparently Mr. Cerio got a letter from the district attorney in Yates
5 County, dated May 12, 2009, reducing the charges.

6 MS. MARTIN: Mr., Mr.--

7 Q. --Between, between--

8 THE REFEREE: --Just a moment, wait--

9 MS. MARTIN: --Mr. Reilly--

10 THE REFEREE: --just one moment--

11 MS. MARTIN: --I'm just going to object. There's
12 no testimony that I remember that she gave it to Judge
13 Ramich. I think the testimony she gave was that he took the
14 ticket.

15 MR. REILLY: Alright.

16 THE REFEREE: Okay.

17 Q. When did he take the ticket from you?

18 THE REFEREE: Sustained.

19 A. It was either the same day or the next day.

20 Q. Alright, and did you ascertain--

21 THE REFEREE: --Was it the same day or the next
22 day that you received--

23 THE WITNESS: --That I received the ticket--

24 THE REFEREE: --the ticket, okay--

25 THE WITNESS: --yes.

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(Rajsky-Cross)

1 Q. And did you ask him after that, what did he do with it?

2 A. I did. I asked for it back because I knew I needed it.

3 Q. What did he say to you?

4 A. The information, that I cannot recall. I don't think I ever got the ticket
5 back. I can't say with certainty, but I don't think I ever did.

6 Q. Could he have told you he was asking Attorney Cerio to help you with
7 this?

8 A. I don't remember really any discussion about what was going on with it.

9 Q. But they reduced the, the speed you were charged with? Yes?

10 A. Somewhat, apparently.

11 Q. Well (unintelligible)--

12 A. --Well, that's what it says.

13 Q. Right. You were charged with going 72 in a 55 mile-an-hour zone?

14 A. Mm-hmm.

15 Q. And the, the charge was reduced to 62 miles-an-hour in a 55 mile-an-hour
16 zone.

17 A. Okay.

18 Q. Did anyone explain to you that there was a difference in the points for the
19 reduced charge like that as opposed to the higher rate of speed?

20 A. No.

21 Q. Did you have any prior tickets on your license, convictions of Vehicle and
22 Traffic violations?

23 MS. MARTIN: I'm going to object. That wasn't in
24 the testimony that we went over, and I'm not sure why
25 that's relevant.

200.

STATE COMMISSION ON JUDICIAL CONDUCT

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(Rajsky-Cross)

1 MR. REILLY: Well--

2 THE REFEREE: --Okay, I'm going to overrule the
3 objections. He can explore this further. I'll allow that
4 question.

5 Q. Did you have prior convictions for Vehicle and Traffic violations?

6 A. I think there was one speeding ticket on there.

7 Q. Alright, you're aware that you accumulate points for each conviction?
8 Yes?

9 A. Yeah, yeah, sure.

10 Q. Okay.

11 MR. REILLY: I have nothing further.

12 THE REFEREE: Okay. Further questions by the
13 Commission?

14 MR. POSTEL: Could we have a quick moment?

15 THE REFEREE: Yes. Just a moment, please.

16 REDIRECT EXAMINATION

17 BY MS. MARTIN:

18 Q. Ma'am, I'm going to show you your abstract.

19 A. Mm-hmm.

20 Q. I'll have you take a quick look at it. And per my read of it, you had a
21 ticket in 2006? A traffic violation ticket?

22 A. Yes--

23 Q. --Yes. And what was that ticket for, ma'am?

24 A. Well, it's a speeding ticket. I'm having a little trouble reading this form,
25 but it's a speeding ticket.

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(Rajsky-Redirect)

1 Q. And when were you convicted of that speeding ticket?

2 A. November 3, 2006.

3 Q. Is that your only charge on that abstract?

4 A. Yes.

5 Q. Yes. Just one, one 2006 speeding charge is on that abstract, is that
6 correct?

7 A. Yes.

8 Q. Okay, thank you.

9 MR. REILLY: I'll just--

10 THE REFEREE: --Further questions, yes.

11 MR. REILLY: Just look at the abstract once. Let me
12 just look at it.

13 RECROSS EXAMINATION

14 BY MR. REILLY:

15 Q. Alright, the, you were convicted on November 3, 2006, and you received
16 four points for that violation? Look at that. It says someplace there
17 where, how many points.

18 A. Yes.

19 Q. And you were charged with going 52 miles-an-hour in a 35-mile-an-hour
20 zone?

21 A. I'm not finding that on here, but.

22 Q. Let me see if I can help you out with that.

23 A. 50--

24 Q. --51 in a 35mile-an-hour zone?

25 A. Yes, that's what it says.

202.

(Rajsky-Recross)

1 Q. Alright, and you've said that, that's true, you pled guilty to it?

2 A. I did, mm-hmm.

3 MR. REILLY: Nothing further.

4 THE REFEREE: Nothing further? Witness is
5 excused. Thank you very much.

6 MR. POSTEL: Can we take a short recess?

7 THE REFEREE: Yes.

8 (OFF THE RECORD)

9 THE REFEREE: Come up, sir. If you would raise
10 your right hand, sir. Do you solemnly swear or affirm to
11 tell the truth, the whole truth, and nothing but the truth, so
12 help you God?

13 THE WITNESS: I do.

14 THE REFEREE: Please sit down.

15 THE WITNESS: Thank you.

16 **FREDERICK M. CERIO,**

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

18 **DIRECT EXAMINATION**

19 **BY MR. POSTEL:**

20 Q. Please state your full name and address, business address, for the record,
21 please.

22 A. Frederick M. Cerio, business address, 100 North Main Street, Suite L08,
23 Elmira, New York, 14901.

24 Q. Mr. Cerio, are you currently employed, sir?

25 A. Yes, excuse me, I am in private practice, and I'm also the part-time court

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(Cerio-Direct)

1 attorney for Elmira City Court.

2 Q. And where do you currently work out of, sir?

3 A. The Hazlett Building, which is on, right across, I'm sorry, the Hazlett
4 Building, which is the taller building, and I can't even remember the
5 name--

6 Q. --Is there a courthouse--

7 A. --makes me--

8 Q. --across the street?

9 A. Yes, Lake Street.

10 Q. Lake Street, and as the, is it Chemung County courthouse, which is across
11 the street?

12 A. Yes, correct.

13 Q. In terms of your position as a court attorney, part-time court attorney, do
14 you also maintain a private practice of law?

15 A. Yes, I do.

16 Q. So, you are a graduate of law school, sir, is that correct?

17 A. Yes, I am.

18 Q. And you took and passed the bar, or did you clerk to get in--

19 A. --I--

20 Q. --apprentice--

21 A. --passed the bar.

22 Q. And you were admitted to the Bar of the State of New York?

23 A. Correct.

24 Q. Prior to being admitted to the Bar of the State of New York, you had gone
25 to a certain law school?

204.

(Cerio-Direct)

1 A. Yes, Syracuse University.

2 Q. And before that you went to college?

3 A. Yes, sir--

4 Q. --Thank you--

5 A. --Elmira College.

6 Q. Why don't you give us a brief tour of your educational and professional
7 history?

8 A. Okay, I graduated from Elmira College--

9 Q. --What year was that--

10 A. --High School. 1984.

11 Q. Elmira College?

12 A. Elmira College. I then started doing my master's degree up in Buffalo.
13 And--

14 Q. --State University there of?

15 A. Yes. I took the New York State Police test, and the law to get into law
16 school. I went to law school instead of New York City Police, and went,
17 and I passed the bar, and started private practice.

18 Q. When did you graduate from Syracuse Law School?

19 A. 1989.

20 Q. And you began private practice in January 1990, would that be fair to
21 say?

22 A. It was later, I passed the Pennsylvania bar exam first, and then later on I
23 took the New York State bar exam.

24 Q. When did you begin practice in New York State?

25 A. 1994.

205.

STATE COMMISSION ON JUDICIAL CONDUCT

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(Cerio-Direct)

1 Q. And so, you had practiced in Pennsylvania before that?

2 A. I did some work in there, yes.

3 Q. Alright, the practice in New York State, beginning in 1994, did you work
4 with someone, did you have your own firm? What did, how, describe for
5 us--

6 A. --I was--

7 Q. --what it was--

8 A. --an associate for Etkind and Golos Law Firm.

9 Q. Where is that located, was it located?

10 A. In Elmira, New York.

11 Q. What type of work did you do, sir?

12 A. Basically it was civil, doing some criminal work, working with, closely
13 with Mr. Golos, real estate, a lot of it.

14 Q. Did you at any time have occasion to part ways with Mr. Golos?

15 A. Yes, I did.

16 Q. And when was that?

17 A. Approximately two or three years into practicing with him.

18 Q. So, Frederick M. Cerio Law Firm got its, going, got its, got on its own--

19 A. --Correct--

20 Q. --going about--

21 A. --I--

22 Q. --that time--

23 A. --I shared office space with him, and just split the overhead.

24 Q. So, you were in a cost-sharing arrangement?

25 A. Correct.

206.

(Cerio-Direct)

1 Q. Frederick Cerio's office and Mr. Golos' office were in the same location,
2 but you were separate firms, is that correct?

3 A. That is true.

4 Q. Alright.

5 A. Correct.

6 Q. Did you have a, in connection with that, do you currently maintain the
7 same practice that is Frederick M. Cerio, Attorney at Law?

8 A. It's called the Cerio Law Firm now.

9 Q. And what type of work do you do now?

10 A. Real estate, divorces, estates, very little, some criminal work, because of,
11 it's conflicted out a lot because of the nature of being the city court law
12 clerk, it's very hard to do criminal work.

13 Q. What is your current law firm address?

14 A. 100 North Main Street, Suite L08.

15 Q. Which you identified when I first asked you.

16 A. Yes.

17 Q. Alright. As a law clerk, can you tell us what your duties and
18 responsibilities, up until recently, had generally been?

19 A. Okay, I'll retract, I'm not a law clerk, court attorney--

20 Q. --Court attorney--

21 A. --there's a difference--

22 Q. --thank you, yes, go ahead--

23 A. --in pay.

24 Q. One is higher, one is lower?

25 A. Yes.

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(Cerio-Direct)

1 Q. Court attorney--

2 THE REFEREE: --You're, you're called a what?

3 THE WITNESS: A court attorney.

4 Q. That's higher than a law clerk?

5 A. No.

6 Q. A law clerk is higher than court attorney?

7 A. Yes. My duties, research, legal writing, advising of laws that have
8 changed, researching the law.

9 Q. Did there come a time, well, obviously there did come a time, when you
10 got that job, right?

11 A. Correct.

12 Q. And it was a position of personal appointment, is that correct?

13 A. That is correct.

14 Q. And who were you the personal appointee of?

15 A. Judge Ramich.

16 Q. Thomas Ramich?

17 A. Yes.

18 Q. And it's Judge Ramich who's sitting in the courtroom today?

19 A. Correct.

20 Q. Next to Mr. Reilly?

21 A. Correct.

22 Q. Have you had occasion to know, and I ask the record to reflect, is he
23 seated to Mr. Reilly's left?

24 A. Yes, he is.

25 Q. As you face to the right?

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(Cerio-Direct)

- 1 A. Correct.
- 2 Q. Have you had occasion to practice law with or against Mr. Reilly?
- 3 A. Yes, I have--
- 4 Q. --And--
- 5 A. --when I first started. He, we were on a lot of cases against each other,
- 6 and I learned--
- 7 Q. --So, you have a history in terms of, would it be a good history?
- 8 A. Yeah, he was very, I saw him as a mentor, actually.
- 9 Q. And in terms of your position as the law clerk, excuse me--
- 10 A. --Court attorney.
- 11 Q. I understand that. I'm castigating myself quietly. As the court attorney
- 12 for Judge Ramich, was that, that was a part-time position?
- 13 A. Yes.
- 14 Q. What was your pay to begin with?
- 15 A. \$22,000, I believe.
- 16 Q. Right, and what is it currently?
- 17 A. My wife gets it. It goes into her account, so I think it's 40, 42, 43.
- 18 Q. And would it be fair to say you began in or about 1997?
- 19 A. I checked and today is the 15th anniversary years to this date.
- 20 Q. Now, you're just testing me, Mr. Cerio.
- 21 A. 1997--
- 22 Q. --Today is the 15th anniversary of when you began?
- 23 A. Yes.
- 24 Q. So, today's October 16th?
- 25 A. Yeah, 1997.

209.

(Cerio-Direct)

1 Q. And this is not a position that you had to compete for through a civil
2 service exam, is that correct?

3 A. That is correct.

4 Q. As a personal appointee of a judge in the court attorney position, it was
5 Judge Ramich's authority to decide who he wanted as his court attorney,
6 right?

7 A. That is correct.

8 Q. In terms of that part-time position, did you have a set number of hours a
9 week that you had to put into court work?

10 A. Yes, 17 and a half.

11 Q. And were those tracked and maintained by you during the entirety of
12 these 15 years?

13 A. Yes, sir.

14 Q. And do you fill out weekly time sheets reflecting those times?

15 A. Yes, sir.

16 Q. And as a matter of core practice over the course of your 15 years, would it
17 be Judge Ramich's duty and responsibility as you know it, to sign those
18 time sheets?

19 A. That is correct.

20 Q. And did he in fact do that?

21 A. Yes, he did.

22 Q. And does he continue to do that?

23 A. Yes, he does.

24 Q. At any time, did he say to you your time was wrongly written, you didn't
25 put enough time in, you need to put more time in?

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(Cerio-Direct)

1 A. No, he did not.

2 Q. In terms of deciding when to work, did you and he have a conversation as
3 to what hours of effort as the part-time court attorney would be best
4 suited for both his and your schedule?

5 A. Yes, we did, and may I interject, I was also working for Judge Forrest as
6 well, I mean--

7 Q. --You do work for Judge Forrest?

8 A. I did then.

9 Q. Then, okay--

10 A. --Until he became a full-time--

11 Q. --judge in--

12 A. --judge--

13 Q. --2007?

14 A. Correct.

15 Q. So, both Judge Ramich and Judge Forrest would give you assignments to
16 complete in connection with your position as the court attorney?

17 A. That is correct.

18 Q. Were you involved in any discussions between Judge Forrest and Judge
19 Ramich as to the division of your time or the use of your time by Judge
20 Forrest?

21 A. No, whatever came, I would do, and I would ask, I'm trying to, I try to be
22 very organized, what's priority. I would work extra hours, weekends, but
23 not--

24 Q. --Put it down on--

25 A. --you know--

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(Cerio-Direct)

1 Q. --your time sheet--

2 A. --I didn't, I wouldn't get paid or comp time.

3 Q. Your commitment was to the job, is that fair to say?

4 A. Yes.

5 Q. And in terms of the decision to have you do Judge Forrest's work as well
6 as Judge Ramich's work, is that something you had veto authority over?

7 A. No, I didn't mind.

8 Q. You were, and were you told to do it?

9 A. Yeah.

10 Q. And you did it--

11 A. --I mean not in a bad way.

12 Q. You were just advised that you would also be doing Judge Forrest's work
13 in addition to Judge Ramich's work?

14 A. That is correct.

15 Q. In terms of doing work for both those judges, did you have a set schedule
16 that you maintained for a number of years?

17 A. Yes.

18 Q. What was that schedule?

19 A. 9 to 12:30, 9 A. M. to 12:30, Monday through Friday.

20 Q. How long had that schedule gone on and, or does it continue to go on?

21 A. It continues to go on.

22 Q. So, for the last 15 years in your role as court attorney in the City of
23 Elmira, you work 9 to 12:30?

24 A. Or more.

25 Q. Or more?

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(Cerio-Direct)

1 A. Correct--

2 Q. --But, as a matter of practice, you're expected to be in an official building
3 of the courts of the State of New York, the Office of Court
4 Administration, administered location to be working on that material
5 during those hours?

6 A. That is correct. If I was late, I would stay or, like, if I had to take my--

7 Q. --I'm not talking--

8 A. --kids to school--

9 Q. --about a little here or a little there. As a matter of practice,
10 overwhelmingly.

11 A. Correct.

12 Q. And those are the dates, those are the times you would put down on your
13 time sheet, is that correct?

14 A. That is correct.

15 Q. Overwhelmingly for 15 years?

16 A. That is correct.

17 Q. In terms of your location in where you actually did the work, has that
18 changed? You identified now, you're in the Hazlett Building.

19 A. Yes, that's about, approximately two blocks away.

20 Q. Alright, did there come a time when you were some place other than the
21 Hazlett Building?

22 A. Yes, I was in the back of the main criminal courtroom. There was a small
23 office in the back.

24 Q. What, what courtroom?

25 A. The Elmira City Criminal courtroom.

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(Cerio-Direct)

- 1 Q. In what building is that located, please, sir?
- 2 A. That's 317 East Church Street, Elmira, New York, which is Elmira City
3 Court.
- 4 Q. Alright, as a matter of practice, would you assist Judge Ramich on a daily
5 basis for many years, from when you began, in connection with jury trials
6 that he had?
- 7 A. Yes.
- 8 Q. Was there any particular importance placed on your involvement with
9 him during jury trials?
- 10 A. Well, I would see what trials were coming up ahead of time. I'd ask one
11 of the clerks to get the trials, and I would organize it the way he'd like it.
- 12 Q. Did he--
- 13 A. --And I--
- 14 Q. --want you specifically for trial dates?
- 15 A. Yes, and they, trials would go on past the 12:30 hour, and I would stay.
- 16 Q. Alright. In organizing your work day, and having generally going to
17 12:30, or as necessary, beyond, would you then thereafter continue any
18 type of employment?
- 19 A. I would go back to my office and do my own private practice.
- 20 Q. Your private practice office?
- 21 A. Correct.
- 22 Q. So, you would then maintain the private practice from after 12:30, or
23 whenever you left your official court attorney position, until whatever
24 hour was necessary?
- 25 A. That is correct.

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(Cerio-Direct)

1 Q. Did there come a time, in terms of when you changed locations from the
2 Elmira City Court to the Hazlett Building, that you were told to make that
3 change?

4 A. What happened was, after, it was getting very tense, and I had
5 conversations with district office as to, you know, how, it's almost, I'm
6 not going to say, like, the plague or anything, it was, like, people wouldn't
7 want to talk to me, and it was very tense, and Ms. Ambrozik said, "How
8 would you like to work in a different building," and I said, "I would."

9 Q. And by Karen Ambrozik, are you referring to the Administrative
10 Assistant to the Administrative Judge for the Sixth Judicial District,
11 Robert Mulvey?

12 A. That is correct.

13 Q. And so, you were effectively physically moved from the Elmira City
14 Court to the Hazlett Building?

15 A. That is correct.

16 Q. When did that occur?

17 A. Approximately a year ago, if not more.

18 MR. REILLY: Was that a--

19 MR. POSTEL: --a year ago-

20 MR. REILLY: --year ago.

21 MR. POSTEL: A year ago.

22 THE REFEREE: Well, let me just interject. The
23 Hazlett Building is a governmental building, correct?

24 THE WITNESS: Yes, they are our, Supreme Court
25 building, Supreme Court, Judge O'Shea is in that building,

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1 Judge Mulvey is in that building, and they hold trials there.

2 THE REFEREE: Okay. So, you are an Elmira City
3 Court clerk, but you're actually not working in Elmira City
4 Court?

5 THE WITNESS: That is correct.

6 THE REFEREE: Okay.

7 Q. So, now that we know where you are and how you got there, without
8 detail, let's take a step back and talk about how this all began in terms of
9 your becoming the court attorney for the Elmira City Court, and Judge
10 Ramich specifically. Okay?

11 A. Sure.

12 Q. Would you tell us, please, how that came about?

13 A. There was an opening for the position. I approached Judge Ramich about
14 being the law, court attorney, excuse me, and I had asked, you know, if, if
15 he'd be interested in myself being the court attorney. I had, previously,
16 had done some assigned work or retained work in that court prior to that.

17 Q. Was there anything specific to the job itself that attracted you in terms of,
18 if I may finish, in terms of the work, the salary, the benefits? Why did
19 you want that job?

20 A. It was the benefits. My wife had just had our, I believe, our second child,
21 or third child. I was paying my health benefits for my secretary and her
22 family. My wife had the health benefits originally. She had taken
23 extended time off. I had no health benefits. I do enjoy researching and
24 writing, and--

25 Q. --Well, so, let's see. You raised something, let's take a step back, since I

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(Cerio-Direct)

1 | should have asked you this to begin with. You're married?

2 | A. Yes, I am.

3 | Q. To whom?

4 | A. Katherine Cerio, Kathy.

5 | Q. How long?

6 | A. Coming up on 23 years.

7 | Q. And you said she was pregnant then. Was it a successful delivery?

8 | A. Yes.

9 | Q. And so, I gather you have at least one child.

10 | A. I have three.

11 | Q. And what are their ages, and sexes, and names?

12 | A. Lauren Cerio is going to be 22, Morgan, which is a girl, 17, and Joe

13 | Cerio, 15. So, it would be Joe that it was, yeah.

14 | Q. 1997?

15 | A. Yes.

16 | Q. Alright. In terms of how it came about that you learned that the job was
17 | open, how did you, how did that come to your attention?

18 | A. It's a small community, people had said, I didn't see it posted or anything.

19 | Attorneys on the street say, said, you know, there's an opening for Elmira
20 | City Court as a court attorney.

21 | Q. Had you appeared in the Elmira City Court prior to the opening? Had you
22 | had experience?

23 | A. Yes, yes.

24 | Q. And have you appeared before Judge Ramich?

25 | A. Yes.

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(Cerio-Direct)

1 Q. You knew that Judge Ramich had begun as a part-time judge, is that
2 correct?

3 A. That is correct.

4 Q. And in terms of your experience and having appeared before him as a
5 part-time judge, and as a full-time judge, would that be fair to say as
6 well?

7 A. Did I appear in front of him--

8 Q. --When he was full-time?

9 A. Yes, I do believe so, yes.

10 Q. Okay. Did you come to form an opinion that would lead you to decide
11 that you wanted to work for him?

12 A. As far as, if you could elaborate that I wanted to work for him--

13 Q. --Do, do, is this, in other--

14 A. --I only wanted--

15 Q. --words--

16 A. --to be a law clerk or--

17 Q. --you wanted to be a court attorney?

18 A. Yes.

19 Q. It was attractive to you?

20 A. Yes, I am not a, how should I say, a trial lawyer, so to speak. Meaning--

21 Q. --The jury is still out on me on that, as well, Mr. Cerio--

22 A. --There you go. I, yes.

23 Q. What, what did you do to further your ambitions in that regard?

24 A. Could you--

25 Q. --For a court attorney, what did you do to get the job? Did you have any

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1 competition?

2 A. There was other people, I know Mike Troccia had applied for the job. I
3 believe he was going to, he was a front runner. I believe there was a Jim
4 Goode, and I don't know from there on.

5 Q. But you got the job?

6 A. Correct.

7 Q. And it was a personal appointment of Thomas Ramich, is that correct?

8 A. That is correct.

9 Q. How did it happen? What did you do?

10 A. He called me on the phone--

11 Q. --No, what did you do to talk to him? You had to express some interest to
12 him.

13 A. Sure, I asked--

14 Q. --Did you interview--

15 A. --for a meeting.

16 Q. Did you lobby?

17 A. Did I, sure.

18 Q. What did you do?

19 A. I would go and ask him if he would hire me. Other people went, and
20 explained, you know, thought I would be a good candidate.

21 Q. How did you sell yourself for the job?

22 A. I, personality, I probably just explained that I've written and I did family
23 court too, and that I hadn't been, I've always won my motions.

24 Q. Did you know Tom Ramich before you went into see him to apply for the
25 job?

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1 A. Through, as a, as a judge, yes.

2 Q. Did you know him personally?

3 A. Like, did we intermingle and stuff like that?

4 Q. Did you, did you have a social, well, were you personal friends?

5 A. No.

6 Q. Were you political allies?

7 A. No, I was never--

8 Q. --Had you worked on his campaigns?

9 A. His--

10 Q. --His election campaigns before--

11 A. --Not the first one, no.

12 Q. Did you go to dinner with he and his wife?

13 A. No.

14 Q. Did you know his former wife, Lori?

15 A. Yes, the--

16 Q. --But did you--

17 A. --the first--

18 Q. --first--

19 A. --or second?

20 Q. Did you know Lori?

21 A. There's two Lori's.

22 Q. Alright, did you know either one of them?

23 A. The second one--

24 Q. --Alright--

25 A. --yes.

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(Cerio-Direct)

- 1 Q. Did you socialize with her?
- 2 A. No, I, my, my daughter, Lauren was good friends with Jessica--
- 3 Q. --Was that--
- 4 A. --for--
- 5 Q. --for, like, growing up, most of their--
- 6 A. --they went--
- 7 Q. --time--
- 8 A. --to school together all the way through.
- 9 Q. And they went to high school together?
- 10 A. Yes.
- 11 Q. And they, then both went to college in the City of Albany?
- 12 A. That is correct.
- 13 Q. And you knew that Jessica went to the Albany College of Pharmacy?
- 14 A. Yes.
- 15 Q. And Lauren went to the University at Albany?
- 16 A. That is correct.
- 17 Q. Perhaps the finest educational institution in America?
- 18 A. Which one?
- 19 Q. You might ask, is that my alma mater? Yes, it is.
- 20 A. Oh, yes, sir.
- 21 MR. REILLY: I object.
- 22 A. The greatest, yes.
- 23 Q. Thank you. You were proud when she went there, is that correct?
- 24 A. I'm very proud of state schools, just, and what they charge.
- 25 Q. So, you go to see Judge Ramich. You did not have a personal

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1 relationship of any substance, I gather. Did you talk to him at that point
2 about the fact that Lauren and Jessica were friends?

3 A. Well, in 1997, and doing my math, I'm trying to figure out what grade
4 they would have been in.

5 Q. So, she's 22 now, they were seven then, right?

6 A. Correct, so--

7 Q. --First or second grade?

8 A. Correct, mm-hmm.

9 Q. In your eyes, was the relationship between you and the judge, and your
10 personal relationship, did that have a basis for, was that the basis for why
11 you were hired?

12 A. No, I found out later on.

13 Q. Did the judge ever tell you why he hired you?

14 A. No.

15 Q. As you began working for the judge, did your relationship on a personal
16 level change? In other words, did you come to know more about him and
17 to share more details about each other's personal life, have
18 communications?

19 A. I learned a lot about his life, I would say, and--

20 Q. --And did you also share with him details about your personal life?

21 A. Not deep personal things, but, you know--

22 Q. --Some?

23 A. Yeah.

24 Q. Alright, and in terms of your daughters and he, well, I'll strike that. Well,
25 yeah, let me ask you this. Did there come a time when they were going to

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1 college when on occasion, either rare or frequent, that you would
2 transport Jessica Ramich back and forth to school during a holiday or
3 recess because you were picking up Lauren?

4 A. Yes, I did--

5 Q. --How would that happen? What did that involve?

6 A. Well, it, just that Lauren, the one time was, I vividly recall, took me 12
7 hours. It was a Thanksgiving, it was a blizzard, ice, snowstorm, and I
8 took Jessica with me when I took Lauren back to Albany. The--

9 Q. --Did you take 88, is that what you did?

10 A. That's the only way, yeah, mm-hmm.

11 Q. Alright, any other events in terms of driving back and forth that it
12 happened?

13 A. I just recall that one time taking her.

14 Q. Alright. Did you personally have a personal relationship with Jessica?

15 A. Yeah. She was at my house a lot.

16 Q. And did she accompany you on any trips?

17 A. Yes, when they were in seventh grade we went to Myrtle Beach, we took
18 her, South Carolina.

19 Q. And how, how did that go?

20 A. Went very well. She's very polite, always liked her.

21 Q. And as part of, of, of that process, did, did she advise you that the judge,
22 your employer, had generously extended money to her to pay for dinner
23 for you?

24 A. No.

25 Q. Did she take you to dinner at all?

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(Cerio-Direct)

1 A. No, I bought her sweatshirts, and, I mean, it was, because, you know,
2 she's a child--

3 Q. --You felt warmly towards her, is that correct?

4 A. Yes, she would make me birthday cards, and things, and I really, truly
5 enjoyed her.

6 Q. Great kid.

7 A. I think so, yes, very good, very nice.

8 Q. Did you know the older daughter, Amanda?

9 A. Not as well, no.

10 Q. Did you know, come to know her through your work with the judge at
11 all?

12 A. That's basically when I got to know of her.

13 Q. And did you have occasion to represent her on one or more occasions?

14 A. I did a speeding ticket for her, and--

15 Q. --Did you--

16 A. --then, I'm sorry?

17 Q. Did you also represent her in connection with a civil matter?

18 A. A divorce.

19 Q. Correct.

20 A. I didn't even realize, what had happened was, her husband, I did his first
21 divorce.

22 THE REFEREE: Amanda's husband?

23 THE WITNESS: Yes, and--

24 Q. --Now her ex-husband?

25 A. Now her ex-husband. He, I had done his first divorce, and he said, "I'd

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1 like to bring my wife in,” and that’s the first time, who, when I realized
2 who it was, and I said, you know--

3 Q. --So, did you come to know her through those processes?

4 A. Yes.

5 Q. Alright. But you knew Jessica much better, right?

6 A. Yes.

7 Q. Now, in terms of your private practice of law, do you do work in town
8 and village courts in traffic matters?

9 A. Yes.

10 Q. As a matter of practice, did you have occasion to develop an expertise in
11 terms of experience in representing defendants in that process?

12 A. I wouldn’t call it expertise, I mean, it’s--

13 Q. --Did you know generally that there was a form of how to do it, or did
14 you develop a practice?

15 A. Well, it’s--

16 Q. --And by practice, I don’t mean an area of the law, I mean a general set of
17 procedures that you would employ--

18 A. --correct--

19 Q. --in traffic cases?

20 A. Yes, yes.

21 Q. What do you generally do?

22 A. It all depends where it’s at, you know, if it’s in the city, obviously, I can’t
23 do it. I would ask questions. I just want to get to, a lot of it out of the
24 area. If they have a pending case in the city court, you know, we have to
25 screen people, shall I say because if they have something pending in city,

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1 even though they have something else, and this is a different area, I can't
2 take that case. So, yeah, some places let you talk to the district attorney,
3 some do not, some you have to write to. So, it's quite--

4 Q. --Case specific?

5 A. It's very, it can be very long.

6 Q. As you began working for the judge, and as the years progressed, did
7 there come a time when the relationship between you and Judge Ramich
8 changed in any way?

9 A. In a good or bad way?

10 Q. In a pejorative manner?

11 A. It was, that's a big word, I'm sorry?

12 Q. Bad.

13 A. Bad, right around the election of 2006, that's--

14 Q. --What happened?

15 MR. REILLY: I didn't hear the answer.

16 MR. POSTEL: Election of 2006.

17 MR. REILLY: Okay.

18 A. Very stressful. He would just, I, I just can't under, it was very, I know--

19 Q. --That's when he was running for election?

20 A. That, that is correct. And it just deteriorated after that. I understand he
21 was very, and under a lot of stress and everything, but I just noticed that's
22 when things started going downhill.

23 Q. What do you mean?

24 A. Saying I write in Brooklynesse, wrote on a paper, "Speak English." People
25 saw it, other court clerks and staff, when I say court clerks, doing other

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1 favor, doing favors, shall I say, directed to do things--

2 Q. --Alright, now you know that the reason that the reason we've called you
3 here today is to talk about a number of traffic cases, and a number of
4 personal errands he had you do, right? There's no doubt about that?

5 A. Absolutely--

6 Q. --No secret?

7 A. Absolutely.

8 Q. In terms of the environment in the court, though, you talked about
9 Brooklynese, write English. Were you, was any, any of this personally,
10 any of the treatment, personally insulting or demeaning to you?

11 A. Very much so.

12 Q. Describe that for us.

13 A. Well--

14 Q. --What was the environment in connection with these matters in which
15 you did what you did?

16 A. Well, it's all, it was very tense, I mean, we're here today, I'm telling the
17 truth. It was just a tense situation over minor things. I would see court
18 clerks cry all the time coming out of the courtroom over minor things, and
19 constant complaining about everybody and everything. And--

20 Q. --By the judge?

21 A. Correct, and I was a sounding board.

22 THE REFEREE: A sounding board for whom?

23 THE WITNESS: Judge Ramich, about complaints
24 about everything.

25 THE REFEREE: What I mean is what, was that

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(Cerio-Direct)

1 Black meant look out--

2 Q. --Black pen?

3 A. Yeah. Blue meant everything's okay, and I would walk in and he'd say,
4 "Mr. Cerio, I have to see you now in my chambers," and stop court, and
5 all the attorneys waiting to go to other courts that start at 9:00, and it was
6 issues of taking, you know, take care of this, take care of that, tickets.

7 Q. In terms of his specific treatment of you in a degrading fashion, can you
8 give us some examples besides the "Brooklynese" and "write English"?

9 A. Calling me an "idiot" when I didn't know about the FedEx, if you're
10 talking--

11 Q. --We'll get to that.

12 A. Okay. Other things, writing styles, I'm just thinking what else. It was
13 that, we could never, like, I would be blamed for something, but then he'd
14 blame somebody else for the same thing. So, we tried to confront him
15 one time, then you could never talk to two of you together and confront
16 him at one time, because, I'm sorry, for lack of better terms, you know, it
17 was, we were trying to get to the bottom of it. I didn't do it, she didn't do
18 it, and it was--

19 Q. --But you were both blamed for something?

20 A. Yeah, like--

21 Q. --In--

22 A. --the sex offense manual I wrote three or four times, it'd be out of place,
23 it was missing, I didn't touch it, I always left it in his, he had asked me to
24 write a manual on sex offense, you know, what the charges, what
25 qualifies, what are, you know, how to answer questions of the defendant

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STATE COMMISSION ON JUDICIAL CONDUCT

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(Cerio-Direct)

1 and etcetera.

2 Q. And that got misplaced?

3 A. It would get misplaced, it would be out of order, he didn't know--

4 Q. --In terms of the tone, manner, and volume in which he'd speak to you
5 and treat you--

6 A. --It was--

7 Q. --Could you describe that, that for us, please?

8 A. It was just, I don't know how to describe it except felt like a child being
9 scolded.

10 Q. Alright, and you're, are you familiar with the expression "clerked?"

11 A. I heard, I was never called "clerked," but "clerked" referred to the court
12 clerks that were--

13 Q. --Court staff?

14 A. Yes.

15 Q. When mistakes were made?

16 A. Yes.

17 Q. So, you were never "court attorneyed?" You never heard that?

18 A. No, no, "idiot," but not you, I'm sorry.

19 Q. Would it be fair to say that through the course of--

20 A. --I'm sorry--

21 Q. --15 years, it developed, you developed the experience of being put upon
22 by this judge?

23 A. Yes, I would start on Sunday nights getting, feeling sick to my stomach
24 and it was just like--

25 Q. --In anticipation of work on Monday?

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STATE COMMISSION ON JUDICIAL CONDUCT

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(Cerio-Direct)

1 A. Yes.

2 Q. Did there come a time when he had you represent individual relatives or
3 friends of his through your personal law firm?

4 A. Yes.

5 Q. I'm going to show you what's marked as Commission Exhibit 2. This is a
6 set of documents, court documents relating to the charge of speeding
7 involving Fred S. Seither, S, that's a lisp, I apologize, S-E-I-T-H-E-R, Jr.
8 Showing you what's marked as Commission Exhibit 2, I ask you to take a
9 moment to, please to look at that. Are you familiar with that case, Mr.--

10 A. --Yep--

11 Q. --Cerio?

12 A. Yes, I am.

13 Q. How did you come to be familiar with that case?

14 A. When I would arrive at court, he would stop court, and say, "Mr. Cerio, I
15 need to see you in my chambers right now," and he handed this to me and
16 said, "Take care of it."

17 Q. Did you say he wanted you to take care of it?

18 A. He said, "Take care of it."

19 Q. Did he tell you what it was?

20 A. He said it was his brother-in-law. I didn't know who Fred Seither was.

21 Q. Did he--

22 A. --At the time--

23 Q. --provide any context or description as to what the direction to you to
24 "take care of it" meant?

25 A. It was, over the years, I know--

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(Cerio-Direct)

1 Q. --With regard to Mr. Seither, the first one we have here?

2 A. He just said, "handle it, take care of it," and what's meant--

3 Q. --What year was that?

4 A. 2003.

5 Q. Were you given any option in terms of whether you had to take care of it
6 or not?

7 A. Knowing, now I've been at this time, what's 2007, six years, I knew,
8 "take care of it" or--

9 Q. --What did that mean to you?

10 A. Or if I didn't, there would be some sort of, I call it punishment or
11 something felt--

12 Q. --A penalty be to be paid?

13 A. Yes.

14 Q. Did you have a, what is, what exactly was, was, was it that he gave you?
15 You have, the first one is a Uniform Traffic Ticket.

16 A. Yes.

17 Q. Is that what he gave you?

18 A. Yes.

19 Q. That's what he wanted you to take care of?

20 A. Correct.

21 Q. And in the parlance of Judge Ramich's direction to you, what did that
22 mean to you in terms of what you should do? Did you know it meant
23 private practice of law? Did you think it meant as a court attorney? What
24 did it mean?

25 A. It meant to me, as a private attorney, but it was to be taken care of

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(Cerio-Direct)

1 immediately.

2 Q. And where was it that he gave you that ticket?

3 A. In his chambers.

4 Q. And it was in the morning, as you've testified?

5 A. Correct.

6 Q. And as a matter of practice, when a person gives you a traffic ticket to
7 deal with, what would you generally do--

8 A. --To starting--

9 Q. --physically?

10 A. The start of it?

11 Q. Yes.

12 A. Locate, you know, a lot of times you can't read where it's at, and when
13 the appearance is, and then locate the court online or in the phone book,
14 and see, make a phone call as to which district attorney, ADA, handles
15 that court.

16 Q. Did you do that in this case?

17 A. Yes, I did.

18 Q. Where did you do that?

19 A. I believe what I did was start immediately going through the phone book,
20 making a phone call--

21 Q. --Where were you physically?

22 A. At the city court in my little office.

23 Q. When judge Ramich handed you the ticket and said, "Take care of it," did
24 you understand that to mean in your capacity as a private attorney, you
25 should address it immediately?

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(Cerio-Direct)

1 A. Yes, because I've said, well, let me go back, I said on multiple occasions
2 with other things, wait until I get back to my office, and, do it now, you'll
3 forget it, now, we need it taken care of right now.

4 Q. Did he condition the timing on when you were to take care of this in any
5 way by saying, but don't do it now?

6 A. He never said, don't do it now.

7 Q. Did he condition what you were supposed to do by giving you
8 instructions as to the actions you were to go through to take care of it?

9 A. Well, I believe, if you're saying how I would take care of it?

10 Q. Correct.

11 A. Like identify myself as a court attorney?

12 Q. No, no, no, no, no, I'm saying, did he--

13 A. --Well, I would know what to do, but do it now.

14 Q. Did he condition what he told you to do, in other words, when he said,
15 "take care of it," did he say to you the steps he wanted you to take?

16 A. I--

17 Q. --Yes or no?

18 A. No.

19 Q. Okay, it's fair to say that he relied on your, what he knew to be, or what
20 you understood he knew to be, your abilities as a private practicing
21 attorney?

22 A. Yes.

23 Q. Did he explicitly condition his direction to you to take care of it to say, to
24 not involve your court office in any way, that is your position as a court
25 attorney?

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(Cerio-Direct)

- 1 A. Did he ever say, don't?
- 2 Q. Right.
- 3 A. No, but I never--
- 4 Q. --You knew not to do that though?
- 5 A. Correct.
- 6 Q. And you never did that?
- 7 A. Never.
- 8 Q. But you did do this in the, in your court office, is that correct?
- 9 A. The, the starting of it, yes.
- 10 Q. Right, you, and you got right to work on this case as soon as he gave it to
- 11 you, is that correct?
- 12 A. That is correct.
- 13 Q. And he gave it to you in the morning when you showed up?
- 14 A. Correct.
- 15 Q. Did he condition his direction to you to take care of it by saying, don't use
- 16 any court resources in connection with this case?
- 17 A. No, he did not.
- 18 Q. So, here we have you getting this from the judge, and it's, this gentleman
- 19 named Seither, did he tell you that Seither was his brother-in-law when he
- 20 gave you the case?
- 21 A. I believe so, yes.
- 22 Q. So, you did something. What did you do?
- 23 A. Started the procedure as I had previously mentioned.
- 24 Q. Take us through the Seither case and your representation, please.
- 25 A. Finding out, you know, where Walworth is, what county, making sure, I

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(Cerio-Direct)

1 believe back in 2003, we didn't have the Internet like we have today,
2 meaning that you could find out immediately who was the Assistant
3 District Attorney handling that, so I went on, went through the phone
4 book, and this is the best of my recollection, asked who handled this
5 court.

6 Q. Did you find out?

7 A. Yes, I did.

8 Q. Take us through it, please.

9 A. Well, they said--

10 Q. --Don't be bashful--

11 A. --well, and it was Jason Cook at the time who was the district attorney,
12 and he was unavailable, and so, what I did was I wrote him a letter from
13 my private office, I believe, later that day.

14 Q. Look at the document, look at the exhibit, please. Refresh your
15 recollection to the extent that, that it, that it does that, and testify for us
16 please as to what it is that you did exactly and when.

17 A. It was Ms., I'm sorry, Ms. Cynthia Kukulka that--

18 Q. --Wayne County District Attorney's Office, right?

19 A. Correct, I'm sorry.

20 Q. Cynthia Kukulka--

21 A. --I have this--

22 Q. --is one of the assistants--

23 A. --I, yes.

24 Q. Okay, Rick Healy is the, was the district attorney--

25 A. --Yeah, I have--

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(Cerio-Direct)

1 Q. --there--

2 A. --this confused with the--

3 Q. --okay--

4 A. --other ticket.

5 Q. So, look through it.

6 A. Yes.

7 Q. Take away your confusion, please.

8 A. I'm sorry.

9 Q. To the extent that's possible.

10 A. Okay. I'm sorry, this is Wayne County versus the other county.

11 Q. Just tell us what happened, please, Mr. Cerio.

12 A. Okay. So, I get the ticket, find out who the assistant district attorney is at
13 the court, I did. Person was not available. I then wrote, once I found out
14 who it was, this is now coming back, because now we're talking, it's,
15 we're talking, what, nine or ten years ago. She was part-time, if I do
16 believe, and wasn't in the office, and I wrote to her.

17 Q. Can I see that letter, please?

18 A. Yes. Faxed and--

19 Q. --In that letter, is it fair to say, that's Commission Exhibit 4, letter dated
20 July 14th, Law Office of Frederick M. Cerio, you say "Mr. Seither asked
21 that I write to you in regard to the above referenced matter." Is that
22 correct?

23 A. That's correct.

24 Q. Did Mr. Seither ask that you write to her in regards to the above
25 referenced matter?

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(Cerio-Direct)

1 A. No.

2 Q. You then say Mr. Seither is a 56-year-old man with no prior record,
3 correct?

4 A. That is correct.

5 Q. How did you know that?

6 A. Judge Ramich had informed me.

7 Q. Did you obtain a disposition for Mr. Seither?

8 A. Yes, I did.

9 Q. What disposition was that?

10 A. I believe in this situation they would not reduce it out of the speeding, if I
11 recall, they dropped it down--

12 Q. --Look at the records. They're right there in front of you.

13 A. I'm sorry. Excuse me, I'm sorry. Obtain charge.

14 Q. Talk to me, Mr. Cerio, what happened here?

15 A. I was just looking through this, I'm sorry, Certificate of Disposition, fine,
16 surcharge--

17 Q. --It was true, they notified you that Walworth does not reduce outside the
18 speed category, is that correct?

19 A. That is correct.

20 Q. Alright, so, he, he obtained a reduction to a lower speed, would that be
21 fair to say?

22 A. Yes, I believe.

23 Q. And was Mr. Seither pleased when you told him that you had obtained
24 some beneficial reduction in the case?

25 A. I never spoke to him.

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(Cerio-Direct)

1 Q. I'm sorry?

2 A. I never, I believe I gave this to Mr., Judge Ramich to give to his brother.

3 Q. You were acting as Mr. Seither's attorney, were you not?

4 A. Yes, I was.

5 Q. Had you no contact with Mr. Seither prior to the disposition of this case?

6 A. That is my recollection.

7 Q. As a matter of practice in your private practice, do you represent clients
8 who you've never met?

9 A. No, I always meet my clients.

10 THE REFEREE: Even on traffic tickets?

11 THE WITNESS: Yes.

12 THE REFEREE: Okay.

13 Q. Was there a fine here?

14 A. Yes, \$75 and the surcharge was \$35.

15 Q. What, well, you didn't tell Seither what the fine and surcharge was then
16 either?

17 A. They would send a disposition, an offer.

18 Q. And you, it was taken, right, it was accepted?

19 A. And I gave it to Judge Ramich, and he had brought it to his brother.

20 Q. Did you--

21 THE REFEREE: --Brother, brother-in-law.

22 A. Brother-in-law, excuse me.

23 Q. Did you know Seither's, even know his phone number?

24 A. No.

25 Q. But you knew his address from the ticket, right?

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(Cerio-Direct)

- 1 A. Correct.
- 2 Q. When the case was over, how many total hours would you say that you
3 had invested in this matter?
- 4 A. Start to finish, with everything, an hour and a half.
- 5 Q. Did Mr. Seither send you a check when you were done--
- 6 A. --No--
- 7 Q. --to say thank you?
- 8 A. No.
- 9 Q. Had you sent him a bill?
- 10 A. No.
- 11 Q. Why not?
- 12 A. I know it was a directive, basically.
- 13 Q. Did you consider it part of your job to have to do that?
- 14 A. Yes.
- 15 Q. Did Judge Ramich thank you personally for doing this?
- 16 A. No.
- 17 Q. Did Judge Ramich give you any, well, let's cut to some of the chase.
18 What do you bill out on an hourly basis?
- 19 A. For a speeding ticket back then--
- 20 Q. --Transactional or hourly?
- 21 A. Hourly on this.
- 22 Q. What would your normal bill have been?
- 23 A. If I put an hour and a half in, at that time, \$75 and--
- 24 Q. --About a hundred bucks, right?
- 25 A. Yeah, mm-hmm.

240.

(Cerio-Direct)

- 1 Q. Did Judge Ramich offer to pay you a hundred bucks?
2 A. No.
3 Q. Did he give you a gift certificate for a hundred bucks?
4 A. No.
5 Q. Did he give you a gift certificate for 75?
6 A. No.
7 Q. 50?
8 A. Nothing.
9 Q. Any gift certificate?
10 A. No.
11 Q. No thanks of any kind?
12 A. No.
13 Q. Now, you did communicate with him while this case was pending and
14 while you were getting the dispositions as to what you were doing to
15 effectuate the disposition, is that right?
16 A. Are you saying with Judge Ramich?
17 Q. Yes.
18 A. Yes.
19 Q. Sure, because you told him to get the, that, that the agreement was being
20 reached as to the disposition and reduction and you told him what the fine
21 amount was, right?
22 A. Correct.
23 Q. So, he was your go between to your client who you'd never met?
24 A. Correct.
25 Q. And had no communication with of any kind, is that correct?

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(Cerio-Direct)

1 A. That's correct.

2 Q. So that we're clear, not only did you not meet him, but you had never
3 talked to him on the phone, is that correct?

4 A. That is correct.

5 Q. You had never received any written communication from him directly, is
6 that correct?

7 A. That is correct.

8 Q. Now, the Seither case was not the only case that Judge Ramich had you
9 take care of for him, is it?

10 A. No, it isn't.

11 Q. You talked about a woman that you knew to be his daughter named
12 Amanda Ramich, is that correct?

13 A. That is correct.

14 Q. Tell us, did you have occasion to represent Amanda Ramich, yes or no?

15 A. Yes.

16 Q. And how did it occur that you came to represent Amanda Ramich?

17 A. Once again, I walked in the courtroom--

18 Q. --Courtroom?

19 A. Of Elmira City Court, and Judge Ramich is on the bench holding court
20 and said, "Mr. Cerio, to my chambers."

21 Q. Did you go?

22 A. Oh, yeah.

23 Q. And what happened when you got there?

24 A. He goes, "Amanda got a ticket, take care of it."

25 Q. Did you understand that to be something that you had a choice to do?

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(Cerio-Direct)

1 A. No choice.

2 Q. Did you consider it a condition of your work?

3 A. I'm under oath, yes, I did.

4 Q. And did, so did you do something about it?

5 A. Yes, I did--

6 Q. --Did you act to take care if it?

7 A. Yes, I did.

8 Q. What did you understand, "take care of it" to mean?

9 A. To get the best reduction possible.

10 Q. As a matter of course in the, conducting your practice of law, when
11 somebody gives you a ticket, that's generally what you do, right?

12 A. Correct.

13 Q. So, what did you do here?

14 A. I found out, checked who the assistant district attorney would be that
15 covered this court during the court hours, take care of it immediately,
16 found out it was Assistant District Attorney Ron Yorio, made a phone call
17 to his private office, because he's part-time.

18 Q. Did you know Ron?

19 A. Yes.

20 Q. Okay--

21 A. --And I've dealt with him before.

22 Q. What happened?

23 A. He said, send the ticket to his private office, and that he would send a
24 reduction, which he did.

25 Q. And that reduction was effected is that correct?

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(Cerio-Direct)

1 A. Correct.

2 Q. To what?

3 A. Parking on a pavement from 74 in a 55.

4 Q. Now, before you took these actions to get the reduction, did you have
5 conversation with Amanda Ramich about representing her?

6 A. No.

7 Q. Did she call you on the telephone to advise you that she knew you were
8 representing her?

9 A. No.

10 Q. Did she send you a letter, any written correspondence, emails, excuse me
11 if I'm behind the times, any electronic communication, or written
12 communication indicating an attorney relationship between the two of
13 you?

14 A. No.

15 Q. When the judge handed you the, Amanda's ticket, and I gather it also had
16 the supporting deposition, the E-printout that generally comes with these
17 things, is that right?

18 A. Yes, sir.

19 Q. Did he say to you not to spend any court time on this?

20 A. No, he did not.

21 Q. He, so he told you to take care of it, as I understand, and you did so?

22 A. That is correct.

23 Q. Did you attempt or move in a fashion immediately after he told you to
24 take care of it, to do so?

25 A. Yes.

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(Cerio-Direct)

1 Q. As a matter of the work that you did in the court, is that what you
2 generally did when he told you to do something, snap, you went to do it,
3 you acted on what he told you?

4 A. Yes, because I would say, well, let me go back to my office and do it.
5 This was after the first--

6 Q. --Right--

7 A. --misconduct, and what I did was, and he said, "No, take care of it now,"
8 and I immediately did and I was trying to see what the, it says, "Return by
9 mail on July 12, 2006," and so--

10 Q. --That's the return date on the ticket?

11 A. Yes.

12 Q. For guilty pleas, is that correct?

13 A. Yes, and so--

14 Q. --When did Yorio respond to you the first time?

15 A. July 11, 2006, he wrote.

16 Q. Alright.

17 A. So, it had to--

18 Q. --So, it's your recollection that on the very day that he gave you the ticket,
19 you went into your court office and began working on this, is that correct?

20 A. Yeah, we had one day.

21 Q. One day?

22 A. Yeah.

23 Q. Okay.

24 THE REFEREE: Let me stop you there. I need to
25 ask a question. You said this was, I think you said the

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(Cerio-Direct)

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words that you may have said, "this was after the first misconduct."

MR. POSTEL: Referring to the Seither case, is that correct?

THE REFEREE: According, I, what are you--

THE WITNESS: --No--

THE REFEREE: --referring to?

THE WITNESS: When he--

MR. POSTEL: --Oh, the first discipline, public discipline.

THE WITNESS: Yeah, the first--

MR. POSTEL: --Right--

THE REFEREE: --You're referring to an earlier discipline of Judge Ramich, is that what you're referring to?

THE WITNESS: When I was involved in that as using court staff as, doing work on, time at, at the, at the court.

THE REFEREE: Okay, fine.

MR. POSTEL: We have, I'm advised strictly that the court security will be here to kick us out in five minutes.

THE REFEREE: What?

MR. POSTEL: Yes, we have to be out of the building by 4:45. They are giving us no leeway.

MR. REILLY: I object.

MR. POSTEL: Take it up with them. Let me just

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(Cerio-Direct)

1 ask a few more questions with regard to the Amanda
2 Ramich case and then I believe we, we should break.

3 Q. When respondent gave you the, the Ramich ticket and supporting
4 deposition, did he explicitly tell you what to do or what not to do in the
5 furtherance of representing Amanda?

6 A. No.

7 Q. Did he specifically tell you not to use court resources or time in
8 connection with your representation of her?

9 A. No.

10 Q. As you understood his direction to you in the environment of the court at
11 that time in 2006, did you understand it to be that you should be
12 immediately going to work on this just down the hall from where he told
13 you to do the job?

14 A. Yes.

15 Q. Did he specifically say to you or condition to you the time of when you
16 should be acting on this case?

17 A. I would say--

18 Q. --To, to limit it--

19 A. --let me go back to my office to take care of it after my hours were done,
20 "no take care--

21 Q. --Was that--

22 A. --of it now"--

23 Q. --consistent with his directions to you over all the years?

24 A. Yes.

25 Q. You did not object to that though, did you?

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(Cerio-Direct)

1 A. I didn't dare.

2 Q. You believed you were not in a position to object?

3 A. That's correct.

4 Q. Who signed your time sheets?

5 A. Judge Ramich.

6 Q. How many total hours did you spend on this case?

7 A. This one, probably half hour, 45 minutes.

8 Q. Alright, as a matter of practice, how much money would be involved?

9 A. If it, 75 bucks an hour, whatever. I did, for the record then, when the
10 disposition came, or, you know, the offer, I took it to Amanda on my way
11 home--

12 Q. --So, you did meet with Amanda at a certain point about this case?

13 A. And said, this is the offer, you, from going 74 in a 55 to parking on a
14 pavement, explained what that was, no points--

15 Q. --Had you talked to respondent about that beforehand? That you--

16 A. --Yes--

17 Q. --had gotten the deal?

18 A. Yes.

19 Q. And had you arranged with him that you would go and present this to
20 Amanda?

21 A. I said, "I'm going that way, you know--

22 Q. --Did she sign the plea deal?

23 A. Yes.

24 Q. It's right in--

25 A. --Yes--

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Rochester, NY 14604**

(Cerio-Direct)

1 Q. --Commission exhibit, is it not?

2 A. Yes.

3 Q. And so you obtained it and mailed it in, is that correct?

4 A. That is correct.

5 Q. Now, was there a fine?

6 A. Yes, and I recall Judge Ramich was upset at how much it was.

7 Q. What was it?

8 A. \$150, no surcharge.

9 Q. And in connection with your experience where there's a, what was the
10 original speed, excuse me?

11 A. 74 in a 55.

12 Q. And a reduction to a parking ticket?

13 A. Not even a, well--

14 THE REFEREE: --Parking on the pavement.

15 Q. Parking on the--

16 A. --Parking on--

17 Q. -- pavement--

18 A. --pavement. There's no points--

19 Q. --Violation--

20 A. --There's--

21 Q. --no points, is that--

22 A. --nothing--

23 Q. --correct?

24 A. Yeah.

25 Q. And no surcharge?

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(Cerio-Direct)

1 A. No surcharge.

2 Q. In connection with your experience, would \$150 be out of the realm of
3 acceptable fine range for such a reduction?

4 A. Oh, heck no. I mean, when you get a deal like that.

5 Q. Were you involved in the payment of the fine at all?

6 A. No, I recall at one of his fundraisers that he was, I said, "So, did you pay
7 your ticket, Amanda?" And she says, "No, my dad didn't give me," you
8 know, because I handed it to him--

9 Q. --The fine notice?

10 A. Yeah.

11 Q. So, other than getting Amanda's signature on the plea order, plea offer
12 and advising respondent that there, the fine was \$150 after the offer was
13 accepted, did you have any further involvement in, in this matter?

14 A. No.

15 Q. Did you have any other communication with Amanda?

16 A. Just that--

17 Q. --The--

18 A. --it--

19 Q. --fundraiser--

20 A. --wasn't paid, yeah.

21 Q. Right, okay, I understand that.

22 MR. POSTEL: I think perhaps it would be an
23 appropriate time to break at this point.

24 THE REFEREE: That's fine. I do have, want to ask
25 one question.

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(Cerio-Direct)

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THE WITNESS: Yes, sir.

THE REFEREE: You used the word "clerked," and is that kind of a local expression or within Elmira City Court that that--

THE WITNESS: --Just Judge Ramich would use that to embarrass the clerks.

THE REFEREE: Could you use it in a sentence how it, the context of it?

THE WITNESS: I got clerked again.

THE REFEREE: Okay. It was not an expression that a clerk would say, or that you would say, but Judge Ramich would say?

THE WITNESS: Oh, no; that was a derogatory statement meaning something was not right.

THE REFEREE: Okay, thank you. I just--

THE WITNESS: --No--

THE REFEREE: --had not heard that expression before.

MR. POSTEL: 10:00?

THE REFEREE: 10:00, that's fine. You will have this witness and--

MR. POSTEL: --He's it.

THE REFEREE: Okay.

MR. REILLY: Then all my witnesses are going to be here tomorrow morning at 9:30 and then I'll have them, and

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STATE COMMISSION ON JUDICIAL CONDUCT

**400 Andrews Street
Rochester, NY 14604**

(Cerio-Direct)

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then I'll have the judge.

THE REFEREE: I'm sorry, they'll be here at 9:30?

MR. REILLY: My witnesses will be here at 9:30.

THE REFEREE: Okay. Very good.

THE WITNESS: I'll send my--

MR. POSTEL: --9:30, be here--

THE WITNESS: --I'll set my, around 9:30--

MR. POSTEL: --if we get going a little early, we'll,
you know, when we get here, we'll get going.

THE WITNESS: I'll be, I'll be here.

MR. POSTEL: Alright, thank you.

THE WITNESS: Thank you.

THE REFEREE: This hearing is now in recess.

Thank you.

THE WITNESS: Thank you, sir.

(The hearing was adjourned at 4:32 P. M. on October 16, 2012)

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EXHIBITS

COMMISSION

		<u>Ident.</u>	<u>In Evid.</u>
1	Amanda Ramich hearing Stipulation of Facts, October 16, 2012.	5	5
2	Court records in <i>People v Fred S. Seither, Jr.</i>	5	5
3	Court records in <i>People v Amanda M. Ramich.</i>	6	6
4	Court records in <i>People v Cynthia J. Greger.</i>	7	7
5	HUD-1 Uniform Settlement Statement Thomas E. Ramich, 854 Euclid Avenue, Elmira, NY 14901.	7	7
6	Emails and Lease Agreement regarding Ramich Realty and Park Outdoor Advertising, 2009.	8	8
7	Copy of check to Commissioner of Motor Vehicles from Fred Cerio, dated April 27, 2009.	9	9
8	Email to Fred Cerio From Thomas Ramich, dated August 17, 2009.	9	9
9	Court Records in <i>People v David L. Oshann.</i>	10	10

1				
2	10	Transcript in <i>People v David Oshann,</i>	10	10
3		September 15, 2008.		
4	11	Court Records in <i>People v Edward S. Bassler.</i>	11	11
5	12	Transcript in <i>People v Edward S. Bassler,</i>	11	11
6		August 26, 2008.		
7	13	Court Records in <i>People v David Ortiz.</i>	11	12
8	14	Transcript in <i>People v David Ortiz,</i> September	12	12
9		19, 2008.		
10	15	Court records in <i>People v William V. Krazinski.</i>	12	12
11	16	Transcript in <i>People v William V. Krazinski,</i>	12	12
12		October 2, 2008.		
13	17	Court records in <i>People v Scott J. Place.</i>	13	13
14	18	Transcript in <i>People v Scott J. Place,</i> November	13	13
15		24, 2008.		
16	19	Court Records in <i>People v Ryan J. McGough.</i>	13	13
17	20	Transcript in <i>People v Ryan J. McGough,</i>	14	14
18		November 21, 2008.		
19	21	Court records in <i>People v Matthew E. Cleary.</i>	14	14
20	22	Transcript in <i>People v Matthew E. Cleary,</i>	14	15
21		November 5, 2008, November 25, 2008, April		
22		21, 2009, and May 14, 2009.		
23	23	Court records in <i>People v John K. Silver.</i>	15	15
24	24	Transcript in <i>People v John K. Silver,</i> March 31,	15	15
25		2009.		

1	25	Court records in <i>People v Dylan Danko</i> .	15	16
2	26	Transcript in <i>People v Dylan Danko</i> , January 26,	16	16
3		2009, February 18, 2009, and March 31, 2009.		
4	27	Court records in <i>People v Matthew P. Zimmer</i> .	16	16
5	28	Transcript in <i>People v Matthew P. Zimmer</i> ,	17	17
6		April 10, 2009.		
7	29	Court records in <i>People v Mary K. Szustak</i> .	17	17
8	30	Transcript in <i>People v Mary K. Szustak</i> , April	17	17
9		24, 2009.		
10	31	Court records <i>People v Katrina L. Cramer</i> .	18	18
11	32	Transcript in <i>People v Katrina L. Cramer</i> , April	18	18
12		30, 2009.		
13	33	Court records in <i>People v Zachary D. McCarthy</i>	18	18
14	34	Transcript in <i>People v Zachary D. McCarthy</i> ,	18	18
15		May 29, 2009.		
16	35	Court records in <i>People v Cevin J. Crowley</i> .	19	19
17	36	Transcript in <i>People v Cevin J. Crowley</i> , June	19	19
18		19, 2009.		
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22	39	Court Records in <i>People v Thomas L. Earley</i> .	20	20
23	40	Transcript in <i>People v Thomas L. Earley</i> , June	20	20
24		24, 2009.		
25	41	Court records in <i>People v Sharyel Strobel</i> .	20	20

1	42	Transcript in <i>People v Sharyel</i> , June 24, 2009.	20	21
2	43	Court records in <i>People v Tiffany D. Pagano</i> .	21	21
3	44	Transcript in <i>People v Tiffany D. Pagano</i> , June	21	21
4		10, 2009 and June 24, 2009.		
5	45	Court records in <i>People v Nanu Devi Shrestha</i> .	21	22
6	46	Transcript in <i>People v Nanu Devi Shrestha</i> , June	22	22
7		10, 2009, June 24, 2009, and July 15, 2009.		
8	47	Court records in <i>People v Kenneth C. Stradley</i> .	22	22
9	48	Transcript in <i>People v Kenneth C. Stradley</i> , June	22	22
10		10, 2009 and June 24, 2009.		
11	49	Court records in <i>People Terry M. Miller</i> .	23	23
12	50	Transcript in <i>People v Terry M. Miller</i> , July 8,	23	23
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14	51	Court records in <i>People v Jeffrey A. Gush</i> .	23	23
15	52	Transcript in <i>People v Jeffrey A. Gush</i> , August 7,	24	24
16		2009.		
17	53	Court records in <i>People v Irene E. Williams</i> .	24	24
18	54	Transcript in <i>People v Irene E. Williams</i> , June	24	24
19		10, 2009.		
20	55	Court records in <i>People v Edith Riley</i> .	25	25
21	56	Transcript in <i>People v Edith Riley</i> , June 10,	25	25
22		2009, June 24, 2009, July 15, 2009, August 25,		
23		2009, September 29, 2009, and October 21,		
24		2009.		
25	57	Court records in <i>People v Jesa Scott</i> .	25	25

1	58	Transcript in <i>People v Jesa Scott</i> , October 26,	26	26
2		2009.		
3	59	Court records in <i>People v Joseph Piper</i> .	26	27
4	60	Transcript in <i>People v Joseph Piper</i> , June 1,	27	27
5		2010.		
6	61	Appellate Division Third Department Decision	28	30
7		in <i>People v Ivan L. Hartson</i> , April 5, 1990.		
8	62	<i>Voir Dire</i> /Trial Data Form, <i>people v Joseph</i>	29	30
9		<i>Piper</i> , June 1, 2010.		

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14	A	Photograph of Judge Forrest's file inbox.	73	73
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16	B	Copy of file jacket for <i>People v Patricia D.</i>	74	79
17		<i>Miller</i> .		

STATE OF NEW YORK
COMMISSION ON JUDICIAL CONDUCT

-----X

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

THOMAS E. RAMICH :

a Judge of the Elmira City Court, :
Chemung County. :

-----X

Schuyler County Courthouse
105 9th Street
Watkins Glen, NY 14891
October 17, 2012
9:52 A.M.

Be f o r e:

GARY MULDOON, ESQ.,
Referee

P r e s e n t:

For the Commission

JOHN J. POSTEL, ESQ.,
Deputy Administrator

KATHLEEN MARTIN, ESQ.,
Senior Attorney

For the Respondent

THOMAS E. REILLY, ESQ.,
Attorney for Respondent
Learned, Reilly, Learned, & Hughes, LLP
449 East Water Street
Elmira, NY 14901

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

HON. THOMAS E. RAMICH,
Respondent

REBECCA ROBERTS,
Investigator

BETSY SAMPSON,
Investigator and FTR Operator

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THE REFEREE: Good morning, all. It is 9, about 9:55 A. M. on Wednesday, October 17th. We're at Watkins County courthouse--

MR. POSTEL: Schuyler County.

THE REFEREE: I'm sorry--

MR. POSTEL: --Schuyler--

THE REFEREE: --Schuyler County courthouse.

Thank you very much--

MR. POSTEL: --In, in the Village of Watkins Glen--

THE REFEREE: --in the Village, the Village of Watkins Glen.

MR. REILLY: Part of it morphs upstate New York.

THE REFEREE: Thank you. The, the same--

MR. POSTEL: --Our witness.

THE REFEREE: Okay. The same people who were present yesterday, are present today, with the exception of one additional person, and that is Ms. Kate Gaudio, who is with the State Commission on Judicial Conduct. We recessed yesterday about 4:30, and that was in the midst of Mr. Cerio's testimony. He's available to testify at this point, correct?

MR. POSTEL: We'll recall him.

THE REFEREE: Very good. If you could please come up, Mr. Cerio. You were sworn in yesterday, and you are still under oath.

(Cerio-Direct)

1 THE WITNESS: Yes, sir.

2 THE REFEREE: Very good. Mr. Postel, do you
3 wish to continue?

4 MR. POSTEL: Thank you, Your Honor.

5 Q. Mr. Cerio, yesterday we concluded our testimony, and correct me if I'm
6 wrong, with regard to your representation of Amanda Ramich, is that
7 correct?

8 A. That, that is correct, sir.

9 Q. At any time after Ms. Ramich, did you have occasion in any criminal
10 case, excuse me, traffic case, to represent a defendant at the direction of
11 respondent with whom he had a personal relationship?

12 A. I believe, if you're talking about Ms. Greger.

13 Q. Greger.

14 A. Greger, yes.

15 MR. POSTEL: The court exhibits are available,
16 please?

17 Q. So, for the purpose of the proceeding yesterday, you testified with regard
18 to representation of Fred Seither, is that correct

19 A. That is correct, sir.

20 Q. And Amanda Ramich, is that correct?

21 A. That is correct, sir.

22 Q. I show you what's marked as Commission Exhibit 4, a set of court
23 documents relating to a traffic violation involving a woman then named
24 Cynthia Greger, G-R-E-G-E-R, and ask if you'd take a moment, please,
25 and look at those documents. Have you familiarized yourself with those

254.

(Cerio-Direct)

1 documents, Mr. Cerio?

2 A. Yes, sir.

3 Q. Directing your attention to the first page of Commission Exhibit 4, that's
4 a Uniform Traffic Ticket, is that correct?

5 A. That is correct, sir.

6 Q. The second page is a Supporting, electronically generated Supporting
7 Deposition, is that correct?

8 A. That is correct, sir.

9 Q. Alright, did you have occasion to have contact with that case in any
10 fashion?

11 A. As speaking to Ms Greger or--

12 Q. --No, in terms of those, that traffic ticket--

13 A. --I took care of it, if it, if that's your question, sir.

14 Q. Alright, and did you act as an attorney in connection with that ticket?

15 A. Yes, I did.

16 Q. Would you walk us through how it came about, first of all, what is the
17 date of the charge, sir?

18 A. I always love these UTTs, excuse me, sir, for a second. 4/23/09.

19 Q. Alright, I'm going to ask you to keep your voice up so we can all hear
20 you.

21 A. Yes, okay.

22 Q. And this is not a loud speaker. This is a recording device, so, this will,
23 actually will pick you up better than Mr. Muldoon can sitting next to you.

24 A. Okay.

25 Q. Don't worry about the microphone. So, 4/26/09, was the date of the

255.

STATE COMMISSION ON JUDICIAL CONDUCT

**400 Andrews Street
Rochester, NY 14604**

(Cerio-Direct)

1 offense?

2 A. Yes, sir.

3 Q. When did this case come, excuse me, how did this case come to your
4 attention?

5 A. Once again, I walked into the courtroom, criminal court, Elmira City
6 Court. At the time, I arrive in the morning, Ms., or attorney, Judge
7 Ramich, said, "Mr. Cerio, I need to see you in my chambers." So his
8 directive, I went into his chambers, he said, "Take care of this," which I
9 then did. And which the procedures, same following as we discussed
10 how I took care of those tickets before, meaning making phone calls,
11 finding out where, who to contact.

12 Q. Alright, so--

13 A. --These are all--

14 Q. --let's go through that--

15 A. --out of (unintelligible). Okay.

16 Q. Let's go through that with regard to Greger. Did you know Cynthia
17 Greger before the judge gave you the uniform, and it's a uniform traffic
18 ticket he gave you to, said to, "Take care of?"

19 A. Yes.

20 Q. Did you know Ms. Greger?

21 A. No.

22 Q. Did he explain to you who Ms. Greger was?

23 A. Yes.

24 Q. Who did he say she was?

25 A. He was, she was his new, I would say, girlfriend, or who he was seeing--

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STATE COMMISSION ON JUDICIAL CONDUCT

**400 Andrews Street
Rochester, NY 14604**

(Cerio-Direct)

1 Q. --Alright--

2 A. --at the time--

3 Q. --did he explain to you why he wanted you to take care of it?

4 A. No, sir, just said, "Take care of it."

5 Q. This is my girlfriend, take care of it?

6 A. Yes.

7 Q. And in connection with his, did he actually physically hand you the
8 ticket?

9 A. Yes, sir.

10 Q. Were you in his chambers when he handed you the ticket?

11 A. Yes, sir, he stopped court.

12 Q. As he had on the prior two occasions?

13 A. Yes.

14 Q. Did you understand that "taking care of it" meant that you were directed
15 to act on Ms. Greger's behalf?

16 A. That is correct, and he told me what to write in the letter once I found out
17 who the district attorney covering that was.

18 Q. Okay, well, let's, let's--

19 A. --Yes--

20 Q. --not leap ahead. Let's, let's--

21 A. --Okay--

22 Q. --work through this chronologically.

23 A. Well, that was part of it.

24 Q. Oh, part of the discussion when he said, "Take--

25 A. --Yes--

(Cerio-Direct)

1 Q. --care of it”?

2 A. Yes.

3 Q. Well, tell us then, what did he say?

4 A. Well, he had said about his, that her mother was ill, older, and that she
5 was in a hurry to get her back home. There--

6 Q. --He suggested a defense to use in connection with the matter?

7 A. Correct.

8 Q. Did you consider it to be a term and condition of your employment to
9 have to act on Ms. Greger’s behalf in connection with this matter?

10 A. Absolutely.

11 Q. And when he said, “Take care of it,” did he condition, and as he described
12 to you the background concerning the matter, did he condition your
13 actions in terms of taking care of it, by giving you an instruction not to go
14 to your chambers and work on the matter?

15 A. No, he did not. He said--

16 Q. --Did he--

17 A. --“Take care of it now.”

18 Q. And you understood that to mean immediately?

19 A. Yes, because I said, let me, once again, take care of it in the afternoon at
20 my private office.

21 Q. How did he respond to that?

22 A. “Take care of it now.”

23 Q. And you were, “now” meant to you in your office--

24 A. --yeah--

25 Q. --at the courthouse?

258.

(Cerio-Direct)

1 A. And now everything went online, now you could go online, find out, you

2 know, now we're into the, we don't have to make phone calls, and we--

3 Q. --So, by 2009, it's different than what you were doing in 2003 and 2006?

4 A. Correct.

5 Q. You go to your office in the courthouse and you go online and you use the
6 court computer to find what, sir?

7 A. Town of Starkey, Town of Starkey Court, I believe this is, where it's
8 located, made the phone call as to, to the, to the court, asking who covers
9 the Town of Starkey Court as the assistant district attorney.

10 Q. Now, when he told you to "take care of it," did the judge explicitly tell
11 you not to work on this in the courthouse?

12 A. No, he did not.

13 Q. Did he tell you explicitly not to use court resources in connection with
14 furthering this case?

15 A. No, he did not.

16 Q. So, you call Starkey, you call Starkey Court?

17 A. Yes, once I--

18 Q. --Where did you--

19 A. --went online and found out the phone numbers.

20 Q. Where did you call from?

21 A. My office in the back--

22 Q. --At the--

23 A. --room--

24 Q. --courthouse?

25 A. Correct.

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STATE COMMISSION ON JUDICIAL CONDUCT

400 Andrews Street
Rochester, NY 14604

(Cerio-Direct)

1 Q. Okay, and what did you find out when you called the Starkey Court?

2 A. I asked who the, what district attorney covered that case, and they gave
3 me the name, and then I proceeded to make contact with that district
4 attorney.

5 Q. Where were you when you made contact with the DA, ADA?

6 A. He was not in his office. It was actually the district attorney who is, I'm
7 sorry, his name is right here. It escapes me, but the district attorney for
8 the Yates County. Excuse me, he was an assistant, now he is, Jason
9 Cook, First Assistant District Attorney.

10 Q. Alright.

11 A. Now he is the District Attorney for Yates County.

12 Q. And yesterday when you referred to Mr. Cook, mistakenly in terms of
13 who you had contacted in Amanda's case, this was the actual Jason Cook
14 about whom--

15 A. --Yeah--

16 Q. --you're talking, is that correct?

17 A. Not Amanda, because I knew--

18 Q. --Excuse me--

19 A. --it was--

20 Q. --right--

21 A. --Mr. Yorio--

22 Q. --Yorio. The prior case?

23 A. Correct.

24 Q. Right, I was, Cynthia Kukupka.

25 A. Yes.

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STATE COMMISSION ON JUDICIAL CONDUCT

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Rochester, NY 14604**

(Cerio-Direct)

1 Q. Okay. So--

2 THE REFEREE: --Before we go, go on, I want to
3 make one thing clear. You were making a call from a court
4 facility, your, your office?

5 THE WITNESS: My, my office, law clerk office.

6 THE REFEREE: Okay.

7 THE WITNESS: The court attorney office.

8 THE REFEREE: Okay.

9 THE WITNESS: Yes.

10 THE REFEREE: Okay, and was that at, at this point,
11 was this at Elmira City Court Building or in another
12 building?

13 THE WITNESS: Elmira City Court.

14 Q. Alright, this is, all of this, all of the discussions today about the judge
15 having you work on cases and doing personal errands occurred while you
16 were in the Elmira City Court building, is that correct?

17 A. That is correct.

18 Q. Alright, and you know we're going to talk about "cash for clunkers."
19 We're going to talk about the DMV trailer registration. You know we're
20 going to talk about the closing. You know we're going to talk about
21 Ramich Realty, right?

22 A. Correct.

23 Q. The FedEx matter on Christmas Eve, is that correct?

24 A. Correct.

25 Q. And all of that has, came about in connection with your time when you

261.

(Cerio-Direct)

1 | were at the Elmira City Court?

2 | A. Correct.

3 | Q. It was after the final matter here that we're going to talk about later that
4 | you got transferred or moved to the Hazlett Building, is that right?

5 | A. That is correct.

6 | THE REFEREE: Okay, thank you.

7 | THE WITNESS: I'm sorry if I wasn't clear.

8 | MR. POSTEL: That was my, that was my failure.

9 | Thank you.

10 | Q. So, you make the call, you find out it's Jason Cook, you contact Mr. Cook
11 | from the court, court office, he's not there--

12 | A. --Correct--

13 | Q. --you try to. What do you do next?

14 | A. I write a letter to him explaining, you know, I sent him a copy of the
15 | ticket, as you're supposed to do, a copy of the abstract of driving record,
16 | and explain the situation that Ms., or Judge Ramich, excuse me, said to
17 | say about the grandmother, or the, the mother being elderly, having to get
18 | her back home.

19 | Q. Coming back from Hobart College?

20 | A. Correct.

21 | Q. Okay.

22 | A. Visiting Ms.--

23 | Q. --She was not a student there, so we're not confused about that?

24 | A. No, her daughter was, I believe.

25 | Q. Ms. Greger's?

262.

(Cerio-Direct)

1 A. Correct.

2 Q. Sure. While you're doing all these things in furtherance of this case,
3 reaching out, locating the court, locating the ADA, reaching out to the
4 ADA, up to that point, had you, how many times, excuse me, had you
5 spoken to Ms. Greger about representing her?

6 A. I actually did go see her on court time to have her give me her driving, no,
7 excuse me, Judge Ramich gave me the driving abstract. He said, "You'll
8 find it under my tissue box."

9 Q. In chambers?

10 A. In chambers.

11 Q. Okay.

12 A. Then when it came time for the plea offer, which came to me, it wasn't to
13 Judge Ramich's liking, and--

14 Q. --The plea offer itself?

15 A. Yes--

16 Q. --What did he say to you?

17 A. He said, "Try the case. I think you should try it." And it's a, it's a traffic
18 ticket. It's out of town. You're going to lose 99 percent of the time.

19 Q. Your professional judgment indicated to you that was not the better
20 course?

21 A. Correct.

22 Q. So, what, how did you respond and what did you do?

23 A. I said, "I'm not going to try the case, you know--

24 Q. --Did you advise him to look at her abstract?

25 A. I would assume that he had saw the abstract that she had priors on it.

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STATE COMMISSION ON JUDICIAL CONDUCT

400 Andrews Street
Rochester, NY 14604

(Cerio-Direct)

1 Q. Okay, so, you decide, you decide it's not in the best interest of you and
2 your client to try the case at that point?

3 A. Correct, because if found guilty, higher points. It all goes to the points.

4 Q. Alright. What was the offer that Judge Ramich indicated to you was
5 unacceptable to him?

6 A. That it was the offer to the reduction of 62 in a 55.

7 Q. From?

8 A. The district attorney's office.

9 Q. Yes.

10 A. Yes.

11 THE REFEREE: From a 4-point speed to a 3-point
12 speed, essentially?

13 THE WITNESS: Correct.

14 THE REFEREE: Okay.

15 Q. But up until, I gather you're, you're, you were moving ahead to, excuse
16 me. You were talking about actually having contacted Ms. Greger after
17 the offer came in, is that--

18 A. --Correct.

19 Q. But until the time when the offer came in, had you called her or spoken
20 with her?

21 A. I believe so.

22 Q. Tell us about that.

23 A. I believe that, because she was working at the Elmira Psychiatric Center,
24 that I informed her that Judge Ramich had asked me to represent her in
25 this matter, and explained the situation.

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STATE COMMISSION ON JUDICIAL CONDUCT

**400 Andrews Street
Rochester, NY 14604**

(Cerio-Direct)

1 Q. You explained that you had a plea offer?

2 A. Yes.

3 Q. Alright.

4 A. And that in my experience, you know, trying the case is not going--

5 Q. --To work in her favor?

6 A. Correct.

7 Q. Alright, and that's--

8 A. --And if I could back up. The reason Judge Ramich said, "Try the case"
9 is normally the arresting officer does not show up.

10 Q. So, right, taking the chance that it would be dismissed, right?

11 A. Correct.

12 Q. Did Ms. Greger agree to your professional recommendation to accept the
13 plea speed, the plea reduction involving a reduction in speed and points?

14 A. Yes, I explained to her in person. I went over to meet with her on court--

15 Q. --Where--

16 A. --time--

17 Q. --was that?

18 A. At the Elmira Psychiatric Center in Elmira, which is about two blocks
19 from Elmira City Court building.

20 Q. If you look at the, the correspondence in that file before you, Commission
21 Exhibit , I believe, 4, there are various letters and dates. How long
22 between when you got the ticket to when you went to see Ms. Greger and
23 she agreed to the disposition?

24 A. May 12th it was sent to me, probably took two days via mail, because our
25 mail goes to Rochester, etcetera, she signed it on the 28th. Does not mean

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(Cerio-Direct)

1 that, a lot of times when I do speeding tickets or, you know, even paying
2 customers, they might have a date and it's, like, a week later, I get it.

3 Q. Okay.

4 A. So, once I got it I called her and said, "Could I go over their offer with
5 you?" And I proceeded to go over in the morning.

6 Q. To the Psychiatric Center?

7 A. To the Psychiatric Center, explained her rights, and what my opinion is in
8 this matter, and she agreed to it, I, and signed it 5/28/09.

9 Q. Did you take it and send it to the court?

10 A. Then I sent it to the court that same day under my letterhead.

11 Q. What's that date, please, sir?

12 A. May 28, 2009, and do you want me to read what--

13 Q. --Just tell us what happened.

14 A. It just says, "Enclosed please find the plea offer extended by Assistant
15 District Attorney Cook. It has been accepted by my client, Cynthia
16 Greger. If this agreement is acceptable, please send, have the court send
17 the appropriate fine and surcharge and I'll see to it that my client pays it
18 promptly."

19 Q. And did that happen, sir?

20 A. Yes, it did.

21 Q. Did you get a fine notice from the court?

22 A. Yes, I did, it was addressed to myself, and it said, regarding your client,
23 and that's the last page here.

24 Q. And what did you do after that?

25 A. I contacted Ms. Greger and said, I have the fine offer, or the fine.

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(Cerio-Direct)

1 Q. So that we're clear, had Ms. Greger ever contacted you at any time to say,
2 please represent me on this case?

3 A. No, sir.

4 Q. Your representation had strictly to do with and arose from respondent's
5 direction to you in the court?

6 A. In his chambers, correct.

7 Q. In his chambers, thank you. Did you follow up to determine whether the
8 fine was ever paid?

9 A. No, I did not.

10 Q. Did you, but did you ever received notice from the court that the fine
11 wasn't paid?

12 A. No, I did not.

13 Q. At the conclusion, when you got the fine notice and you gave it to Ms.
14 Greger, would it be fair to say that you had some sense of how many, how
15 much time you had put into this case in terms of your personal labor?

16 A. I'd say hour to an hour and a half.

17 Q. That would have been how much money in your normal billing practice?

18 A. Now we've moved up, we're into, as things got more expensive, \$100 an
19 hour--

20 Q. --So, now, it's about 150 bucks?

21 A. Correct.

22 Q. Now, did you ever receive compensation for your work?

23 A. No, I did not.

24 Q. Did you ever bill Ms. Greger?

25 A. No, I did not.

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1 Q. Did you ever ask respondent for the money? For--

2 A. --No, I did not--

3 Q. --say, you know, here's what I did. Did you ever give him a bill?

4 A. No, I did not.

5 Q. Why did you neither ask Ms. Greger nor ask respondent for
6 compensation?

7 A. History of the expectation that, don't charge.

8 Q. In all of the cases, Ramich, Greger, Seither, did you ever say to the judge,
9 don't worry, these are *gratis*, no charge?

10 A. Absolutely not.

11 Q. There was never any discussion of money at all, was there?

12 A. No, there was not.

13 Q. Alright. When you finished with Greger, did he thank you for your
14 efforts?

15 A. No, he did not.

16 Q. Did he give you a gift card to, say, to, of some extent for a restaurant of
17 any kind, \$100?

18 A. No, he did not.

19 Q. 75?

20 A. No, he did not.

21 Q. 50?

22 A. Nothing.

23 Q. Nothing, you got nothing from him?

24 A. No, if, if I could explain the situation.

25 Q. Certainly, please do.

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(Cerio-Direct)

1 A. And this is the truth. It's, the impression has always been, or given, I
2 hired you, basically, you do what I say.

3 Q. Alright, is it fair to say that as you knew your job, you served at his
4 pleasure?

5 A. Pleasure?

6 Q. Well, the pleasure--

7 A. --And--

8 Q. --is an expression.

9 A. Or whatever he told--

10 Q. --He worked--

11 A. --me to do, do it.

12 Q. You were his personal hire. He had authority--

13 A. --Correct--

14 Q. --to hire and fire you?

15 A. Correct.

16 Q. Alright, as he, you were the personal appointee of this judge, is that
17 correct?

18 A. That is totally correct.

19 Q. Alright. So, in addition to traffic cases, did you have occasion to do any
20 type, any other type of work for the judge personally?

21 A. His real estate closing.

22 Q. A real estate closing would involve the purchase of a home, is that
23 correct?

24 A. That is correct, sir.

25 Q. And in connection with the purchase of that home, can you tell us the

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1 location of, of that home purchase?

2 A. On Euclid Avenue in Elmira, New York, just a few blocks from his
3 regular, his--

4 Q. --He had another home on Euclid Avenue?

5 A. Correct.

6 Q. To your knowledge, does he still have the first home on Euclid Avenue?

7 A. To this day?

8 Q. To your knowledge.

9 A. I am not sure.

10 Q. Alright.

11 A. No.

12 Q. In connection with the purchase of a home, did you concurrently,
13 concomitantly--

14 A. --Use smaller words, please.

15 Q. At the same time represent him in connection with the sale of any other
16 homes on Euclid Avenue?

17 A. No, just--

18 Q. --So, he was living in one home on Euclid Avenue at the time, buying
19 another, you were representing him in connection with the house that was
20 being bought, is that correct?

21 A. Correct, and if I--

22 Q. --But you--

23 A. --could back up--

24 Q. --Please do--

25 A. --he was asking me to look for somebody to rent his home on, the one that

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1 he was presently living in, before he moved into this one.

2 Q. Alright. How did it come about that you became involved in representing
3 him in connection with the purchase of the second home on Euclid
4 Avenue?

5 A. Once again, walking into the courtroom, Elmira City Court, "Mr. Cerio, I
6 need to see you in my chambers," and, you know, at this time, you never
7 know, I didn't know what it was going to be about. "Look, this is a nice
8 house. I want to put in a purchase offer. I'm going to offer "X" amount
9 of money," you know, "I'm signing it, I witnessed it--

10 Q. --The purchase offer?

11 A. Yes, he says, "Fax it to the realtor now."

12 Q. The name--

13 A. --Now-

14 Q. --of the realtor?

15 A. Jo Chalk.

16 Q. Did you know, it's a woman or a man?

17 A. Woman.

18 Q. Ms. Chalk, did you know Ms. Chalk to be a realtor?

19 A. I knew that she was a realtor--

20 Q. --Alright--

21 A. --yes.

22 Q. So that we're clear, and we'll get back to the now portion--

23 A. --Yep--

24 Q. --you understand. So that we're clear, did you bring to the judge's
25 attention the location of this home in terms of saying, judge, there's a

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1 great house available down the block from you. You may want to think
2 about it?

3 A. Absolutely not. He, it was, like, you know, going to buy the car, so to
4 speak, well, the, the salesman says, I got another buyer coming but he
5 wanted this purchase offer in right then. He wanted me to fax it from
6 Elmira City Court fax machine, and I said, "Remember we shouldn't do
7 this--

8 Q. --You had gotten--

9 A. --because--

10 Q. --in--

11 A. --of the--

12 Q. --trouble about that before, right--

13 A. --before, let me do it from my office. "Go do it now."

14 Q. So, did you do that?

15 A. I left and went to my private office and faxed it to Ms. Chalk.

16 Q. Alright. You look at Commission Exhibit 5, which is the HUD statement,
17 right?

18 A. Correct.

19 Q. And, can you tell us when was it that you were representing the judge in
20 connection with this closing?

21 A. Well, it starts back from when the purchase offer was signed, which I
22 believe you have in your possession. And the closing date was May 1,
23 2008. And it was from a not-for-profit organization, so it takes a little
24 longer because you have to have the Attorney General's approval in these
25 matters. The Supreme Court has to approve it as well.

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1 Q. Okay, so let's go through that.

2 A. Yes.

3 Q. He says, "Fax it now," you go to your, you go to your office, you leave
4 the court as part of your regular work day, right?

5 A. Correct.

6 Q. Alright. You go to your private office, you fax it. Do you hear back on
7 the purchase offer?

8 A. Later on. It was in the afternoon, it came back "accepted."

9 Q. To your private office?

10 A. Correct.

11 Q. Did you do any work on the closing, to any extent, in your court offices?

12 A. No.

13 Q. So, this was done completely separately from the court?

14 A. Correct.

15 Q. When the judge, did you understand that you were, this was what you
16 were supposed to do to represent him personally in connection with this
17 closing?

18 A. Meaning?

19 Q. That was part of your job?

20 A. Yes.

21 Q. Did you think you had any alternative but to take this on his behalf?

22 A. No, I did not.

23 Q. You've, you've indicated that this was a charity that owned the house,
24 right, a religious organization?

25 A. Yes, he--

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1 Q. --United Methodist, would that be clear?

2 A. They changed, New Beginnings, they merged. And he knew the elders on
3 the, he informed me that he knew some of the elders, or church members,
4 and was negotiating with them.

5 Q. Who was representing the church?

6 A. The O'Mara Firm.

7 Q. Davidson and O'Mara?

8 A. Correct.

9 Q. And that's a local Republican oriented connected firm in which John
10 O'Mara is the named partner?

11 A. For lack of a better term, Judge Ramich's nemesis, shall we say.

12 Q. Alright, so they're on the other side?

13 A. The big red house, as he referred to.

14 Q. That's where their firm is located?

15 A. Yes.

16 Q. Down the block from the courthouse on Lake Street?

17 A. The bottom--

18 Q. --Lake Avenue.

19 A. Half a block away.

20 Q. Okay. This is no simple closing, I gather, from what you are telling us.
21 It's not a standard closing because of the involvement of the, of the
22 religious organization, is that correct?

23 A. That is correct.

24 Q. You've indicated that there had to be an application to the Supreme Court
25 to get approval for the sale?

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1 A. Not from my side, but from the seller's side.

2 Q. And notification to the Attorney General?

3 A. Correct.

4 Q. But you were notified and provided copies of the documents in
5 connection with both those processes were you not?

6 A. That is correct. I noticed that Mr. Maggs, who--

7 Q. Brian Maggs?

8 A. Yes, who is--

9 Q. --from Davidson--

10 A. --and O'Mara--

11 Q. --O'Mara--

12 A. --had not sent me the permission from the Attorney General signing off,
13 and we were waiting for that, because, I believe the closing date, because
14 it was a cash deal, Judge Ramich did not have to get a loan, and on the, it
15 was, it says, like, by March 1st we were to close.

16 Q. So, there was some issue about the closing date that had to be resolved?

17 A. Yeah, and then I had to go through and make sure and refresh my mind
18 about doing, buying from not-for-profit organizations--

19 Q. --You had to do legal research?

20 A. Yeah, and I had a file folder. It's just going through, making sure all the
21 steps--

22 Q. --Did you read the documentation provided to you by Davidson and
23 O'Mara concerning the application to Supreme Court?

24 A. Yes.

25 Q. Did you read the, or notification provided to the Attorney General's

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1 Office?

2 A. Yes.

3 Q. Did you review the order from the Supreme Court permitting the religious
4 organization to sell the property?

5 A. Correct.

6 Q. And was that Judge Mulvey who signed off on that order?

7 A. That is correct.

8 Q. So, Judge Mulvey authorized the sale to respondent, is that correct?

9 A. Correct.

10 Q. And then you had to do the, set up the closing date, is that correct?

11 A. Yes.

12 Q. And in terms of a normal practice, there is exchange of information,
13 surveys, proposed title, excuse me, proposed deed, review of the title
14 abstract, is that all correct?

15 A. That is correct.

16 Q. And did you do that in this, this matter?

17 A. Absolutely.

18 Q. Alright, was there a discussion about pro rations?

19 A. Well, what happens is, it's a not-for-profit, so they're tax exempt on, like,
20 the school taxes, etcetera. I--

21 Q. --So, what--

22 A. --I explained to him--

23 Q. --Him being?

24 A. Judge Ramich, that you realize the day you take over this property, the
25 taxes are going to go up. You're going to get the regular--

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1 Q. --A tax bill?

2 A. Yeah, which reflects what the, the original--

3 Q. --The actual--

4 A. --yeah--

5 Q. --taxable value of the property.

6 A. And I was blamed for screwing it up on the taxes.

7 Q. Because it looked like the taxes jumped as a, after the purchase, right?

8 A. Yes, and that, but I explained, and he said, "Well, I know. I'm a, I did a
9 lot of real estate in my practice."

10 Q. How much time did you spend on this?

11 A. This, about five, six hours, and I do recall that he did not go to the
12 closing. I went on his behalf. I had, they made me wait for, like, an hour
13 in their waiting room because they were having some sort of luncheon
14 or--

15 Q. --They, sir?

16 A. They, Davidson O'Mara. So, I sat there for about an hour just waiting for
17 the closing to take place.

18 Q. So, a total of five hours?

19 A. Yes, at least.

20 Q. Did you bill respondent for your actions on his behalf?

21 A. No, I did not.

22 Q. The closing eventually went through and the property was transferred to
23 respondent?

24 A. Correct.

25 Q. Do you know that to be the home in which he currently lives?

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1 A. The last time--

2 Q. --You knew about it?

3 A. Yes.

4 Q. Alright. Did respondent ever pay you for your efforts on this, on this
5 behalf?

6 A. No.

7 Q. Did you bill him?

8 A. No.

9 Q. Why not?

10 A. I had worked for this gentleman for, at this time, for several years. I
11 know it was, I hired you as my clerk, this is part--

12 Q. --That was your--

13 A. --of your--

14 Q. --understanding--

15 A. --job.

16 Q. That was your understanding--

17 A. --That--

18 Q. --based upon his treatment of you over the years?

19 A. Correct.

20 Q. Had he ever expressed to you the view that, hey, Fred, I'm not going to,
21 you're not going to bill me for this because I've referred a load of cases to
22 you and you've made money off me after I left my private practice?

23 A. I don't recall those words, no.

24 Q. He never said, did he say anything like that to you?

25 A. No.

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1 Q. Did you ever get any significant work referred to you by him?

2 A. I had people and it was nothing, it was, like, people who needed a power
3 of attorney or something to that effect.

4 Q. And as you sit here today and you think about--

5 A. --With no money--

6 Q. --no, no substantial income generated--

7 A. --they, they had no money, I mean, it was--

8 Q. --you're doing, you're doing a favor in that regard as well?

9 A. But I didn't do it if they didn't have the money. I'm sorry, you know, I
10 had to make a living. That's when they were referred to my office, like,
11 for a power of attorney, or they wouldn't show up, or then they'd come
12 back, and then they'd--

13 Q. --Did this happen a couple of times?

14 A. Yes.

15 Q. Did--

16 A. --Taking, I'd--

17 Q. --you ever make any--

18 A. --have time, you know where I could be doing other work, waiting for
19 these people, and they wouldn't show up.

20 Q. Did you ever receive what you would consider to be substantial income as
21 a consequence of referrals from respondent?

22 A. Absolutely not.

23 Q. Would it be fair to say that the house closing was not the last real estate
24 matter that you were involved in on behalf of respondent, as an attorney,
25 you being the attorney?

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(Cerio-Direct)

1 A. That is correct.

2 Q. Did you have occasion to represent a company in a lease negotiation for a
3 property at 50, excuse me, on behalf of a company called Ramich Realty
4 Corporation?

5 A. Yes, I did.

6 Q. I'm going to show you Commission Exhibit 6, and ask you to take a
7 moment, please, to look through that.

8 A. I'm very familiar with this. I drew this.

9 Q. You recognize the lease?

10 A. Yes, I did.

11 Q. You drafted it?

12 A. Yes, I did.

13 Q. On behalf of whom?

14 A. Judge Ramich, Ramich Realty.

15 Q. Alright, so let's step back. How did it come about that you got involved
16 in this endeavor, this negotiation?

17 A. Same, walk in the courtroom, Elmira City Court, "Mr. Cerio, I need to see
18 you." "What?" Lease is up on a building that he owned.

19 Q. Okay, did you know that respondent was involved with a company called
20 Ramich Realty Corporation?

21 A. Yes.

22 Q. And when was, when did it happen that you were doing this? Give us a
23 general time period, please, sir.

24 A. This took a while.

25 Q. There are other documents included there. I'd ask you to look at those,

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(Cerio-Direct)

1 please.

2 A. I'm sorry. April 4, April 7, 2009, April 23rd, this is--

3 Q. --April 2009, would it be, April, April, May 2009?

4 A. Yeah, it went on for a while. It was negotiations over what needed to be
5 fixed, who was to pay for it--

6 Q. --We'll--

7 A. --fix--

8 Q. --We'll get there.

9 A. Yes.

10 Q. What does he actually give you, if anything, to indicate what you needed
11 to do, you should do something on his behalf in terms of representing
12 Ramich Realty?

13 A. Could you, I'm sorry--

14 Q. --The first time--

15 A. --I was reading--

16 Q. --does he give you anything, when he says I--

17 THE REFEREE: --You mean in terms of
18 compensation?

19 MR. POSTEL: No, no, in terms of paper work,
20 documentation, instruction.

21 Q. What did you know that you were supposed to do, and how did you know
22 you were supposed to do it?

23 A. He gave me a phone number of this Mr. Kerry Leipold, who is of out,
24 Park Outdoor--

25 Q. --Advertising?

(Cerio-Direct)

1 A. Correct.

2 Q. Alright. Had you ever seen the building before Judge Ramich talked to
3 you about getting a lease?

4 A. During his election--

5 Q. --In 2006?

6 A. Yes. He gave me a check to take up, because they were doing billboards
7 for him. So, I--

8 Q. --You'd been there?

9 A. Yes.

10 Q. Alright.

11 A. That's a, it's, you could miss it. It's right, it just blends in.

12 Q. When this lease negotiation is given to you for action, are his instructions
13 to you to take action couched in the same language that you've used
14 consistently already, "Take care of it"?

15 A. Yes.

16 Q. Did you understand this to be something that you were required to do in
17 connection with your position as a court attorney?

18 A. Because he hired me, yes.

19 Q. Did he say to you or condition your efforts, specifically any conditions he
20 attached to this, by saying, don't work on this in your court office?

21 A. Absolutely not.

22 Q. Don't use court facilities to work on this, did he condition it in any way
23 along those--

24 A. --No he--

25 Q. --lines--

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(Cerio-Direct)

- 1 A. --did not.
- 2 Q. Did he say, don't use court time, your time here during the day, your
3 mornings specifically to work on this?
- 4 A. No, he said, "Take care of it now." I, and once again, I always said, "let
5 me go back to my office," "No, you'll get," you know, "you're busy in
6 the afternoon," etcetera, etcetera.
- 7 Q. So, what did you do, sir?
- 8 A. I called Mr. Leipold.
- 9 Q. From where?
- 10 A. My office in the back of the courtroom.
- 11 Q. Did you understand, based upon respondent's instructions to you, that you
12 were to do that specifically, to go to your office and act on this lease
13 negotiation immediately?
- 14 A. When you're saying, my office, the courtroom--
- 15 Q. --Court, court, right, the court attorney--
- 16 A. --absolutely--
- 17 Q. --office.
- 18 A. Get on it now. It was, like, everything, now, now.
- 19 Q. He instructed you to "do it now"?
- 20 A. Yes.
- 21 Q. Had you had experience in lease negotiations for commercial property
22 before that date?
- 23 A. Not really, no. This was something--
- 24 Q. --New to you?
- 25 A. Yes.

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(Cerio-Direct)

1 Q. Alright. Did you in fact, contact or attempt to contact Mr. Leipold from
2 the court office?

3 A. Yes.

4 Q. Tell us about that, please, sir.

5 A. I just called the phone number of Park Outdoors. He was not in, played
6 phone tag a lot. There were emails exchanged, some were--

7 Q. --With Mr. Leipold?

8 A. Some went to Judge Ramich, and then he would forward them onto me.

9 Q. So that we're clear, Ramich Realty is not the same in total as the
10 respondent, Thomas Ramich, is that correct? There are other members of
11 the Ramich Realty Corporation?

12 A. I wasn't sure, except, besides his sister.

13 Q. So--

14 A. --He informed me.

15 Q. That's his twin sister?

16 A. Correct.

17 Q. Mr. Seither's wife?

18 A. Correct.

19 Q. So, he told you that one of his relatives was also a principal in the
20 corporation, is that correct?

21 A. Yes.

22 Q. So, you were acting, not just on behalf of respondent himself, but you
23 were acting on behalf of the corporation and Ms. Seither?

24 A. Correct. He had given me a prior lease that--

25 Q. --As a template?

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(Cerio-Direct)

1 A. Well, as a template, but what, when it was expiring, and it was signed by
2 him as the president.

3 Q. Alright, the then current lease prior to its expiration?

4 A. And if I could elaborate on that, so, I was drawing it up with him being
5 president of it. He explained the situation that he's no longer the
6 president. Something to the effect of during his divorce, Mr. Reilly had
7 screwed up the divorce as to who, how much he owned of this, and what
8 his title was. So I was confused.

9 Q. And the Reilly you're talking about is the Mr. Reilly today in the
10 courtroom--

11 A. --Yes. This gentleman right there. That he had, during the divorce,
12 screwed his divorce up as to percentages of who owned--

13 Q. --So, there was an issue that came up about the corporation itself in
14 connection with your representation, is that right?

15 A. Correct. I was confused as to what percentages. I was under the
16 impression there was him and his sister. I wasn't sure who else.

17 Q. Right. Did you have any connection or contact with his sister in
18 connection with your representation?

19 A. Absolutely not.

20 Q. What do you do to further his direction to you to take care of this lease
21 matter? What do you, what do you actually do besides call and email Mr.,
22 Mr. Leipold?

23 A. I see what square footage is going for in the area for commercial
24 buildings, and actually, he was comparing, because that is a high-volume
25 traffic area, good location. He was actually being offered more than what

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(Cerio-Direct)

1 the average in that area was being leased for.

2 Q. It was a favorable agreement, is that--

3 A. --Yeah--

4 Q. --correct.

5 A. I had also contacted a realtor by the name of Ron Panosian, who does
6 commercial leases, and he works for, he had Allcom. The Panosians,
7 they own a lot of--

8 Q. --So, you reached out to the community--

9 A. --to somebody who knew what they were doing.

10 Q. Okay, and so did you actually engage in negotiations with Mr. Leipold on
11 behalf of changes to or improvements of the real problem?

12 A. Absolutely.

13 Q. As you sit here today, tell us, please, what that involved. What kind of
14 changes--

15 A. --It was a long--

16 Q. --and improvements--

17 A. --process. What needed to be fixed, who's paying for it, you know, going
18 back and forth. He was out of the office a lot--

19 Q. --He being respondent--

20 A. --meaning, or the respondent, as well,

21 Q. --Judge Ramich--

22 A. --Judge Ramich, as well as Mr. Leipold, and so, I'm in this quandary here,
23 I have to get this done, got to get this done, got to get this done.

24 Q. You didn't have authority to make decisions on Ramich Realty behalf, is
25 that correct?

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1 A. Correct.

2 Q. You were negotiating on behalf, but needed their approval as to what
3 amounts they would agree to contribute to what, excuse me,
4 improvements should be made first, and what amounts, if any, they would
5 contribute to those improvements or maintenance?

6 A. I, I did not attend a board of directors meeting, which corporate, they
7 have to have a meeting, to my understanding with a--

8 Q. --So, how did you--

9 A. --quorum--

10 Q. --how did you communicate with respondent about this?

11 A. I just would show him either the emails from Kerry Leipold or Kerry
12 Leipold would contact him, he would forward me the--

13 Q. --If you look at the email dated 4/23/09, and on the bottom there's various
14 discussions about maintenance issues and improvements, and cost thereof
15 in there too. Those are your notes?

16 A. Those are my poor handwritten notes, yes.

17 Q. Okay, and you did communicate that to respondent, Judge Ramich, didn't
18 you?

19 A. Yeah, correct--

20 Q. --And--

21 A. --because, yeah, mm-hmm.

22 Q. Did you ever reach an agreement or did Judge Ramich ever tell you that
23 there was an amount certain that he was willing to pay, and did you
24 communicate that to Judge, to Mr. Leipold?

25 A. Which was embodied in the lease agreement, if that's what you're talking

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1 about, yes.

2 Q. Did you draft a lease, sir?

3 A. Yes, sir.

4 Q. Did you make changes in the template or the then current lease that you
5 were given by Judge Ramich?

6 A. Yes.

7 Q. In terms of your actions on behalf of Ramich Realty Corporation, can you
8 tell us approximately how many hours you spent total in furtherance of
9 that representation?

10 A. This, this took quite a long time. It could take ten hours.

11 Q. Well, you're the one who did it, sir. I, I didn't do it. You need to--

12 A. --Well, I--

13 Q. --tell us--

14 A. --wasn't getting paid, but I'm saying it, you know, back and forth,
15 missing--

16 Q. --You would estimate ten hours?

17 A. I'm going to say, at least, yes.

18 Q. Ten hours or more would be fair to say?

19 A. Yes.

20 Q. When it was over, did you bill the judge for your ten hours or more?

21 A. No, I did not.

22 Q. So, when that was what, 2000--

23 A. --9, this was when--

24 Q. --nine--

25 A. --everything--

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1 Q. --right

2 A. --yeah--

3 Q. --and so you've indicated your hourly rate then was \$100 an hour?

4 A. Correct.

5 Q. So, you put in about \$750 worth of work?

6 A. Well, if we do our math at 100 times ten hours, that's what--

7 Q. --Excuse me, \$1,000--

8 A. --\$1,000, yes.

9 Q. I was thinking your old rate. 1,000--

10 THE REFEREE: --Your forgetting that he went to
11 State University at Albany, apparently and so--

12 THE WITNESS: --Well, it's the finest--

13 THE REFEREE: --his math skills--

14 THE WITNESS: --institution in--

15 THE REFEREE: --yes, yes--

16 THE WITNESS: --the--

17 THE REFEREE: --but not apparently in math.

18 THE WITNESS: Yes, as you say, go--

19 THE REFEREE: --Continue, counsel--

20 THE WITNESS: --great--

21 MR. POSTEL: --Thank you, Your Honor--

22 THE WITNESS: --great danes, right?

23 MR. POSTEL: Great danes.

24 THE WITNESS: Yes.

25 Q. You put in \$1,000 worth of work into this matter, is it fair to say?

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- 1 A. Correct.
- 2 Q. Alright. But you didn't bill the judge for any amount of money, did you?
- 3 A. No, I did not.
- 4 Q. Why didn't you bill him?
- 5 A. Once again, working for this gentleman, it was like I owed him--
- 6 Q. --Was this--
- 7 A. --it was part of my job.
- 8 Q. A condition of employment?
- 9 A. Yes.
- 10 Q. Without even, without having to bill him, did he offer, contact you and
- 11 offer you to give some payment?
- 12 A. No, it was always, and I, I want to back up, and I'm sorry, and this is
- 13 hard. It's, I could never do anything right. It was, like, you know, like,
- 14 getting back with Ms. Geiger, you know--
- 15 Q. --Greger.
- 16 A. Greger. You know, it wasn't a good enough deal. I, I can't control that.
- 17 His daughter's--
- 18 Q. --Was there--
- 19 A. --fee, what she got fined, I can't control that, but that--
- 20 Q. --Was there--
- 21 A. --was a heck--
- 22 Q. --some sentiment--
- 23 A. --of a deal--
- 24 Q. --expressed to you that this was not a good deal?
- 25 A. Well, going back and forth, you know, let's get him down, you know,

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1 more, and I said, "You're already getting more than anyone on that

2 Miracle--

3 Q. --You--

4 A. --Mile--

5 Q. --explained that this was good income--

6 A. --yes--

7 Q. --producing property--

8 A. --yes--

9 Q. --and that he was--

10 A. --based upon--

11 Q. --producing--

12 A. --what I--

13 Q. --more--

14 A. --was told--

15 Q. --than the--

16 A. --by--

17 Q. --comparables--

18 A. --based upon someone who had been in the business at least--

19 Q. --okay--

20 A. --20 years.

21 Q. But my question to you is, did he come to you and say, thanks for your,

22 excuse me, yeah, let's say that, did he come to you and say, thanks for

23 your efforts on the behalf of myself and my corporation?

24 A. No, I mean, there's an email, like, why is it taking so long.

25 Q. Did he thank you when it was done?

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(Cerio-Direct)

1 A. No, sir.

2 Q. Did he offer to pay you when it was done?

3 A. No, sir.

4 Q. Having gone through various representations of his friends and relatives,
5 of him personally, did you have any expectation of receiving any
6 remuneration?

7 A. No, sir.

8 Q. Did you have any expectation--

9 A. --My job was my--

10 Q. --to do this?

11 A. No, my job, my pay, was that.

12 Q. You were being paid as a court attorney, so take care of this for me--

13 A. --Absolutely--

14 Q. --For free? That's what you understood it to be?

15 A. Absolutely. And I'm sorry, but that was my honest opinion. I'm under
16 oath, I know the man.

17 Q. In terms of the entirety of the environment in which you work, that's the
18 conclusion you drew from the treatment of you and what he had told you
19 to do, and what you had done for him, is that true?

20 A. That is true. I was tired, and I would do it also because all he would do is
21 complain about everybody. So, it was, like, the environment was, thank
22 God it's not me that, he always had to be mad at somebody--

23 Q. --You didn't want to be subject to his--

24 A. --He had to be--

25 Q. --wrath--

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1 A. --mad at somebody all the--

2 Q. --did--

3 A. --time--

4 Q. --you want to be subject to that wrath?

5 A. I did not.

6 Q. Okay, so, in addition to representing him on the legal cases, were you
7 made to run or do personal errands on his behalf as his court attorney?

8 A. Yes.

9 Q. I'm going to show you a check. It's Commission Exhibit 7, number 1066,
10 Frederick M. Cerio. Looks like a personal account--

11 A. --Yes, it is--

12 Q. --in the amount of \$19.25 in April 2009. Does that ring any bells with
13 you, sir?

14 A. Absolutely.

15 Q. What is it?

16 A. It's for his dump trailer. I--

17 Q. --Tell us--

18 A. --paid for--

19 Q. --about--

20 A. --it--

21 Q. --this.

22 A. He likes to do projects around his home. I had a beat up truck. I
23 borrowed a mutual friend's dump trailer on certain times. He decided he
24 wanted to buy his own. So, to make a long story short, I drove him up on
25 a Saturday to Lowe's in Horseheads, New York. He bought a dump

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1 trailer. It needed to be registered, take care of it.

2 Q. Well, you're, you're going too fast for me. You--

3 A. --You, me, you're--

4 Q. --went with the judge to Lowe's, and in his presence, observed him
5 purchase a dump trailer.

6 A. He went to go buy it, and I was buying a trailer ball for--

7 Q. --A hitch?

8 A. Yes.

9 THE REFEREE: For your own--

10 THE WITNESS: --Truck--

11 THE REFEREE:--fine--

12 THE WITNESS: --this thing was beat, my truck, yes.

13 Q. Would you describe for us, please, for those who may not know, here and
14 beyond, what a dump trailer is?

15 A. It's a trailer that's kind of open that you put loam, dirt, garbage, whatever.

16 Q. Does it lift so that it can be pushed out?

17 A. Lift up--

18 Q. --Yes--

19 A. --that's the high tech. You have to crank them up, I guess and put--

20 Q. --it cranks up--

21 A. --it down, yes.

22 Q. And not in terms of putting on the hitch, but why, what's the dump
23 portion of this trailer?

24 A. So that when you get to the site--

25 Q. --Work site--

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1 A. --you would either have to shovel it off or if you're at the dump, you
2 would pick it--

3 Q. --lift it--

4 A. --up, and it's--

5 Q. --oh, so--

6 A. --heavy, yeah--

7 Q. --you pick it up yourself with your own personal strength?

8 A. Correct.

9 Q. Alright, so essentially, this is a trailer for, with low sides, would it be fair
10 to say?

11 A. Yes.

12 Q. Twelve inches?

13 A. Tops, yes.

14 Q. Sure, and, and it was used for landscaping purposes, generally, to your
15 understanding?

16 A. Yes.

17 Q. Alright, so you knew he bought the trailer?

18 A. I took him there.

19 Q. Sure, and you're then told to register the trailer on his behalf, is that
20 correct?

21 A. Yes.

22 Q. Where were you when you were told this, sir?

23 A. In my, at the court, once again, because you have so many days in which
24 to register it once you buy it.

25 Q. So, you go on Saturday. When does he tell you to register it?

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1 A. Monday, I would believe, yes.

2 Q. Where were you when he told you to do this?

3 A. Elmira City Court.

4 Q. How did he tell you to do this?

5 A. I was in his chambers.

6 Q. How did he, what did he say to you to get you to do this?

7 A. Go get the paperwork, go to the DMV, wherever, I would, went to
8 Catherine Hughes, who's closer, because our DMV takes hours.

9 Q. Catherine Hughes is the County Clerk?

10 A. As well as the Commissioner of Motor Vehicles in Chemung County.

11 Q. Sure.

12 A. So, I went to the County Clerk's Office--

13 Q. --Why did you go?

14 A. Because he told me to.

15 Q. Okay. Did you go in the afternoon after he told you? Did you go--

16 A. --No--

17 Q. --immediately--

18 A. --in the morning, immediately.

19 Q. Alright--

20 A. --Take care of things now.

21 Q. This was on court time?

22 A. Absolutely.

23 Q. And so, in terms of him telling you to go register the trailer, when he used
24 language of that nature, you knew what he was talking about because you
25 had taken him to buy the trailer?

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1 A. Yes.

2 Q. Alright, did--

3 THE REFEREE: --Just a moment. Now, there's
4 some counties, smaller counties, where the DMV office is
5 located in the same building as the courthouse.

6 THE WITNESS: Like here, this takes five minutes--

7 MR. POSTEL: --The County--

8 THE WITNESS: --ours--

9 THE REFEREE: --fine--

10 THE WITNESS: --is--

11 MR. POSTEL: --courthouse --

12 THE REFEREE: --fine--

13 THE WITNESS: --ours is--

14 THE REFEREE: --is it, I have no idea about--

15 THE WITNESS: --Elmira. It's in human resource
16 business building on the south side of Elmira, which is
17 probably approximately three or four miles away.

18 MR. POSTEL: From the courthouse?

19 THE WITNESS: Correct, which--

20 THE REFEREE: --Okay--

21 THE WITNESS: --packed, packed where you could
22 wait for two hours. You don't fill out the paperwork, get
23 back in line.

24 Q. Okay, so, where did you actually go to do this?

25 THE REFEREE: Okay.

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1 A. Catherine Hughes's--

2 Q. --Well, we don't know who Catherine Hughes is.

3 A. Catherine, the County Clerk/ Commissioner of Motor Vehicles, who is
4 located on Lake Street in Elmira approximately two blocks away from the
5 Elmira City Court.

6 Q. And you knew to do that, right, you knew that was the place to go?

7 A. Correct.

8 Q. When he told you to go register his trailer that day, and I gather it was in
9 chambers?

10 A. Correct.

11 Q. Did he say to you, don't do this on court time?

12 A. No.

13 Q. But you went immediately?

14 A. Because he would think I would not take care of it--

15 Q. --But--

16 A. --if I--

17 Q. --you know that, had you ever registered a motor vehicle prior to this
18 time, that time?

19 A. For him, yes, another one--

20 Q. --for, for yourself?

21 A. Yes.

22 Q. Alright, do you understand that in connection with the registration of
23 motor vehicles in the State of New York, certain documentation has to be
24 completed?

25 A. Yes.

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- 1 Q. And that's a dump trailer registration form of some--
- 2 A. --Which I--
- 3 Q. --nature--
- 4 A. --never owned one.
- 5 Q. Alright. Did you generate a dump trailer, or registration form for the
- 6 dump trailer?
- 7 A. Ms. Hughes did at her office at, on Lake Street, not at the DMV.
- 8 Q. Okay, and who completed that registration form?
- 9 A. She did.
- 10 Q. Based upon what?
- 11 A. I just had the paperwork and I said, "I have no idea. I don't--
- 12 Q. --Right--
- 13 A. --own a dump trailer. What needs to be done?"
- 14 Q. Well, this is the first time we're hearing about something, and that is that
- 15 you had paperwork with you. We're not--
- 16 A. --I had--
- 17 Q. --assuming anything. You had paperwork?
- 18 A. Ownership--
- 19 Q. --The title?
- 20 A. I don't even think--
- 21 Q. --The proof--
- 22 A. --they gave you--
- 23 Q. --of purchase?
- 24 A. Proof of purchase, that's what it is.
- 25 Q. Alright, and where did you obtain that proof of purchase and

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1 documentation?

2 A. From Judge Ramich in his chambers.

3 Q. So, when he said, go register the trailer, he gave, did he give you
4 something?

5 A. I believe it had to be the, the bill of sale, or whatever they gave with the
6 dump trailer, because I wasn't there when he paid for it, because I buying
7 a trailer--

8 Q. --The ball--

9 A. --ball.

10 Q. The hitch ball?

11 A. Yeah.

12 Q. Okay. You take the paperwork that he had given you, whatever it was,
13 you go to Ms. Hughes's office, and you explain that you are registering a
14 trailer on behalf of Judge Ramich?

15 A. Correct.

16 Q. And Ms. Hughes is responsive to that and assists you as part of her job. Is
17 that correct?

18 A. Correct, yes.

19 Q. Okay. In terms of the state registration form, did it need to be signed?

20 A. I would assume so. I didn't sign it. So, I'm trying to remember--

21 Q. --Do you know how the vehicle was registered without it being signed?

22 A. All she said was, give me a check, and you can see my handwriting--

23 Q. --We'll, we'll give you a check. What else did she say?

24 A. I'll take care--

25 Q. --Do--

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(Cerio-Direct)

1 A. --of it, and I had to have, he had to have signed for it. I didn't sign.

2 Q. Alright, so you take them the paperwork relating to ownership?

3 A. Correct.

4 Q. You're advised that there is a registration process and the registration
5 process has a fee. There is a fee for registering a trailer in the State of
6 New York?

7 A. Yes.

8 Q. Before you went to go to Hughes's office, when he gave you the
9 paperwork, did he give you any cash to say here, pay for the registration
10 fee?

11 A. No, no.

12 Q. When you got down to Hughes's office and she said something about a
13 fee, what was your reaction?

14 A. I knew there was going to be a fee.

15 Q. How did you know that?

16 A. Nothing's for free.

17 Q. Especially registering vehicles in the State of New York, right?

18 A. Correct.

19 Q. So, you took your checkbook with you?

20 A. Yes.

21 Q. Had you asked him or thought to ask him for a check, and a blank check
22 of any nature to pay for the fee?

23 A. No.

24 Q. You were doing this as a convenience to him?

25 A. Correct.

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1 Q. So, how much are you told the registration fee is?

2 A. She didn't know. So, she said, "Put the date, make it out to the
3 Commissioner of Motor Vehicles, and then sign the check." As you can
4 tell, the handwriting's different. She filled out--

5 Q. --When?

6 A. When she goes in the afternoon, she works in the mornings at the county
7 clerk's office, then goes to the DMV in the afternoon, is my
8 understanding.

9 Q. Okay. Did you at some point, get the check back or get some--

10 A. --Paperwork--

11 Q. --receipt, paperwork, relating to what you had paid on respondent's behalf
12 to get this registered?

13 A. A couple days later, I can't, I don't recall the date, she calls me at my
14 private office and says, "I have the paperwork."

15 Q. The registration paperwork?

16 A. Correct.

17 Q. What do you do?

18 A. Go get it.

19 Q. Then when you pick it up, what do you do with it?

20 A. Left it with Judge Ramich.

21 Q. Side of the street?

22 A. In his chambers.

23 Q. And do you make a notation of any type saying you paid \$19.25 for him?

24 A. I made a copy of the--

25 Q. --Check--

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(Cerio-Direct)

1 A. --of, of this, yeah.

2 Q. The cancelled, the check had already been cancelled?

3 A. No. not yet.

4 Q. Oh.

5 A. But, I mean, she gave me a printout--

6 Q. --That included the check front?

7 A. Yeah, this.

8 Q. Right.

9 A. And so I put it on, I put things on his chair, because he would lose things
10 on his desk he said.

11 Q. Alright.

12 A. So, everything was on his chair.

13 Q. Did you hear from him afterwards, after those few days later
14 acknowledging that you had registered the trailer successfully for him?

15 A. Did I hear from him?

16 Q. Yes, did he say, you've--

17 A. --No--

18 Q. --it's been registered?

19 A. No.

20 Q. Did he say, thank you for going down there, and thank you for taking care
21 of this trailer registration?

22 A. No.

23 Q. Did he ever thank you for it?

24 A. No.

25 Q. Well, at least he gave you the \$19.25 back, didn't he?

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1 A. No, he did not.

2 Q. Well, you left the, you left the registration fee on his chair that week.

3 You didn't get any money from him?

4 A. No.

5 Q. The following week?

6 A. No. Not to this day.

7 Q. What's the date of that check?

8 A. April, my mother's birthday, April 27th '09.

9 Q. So, this is 10, 11, 12 and a number of months, 12, let's say three and half
10 years.

11 A. Correct.

12 Q. To this time, three and a half years, you still have not been reimbursed for
13 the money you put out on his behalf, is that correct?

14 A. That is correct.

15 Q. Why did you put the money out on his behalf?

16 A. Just to get it over, to do it. It's my job.

17 Q. You considered it part of your obligation as a court attorney to take care
18 of what he told you to do, is that correct?

19 A. Yes.

20 Q. And if that included the, if it included the use of your own money on his
21 personal behalf, you were willing to do that?

22 A. To make him happy, to make him get off my case.

23 Q. To--

24 A. --On anything that is bothering--

25 Q. --what had you thought would happen if you had not registered the

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(Cerio-Direct)

- 1 trailer?
- 2 A. I let him down, I didn't do my job.
- 3 Q. Would there be a price to be paid?
- 4 A. Probably I'd write the sex offense manual again that he'd lose or, and
- 5 I'm--
- 6 Q. --You would be--
- 7 A. --not being sarcastic, I'm being--
- 8 Q. --you would be--
- 9 A. --truthful--
- 10 Q. --punished?
- 11 A. I call it a punishment, yes.
- 12 Q. Other personal errands, other personal expectations?
- 13 A. I registered an--
- 14 Q. --Well, let's, let me, let's work through this, and I don't want to lose the
- 15 exhibits. Apparently I have a propensity for that.
- 16 A. I'm sorry, if I'm--
- 17 Q. --That's, no, just, just listen to the question. Commission Exhibit 8,
- 18 would you look at that, please?
- 19 A. Oh, yes. This is the, when they had the getting rid of the larger vehicles
- 20 for more fuel efficient ones.
- 21 Q. Part of the Obama administration program on--
- 22 A. --Cash for Clunkers--
- 23 Q. --stimulating the economy, right?
- 24 A. Correct.
- 25 Q. Alright, did you have any involvement in the "Cash for Clunkers"

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1 program in any way?

2 A. Yes.

3 Q. What was it?

4 A. I was told to come into chambers in Elmira City Court. This was the last
5 day, he always waited to the last second, "Cash for Clunkers." So, he
6 instructed me to call down, I believe it was Williams Toyota about the
7 "Cash for Clunkers." And I called from my office in the back of the
8 courtroom. The gentleman, I can't recall his name, was not in.

9 Q. Salesman?

10 A. Yes, and I said, I placed a call down here, as this says, he was out for the
11 moment.

12 Q. What is it you're referring to that, that Commission exhibit is? It's an
13 email?

14 A. Yes.

15 Q. From who to who?

16 A. From myself to Judge Ramich, then he sent it back to me.

17 Q. Alright. You're telling him that you acted on what he had told you to do,
18 and that you had not yet been successful in reaching the salesman, is that
19 correct?

20 A. Yes, and this was at 11:52 A. M.

21 Q. What date?

22 A. On 8/17/09, which I would be in my office in the back of the courtroom.
23 The email went to him.

24 Q. Alright. So, there was some sense of urgency in terms of timing because
25 the program offer was running out, is that correct?

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1 A. That's correct.

2 Q. Was it that day or the next day, do you know--

3 A. --I can't, couldn't (unintelligible)--

4 Q. --Right--

5 A. --yeah.

6 Q. But, he expressed to you that it was urgent because of the timing on the
7 program, is that fair to say?

8 A. That is 100 percent.

9 Q. And when he communicated with you that you should do this on his
10 behalf to work out a deal for him buying a new car, how did he tell you to
11 do it?

12 A. "Take care of it."

13 Q. "Take care of it." Did he give you any paperwork or details concerning,
14 concerning it specifically?

15 A. I didn't know anything of this. I'd heard of the program. I didn't know
16 how it worked. He needed, then I found out he had needed this, this, this,
17 and this, like, the registration from his vehicle, all--

18 Q. --Qualifications for the vehicle, showing--

19 A. --Yeah--

20 Q. --that it was an approved vehicle in terms of weight and size and--

21 A. --Whatever.

22 Q. Right.

23 A. And I had no clue.

24 Q. Alright, but what did he tell you he needed to do, you should do
25 specifically?

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(Cerio-Direct)

1 A. Just call down there, make contact--

2 Q. --Call to Williams--

3 A. --with this gentleman to get it, the paperwork started, and I had no clue.

4 If I asked him what kind of paperwork, with all due--

5 Q. --And it needed--

6 A. --respect--

7 Q. --to be done now, is that true?

8 A. Yes.

9 Q. And so you acted on it now, is that fair to say?

10 A. Yes.

11 Q. And by acting on it now, you went back to your office--

12 A. --In, in the courthouse--

13 Q. --Elmira City Courthouse--

14 A. --yes--

15 Q. --and made the call?

16 A. Correct.

17 Q. And after you learned that he was, the salesman was unavailable, you sent
18 an email to Judge Ramich on the court computer telling him the
19 gentleman was unavailable?

20 A. Correct.

21 Q. What happened next?

22 A. Then I, I just said in my email, then he wrote back, I said, "I placed a call
23 down there. He was out for the moment." And I had written to him that I
24 had a doctor's appointment in the morning, blood work, and that I might
25 not be in the next day.

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STATE COMMISSION ON JUDICIAL CONDUCT

**400 Andrews Street
Rochester, NY 14604**

(Cerio-Direct)

1 Q. And--

2 A. --And then there was some joke about--

3 Q. --(unintelligible)--

4 A. --do you mean in the court or in the world?

5 Q. Meaning you were going to die, right? Reference to death. Did you take
6 it as such?

7 A. No, whatever.

8 Q. Okay. You've identified, did you have any other involvement in the
9 "Clunker" thing?

10 A. I wanted to get away from it.

11 Q. I didn't ask you that question--

12 A. --I know, I--

13 Q. --I asked you, did you have any other involvement?

14 A. I don't believe so.

15 Q. Okay. Having--

16 A. --Because they needed all this documentation, which I didn't, was, I
17 didn't have, he didn't have. I don't know.

18 Q. You've talked to us about representing Amanda Ramich in that traffic
19 case, right?

20 A. Yes.

21 Q. That was in the summer of 2006, is that correct?

22 A. Correct.

23 Q. Directing your attention to the end of the summer, August 2006, did you
24 have occasion to do anything else in connection with assisting respondent
25 with regard to Amanda Ramich and any university she may have

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STATE COMMISSION ON JUDICIAL CONDUCT

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(Cerio-Direct)

1 attended?

2 A. It was actually January--

3 Q. --2007?

4 A. Yeah, because it was to get her, keep her on his health insurance, because
5 she was in college at Mansfield University.

6 Q. To show the health insurance that she qualified as a student for
7 continuing coverage, is that fair to say?

8 A. Correct.

9 Q. Alright--

10 A. --Because she was turning

11 THE REFEREE: Mansfield University--

12 A. --21.

13 THE REFEREE: Mansfield University being out of
14 state?

15 THE WITNESS: Yes, it's in Pennsylvania, just over
16 the border.

17 THE REFEREE: Thank you.

18 Q. And so, what did he say to you that led you to an understanding of this
19 issue?

20 A. Take care of it now, in chambers, same thing, during court, and--

21 Q. --And what were you to take care of? What did he explain to you?

22 A. To make the phone call to see what needed to be made. My daughter was
23 not in college yet. So, I--

24 Q. --You didn't have any experience with this?

25 A. No.

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STATE COMMISSION ON JUDICIAL CONDUCT

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(Cerio-Direct)

- 1 Q. So, your--
- 2 A. --But I needed--
- 3 Q. --job was--
- 4 A. --it was going to run out.
- 5 Q. Did you understand it to be your job to make a call to the school to get
- 6 proof that she was enrolled for the purpose of sending it to an insurance
- 7 company to continue her health benefit?
- 8 A. For Blue Cross and Blue, yes.
- 9 Q. Alright.
- 10 A. Correct.
- 11 Q. Did you do it?
- 12 A. Yes.
- 13 Q. What did you do?
- 14 A. I called Mansfield University that day, immediately, from my office--
- 15 Q. --Court office--
- 16 A. --in court office, yes, and they told me what was needed.
- 17 Q. And what was needed, and what did you do?
- 18 A. I needed a transcript, you know, I--
- 19 Q. --Mansfield told you what Blue--
- 20 A. --no--
- 21 Q. --Cross needed--
- 22 A. --excuse me, there was a form from Blue Cross/ Blue Shield.
- 23 Q. How did you get that form?
- 24 A. Judge Ramich in his chambers, and I--
- 25 Q. --So, part of what he was explaining to you, he also gave you a form and

311.

(Cerio-Direct)

1 said you had to meet these qualifications?

2 A. Yeah.

3 Q. She had to meet the qualifications, you have to go get the information for
4 this?

5 A. Correct.

6 Q. You understood that to be your job?

7 A. Yes.

8 Q. Part of your job as a court attorney was to service him in that regard?

9 A. Yes.

10 Q. And so you call Mansfield, and you ask for the information that's listed
11 on the Blue Cross form?

12 A. Yes.

13 Q. And what do they--

14 A. --I mean--

15 Q. --tell you?

16 A. You know, I'm getting nervous because I'm going through and I, you
17 know, got to get it done now. It's a new form. I've never seen it before,
18 you know, we need her transcript. Okay, I, mean, I said, "I need her
19 transcript." "Well, are you her father?" "No." "Who are you?" "I work
20 for him." Okay, well then I believe it was spring, or Christmas break.
21 So, I informed him, she's got to get the transcript to Blue Cross and Blue
22 Shield.

23 Q. You informed?

24 A. I informed Judge Ramich.

25 Q. Okay.

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STATE COMMISSION ON JUDICIAL CONDUCT

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(Cerio-Direct)

- 1 A. Mansfield is about a 45 minute trip away. Okay, I'm not going to drive
2 down there.
- 3 Q. They couldn't have just sent it up? Was there any communication in that
4 regard?
- 5 A. We had, like, a day.
- 6 Q. Oh.
- 7 A. Or it was going to be dropped.
- 8 Q. Alright, this was--
- 9 A. --So--
- 10 Q. --timing--
- 11 A. --last minute--
- 12 Q. --was of the essence--
- 13 A. --last minute.
- 14 Q. Fair to say timing was of the essence?
- 15 A. Yes.
- 16 Q. Alright. So, what happened?
- 17 A. So, I informed him that someone has to go down and get the transcript in
18 order to keep her on the insurance. So, he was going to send her down.
19 So, that was it. I just didn't understand the, I--
- 20 Q. --So, you, you--
- 21 A. --wasn't going to drive 45 minutes--
- 22 Q. --you reached out to the university--
- 23 A. --yes--
- 24 Q. --for them to learn how to obtain the information that was necessary to
25 comply with the health insurance requirements?

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(Cerio-Direct)

1 A. Correct, they, you know, it was new, started from this, then they patch
2 you to this, you know, different phones and all, hit this button, hit that
3 button, because now, everything is automated.

4 Q. In terms of personal errands of that nature, and directing your attention to
5 Christmas Eve 2008.

6 A. Yes.

7 Q. Do you, as you sit here today, do you remember that day, that, December
8 24, 2008, specifically?

9 A. Yes, very much so.

10 Q. What do you remember about it?

11 A. Walk in the courtroom, "I need to see you, Mr. Cerio, in chambers. I
12 need you to go pick this up." It was--

13 Q. --Did he hand you something?

14 A. FedEx slip. "I need you to pick that up now. It's a present for my, my
15 brother-in-law." "Okay, FedEx, it's up at the airport, correct?" "No,
16 you idiot. It's at the holding point," which is another location on Route
17 14. I had no clue where--

18 Q. --He calls you an idiot because you didn't know specifically where it was,
19 although he had not told you where it was?

20 A. The only time I've ever seen a FedEx is just in--

21 Q. --I--

22 A. --the--

23 Q. --we don't--

24 A. --airport--

25 Q. --need--

314.

(Cerio-Direct)

- 1 A. --no, no--
- 2 Q. --your explanation--
- 3 A. --I'm just trying to say, I didn't know. The only FedEx I've ever saw in
- 4 my life was at the airport.
- 5 Q. So, he personally insults you?
- 6 A. Yes, and he says, "It closes"--
- 7 Q. --While asking you for a favor, or asking you to do something--
- 8 A. --yes--
- 9 Q. --on his behalf?
- 10 A. Absolutely.
- 11 Q. And he wanted it done now, is that correct?
- 12 A. Yes.
- 13 Q. What do you do?
- 14 A. I get in the car and go.
- 15 Q. Did you get it?
- 16 A. Yes.
- 17 Q. And what did you do with it when you got it?
- 18 A. Gave it to him.
- 19 Q. Well, did you give it to him at the location or did you drive it back?
- 20 A. I believe I took it back to the court.
- 21 Q. And gave it to him at court?
- 22 A. Yes.
- 23 Q. Did he thank you?
- 24 A. No.
- 25 Q. Has he ever expressed gratitude to you for any services or work that

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(Cerio-Direct)

1 you've done on his behalf?

2 A. No.

3 Q. Have you ever told anyone, I'll strike that.

4 MR. POSTEL: If I might have a moment, please,
5 Your Honor.

6 THE REFEREE: Yes, certainly.

7 MR. POSTEL: Thank you. I have no further
8 questions, Your Honor.

9 THE REFEREE: Very good. Cross examination.

10 THE WITNESS: Judge, may we take a rest from,
11 break or--

12 THE REFEREE: --That's fine--

13 MR. POSTEL: --Is this mine--

14 THE WITNESS: --are we going to keep going, I'm
15 sorry--

16 THE REFEREE: --yes, could we, okay, we're going
17 to take a five minute break for--

18 MR. POSTEL: --Sure--

19 THE WITNESS: --bathroom--

20 THE REFEREE: --at this point, alright?

21 MR. POSTEL: Thank you.

22 THE REFEREE: Very good.

23 THE WITNESS: Sure.

24 THE REFEREE: Yeah.

25 THE WITNESS: I'm sorry.

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(Cerio-Direct)

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MR. POSTEL: Mr. Cerio, you may step down.

THE WITNESS: Thank you. Appreciate it. I'm
sorry.

THE REFEREE: That's alright, no.

(OFF THE RECORD)

THE REFEREE: Okay.

MR. POSTEL: Mr. Reilly, I'm good on the proposed
redactions.

MR. REILLY: Okay.

MR. POSTEL: So, if you have either of them done
or if you have a copy--

MR. REILLY: --I haven't done them, because you
brought--

MR. POSTEL: --Oh--

MR. REILLY: --your Sharpie.

MR. POSTEL: Correct. If you have the copy you're
going to use, Ms. Gaudio will actually do them for us.

MR. REILLY: Thank you. I have the originals but I
have in my box copies, which I am more than happy to
use.

MR. POSTEL: We are a full-service organization.

THE REFEREE: Mr. Postel, are we ready to
proceed?

MR. POSTEL: We are.

THE REFEREE: Mr. Reilly, ready to proceed?

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(Cerio-Cross)

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MR. REILLY: Yes, Your Honor.

THE REFEREE: Fine.

MR. REILLY: Yes, Your Honor.

THE REFEREE: Please.

MR. POSTEL: Mr. Reilly, I would just ask that the podium be moved over, so that I can see the witness.

Thank you.

MR. REILLY: Those microphones are heavy.

THE REFEREE: Please, Mr. Cerio, if you could please take the stand. You're still under oath, of course.

THE WITNESS: Yes, sir.

THE REFEREE: And, Mr. Reilly, if you wish to examine the witness.

CROSS EXAMINATION

BY MR. REILLY:

Q. Good morning, Fred.

A. Good morning, Mr. Reilly.

Q. Do you, did the judge ever give you a statue of a bulldog?

A. A used one, yes.

Q. Well, did he ever give you a statue of a bulldog?

A. Yeah.

Q. What do you mean by it was used?

MR. POSTEL: I can't see the witness.

MR. REILLY: I'm sorry.

A. It was, you could see it was from, like, a rummage sale or something, but,

(Cerio-Cross)

1 yeah, he gave me--

2 Q. He--

3 A. --one--

4 Q. --he gave, why did he give you a statue of a bulldog?

5 A. I always wanted a bulldog.

6 Q. You always wanted one?

7 A. Yeah.

8 Q. Had you told him that?

9 A. We talked about dogs.

10 Q. Alright. You said you never shared personal things with the judge.

11 A. Well, I mean, if we're talking, like, life experiences and stuff like that, I
12 don't recall--

13 Q. --Well, things going on in your personal life?

14 A. Some things.

15 Q. Right. Did you ever say to anyone that you would take a bullet for the
16 judge?

17 A. No.

18 Q. Never said that?

19 A. No.

20 Q. And you were hired by the judge in 1997. Can you tell me how much
21 criminal work you had done in that, in your private practice before you
22 got hired?

23 A. Three years of it. A lot of it, mostly misdemeanor assignments.

24 Q. Had you had any trials?

25 A. No.

(Cerio-Cross)

1 Q. Alright, so it was basically, pretty much routine stuff, negotiate a plea
2 bargain, handle a vehicle and traffic ticket, things like that?

3 A. Correct.

4 Q. Alright, and did you know him before you got hired, socially at all?

5 A. Not really, no. I mean--

6 Q. --Well--

7 A. --our kids, I guess, I wouldn't, when I started practicing, I remember he
8 would bring his, Jessica to court, because she didn't like school. She
9 was--

10 Q. --Okay--

11 A. --in kindergarten. So, basically, no, I did not know him personally.

12 Q. Did you ever go to any social functions that he was at and talk to him
13 before you got hired?

14 A. Not that I recall, no.

15 Q. Alright, and talking about personal stuff, did you ever share with him any
16 marital difficulties, and this is all confidential?

17 A. His or mine?

18 Q. Yours.

19 A. Not that I recall.

20 Q. Did you tell him your wife would come home and go right to bed?

21 A. That was when her mother died.

22 Q. What do you mean?

23 A. Her, her mother was her best friend. Okay, I loved my mother-in-law. I
24 watched her die, and my wife became severely depressed.

25 Q. Okay, and so she--

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(Cerio-Cross)

- 1 A. --Okay--
- 2 Q. --would come home from work and--
- 3 A. --go--
- 4 Q. --go right to bed--
- 5 A. --and I, as a family man, took care of my family after working all day,
- 6 taking them to school, getting them ready. That was what a father does.
- 7 Q. Exactly, and how long did that go on for approximately?
- 8 A. Probably two to three years.
- 9 Q. Two to three years. So, did you share that with the judge at all?
- 10 A. Yeah, he showed up at her wake.
- 11 Q. Okay. And when did your, when did your daughters become friends with,
- 12 with the judge's daughters? Do you remember when that happened?
- 13 A. I believe Jessica started coming, I mean, they were friends, I believe since
- 14 kindergarten, because they were in private school.
- 15 Q. And you knew that?
- 16 A. Oh, absolutely.
- 17 Q. They went, both went to Notre Dame?
- 18 A. Yes.
- 19 Q. And you would go to Notre Dame functions for parents?
- 20 A. I went to, my daughter was not the greatest soccer player in the world.
- 21 She played one, one year, and that was it.
- 22 Q. What about your oldest daughter?
- 23 A. That's my--
- 24 Q. --That's--
- 25 A. --oldest daughter.

321.

(Cerio-Cross)

1 Q. Yeah, but were there social, were there functions at Notre Dame, were,
2 the, the, was the elementary school, that wasn't Notre Dame?

3 A. No--

4 Q. --That--

5 A. --that was, yeah--

6 Q. --what was it?

7 A. That was Holy Family Primary.

8 Q. Alright, and then they all went to Notre Dame?

9 A. No, then you go to Holy Family Junior High.

10 Q. Okay.

11 A. And then you go to Notre Dame.

12 Q. Okay, sorry, I don't know all of that.

13 A. I don't, not anymore either. My kids are in public--

14 Q. --and--

15 A. --public--

16 Q. --were there functions for parents to go to at the school?

17 A. I never attended any. I was the, what I did was you had to pay and you
18 also had to volunteer if you didn't pay the full tuition. So, I was the one
19 who helped with theatrics.

20 Q. Okay.

21 A. Yeah.

22 Q. And, and your daughter, your oldest daughter and Jessica became very
23 good friends?

24 A. They were good friends, yes.

25 Q. And she would spend a good, summer with you?

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(Cerio-Cross)

- 1 A. She'd come up to, yeah, she'd come up a lot.
- 2 Q. A lot. For how many summers did that go on?
- 3 A. Probably four, when she's old enough to get on a bike and--
- 4 Q. --Four?
- 5 A. Yeah, or he'd drive her up, or her mother.
- 6 Q. And would you discuss with the judge your daughters?
- 7 A. That, they were at the house, they had fun, the--
- 8 Q. --No, but I mean did you and the judge talk about your daughters?
- 9 A. Not really, just that, I mean, like, what they did at my house?
- 10 Q. What they did at your house, what, you know, what, you know, whether,
- 11 how they were doing?
- 12 A. No, I'm, Jessica loved my son, Joe a lot. Joe loved her. And it crushed
- 13 him when this all hit and he went up to hug her at Target in Horseheads,
- 14 and she turned her back, he turned his back. I didn't involve my children
- 15 in this.
- 16 Q. I, I wasn't asking you about that.
- 17 A. I know, I'm not--
- 18 Q. --I wasn't asking--
- 19 A. --trying
- 20 Q. --you about--
- 21 A. --trying to be--
- 22 Q. --that--
- 23 A. --that, but you, she was part of my family.
- 24 Q. Alright, and somehow or other your relationship with her turned bad.
- 25 A. And I only assume, because he told her what was going on.

323.

(Cerio-Cross)

1 Q. And when was that?

2 A. That he told her?

3 Q. Yeah, when was it that you--

4 A. --I, I have--

5 Q. --assume he told her, 2006, 2009?

6 A. When he got served the papers.

7 Q. When he got served with the misconduct papers?

8 A. Correct.

9 Q. Alright.

10 A. Because then Jessica did not talk to my daughter.

11 Q. Was, Seither you represented in 2003?

12 A. Correct.

13 Q. And had you represented any other people personally for Judge Ramich

14 before then as--

15 A. --Yes--

16 Q. --personal friends?

17 A. Yes.

18 Q. Can you tell me who they were?

19 A. I remember an African American girl. I can't remember her name, that he

20 said she had a DWI.

21 Q. Alright.

22 A. And she had taken out a gas pump. He told me to take care of this,

23 because her mother, this African American gal, had connections with

24 Hillary Clinton, and would recommend him for a federal job with Hillary

25 Clinton.

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STATE COMMISSION ON JUDICIAL CONDUCT

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(Cerio-Cross)

1 Q. Okay.

2 A. And it was on my birthday, which is no big deal for me, but when my kids
3 were little--

4 Q. --I understand.

5 A. Yeah, and then there was another, I'm sorry, I don't mean to cut--

6 Q. --No, go--

7 A. --you off.

8 Q. Did you ever send him a bill for any of these representations of personal
9 referrals, like his daughters and his brother-in-law?

10 A. No--

11 Q. --well, then how--

12 A. --I'm going to--

13 Q. --you know, how, if you never sent a bill, how did you know what his
14 reaction would be for billing, say, his daughter?

15 A. Well, let's put it this way, Mr. Reilly, I'm not being contentious, he told
16 me not to bill the African American girl, because--

17 Q. --Okay--

18 A. --of the favor. He had another friend who had a DWI, who was in a
19 horrible car accident years ago, and it was a personal friend, said, "Don't
20 bill him. Go do it," and I did.

21 Q. Okay, so then you began to think, assume that that was a pattern of what
22 you were supposed to do, not bill these family members?

23 A. Correct.

24 Q. But he didn't tell you not to bill them, he didn't tell you not to bill Seither,
25 he didn't tell you not to bill Amanda, he didn't tell you not to bill any of

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(Cerio-Cross)

1 | these people that you've testified to, did he?

2 | A. Mr. Reilly, no he did not, and--

3 | Q. --Alright--

4 | A. --if you want me to elaborate why--

5 | Q. --I, you never sent them a bill, but you--

6 | A. --no--

7 | Q. --but you've testified you know what his reaction would be if you did
8 | send them a bill?

9 | A. I spent many hours of, in chambers with him, not on law, but--

10 | Q. --Right--

11 | A. --complaining about people, and I wanted to stay on his good side.

12 | Q. So, you never sent, you never sent a bill, so you don't know what his
13 | reaction would have been, except you didn't want him to be mad at you?

14 | A. No, and if you recall, you, when you represented him in his divorce, you
15 | said, and I quote, "Tell your deadbeat boss he owes me \$800--

16 | Q. --But--

17 | A. --and I delivered \$800 cash--

18 | MR. REILLY: --I just object to that.

19 | A. --to you--

20 | MR. REILLY: --It was not asked.

21 | A. Okay, I'll strike that.

22 | Q. Oh, good, thank you. I don't want to have to--

23 | THE REFEREE: --Is that going to be--

24 | Q. --become a witness--

25 | THE REFEREE: --stricken from the record? Do you

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(Cerio-Cross)

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have any objection--

MR. POSTEL: -- Did you say to strike it from the record?

THE REFEREE: I'm sorry, Mr.--

THE WITNESS: --I did, I'm--

THE REFEREE: --Mr. Cerio--

THE WITNESS: --playing lawyer, a judge, and I don't know--

THE REFEREE: --and, and is that--

MR. POSTEL: --I recently had a case where a witness ruled on objections as well. The, witness, the witness was a judge, no the witness was a judge--

THE WITNESS: --I'm sorry.

MR. POSTEL: The judge said, "The record will--

THE WITNESS: --I'll retract--

MR. POSTEL: --so reflect--

THE WITNESS: --I will, I will--

THE REFEREE: --fine--

MR. REILLY: --Thank you--

MR. POSTEL: --Mr. Cerio--

THE WITNESS: --I was waiting--

MR. POSTEL: --there's--

THE WITNESS: --for--

MR. POSTEL: --Mr. Cerio, there's no question to you at the moment.

(Cerio-Cross)

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THE REFEREE: Fine.

MR. REILLY: There's no question.

MR. POSTEL: There's a, there's been a motion to strike to the referee.

THE WITNESS: By myself.

MR. POSTEL: Oh.

MR. REILLY: I made the motion--

THE WITNESS: --You got to pay attention, Mr.--

MR. REILLY: --to strike, I made--

THE REFEREE: --Fine--

MR. REILLY: --the motion--

THE REFEREE: --okay--

MR. REILLY: --but in any--

THE REFEREE: --that's being adapted, adopted by Mr. Reilly--

MR. POSTEL: --It will be included in the record. Of course, whatever is transcribed is there, but it is not part of the official proceedings.

THE REFEREE: Very good, thank you.

Q. Alright, did you know a Brian Burnall?

A. Yes, I did.

Q. Did you represent him in regard to an estate?

A. In an estate, yes I did.

Q. And did you make money from that representation?

A. Yes, I did.

(Cerio-Cross)

1 Q. And do you know that Judge Ramich referred him to you?

2 A. No, I did not.

3 Q. He never told you that?

4 A. No, he did not.

5 Q. Did you do free legal work for clerks in city court?

6 A. Example, if, could you--

7 Q. --Well, minor charge, vehicle and traffic charges, other areas, other than
8 city court, minor issues?

9 A. What I would do is, like, if a court officer, for example, I did a
10 bankruptcy for a Nancy McClure. If you go on the website for OCA,
11 what I would do, would, it will say we'll pay you X amount, reimburse
12 you X amount for certain things.

13 Q. Okay.

14 A. For that was \$300. I said, "Nancy, I'll only charge you \$300. You'll get,
15 I sign a form. I get it back."

16 Q. Were there other clerks that you might have done legal work for free over
17 the course of the years that you worked for Judge Ramich?

18 A. I believe, if I recall, it was, oh, Linda Waite's daughter. She has passed
19 away since then. Linda, a traffic ticket in Geneva.

20 Q. Okay. Did you charge her?

21 A. No.

22 Q. Angela Picarazzi, was she a clerk?

23 A. Friend of Judge Ramich's close friend.

24 Q. Alright, and she, you, he referred you to her, her to you?

25 A. Correct.

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(Cerio-Cross)

- 1 Q. And you did that work for free?
- 2 A. Correct.
- 3 Q. And did you do some work for her brother?
- 4 A. Her brother? What name?
- 5 Q. Angela's brother. I don't know his name.
- 6 A. There's some, like, Italians, there's, if you can give me the name--
- 7 Q. --Let's be careful--
- 8 A. --I did work for--
- 9 Q. --did you do work for someone you knew to be her brother?
- 10 A. Not that I recall.
- 11 Q. Okay. David Reed.
- 12 A. David Reed.
- 13 Q. Did Judge Ramich send you, refer him to you for help with a
- 14 custody/visitation issue?
- 15 A. With his, was it a grandson that died in a fire? He instructed me to go
- 16 up--
- 17 Q. --Who's he, who's he?
- 18 A. Judge Ramich, to go up to the Horseheads school to talk to the natural
- 19 mother with the counselor about moving in with Mr. Reed because of the
- 20 natural mother's dysfunctional family. That counselor almost got fired,
- 21 because of the situation that the natural mother was having David's
- 22 grandchild--
- 23 Q. --Alright--
- 24 A. --did not authorize this.
- 25 Q. But did--

330.

(Cerio-Cross)

1 A. --I had no idea.

2 Q. You didn't do any legal work for him?

3 A. No, I did not. Almost got arrested--

4 Q. --Pardon me? Do you, do you know a Renee Chalk?

5 A. Yes.

6 Q. Did you do legal work for her?

7 A. I, we had a working relationship with a mortgage company.

8 Q. Okay.

9 THE REFEREE: Who is we?

10 THE WITNESS: The owners of, or the brokers for
11 this Territory Mortgage.

12 A. I drafted a separation agreement for her that, because she is very good
13 friends with Judge Ramich, and her ex-husband was. It was not
14 acceptable. If people, it's like a real estate closing, if it falls apart, I don't
15 charge.

16 Q. Alright. But did you do a lot of mortgage closings for her over the years?

17 A. Not personally for her. But, I was on the list of attorneys.

18 Q. For the company she ran the mortgage department for?

19 A. She did not run it.

20 Q. Alright, well--

21 A. --She worked for it.

22 Q. She was referred to you by Judge Ramich, correct?

23 A. I knew her before the separation from Martin.

24 Q. From who?

25 A. Her husband.

331.

(Cerio-Cross)

1 Q. Alright, but do you know that she was referred specifically to you for this
2 business regarding mortgages?

3 A. No, the Devlins.

4 Q. Pardon me?

5 A. The, Mike and Tom Devlin, who I have known since I was young, opened
6 a local branch of a mortgage company. Tom Devlin, who is the manager,
7 approached me whether or not I would be interested in it.

8 Q. Okay.

9 A. Not Renee. I met Renee a few years later, or a year later, we'll say.

10 Q. Alright, and you were doing a considerable amount of work that she was
11 involved with?

12 A. And it was, her business, there's some I had to turn down, because it was
13 a little shady.

14 Q. Because what?

15 A. A little shady, numbers--

16 Q. --Her business--

17 A. --how you fix the numbers, how much you are getting as a commission,
18 etcetera.

19 Q. Alright. Did you ever convey that to her?

20 A. Yes.

21 Q. And didn't you get mad at her because she didn't, she didn't like the fact
22 that you wouldn't do a closing for her at the time she needed it done?

23 A. Because of the fact that they were not explaining what their commission
24 was. They would wait until the closing.

25 Q. Did you tell her that?

332.

(Cerio-Cross)

1 A. Yes.

2 Q. And did you try to get business back from her after that?

3 A. Devlins were the ones that were in charge.

4 Q. Did you try, but did you ever contact her again to try to get some business
5 from her?

6 A. I didn't solicit, to the best of my knowledge, no.

7 Q. Alright. Some of these people, Mr. Seither, Amanda, the vehicle and
8 traffic people you, you represented, you all, you had to have an abstract,
9 driver's abstract in order to handle any plea negotiation--

10 A. --Not--

11 Q. --correct--

12 A. --back, like, with Mr. Seither--

13 Q. --you didn't--

14 A. --to my--

15 Q. --need it then--

16 A. --back then, you didn't have to.

17 Q. Well, didn't you say you got a driver's abstract from him?

18 A. No, I got it from, Amanda's was run from somebody at city court.

19 Cynthia Greger's, I instructed Judge Ramich to tell Ms. Greger to go get
20 hers.

21 Q. Okay.

22 A. Okay. So, because remember now, you've practiced long enough, that
23 now they want to see your driver's abstract.

24 Q. Right.

25 A. Yes.

333.

(Cerio-Cross)

1 Q. So, you, you had somebody else get them for you? You didn't get them
2 directly from the client?

3 A. Someone, and I cannot recall, on Amanda's, pulled it at city court, and
4 her driving abstract, because if you look, it's not the same as it is for,
5 when you get it from the DMV.

6 Q. Alright. When you went into work every morning to city court, did you
7 have work that the judge wanted you to do every day, every weekday?

8 A. No.

9 Q. So, there were sometimes when you'd go in there and you wouldn't have
10 anything specific to do?

11 A. I would research.

12 Q. You would research at the judge's request or what?

13 A. At my, to bone up on the law.

14 Q. So, you did, like, continuing education, look up legal issues--

15 A. --Not continuing--

16 Q. --I mean in not, to research issues that you were interested in that you
17 might have to deal with.

18 A. That specifically dealt with issues that would come up in city court.

19 Q. Alright, and, but none of it was done at the request of the judge? You
20 would go--

21 A. --I wasn't--

22 Q. --to your--

23 A. --going to--

24 Q. --office--

25 A. --play free cell.

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(Cerio-Cross)

1 Q. You would go to you office, you wouldn't have anything specifically that
2 the judge was asking you to do?

3 A. No.

4 Q. So, you undertake to study issues like searches and seizures, things like
5 that?

6 A. And I'd go on Thursdays to see court, not Court of Appeals, but Third
7 Department cases.

8 Q. Right.

9 A. See if any came out of our area.

10 Q. Okay.

11 A. So, if I had to write a decision, I could use Third Department cases.

12 Q. And was your schedule flexible at all?

13 A. Yes.

14 Q. I mean, sometimes you could, you would come in the afternoon rather
15 than the morning because of a jury trial or whatever?

16 A. Or if I had a trial, myself--

17 Q. --Yourself--

18 A. --in family court.

19 Q. Okay, then you--

20 A. --Yes--

21 Q. --then you would be taking time off?

22 A. I--

23 Q. --And making--

24 A. --would come--

25 Q. -- it up--

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(Cerio-Cross)

1 A. --in and make it up if I had a hearing that might be all day, I would take a
2 personal day.

3 Q. Alright. And if he had all these personal complaints about you and
4 thought he was an idiot, why did he continue to refer family members and
5 friends to you?

6 MR. POSTEL: Objection.

7 A. I don't--

8 MR. POSTEL: --At no time during his direct
9 examination did he refer, did he say that he was an idiot.

10 THE REFEREE: Right.

11 MR. REILLY: No, but the judge said he was an
12 idiot.

13 MR. POSTEL: Well, and that's not the way the
14 question came out. Mr.--

15 MR. REILLY: --I'm sorry--

16 MR. POSTEL: --Cerio understood it that Mr. Cerio
17 called the judge an idiot.

18 MR. REILLY: No, I don't mean it--

19 THE WITNESS: --I didn't call--

20 MR. REILLY: --that way--

21 THE WITNESS: --the judge an, no.

22 THE REFEREE: Okay.

23 Q. He called you an idiot, did he, and, and did he call you other disparaging
24 things in, in, during the time you were there?

25 A. At--

336.

(Cerio-Cross)

- 1 Q. --About your abilities?
- 2 A. Yes.
- 3 Q. And he still referred personal, he, family members and personal friends?
- 4 A. The thing would be, I would not ask who referred. People would come
- 5 in--
- 6 Q. --No, you said he'd give you the ticket and say, take care of this--
- 7 A. --Yeah--
- 8 Q. --now. And you've said that he made disparaging comments about your
- 9 abilities but still kept referring these people to you. You understand if he,
- 10 if he thought--
- 11 A. --Yeah--
- 12 Q. --you were incompetent, why did he, I'm saying, did you ever ask--
- 13 A. --probably because--
- 14 Q. --why are you--
- 15 A. --he--
- 16 Q. --referring--
- 17 A. --knows--
- 18 Q. --these people to me?
- 19 A. I wouldn't charge them.
- 20 Q. Well, alright, that was the only reason?
- 21 A. I would say so. It wasn't people being murdered--
- 22 Q. --I understand--
- 23 A. --Mr. Reilly. It was simple things that any idiot can handle.
- 24 Q. When he gave you a ticket and said, take care of this immediately--
- 25 A. --Yes--

337.

(Cerio-Cross)

1 Q. --alright, you would go take care of it immediately?

2 A. Yes.

3 Q. Like, look up a court address, and stuff, something like that?

4 A. Yes.

5 Q. That doesn't take very long, does it now?

6 A. Now it doesn't, but I would then make the phone call--

7 Q. --Alright--

8 A. --because he would tell me, I'd just say, after the last, when he got the
9 Censure, using court staff, which my name was mentioned, for that
10 closing, which I said not to do in his chambers, send them to my office. I
11 was trying to protect the quarterback, no, and, please, just let me get to
12 my point, he would say, well, I want it taken care of right now because I,
13 I'll know when you're going to get it done.

14 Q. Did you ever tell him that you can't use court time?

15 A. No. You have, Mr. Reilly--

16 Q. I understand, I just--

17 A. --I knew the man--

18 Q. --I just asked whether you did, okay.

19 A. No.

20 Q. Now, when he gave you, like, Amanda's ticket, said, take care of this
21 now, and you went in and you did stuff on court time, did he at any point
22 later in the day, ask you what you had accomplished?

23 A. I would have to go back, no, because I would go back to my private
24 practice.

25 Q. Alright, and he never asked you the next day what you had done with

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(Cerio-Cross)

1 Amanda's ticket or Mr. Seither's ticket, or his girlfriend's ticket, even
2 though he said he wanted it done now?

3 A. Until the disposition.

4 Q. Alright. Did his daughter, Amanda, come to you for, to do a divorce?

5 A. She did not. Her husband, I had represented at the time of his first
6 divorce, and I did not know he was married to Amanda.

7 Q. Okay.

8 A. And he said, "We would both like to come in and talk to you," and I said,
9 that's, you know, really--

10 Q: --Did the judge know that you--

11 A. --No--

12 Q. --represented her, her husband at the time?

13 A. No.

14 Q. Did you know that he had suggested to Amanda that she contact you?

15 A. No.

16 Q. Alright. So, you referred them to another attorney or told them you got
17 to, got to find somebody else because of the conflict?

18 A. They were both together when I saw Amanda waiting in my waiting
19 room. I brought them both in, and I said, "Do you realize," to, to, her
20 husband, "that I work for her father?" And he said, "Yes." They had
21 nothing, they weren't married that long.

22 Q.--What--

23 A. --So--

24 Q. --What I'm trying to figure out is did you refer them to another lawyer or
25 do you do what I've done--

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(Cerio-Cross)

1 A. --I asked them--

2 Q. --on occasions--

3 A. --I asked them--

4 Q. --to handle it if it's no issues?

5 A. I asked them, "Do you feel comfortable? If you don't, you're free to go
6 to someplace else."

7 Q. Do you know how long they had been married for when they came to
8 you?

9 A. I, months, maybe.

10 Q. A couple, not a full year even?

11 A. Oh, no.

12 Q. So, there wouldn't really be any issues?

13 A. There was no issues at all.

14 Q. So, you could do a separation agreement and then process the divorce--

15 A. --Stipulation.

16 Q. Yeah, a stipulation.

17 A. Yes.

18 Q. And process the divorce, and they were happy with that?

19 A. I would, before, because I only do uncontested divorces.

20 Q. I understand.

21 A. For free, what I do to everybody, okay, I have the retainer signed. It says,
22 look, if it turns contested, you get all your money back, except if I went
23 out and got the index number, okay.

24 Q. Okay.

25 A. So, what I do, and in this occasion, they came to an agreement together. I

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(Cerio-Cross)

1 said, "I will embody it in a stipulation. Read it over. Discuss it between
2 yourselves, and if it's fine, you both call. Don't call on the other's
3 behalf."

4 Q. Right.

5 A. And I say, "Are you sure you want me to represent you? You understand
6 the situation that I work for her father?"

7 Q. Right.

8 A. And they both agreed, and it was just pushing paper.

9 Q. Pardon me?

10 A. It was pushing, you know, paper. They--

11 Q. --No, I'm just--

12 A. --have no--

13 Q. --I--

14 A. --children--

15 Q. --understand--

16 A. --yeah--

17 Q. --I've done that before too, just--

18 A. --I'm not trying to be controversial, Mr.--

19 Q. --No, I, but, so, you did the divorce?

20 A. Yes.

21 Q. Alright, and--

22 THE REFEREE: --If I could ask, I'm, with Amanda
23 Ramich, what timeframe is this, 2000 to 2004--

24 Q. --When was that--

25 THE REFEREE: --2010--

341.

(Cerio-Cross)

1 A. I believe in 2011, if I recall, beginning of.

2 Q. After you had left working, physically at the courthouse?

3 A. Yes.

4 Q. So, she came to you--

5 A. --Not her.

6 Q. --Well--

7 A. --He did--

8 Q. --he did, and she came in, and you talked about--

9 A. --She's sitting in the waiting room, and I'm, like--

10 Q. --Did you ever charge for that--

11 A. --Yes--

12 Q. --divorce? How much did you charge?

13 A. \$400.

14 Q. Okay, and you're ex, your client, the husband, paid that?

15 A. Correct.

16 THE REFEREE: Which, which, who paid, who paid
17 that?

18 MR. REILLY: The husband.

19 THE WITNESS: The--

20 MR. REILLY: --Husband--

21 THE REFEREE: --The husband, okay.

22 THE WITNESS: Yes.

23 Q. Do you know where he got the money to pay that fee?

24 A. I would have given him a receipt.

25 Q. Alright.

342.

(Cerio-Cross)

1 A. And--

2 Q. --I understand, but is it--

3 A. --I know--

4 Q. --you didn't know whether the judge had given him the money to pay for
5 the fee?

6 A. If I would have saw Thomas Ramich on a check--

7 Q. --Yeah, but--

8 A. --I would have said--

9 Q. --but if he got the money from the judge and put it into a checking
10 account, you wouldn't know?

11 A. No.

12 Q. You, at some point, got removed from city court in, you think 2009?

13 A. Removed, no. I, I was there until approximately a year ago.

14 Q. Alright, and you, then you moved your office physically from city court--

15 A. --To--

16 Q. --to Hazlett Building?

17 A. Correct.

18 Q. And how did that come about?

19 A. I was very uncomfortable with the situation. I know he was served with
20 his papers. I, as a man, would still go in the back room.

21 Q. Alright.

22 A. And, you know, give my, you know, respect to the bench, and go back in
23 my office. What happened was, it got to be very uncomfortable in the
24 situation. Okay.

25 Q. You felt very uncomfortable?

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(Cerio-Cross)

1 A. Oh, it was, yes, it was--

2 Q. --Did he say anything to you, having known that apparently you were
3 involved in this complaint before the judicial misconduct committee?

4 A. Did, it was, feeling of the uncomfortableness, could you explain a little
5 bit more? I'm sorry--

6 Q. --Well--

7 A. --sir--

8 Q. --I mean, did Judge Ramich, he knew that you were, did he know, do you
9 know whether he--

10 A. --It's going to be all hearsay.

11 Q. Pardon me?

12 A. It'll be hearsay.

13 Q. No, no. Do you know whether he, he had been served with the papers
14 regarding misconduct--

15 A. --Yes--

16 Q. --correct--

17 A. --Because I got the call from misconduct--

18 Q. --in 2011, the formal complaint?

19 A. Correct.

20 THE REFEREE: --Did that--

21 Q. --And it itemized--

22 THE WITNESS: --I'm sorry. Go ahead.

23 THE REFEREE: I'm sorry. Keep going.

24 Q. It itemized things that you complained about?

25 A. What happened was, I don't know, I did not know what the charges are. I

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(Cerio-Cross)

1 did not file the charges. I saw the charges today, or yesterday, of actually
2 what the charges was. This was the first time.

3 Q. So, you didn't know the, what was specifically put down in that Formal
4 Complaint?

5 A. Correct.

6 Q. But did you know that your name was in that complaint?

7 A. Correct.

8 Q. And Judge Ramich had gotten a copy of the Formal Complaint?

9 A. Correct.

10 Q. And after he got, you were aware that, of what, there was a Formal
11 Complaint, did he ever say anything to you about these charges?

12 A. He sent people over to me.

13 Q. Alright, but did he ever say anything to you?

14 A. You know the man, he said, not to me, he would send somebody--

15 Q. --Alright, but he--

16 A. --else--

17 Q. --didn't say, I'm just asking whether he--

18 A. --okay--

19 Q. --said--

20 A. --not to me--

21 Q. --anything to you.

22 A. Not to me. He had not spoken to me.

23 Q. And you, you, at some point, you got in touch with Judge Mulvey or his
24 office?

25 A. I did not.

345.

(Cerio-Cross)

1 Q. Who did?

2 A. The day he threw me out of his office, said, "Get out," I wanted, I was
3 upset.

4 Q. So, he was mad at you about coming in when they're involved in
5 discussions about a trial and he told you--

6 A. --No, no--

7 Q. --to get out of the office?

8 A. For a month I'd been trying to tell this man I sent him via a case that
9 came out that says the, if anyone's charged with a misdemeanor and a
10 violation, that they both go to the jury unless you get permission.

11 Q. Right.

12 A. Okay, he had been mad at me, did not speak to me for three weeks. So, I
13 was emailing it, and I saw emptied. You can track--

14 Q. --Yeah.

15 A. Okay, he didn't even read it.

16 Q. Alright, but you--

17 A. --Okay--

18 Q. --but do you know whether he was aware of that case?

19 A. I put it then on his chair.

20 Q. Alright.

21 A. Okay, so he's saying he never got it. The day of the trial, I walk in,
22 because I know he gets nervous during trials, okay, I line up everything
23 the way he likes it in the file, so he can grab them out, very meticulously--

24 Q. --Okay--

25 A. --and I walked in to say, "Remember it changed." He gets, he gets very

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(Cerio-Cross)

1 nervous on jury trial days.

2 Q. Alright.

3 A. And he says, "Get out."

4 Q. Okay.

5 A. So--

6 Q. --Who's in the room with, at that time?

7 A. At the time, to the best of my knowledge, just he and myself. There were
8 not, this is before the jury, everything.

9 Q. Alright. So, it was after, it was after that that you decided to go
10 elsewhere?

11 A. What happened was, I walked down the hall, because the night before, I
12 was up, because one of his friends kids was in trouble. They called me--

13 Q. --Okay--

14 A. Picarazzis, who he says was his family, and I was helping that person out,
15 because he was accused of stealing items--

16 Q. --okay--

17 A. --okay, from a tanning booth.

18 Q. Alright.

19 A. Okay so, I was up late. I got there on time, tell me--

20 Q. --Court--

21 A. --to get out, yes. I was trying to explain--

22 Q. --You were tired?

23 A. No, no, I was helping the Picarazzis--

24 Q. --Yeah, I understand--

25 A. --coming in, so he says, "Get out," and I go, "What?" He goes, "Get out."

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(Cerio-Cross)

1 So, I started walking down the hall, and I said to Terry Seeley--

2 Q. --Now Terry Seeley is?

3 A. Is the Chief Clerk of--

4 Q. --city court--

5 A.--city court, that, because I had a lot of vacation time and a lot of sick time,
6 that I just wanted to get out.

7 Q. So, did you decide you were going to take vacation time, and sick time?

8 A. Vacation time.

9 Q. How long?

10 A. It was, I think I left at 10:00 and then got out, so that would be an hour
11 and a half, two, two hours and a half.

12 Q. You took two hours vacation time?

13 A. Two and a half hours.

14 Q. And this was in October of 2009?

15 A. Yes.

16 Q. And do you remember the name of the defendant in the trial that you
17 were--

18 A. --Edward--

19 Q. --was involved--

20 A. --Loych.

21 Q. Pardon me?

22 A. Edward Loych.

23 Q. How do you spell Loych?

24 A. L-O-Y-C-H--

25 Q. --Sort of trying to guess how it's spelled.

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(Cerio-Cross)

- 1 A. No, I recall that because I typed it so many times.
- 2 Q. Alright. And so, you took an hour and a half off vacation time, and then
- 3 did you go back to the court?
- 4 A. I stay, no, I'm part-time, so, I, that day, I left.
- 5 Q. Okay.
- 6 A. Terry Seeley, dare I say, goes, "I'll call district office."
- 7 Q. Right.
- 8 A. So, in other words--
- 9 Q. --Did you tell her what had happened?
- 10 A. Pardon?
- 11 Q. Did you tell her what had happened?
- 12 A. I just said, "I have to get out," yes.
- 13 Q. Okay. And so she called Judge Mulvey's office?
- 14 A. Yes, I did not.
- 15 Q. On your behalf
- 16 A. I did not instruct her to. She did.
- 17 Q. I understand. And so, did you ever return back to city court to work for
- 18 Judge Ramich after that incident?
- 19 A. Yes.
- 20 Q. And how long was it you stayed there before you got moved?
- 21 A. Until 2011.
- 22 Q. Alright, and did you have any other incidents with Judge Ramich until
- 23 you moved, where he told you to get out, or told--
- 24 A. --He--
- 25 Q. --to get out, or told you were, you were an idiot, anything like that?

349.

(Cerio-Cross)

1 A. He didn't talk to me.

2 Q. Alright, but did you try to talk to him?

3 A. Yes, I emailed, I tried to, one time I brought him, I mean, food to his
4 house, beer, you know.

5 Q. And was he there?

6 A. I knocked on the door, the lights were on, the dog's barking. So, I left it
7 in the doorway.

8 Q. Okay. Why were you doing that? Trying to make up?

9 A. There's no making up, just to, let's talk like men, and what, get our
10 differences straightened out. No thank you, no nothing. Food was gone.

11 Q. Santa Claus ate the food?

12 A. And then what happened was, he didn't acknowledge it. A few days
13 later, I show back up at his house, I'm ready to get caught, I mean, I'm
14 thinking am I going to get arrested for stalking, he lets me in his house.

15 Q. Okay.

16 A. Then that's when I'm being called a "coppo."

17 Q. A what?

18 A. "Coppo," mafia. That I'm his lieutenant, that I'm terrible at intelligence
19 gathering, any idiot can write a decision or look up jury charges, you are
20 inept at intelligence gathering. Now, that scared me.

21 Q. Okay, you thought you were being fired?

22 A. No, that he's talking about, I'm supposed to be watching the Hazlett
23 Building to see if they're taking testimony against him.

24 Q. Okay, so you know at that time, he was aware that there was some kind
25 of-

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(Cerio-Cross)

1 A. --No, this is even before.

2 Q. Alright, so he's always been suspicious that the O'Mara Firm would be
3 doing something?

4 A. As you said in the bathroom yesterday, you know, got to keep his
5 paranoia down.

6 Q. Well, I understand that, and you felt that he was paranoid? Yes?

7 A. I'm not a doctor, but--

8 Q. --Right--

9 A. --I'm saying there was--

10 Q. --he thought people were against him?

11 A. Yes.

12 Q. Alright and going to Cynthia Greger--

13 A. --Yes--

14 Q. --when you finished handling her, or dealt with her vehicle and traffic
15 violation, a speeding charge, did you ever tell the judge that you should
16 dump her, that he should dump her as a girlfriend?

17 A. No.

18 Q. Did you ever tell her that, him that she wasn't good?

19 A. I said she wasn't pleasant.

20 Q. Alright.

21 A. She didn't thank me. She was, like, I was bothering her.

22 Q. Alright, and did you mention anything to, to the judge about his
23 relationship with her?

24 A. Not that I recall, that she just seemed, I'm not going to say mean, or just--

25 Q. --Well, could you have said something to her about what you felt about

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(Cerio-Cross)

1 her and that maybe she wasn't so good for him?

2 A. Possibly.

3 Q. Alright, and do you have a leasing license or a some kind of license to do
4 rentals?

5 A. I was, I had a real estate company, yes, a small one.

6 Q. Alright, and so, is that one reason he called you about the leasing of the
7 building for the Ramich business?

8 A. No.

9 Q. You said that, you said that he said, with regard to that Ramich business,
10 that I had done something wrong in the divorce.

11 A. Yes.

12 Q. And did you understand that that business had been owned, had been in
13 his possession well before the divorce even started?

14 A. That it was his only?

15 Q. That it was his partially or it was in his family well before he got married
16 to his wife, Lori?

17 A. The first time I learned about Ramich Realty and what it was, okay, and
18 you asked this question, is how much percentage he owned and that you
19 screwed up in the divorce as well as in, when you guys went to support
20 court as to how much he actually owned. You--

21 Q. --He said that I screwed up?

22 A. You did a, you--

23 Q. --And here I--

24 A. --made--

25 Q. --am--

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(Cerio-Cross)

- 1 A. --him out to be 100 percent--
- 2 Q. --and here I am today.
- 3 A. And God bless you.
- 4 Q. You indicated in a letter that you wrote or a statement to Mr. Postel on
- 5 April 8, 2010, or at least that's the date of this memo, that you hadn't
- 6 received any court assignments from Judge Ramich since October of
- 7 2009.
- 8 A. Now, that's when I went up and met, and Ms. Martin was taking notes.
- 9 Q. Okay.
- 10 A. And he didn't give me any work.
- 11 Q. After October of 2009?
- 12 A. Yes.
- 13 Q. So, who are you working for now?
- 14 A. I am working for Judge Rita Connerton. At, at the beginning, I started
- 15 with Judge Tait.
- 16 Q. Where are they located?
- 17 A. Supreme Court, Broome County.
- 18 Q. Okay.
- 19 A. I'm working for Judge Charnetsky, Family Court, Broome--
- 20 Q. --Where--
- 21 A. --County.
- 22 Q. Broome County?
- 23 A. I'm also helping out with the hearing officers in Broome County, as well
- 24 as town and village justices that need decisions and research.
- 25 Q. Alright.

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(Cerio-Cross)

- 1 A. I'm working for five people part--
- 2 Q. --You're--
- 3 A. --time--
- 4 Q. --traveling all over the place, I guess?
- 5 A. I was at first--
- 6 Q. --Then they do--
- 7 A. --now--
- 8 Q. --email--
- 9 A. --we have, now everyone's learned how to scan.
- 10 Q. Okay, so, you, you can do it out of your own office now?
- 11 A. Now, for the most--
- 12 Q. --You don't have--
- 13 A. --part--
- 14 Q. --to go to the--
- 15 A. --yeah--
- 16 Q. --court, and I think you said in the statement--
- 17 A. --In--
- 18 Q. --that--
- 19 A. --Broome County City Court, by the way, I was working for too.
- 20 Q. You mean Binghamton City Court?
- 21 A. Binghamton City Court too.
- 22 Q. Alright. And you're working for the judge there also?
- 23 A. Two judges.
- 24 Q. Okay. And you indicated in the statement that you made in, in April of
- 25 2010, that you did not over the years present Judge Ramich with a bill or

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(Cerio-Cross)

- 1 receive a fee for his legal, for the legal services you did?
- 2 A. Correct.
- 3 Q. And you did not object at any time to his directives to do work for his
- 4 family or friends?
- 5 A. Correct.
- 6 Q. But you did object to having to try the speeding ticket for Ms. Greger?
- 7 A. Yeah, I mean, those other things--
- 8 Q. --I, no, I understand--
- 9 A. --yeah, yeah--
- 10 Q. --you did object to that.
- 11 A. Yeah, I did.
- 12 Q. And that's all I need to know, and--
- 13 A. --And he got--
- 14 Q. --I would have done--
- 15 A. --upset--
- 16 Q. --the same thing, you know--
- 17 A. --and he got upset.
- 18 Q. Right, and, and you objected to having to go down to Mansfield to pick
- 19 up a transcript for his daughter.
- 20 A. I didn't object, I said, Mansfield, she's got to get, I'm not the person--
- 21 Q. --You said you're not going to do that. She's got to do it, somebody's got
- 22 to do it, other than you--
- 23 A. --I'm not her father. I can't sign up.
- 24 Q. Oh, I understand.
- 25 A. Yeah.

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(Cerio-Cross)

- 1 Q. I understand. So, you--
- 2 A. --I'm not being contentious. I'm not trying to be, I'm just saying--
- 3 Q. --Well, you told me, you're not going to do it--
- 4 A. --but you don't have any children. I just, you know, Tom, I'm, excuse
- 5 me, Your, judge, or, judge, Mr. Reilly, you don't have children to
- 6 understand, you know, the procedures. I know you've been an attorney a
- 7 long time. I'm not her dad. I can't go down--
- 8 Q. --I, I know that. We all know--
- 9 A. --and so, yeah--
- 10 Q. --that. She needs--
- 11 A. --Sure--
- 12 Q. --she needs to either sign an authorization for you to pick it up--
- 13 A. --yeah--
- 14 Q. --or go down and go down and pick it up herself.
- 15 A. Absolutely.
- 16 Q. And we know that whether we have children or not.
- 17 A. Absolutely.
- 18 Q. Alright. Just a second, Fred.
- 19 A. I'm sorry.
- 20 Q. Did, did you discuss with Judge Ramich you had a tattoo?
- 21 A. Yeah, I have tattoos.
- 22 Q. How did that come up?
- 23 A. I don't know. I just said I wanted one. That was my mid-life crisis, I
- 24 guess. Everyone--
- 25 Q. --What do you mean it was your--

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(Cerio-Cross)

1 A. --buys cars, I bought my, I got a tattoo.

2 Q. And did you say something like that, no one can take, at least no one can
3 take that away from you?

4 A. Probably, as a joke.

5 Q. Okay--

6 A. --Because, because it's--

7 Q. --where is it?

8 A. It's right here.

9 Q. Okay. What is--

10 MR. POSTEL: --What, and--

11 Q. --it--

12 MR. POSTEL: --I would just ask--

13 THE WITNESS: --I don't know what the hell it--

14 MR. POSTEL: --wait, there is an objection.

15 THE WITNESS: There you go. Wake up, please.

16 THE REFEREE: If that's an objection, do you wish
17 to place something on the record, Mr.--

18 MR. POSTEL: --I do.

19 THE REFEREE: Thank you.

20 MR. POSTEL: First of all, the location of his tattoo
21 is irrelevant to these proceedings in--

22 MR. REILLY: --I will withdraw the--

23 MR. POSTEL: --their totality. However, in the event
24 that they are relevant, I would, I would ask that the record
25 reflect that the witness indicated with his right hand in a

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(Cerio-Cross)

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movement to his left shoulder covering his left shoulder, that the tattoo, whatever it is, is somewhere on the upper portion of his left arm, and the lower portion of his left shoulder.

THE REFEREE: Would you agree to that, sir?

MR. REILLY: I would agree to that.

THE REFEREE: Fine. So, so--

MR. POSTEL: --I have a standing objection--

THE REFEREE: -- the standing objection to what?

MR. POSTEL: To the relevance of the question on the tattoo to begin with.

MR. REILLY: Well, I would withdraw the question about where it's located.

THE REFEREE: Fine.

MR. REILLY: Alright.

THE REFEREE: No, we'll not hear more about tattoos then.

A. I didn't want hair, so, I mean, (unintelligible)

Q. Alright.

MR. REILLY: I, I have nothing further.

THE REFEREE: Mr. Postel, redirect.

MR. POSTEL: Thank you, Your Honor. I was, can you see, Mr. Reilly?

MR. REILLY: Yes, I can.

(Cerio-Recross)

1 REDIRECT EXAMINATION

2 BY MR. POSTEL:

3 Q. I was a bit confused about your responses to the questions concerning
4 putative non-compensated work that you had done in connection with
5 your legal practice. Has it occurred that there have been occasions when
6 you have provided free legal services to individuals besides those
7 indicated today?

8 A. People off the street that aren't--

9 Q. My question, and I ask you to listen to my question, please.

10 A. I am, sir.

11 Q. My question is have there been occasions when you have provided
12 uncompensated free legal services to individuals other than those about
13 whom we've spoken today on direct examination with regard to Judge
14 Ramich?

15 A. Absolutely.

16 Q. In any of those cases, did you, was it your choice to take the cases and
17 provide the service freely?

18 A. Pro bono issues, yes.

19 Q. Yes, pro bono, and as an attorney in the State of New York, do you
20 believe that you have pro bono responsibilities?

21 A. To some extent, yes, I do.

22 Q. And have you provided pro bono work?

23 A. Yes.

24 Q. Alright. In any cases involving individuals who are not indigent, but
25 who could afford, to your knowledge, to pay for your legal services, but

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(Cerio-Recross)

1 you chose not to charge them, in those circumstances, did you feel
2 compelled to take them as a condition of employment in any way?

3 A. I guess you're saying if people that, anyone off the street?

4 Q. No, I'm saying, with regard to a case, you've done cases for free?

5 A. Correct.

6 Q. Besides the cases involving Greger, Ramich, and Seither?

7 A. Correct.

8 Q. And the drunk driver case that ran over the gas pump, is that right?

9 A. Correct.

10 Q. Okay. Were those your choices to not bill them?

11 A. The first two were--

12 Q. --Not with regard to Judge Ramich. Cases that you have chosen to engage
13 in a non-compensated fashion--

14 A. --That would be my--

15 Q. --you've done pro bono work.

16 A. Yes, my choice.

17 Q. You did it by choice, right?

18 A. Yeah.

19 Q. And that had, those cases had nothing to do with your position as a court
20 attorney, is that correct?

21 A. Absolutely.

22 Q. And in choosing to do those cases for free, you weren't at any time
23 worried about how they would impact your position as a court attorney, is
24 that correct?

25 A. That is 100 percent correct.

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(Cerio-Recross)

1 Q. And in no way were they involved in the terms or conditions of your
2 employment at city court, is that correct?

3 A. Correct.

4 Q. That's what you thought was the right thing to do at that time, is that
5 correct?

6 A. Correct.

7 Q. When Judge Ramich instructed you to take care of it in connection with
8 the Seither case, did he ask you after saying so, or before saying so, in his
9 chambers, by the way, Fred, what is your fee?

10 A. No.

11 Q. At any time during the course of your representation of Mr. Seither, did
12 he ask you, what is your fee?

13 A. No.

14 Q. Was an issue, was how much you charge ever discussed in connection
15 with your representation of Mr. Seither up to the end point, but not
16 beyond?

17 A. No.

18 Q. With regard to Ms. Ramich, Amanda--

19 A. --Yes--

20 Q. --and with regard to Ms. Greger, Cynthia, would your answers be the
21 same, that is at no time when he gave you the materials, did he ask you
22 what your fee was?

23 A. Correct, he did not--

24 Q. --And in point of fact, he never even raised the issue of a fee, is that
25 correct?

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(Cerio-Recross)

1 A. Correct.

2 Q. Not only did he not pay you a fee or arrange for payment of a fee, he
3 never even mentioned the word "fee" in connection with any of these
4 three cases, right?

5 A. Correct.

6 Q. And the idea of your being paid for these cases was to you, would it be
7 fair to say, out of the ball park? You had, you didn't believe you would
8 be paid on these?

9 A. No, it was part of my--

10 Q. --Job--

11 A. --job.

12 Q. As a court attorney?

13 A. Yes.

14 Q. Alright. Did you, at any time, receive from Mr. Seither a call or
15 communication in which he said to you, by the way, Mr. Cerio, Fred, if
16 you will, how much are you going to charge me for this?

17 A. I can go on record by saying, I have never been introduced to Mr. Seither.

18 Q. Okay. I'd like--

19 A. --To this day--

20 Q. --you to listen to my questions and answer yes or no, please.

21 A. Okay.

22 Q. My question is, were you contacted by Mr. Seither in furtherance of him
23 asking you about what your fee was in connection with your
24 representation of him?

25 A. Absolutely not.

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(Cerio-Recross)

1 Q. Were you contacted by Ms. Greger, or did you have, did you, excuse me,
2 were you contacted by Ms. Greger and asked what your fee would be for
3 representing her?

4 A. Absolutely not.

5 Q. And with regard to Mr. Seither and Ms. Greger, neither one of them
6 reached out to you to say thank you as well, is that correct?

7 A. That is 100 percent correct.

8 Q. In terms of your moving forward in your professional career as a court
9 attorney in terms of your performance of your job, you were paid a
10 varying amount of money over the years, but the amount of money
11 increased as a consequence of raises, is that correct?

12 A. Correct.

13 Q. You were not paid on an hourly basis, is that correct?

14 A. Correct.

15 Q. You were a salaried employee of the Office of Court Administration?

16 A. Correct.

17 Q. And as a salaried employee of the Office of Court Administration, over
18 those entirety of the 15 years, would it be fair to say that you have been
19 required to do 17 and a half hours of work every week?

20 A. Correct.

21 Q. And what filled that time during the week was not your responsibility per
22 say, is that correct?

23 A. Correct, I was at--

24 Q. --Were you your own supervisor?

25 A. I had him.

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(Cerio-Recross)

1 Q. By him--

2 A. --the judge--

3 Q. --by, you mean--

4 A. --Judge--

5 Q. --Judge Ramich--

6 A. --Ramich, yes.

7 Q. Alright. Judge Ramich was the one who was responsible for giving you
8 work, right?

9 A. Correct.

10 Q. And Judge Forrest for a period of time, is that correct?

11 A. Correct.

12 Q. Alright. Regardless of whether or not either one of them gave you any
13 work, your time at the courthouse had to be 17 and a half hours a week,
14 right?

15 A. Correct.

16 Q. You could be sitting there if they chose not to give you any work at that
17 little desk in that little room they gave you for 17 and a half hours and
18 doing nothing because they had given you no work, but you were required
19 to be there for those 17 and a half hours, is that correct?

20 A. Correct.

21 Q. On those occasions when you were given no work by Judge Forrest or no
22 work by Judge Ramich, did you chose to sit there and doing nothing or
23 did you chose to engage in legal work in furtherance of your position as a
24 court attorney?

25 A. Yes.

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(Cerio-Recross)

1 Q. One or the other?

2 A. Yes, by learning the new laws, because--

3 Q. --You chose not to do nothing?

4 A. No, I did not.

5 Q. Is that correct?

6 A. That's correct.

7 Q. You chose when you weren't given any work, to do something, is that
8 correct?

9 A. Correct.

10 Q. How often would you say it was over the 15 years, speaking generally,
11 that neither Judge Forrest nor Judge Ramich ever gave you no work, and
12 that you had no work to do, specific assignments?

13 A. I'm going to say, up to, Judge Forrest gave me a lot more work than
14 Judge Ramich, when he was part-time. Full-time--

15 Q. --2007, April 2007--

16 A. --Yep--

17 Q. --right?

18 A. Yeah, it would be, you know, maybe one or two decisions.

19 Q. Alright. When Judge Forrest became a full-time judge in April 2007, he
20 got his own clerk, Paul Hart, right?

21 A. Yes.

22 Q. Up until that time, how much time did you have vacant?

23 A. I was pretty busy, you know, handling two judges.

24 Q. As a part-time--

25 A. --Part-time.

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(Cerio-Recross)

1 Q. Sure. So, Forrest leaves, you're still putting in 17 and a half hours, right?

2 A. Correct.

3 Q. You're not supervising yourself, are you?

4 A. No, I would, there was a basket that said, "Fred," meaning me, in the
5 chief clerk's office, and I would go there every morning to see if there's
6 any work to be done.

7 MR. POSTEL: Nothing else.

8 THE REFEREE: Anything further?

9 RECROSS EXAMINATION

10 BY MR. REILLY:

11 Q. During the course of the time that you worked as a court lawyer, how
12 many raises did you receive?

13 A. You'd have to ask my, I swear to God, it goes in my wife's account. In,
14 I'm going to say, I started at 22, and I go, I'm up to 43, 44.

15 Q. So, there had to have been several?

16 A. Yeah--

17 Q. --And did they, were they contingent upon getting good recommendations
18 or reports from the person you worked for, like Judge Ramich?

19 A. No--

20 Q. --So, they--

21 A. --not to my knowledge. It's like, I'm in that quandary between I'm not
22 union, but I pay union dues, and it goes--

23 Q. --You pay union dues?

24 A. Yeah, they take out--

25 Q. --Oh, okay--

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(Cerio-Recross)

1 A. --yeah, but it's, like, so--

2 Q. --not a whole bunch--

3 A. --the amount of years you're there, it goes up. There's a scale--

4 Q. --just automatically?

5 A. Yeah.

6 Q. Okay.

7 MR. REILLY: Nothing further.

8 A. I'd like to know what I make.

9 THE REFEREE: Okay, let me, there are a few
10 questions that I have, and with any question that I ask, if
11 either side wishes to object, you're free to do so, and I'm
12 free to rule upon those objections.

13 MR. POSTEL: You're free to overrule?

14 THE WITNESS: I can't object.

15 THE REFEREE: No.

16 THE WITNESS: Can I object?

17 THE REFEREE: No. Now, there's a few names that
18 you mentioned, Angela Piarozzi?

19 THE WITNESS: Picarazzi.

20 THE REFEREE: Picarazzi, I'm sorry. Is this person
21 a court employee--

22 THE WITNESS: --No--

23 THE REFEREE: --for, okay, and is she someone
24 who was referred to you by Judge Ramich?

25 THE WITNESS: Correct.

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(Cerio-Recross)

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THE REFEREE: And she became a client of, of yours?

THE WITNESS: Yes.

THE REFEREE: Okay. Linda Waites, is she a, is that the name? Is she a court employee?

THE WITNESS: She passed away, but she was, yes.

THE REFEREE: Okay. And you did some work for her daughter?

THE WITNESS: Off of court time, yes.

THE REFEREE: Okay. That was uncompensated or compensated?

THE WITNESS: It was uncompensated.

THE REFEREE: Okay. And there's a David Reed. Is he a court employee?

THE WITNESS: Court officer for the Unified Court System.

THE REFEREE: Did you do any work for David Reed?

THE WITNESS: Except almost get arrested at Horseheads High School, no.

THE REFEREE: Now, Horseheads is located in what county?

THE WITNESS: Chemung County.

THE REFEREE: Chemung, okay.

THE WITNESS: I'm sorry.

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(Cerio-Recross)

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THE REFEREE: And was that in any way referred to you by Judge Ramich or did Mr. Reed approach you directly?

THE WITNESS: By Judge Ramich.

THE REFEREE: By Judge Ramich?

THE WITNESS: Yes. Because David Reed did work at his house for him on his house. So, it's kind of, like, I'll help you, you help me. Mr. Reed's attorneys are the Difillipos. They're attorneys in Chemung County.

THE REFEREE: Okay, there's also someone named Renee Chalk.

THE WITNESS: Correct.

THE REFEREE: Is she a court, is she an employee of the Unified Court System?

THE WITNESS: No, she is not.

THE REFEREE: Did she ever become an employee of, of, or, excuse me, a client of yours?

THE WITNESS: Like we were talking about, a mortgage broker.

THE REFEREE: Okay.

THE WITNESS: So, she wasn't, I did a draft of a separation agreement, which her husband did not agree to, so, in my position, I, if people don't agree, I don't take the money.

THE REFEREE: Understand. Now, let me go to one

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(Cerio-Recross)

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other thing, and this is kind of a theme that has come up in a number of, of questions on, on the Commission's case. But, but I want to explore it a bit. You and the judge had differences that increased significantly over time, is that correct?

THE WITNESS: Yes, sir.

THE REFEREE: Would you say that he tended to lose things, where you would be perhaps more organized?

THE WITNESS: Yes.

THE REFEREE: Okay, he would do things at the last minute, and you would do things more, would like to do things in a more timely fashion?

THE WITNESS: Yes, I mean, you could see when he would write down it needed to be done, and it should have been, you know, put in the box, or whatever.

THE REFEREE: Okay.

THE WITNESS: And, boom, I get--

THE REFEREE: --Okay--

THE WITNESS: --get them done.

THE REFEREE: And in some ways, this kind of ruffled your feathers?

THE WITNESS: Not ruffled, it was, I had to get it done. I knew he'd do it, and I can--

THE REFEREE: --Okay--

THE WITNESS: --do it, and I got it done.

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THE REFEREE: Okay, and would you say that he was more extroverted and you were more introverted perhaps?

THE WITNESS: Extroverted as?

THE REFEREE: Outgoing, he would be--

THE WITNESS: --In court or how--

THE REFEREE: --in, in court or in chambers?

THE WITNESS: In chambers, that's where the, the real berating took place.

THE REFEREE: Okay, and--

THE WITNESS: --Sometimes in court too.

THE REFEREE: Would you also say perhaps that Judge Ramich had different social graces than, than you have, or that you expected?

THE WITNESS: Could you please expand on that?

THE REFEREE: He's not the kind of person who apparently was saying, please, or at least thank you when somebody has done something for them?

THE WITNESS: Correct.

THE REFEREE: Okay, and that, that, that bothered you, correct?

THE WITNESS: When I found out why I got hired, that, it didn't bother me. I just, I found out why, someone told me--

MR. REILLY: --I can't hear him.

(Cerio-Recross)

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THE REFEREE: Okay--

THE WITNESS: --I, I found out why I was really hired as his court attorney. So, it was a, felt like a slap in the face. So, I guess my point is he was running, he was always planning ahead, and the Cerio's in Chemung County, there's a lot of us. My father had ten kids in his family. Another judge said, the reason you got hired, hearsay, is because of your family name.

MR. REILLY: I couldn't hear the answer.

THE REFEREE: He said, I believe he said that--

THE WITNESS: --I'm sorry--

THE REFEREE: --the, the reason he got hired--

MR. REILLY: --we don't hear you through--

THE REFEREE: --was because--

MR. REILLY: --the microphone, correct--

THE REFEREE: --was because of his family name.

THE WITNESS: We have of--

MR. REILLY: --You know I would object. That wasn't even, that question wasn't asked.

THE WITNESS: He, the judge asked.

THE REFEREE: Okay, I, I just asked, well, okay, it was not asked, but it's something in the background that I, I was wanting to--

MR. REILLY: --Well, I don't even know who told him that.

(Cerio-Recross)

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THE WITNESS: Judge Brockway.

THE REFEREE: Judge Brockway did. Now, if you want to object to that, you can.

MR. REILLY: I would object to the hearsay in an issue like--

THE WITNESS: --Okay--

MR. REILLY: --that.

THE REFEREE: Okay, I'll--

MR. POSTEL: --Can I just interpose, and I, I--

THE REFEREE: --Yes--

MR. POSTEL: --I would ask that the witness be instructed, he's not to rule on objections himself.

THE WITNESS: I just, and I'm--

MR. POSTEL: --And not respond unless there is a question that's put forth.

THE WITNESS: Okay.

THE REFEREE: Okay, thank you. Part of what I'm kind of asking is, is this, you and Judge Ramich had different personalities and different styles of interaction that sometimes clashed, correct?

THE WITNESS: I'm a very passive person, and a yes man, I guess you would say.

THE REFEREE: Okay, and so at times you, you felt that he kind of walked over you?

THE WITNESS: All the time.

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(Cerio-Recross)

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THE REFEREE: All the time?

THE WITNESS: Yes. I felt that because of the fact that he hired me, and--

THE REFEREE: --Because of the fact that he hired you, yes?

THE WITNESS: That I had to do what he told me to do.

THE REFEREE: Okay. Now, since sometime in 2009, you have not been at the Elmira City Court building, correct?

THE WITNESS: 2000, about a year ago.

THE REFEREE: Oh, I'm sorry--

THE WITNESS: --Yes--

THE REFEREE: --2011?

THE WITNESS: Yes.

THE REFEREE: Even though you're title is a law clerk for Elmira City Court?

MR. POSTEL: Court attorney.

THE WITNESS: Court attorney.

THE REFEREE: Court attorney, I'm sorry.

THE WITNESS: Half price.

THE REFEREE: Right.

THE WITNESS: Yes.

THE REFEREE: You have, so, that, that's what your title is, correct?

(Cerio-Recross)

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THE WITNESS: Correct.

THE REFEREE: For Elmira City Court?

THE WITNESS: Correct.

THE REFEREE: So, you're kind of working out of title all the time nowadays, working even out of county--

THE WITNESS: --I--

THE REFEREE: --for four different judges?

THE WITNESS: Five judges, correct.

THE REFEREE: And you're not working for Judge Forrest even, correct?

THE WITNESS: Not since he was, he has his own law clerk.

THE REFEREE: Okay.

THE WITNESS: Court attorney.

THE REFEREE: Okay, and this--

THE WITNESS: --No, he has a law clerk.

THE REFEREE: Now, this is done with the permission or understanding or directive of Unified Court System?

THE WITNESS: From Judge Mulvey.

THE REFEREE: Okay. During the past time that you've been in the different building, is that the Hazlett Building?

THE WITNESS: Correct.

THE REFEREE: Okay, have you received any kind

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of notifications whatsoever from Judge Ramich?

THE WITNESS: To, I, via a chief clerk that there are returns on appeals that need to be done. Returns on appeals, of course, as you know, someone's objected to how he has ruled, and I have to put the record together.

THE REFEREE: Okay. Now, one other thing, you, you mentioned that you and the judge once went to Horseheads in Chemung County to a Lowes?

THE WITNESS: Yes.

THE REFEREE: And that was on a Saturday?

THE WITNESS: Correct.

THE REFEREE: Okay. So, the two of you had some kind of a social interaction.

THE WITNESS: He needed dirt. Yeah, he was building, I would--

THE REFEREE: --Okay, but there was, he needed the dirt, but you needed a hitch ball or something, correct?

THE WITNESS: And I was going that way, yes.

THE REFEREE: Okay, and on one occasion, you dropped off food and beer to, to his house?

THE WITNESS: Yes.

THE REFEREE: Okay. So, you did have some kind of a social interaction?

THE WITNESS: He wouldn't talk to me at court. So, I was going to his house at night to, let's be men and

(Cerio-Recross)

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work out what the issue is.

THE REFEREE: Okay. Now, at, when you had this meeting, when the two of you spoke at his house, when he had you come into the house, the word "coppo" came up?

THE WITNESS: Yes.

THE REFEREE: Now, it's your understanding that he called you a "coppo?"

THE WITNESS: On my children's lives, I'm under oath, he called me a "coppo."

THE REFEREE: Okay, now, did, did "you're a lieutenant" for someone, I didn't get--

THE WITNESS: --For him.

THE REFEREE: For him, okay. And that he's, that he was expecting you to provide intelligence regarding what's happening with the O'Rama?

THE WITNESS: O'Mara--

THE REFEREE: --O'Rama, O'Mara--

THE WITNESS: --don't say Obama--

THE REFEREE: --I'm sorry.

THE WITNESS: Don't say Obama, yes, and--

THE REFEREE: --Oh, to, to perform intelligence gathering vis-à-vis the O'Mara?

THE WITNESS: As well as the county, or not the county attorney, the County Executive Santulli. It was a paranoia. It scared me.

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(Cerio-Recross)

1 THE REFEREE: Okay. I have no other questions. I
2 just wanted to explore those. They were just kind of strands
3 that were out there that I had not, felt the need to gather in.
4 Mr. Postel, do you have any further questions?

5 MR. POSTEL: Nothing else.

6 RECROSS EXAMINATION

7 BY MR. REILLY:

8 Q. You said that he was always planning ahead, but then at the same time,
9 you testified that he wait, would wait until the last minute. Is that part of
10 his--

11 A. --Plotting, I mean, are you--

12 MR. POSTEL: --Well, I'm going to object to that--

13 A. --I don't--

14 MR. POSTEL: --wait, as to--

15 THE REFEREE: --Please--

16 MR. POSTEL: --as to planning ahead as to what, and
17 waiting until the last minute as to what? The question is
18 vague and ambiguous.

19 MR. REILLY: I, I withdraw the question.

20 Q. The things that you said he waited, he waited until the last minute, you
21 said he always did that, correct?

22 A. Yes.

23 Q. But the speeding tickets that you handled weren't at the last minute, were
24 they?

25 A. Because those were not court related. I'm saying court related decisions,

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(Cerio-Recross)

1 court related issues.

2 Q. Alright, so, at last minute he'd say, I need a decision, I need a memo of
3 law, I need this, and I need that.

4 A. And I would do it.

5 Q. And when did you have this conversation with Judge Brockway?

6 A. You know what, I, when he brought me into his chambers to show that he
7 was on the Match.com--

8 Q. Who was?

9 A. Judge Ramich.

10 Q. Judge Ramich brought you into the--

11 A. --No, Judge Brockway, into his--

12 Q. --oh--

13 A. --chambers, and said--

14 Q. --you were in family court?

15 A. Yes.

16 Q. And Judge Brockway brought you into his chambers to show you that
17 Judge Ramich was on Match.com--

18 A. --Whatever it was at that--

19 Q. --or Facebook--

20 A. --at that time--

21 Q. --whatever--

22 A. --yes, and that I should tell him to get it off of that.

23 Q. Alright, and so, then it came up, he volunteered that you were--

24 A. --Yes--

25 Q. --hired just because of the Cerio name?

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(Cerio-Recross)

1 A. Then we're, I go, I said to Judge Brockway, "Judge Brockway, I don't
2 think it's my position to do this, you know, I'm his law clerk," and blah,
3 blah, blah, and on my belief at that time, I said, "You know, I'm just his
4 writer, so to speak, and researcher." I didn't want to embarrass the man.
5 I never saw it before, and he goes, "Oh, what, you should go over and do
6 it. You know, he just hired you because of your name." And that just
7 came out, the (unintelligible) because we--

8 A. --I, I'm--

9 Q. --Is your family name a reputable name?

10 A. I hope so.

11 Q. Okay, and sometimes, that's a good reason to, another good reason to hire
12 somebody because the family name is good?

13 A. I--

14 Q. --Your family name is the Cerio name.

15 A. Well, there's a lot of us.

16 Q. Yeah, well, I understand, and they have a good reputation?

17 A. Most of us, I hope.

18 Q. Alright, and that would be a factor in somebody hiring you to work for
19 them?

20 A. Because of--

21 Q. --They know your family--

22 A. --election, yeah.

23 Q. And did you know at the time that you were talking to Judge Brockway
24 when this conversation was had about Facebook or whatever, that he and
25 Judge Brockway were friends?

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(Cerio-Recross)

1 A. Absolutely.

2 Q. Alright.

3 MR. REILLY: Nothing further.

4 MR. POSTEL: I have nothing.

5 THE REFEREE: The conversation with Judge
6 Brockway occurred what year, approximately?

7 THE WITNESS: Whatever year that, the Match.com
8 was on, which was, I'm going to guesstimate I was three or
9 four years into the job. So, 2000, or, 2000.

10 THE REFEREE: Very well. Anything further?

11 MR. REILLY: Nothing further.

12 THE REFEREE: Very good. You're excused, sir.

13 THE WITNESS: Thank you.

14 THE REFEREE: Thank you. Thank you very much
15 for coming.

16 THE WITNESS: Nice to meet you, sir.

17 MR. REILLY: I'm surprised they didn't throw you
18 out (unintelligible). See ya, Fred. Take it easy.

19 MR. POSTEL: The Commission rests.

20 THE REFEREE: Very good. Any applications?
21 Anything further that you wish to present?

22 MR. REILLY: Not at this time, other than a motion
23 to dismiss, but that is, I know that's not going to, that's
24 going to be denied.

25 MR. POSTEL: No, a motion of that nature is

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(Sandore-Direct)

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completely irrelevant. The referee has no authority--

MR. REILLY: --Right--

MR. POSTEL: --to deny that motion, or grant it.

MR. REILLY: It's just old habit, you know.

THE REFEREE: Do you, does the, with the resting,
how do you wish to proceed at this--

MR. REILLY: --Well I--

THE REFEREE: --point, sir--

MR. REILLY: --can probably do Patti Santore and
Renee Chalk before we break from, for lunch.

THE REFEREE: Is that alright? Okay, please call
your first witness then, sir.

MR. REILLY: The respondent calls Patti Santore.

RESPONDENT: Sandore.

MR. REILLY: Sandore.

RESPONDENT: Sandore.

MR. REILLY: Sandore.

THE REFEREE: If you'd stand up and raise your
right hand.

THE WITNESS: Sure.

THE REFEREE: Do you solemnly swear that your
testimony will be the truth, the whole truth, and nothing but
the truth, so help you, God?

THE WITNESS: Yes, sir.

THE REFEREE: Please sit down.

(Sandore-Direct)

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PATRICIA SANDORE,

being duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. REILLY:

Q. Patti, could you state your full name, and could you spell it, for us?

A. Sure. Patricia Sandore, S-A-N-D-O-R-E.

Q. And are you called Patti?

A. Yes.

Q. Alright, and can you tell us what your address is?

A. 420 Charlesmont Road, Elmira, New York, 14904.

Q. And are you employed at this time?

A. Yes.

Q. By who?

A. Chemung County, Chemung County--

Q. --In what, in what capacity?

A. I'm the legal secretary to the county attorney.

Q. Okay, and did there come a time when you were working as Fred Cerio's attorney, secretary?

A. Yes.

Q. And do you recall when you started working for him?

A. 1997.

Q. And when did you last work for him?

A. 2010.

Q. So, you were with him all the time that he was working for Judge Ramich, correct?

(Sandore-Direct)

1 A. Yes, mm-hmm.

2 Q. And in doing his private client work, were there a lot of times when he
3 didn't charge people any money?

4 A. Oh, sure, yes, mm-hmm.

5 Q. About how much?

6 A. You mean how many people?

7 Q. Yeah.

8 A. It would depend on the circumstances. If they were friends, family,
9 friends of his mother, there were a lot.

10 Q. Okay. More than you think was normal, if you knew?

11 A. I don't know because I, the only other attorney that I worked for was
12 Attorney Golos, and that didn't happen so much.

13 Q. Attorney Golos?

14 A. Golos.

15 Q. G-O-L-A-S?

16 A. O-S, G-O-L-O-S.

17 Q. And did you do the closing for Judge Ramich's house at, at, at Mr.
18 Cerio's office?

19 A. Yes.

20 Q. And was, Fred was present for that?

21 A. Yes, mm-hmm.

22 Q. And he acted on behalf of the judge?

23 A. Right.

24 Q. And during the time, those years that you worked for Mr. Cerio, did you
25 ever hear him say anything unfavorable about Judge Ramich?

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(Sandore-Direct)

1 A. No.

2 Q. Nothing at all?

3 A. But, you know, never said anything unfavorable about anyone, you know,
4 he was just wouldn't say that to me.

5 Q. Okay.

6 A. Okay.

7 MR. REILLY: I have nothing further.

8 CROSS EXAMINATION

9 BY MR. POSTEL:

10 Q. How long have you known Fred?

11 A. Between 25 and 30 years.

12 Q. Did you have occasion to form an opinion as to his reputation for truth
13 and veracity in the community, whether he was an honorable man?

14 A. Yes.

15 Q. What is your opinion?

16 A. I think he's an honest person, yes.

17 Q. And did you enjoy your time working for him?

18 A. Very much, yes.

19 Q. Did, was your separation from him in terms of your employment relevant
20 to your decision not to work for him because of anything he did or the
21 way he treated you?

22 A. No.

23 Q. Why did you leave him?

24 A. My husband became ill, and Fred could no longer afford his insurance.

25

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(Sandore-Cross)

1 So, I told Fred that I had to start looking for something else.
2 MR. POSTEL: No further questions.
3 THE WITNESS: Okay.
4 MR. REILLY: Nothing further.
5 THE REFEREE: That's it.
6 THE WITNESS: Alright, great.
7 THE REFEREE: Thank you very much.
8 THE WITNESS: Alright.
9 MR. REILLY: Depending upon how we go, Your
10 Honor, I might be able to do all three of them.
11 MR. POSTEL: Could I just get a quick minute?
12 THE REFEREE: Yes.
13 MR. POSTEL: Just a minute.
14 THE REFEREE: Yes. Thank you very much.
15 MR. POSTEL: Who's next?
16 MR. REILLY: Renee Chalk.
17 MR. POSTEL: Rachel Chalk?
18 MR. REILLY: No, Renee Chalk.
19 MR. POSTEL: I'm ready. Thank you.
20 THE REFEREE: Fine.
21 MR. POSTEL: Ready to go.
22 MR. REILLY: Call Renee Chalk.
23 THE REFEREE: Renee Chalk.
24 MR. REILLY: Go right over there where that
25 microphone is next to that gentleman.

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(Chalk-Direct)

1 THE REFEREE: And would you raise your right
2 hand, please? Do you solemnly swear or affirm that the, to
3 tell the truth, the whole truth, and nothing but the truth, so
4 help you God?

5 THE WITNESS: I do.

6 THE REFEREE: Please sit down.

7 THE WITNESS: Thank you.

8 **ELIZABETH RENEE CHALK:**

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

10 **DIRECT EXAMINATION**

11 **BY MR. REILLY:**

12 Q. Renee, could you state your full name and address for the record?

13 A. Elizabeth Renee Chalk, 724 West Third Street, Elmira, New York, 14905.

14 THE REFEREE: Can everyone hear?

15 MR. REILLY: You got to speak up like, that
16 microphone--

17 THE WITNESS: --Sorry--

18 MR. REILLY: --doesn't go through those speakers--

19 THE WITNESS: --got it--

20 MR. REILLY: --it just picks it up for the tape.

21 THE WITNESS: Got it.

22 MR. REILLY: So, you got speak so as if I could hear
23 you.

24 Q. Are you employed at the present time?

25 A. Yes, I am.

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(Chalk-Direct)

- 1 Q. In what capacity?
- 2 A. I am a planner for Borg Warner.
- 3 Q. You work up in Ithaca?
- 4 A. Yes.
- 5 Q. And you're a planner?
- 6 A. Yes.
- 7 Q. What does that involve?
- 8 A. I buy all the materials for the components for Jaguar, Ford, Nissan. I
9 release them to production when needed.
- 10 Q. They make gears, don't they, or something like that?
- 11 A. I'm sorry?
- 12 Q. What do they make up at Borg Warner in Ithaca?
- 13 A. Car parts. I do the electrical timing components.
- 14 Q. Okay, and was there, do you know Judge Ramich?
- 15 A. Yes.
- 16 Q. How long have you known Judge Ramich for?
- 17 A. Fourteen years, give or take.
- 18 Q. And did there come a time when he referred you to see Fred Cerio for
19 legal work?
- 20 A. Yes.
- 21 Q. And do you remember about when that was? Just approximately how
22 many years ago?
- 23 A. Probably seven or eight years ago.
- 24 Q. Alright, at that time, who were you employed by?
- 25 A. Territory Mortgage.

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(Chalk-Direct)

1 Q. Territory Mortgage?

2 A. Yes, sir.

3 Q. Was that owned by some individuals?

4 A. It's actually owned by a Ken Golubschnekauf out of Rochester, and the
5 branch that I worked for was managed by a Tom Devlin.

6 Q. Tom Devlin?

7 A. Yes, sir.

8 Q. And what was your, what was your job at, for that mortgage company?

9 A. I was a senior mortgage originator.

10 Q. And did you generate most of the mortgages for--

11 A. --Yes--

12 Q. --that company?

13 A. Yes.

14 Q. And did the Devlins use Fred Cerio for some legal work?

15 A. They had used him. Fred used to do, one of the brothers, Mike Devlin,
16 bought a ton of properties in Elmira, and Fred would do his closings for
17 free in lieu of Mike using him to do the business closings.

18 Q. What business closings would he do for the Devlins?

19 A. For Mike personally, he would--

20 Q. --Yeah--

21 A. --yeah, he would do his own, Mike bought 39 Apartment units in Elmira.

22 Q. Okay.

23 A. And Tom, or Fred did those closings for him, and then his brother, Tom
24 bought a house, and Fred would do those closings. So, Mike was an
25 originator at Territory with me, so any business that Mike got, say if he

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(Chalk-Direct)

1 was writing your mortgage, he would refer your mortgage to Fred to
2 close, and do the title search.

3 Q. And how did you get involved with working with Fred Cerio?

4 A. Mike asked me to use his attorney, and I said, "No," I said, "I know Tom
5 Ramich. I'm going to call him and see if he could recommend anybody."

6 Q. Who was Fred attorney at that time? Was that Fred Cerio?

7 A. Who--

8 THE REFEREE: --Who was Fred's attorney--

9 MR. POSTEL: --Fred's attorney?

10 Q. Who was it, is it, just asked you to use his attorney?

11 A. Mike Devlin.

12 Q. And, and who's attorney was, did you know who his attorney was?

13 A. No.

14 Q. Alright, so you called Judge Ramich?

15 A. Yes.

16 Q. Where did you call him at, at the courthouse or at his home?

17 A. I believe it was at his home, but I'm not sure.

18 Q. And you told, what did you tell him you needed a lawyer for?

19 A. I told him I was working for a business, and that we do a lot of loan
20 closings and could he recommend a firm that could help us with our loan
21 closings.

22 Q. And were most of these loan closings you needed help with your personal
23 clients or closings that you had generated?

24 A. Yes, I averaged 27 loan closings a month for the business.

25 Q. Alright, and who did he refer you to?

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(Chalk-Direct)

1 A. Fred Cerio.

2 Q. And did you ever find out, did, withdraw that. How long have you known
3 Judge Ramich for?

4 A. Like, 14 years, give or take.

5 Q. Okay, and had he done any legal work for you before?

6 A. No. He had married my husband and I, so I don't know if that's--

7 Q. --He did the wedding ceremony?

8 A. Yes.

9 Q. He didn't marry you?

10 A. Yes.

11 Q. And you had a positive impression about that, and thought that he would
12 be a good source for referral for an attorney?

13 A. Absolutely.

14 Q. Alright, and who did he refer you to?

15 A. Fred Cerio.

16 Q. And did Fred Cerio do work for you?

17 A. Yes.

18 Q. How about, how many closings did he do for you on these mortgages a
19 week, or a month?

20 A. Twenty seven a month, just for me. Now, he ended up doing more for the
21 company as well.

22 Q. Did they hire, the company hire him to do closings after you had hired
23 him?

24 A. I believe that Tom, I can't state for certain if Tom had used him for
25 closings prior, Tom Devlin, had used him for closings prior. They just

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(Chalk-Direct)

1 said that they had an attorney on board. Now, the first loan that I closed
2 before I spoke to Tom Ramich, they actually had me use Mark
3 Weiermiller. So, I know that they were using Mark Weiermiller at the
4 time.

5 Q. That's W-E-I-R--

6 A. --M-E-I-L-L-E-R, I believe--

7 Q. --M-I-L-L-E-R, something like that. Just because I don't do much real
8 estate, I'm brain dead in that field. What is a mortgage closing entail?

9 A. They, the attorney that's closing it, generally is representing, the bank
10 usually doesn't have any representation there except for an attorney. The
11 attorney is actually there to represent the bank. The buyer who is buying
12 the home can have their own attorney present or use the bank's attorney.
13 So, it doesn't matter, it's up to the buyer. I always tell everybody, "If you
14 feel comfortable having your own attorney here, please do, but there will
15 be an attorney present representing the bank." That attorney does a title
16 search to make sure that there is nothing outstanding against the deed of
17 the property in which they are purchasing. And then they go over the loan
18 documents with them as far as what the interest rate's going to be, when
19 the first payment's going to be, their escrow, if it's being set up, school
20 taxes, and all of that.

21 Q. And so the attorney you chose was Fred Cerio?

22 A. Yes.

23 Q. And how many years did he work for you, do work for you?

24 A. I was at Territory for eight, so he probably worked at least six of those
25 eight years for me.

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(Chalk-Direct)

1 Q. And you averaged 23 mortgage closings a month?

2 A. Twenty seven.

3 Q. Twenty seven, and did you use Mr. Cerio in all 27 of those usually?

4 A. If he was available, yes. He was my first call. I--

5 Q. --Right--

6 A. --can't, I mean--

7 Q. --Could you give--

8 A. --on average, I would say he did at least 20 of my closings a month.

9 Q. Until you stopped using, until you stopped doing them, doing--

10 A. --Yeah, he was just, it got to the point where I would call to schedule a
11 loan closing and his secretary, Patti, would say, you know, he's not in,
12 he's teaching, or he's at school, he's at class, or else he's got another
13 closing. So, I ended up using Scott Pautz, and then Fred, you know,
14 called me and said, "You're, you're killing me here. You're taking away
15 my business," so, I mean, it just got to a point where he was busy and I
16 couldn't go back to him.

17 Q. So, you didn't go back to him, you used Mr. Pautz?

18 A. I would outsource, I mean, if Scott was busy, then I would go back to
19 Fred, but I had--

20 Q. --Were there a few, were there a few occasions after you, you went to Mr.
21 Pautz that you, that you went back to Mr. Cerio?

22 A. I personally, probably, maybe one or two.

23 Q. Alright, and did you ever tell Mr. Cerio that Tom Ramich had referred
24 you to him?

25 A. The first time I called him.

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(Chalk-Direct)

1 Q. Alright, you said, I, you know, Judge Ramich has referred me to you,
2 said, you'd be good--

3 MR. POSTEL: --I'm going to object to this line. It's
4 collateral impeachment, and it's not to a major issue in the
5 case. It has to do with a contempt to collaterally impeach
6 Mr. Cerios's testimony.

7 THE REFEREE: I'm going to overrule. I'm going to
8 allow it for the, for the extent that it is relevant that it is--

9 MR. REILLY: --You know, it's--

10 THE REFEREE: --the weight that might, I might
11 give to it, the--

12 MR. REILLY: --I understand. It's just that this is a
13 referral, person that was referred to Mr. Cerio by Judge
14 Ramich.

15 THE REFEREE: Okay, and--

16 MR. REILLY:--Alright--

17 THE REFEREE: --okay--

18 MR. REILLY: --and that's the purpose of this.

19 MR. POSTEL: And my response to that, Your
20 Honor, is that was a question brought up on cross
21 examination. The witness answered the question. He's
22 bound by the response. He can't bring in a witness to
23 testify that the response you gave to my question on cross
24 examination is inaccurate, especially when it doesn't go to a
25 material issue in, in the allegations.

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STATE COMMISSION ON JUDICIAL CONDUCT

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(Chalk-Direct)

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MR. REILLY: I mean, I--

THE REFEREE: --Okay--

MR. REILLY: --just disagree with that. It's, I may have asked the question, but not, believed the answer--

THE REFEREE: --I'm going to overrule the objection. I will, but I'm going to reserve decision on that issue of whether, given the previous answer by the previous witness, whether this, whether impeachment, or testimony by another witness is appropriate as impeachment as it were--

MR. REILLY: --fine--

THE REFEREE: --and I don't know, and I, I, thank you.

Q. Alright, how much would you pay Mr. Cerio on the average for a closing?

A. \$500 per loan closing.

Q. Alright.

MR. REILLY: I have nothing further.

MR. POSTEL: I don't think I could confuse the testimony more than it already is. I have nothing else.

THE REFEREE: Nothing further. Very good. The Witness is excused. Thank you.

THE WITNESS: You're welcome.

MR. REILLY: Oh, ma'am, I'm sorry. I've got one more question.

THE REFEREE: Do you--

(Chalk-Direct)

1 MR. POSTEL: --I have no objection.

2 THE REFEREE: Okay, go ahead.

3 Q. Did, did Mr. Cerio ever discuss with you his relationship with Judge
4 Ramich?

5 A. Yes.

6 Q. And did he ever say something to you like, I'd take a bullet for him?

7 MR. POSTEL: Well, I'm going to object to that.

8 Certainly that is hearsay. Mr. Cerio is not a party.

9 It's not an admission. There's no exception to that.

10 MR. REILLY: It's (unintelligible)--

11 MR. POSTEL: --And, I'm not done. It is also, again,
12 an attempt at collateral impeachment. It is a question
13 brought up on cross examination. The answer was given.
14 He's bound by the answer.

15 MR. REILLY: I just don't think that's a rule, I'm
16 bound on cross examination, bound by the answer.

17 MR. POSTEL: You can't collaterally impeach.
18 That's a law of the State of New York.

19 THE REFEREE: I'm, I, I agree, I will, I'm going to
20 sustain the objection. You're not to answer that question.

21 THE WITNESS: Yes, sir.

22 THE REFEREE: Do you have any other questions,
23 sir?

24 Q. How did he characterize his relationship with Judge Ramich?

25 A. Fred and I have known each other, obviously after I met with Tom, you

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(Chalk-Direct)

1 know, I met Fred after Tom, and Fred and I had a good working
2 relationship, and he told me that they were friends. He actually called me
3 at one time to have my cousin go through his house. He's never, Fred has
4 never said a bad word to me about Tom.

5 Q. Alright.

6 MR. REILLY: I have nothing further.

7 THE REFEREE: Further questions, thank you.

8 THE WITNESS: Okay.

9 THE REFEREE: Mr. Reilly.

10 MR. REILLY: I'm not sure how long I can, I'm not
11 sure how long the next witness will be. She's a court clerk.

12 MR. POSTEL: Who?

13 MR. REILLY: It's Nancy McLaurin.

14 MR. POSTEL: Nancy McLaurin?

15 MR. REILLY: Yes. So, I don't know how long
16 she's going to be.

17 THE REFEREE: I'm, I'm available to continue on at
18 this point if, continue on. Let's--

19 MR. REILLY: --Okay.

20 THE REFEREE: Does anyone. Good afternoon. If
21 you would raise your right hand, please. Do you solemnly
22 swear or affirm to tell the truth, the whole truth, and nothing
23 but the truth, so help you God?

24

25

397.

(McLaurin-Direct)

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THE WITNESS: I do.

THE REFEREE: Please sit down.

NANCY MCLAURIN,

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

DIRECT EXAMINATION

BY MR. REILLY:

Q. Nancy, would you state your full name and address?

A. Nancy McLaurin, 157 Old Ithaca Road, Horseheads, New York.

Q. And are you employed at this time?

A. Yes, I am.

Q. By whom?

A. Elmira City Court.

Q. Oh, could you spell your last name, please for the record?

A. M-C-L-A-U-R-I-N.

Q. McLaurin?

A. Yeah.

Q. And you're employed by the city court?

A. Yes.

Q. In what capacity?

A. As a senior court office assistant.

Q. When did you start working there?

A. City court, 2000.

Q. Okay, and you worked that steadily full-time since 2000?

A. I left and went to surrogate's court for a little less than a year.

(McLaurin-Direct)

1 Q. Alright, but then you went back to city court?

2 A. Then I went back to city court.

3 Q. When did you go to surrogate's court? Do you remember?

4 A. I don't remember which year it was.

5 Q. Did you work for one judge or just the court?

6 A. In surrogate's court, I didn't go into court there. Prior to city court, I
7 worked for Judge Buckley and Vern Bonsignore.

8 Q. Okay, and what's your educational background?

9 A. High school.

10 Q. Alright, and did you, when you started working at city court, what judge
11 were you supposed to work for?

12 A. When I started working at Elmira City Court?

13 Q. Elmira City Court?

14 A. I worked for either--

15 Q. --Alright, what--

16 A. --Judge Forrest or Judge Ramich.

17 Q. And was there a time that you were told you could only, you were only
18 supposed to do work for Judge Ramich?

19 A. Recently, when they separated the criminal work from Judge Ramich to
20 just civil and traffic, they told me I was going to be in court with Judge
21 Ramich full time.

22 Q. Alright, and you--

23 A. --That's it.

24 Q. And you, the staff that's there, have you known them for all the time
25 you've worked there?

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(McLaurin-Direct)

1 A. Yes.

2 Q. Not much turnover?

3 A. No.

4 Q. Alright, and have you heard any derogatory comments made by Judge
5 Forrest about Judge Ramich?

6 A. Yes, I have.

7 Q. Can you tell me when and what was said?

8 A. On numerous occasions, he just, like, little sarcastic digs. My, like, one
9 time, I was in court with him, and he said, "My counterpart judge, the
10 Honorable Thomas E. Ramich, Jr.," like, stuff, just little things like that.
11 In the back office, he's come back there and made comments and
12 sometimes myself and the clerk will look at each other, like, here we go
13 again, type thing.

14 Q. Alright, did, did, you are familiar with these markings he puts on court
15 files, saying, refer to the Honorable Thomas E. Ramich, Jr.?

16 A. Yes, we're all familiar with them.

17 Q. And you're familiar with the sign that he's got listing all the cases that he
18 handles? This is in Exhibit A?

19 A. Yeah, this used, this is on his, Judge Forrest's basket. The baskets used to
20 say, TER and SWF. These are the baskets that us clerks use to put files in
21 for each of the judges.

22 Q. Right.

23 A. Yes.

24 Q. And you're supposed to know what judge gets what correspondence--

25 A. --Right, right.

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(McLaurin-Direct)

1 Q. And do you know that without having the, need that sign there?

2 A. This sign didn't used to be there. Judge Forrest put it there.

3 Q. When did he put it there?

4 A. Ballpark, like, six months ago.

5 Q. Six months ago?

6 A. Maybe a little longer.

7 Q. And how long have you been doing those special courts, like, the
8 domestic violence court and--

9 A. --Oh, quite a while.

10 Q. Alright, so this is relatively new?

11 A. This was probably about the same time that they separated Judge Ramich
12 to do just civil and traffic.

13 Q. And how, how does this, this notations on the files, can you see them all
14 the time?

15 A. I've seen them, our court officers have seen them, everybody's seen them.

16 Q. Has anyone commented about them?

17 A. Our court officers have made comments. They just shake their head, like,
18 why is he--

19 MR. POSTEL: --I'm going to object to that. It's
20 characterization, Your Honor. Like something, it's her
21 conclusion. Shaking of the head can indicate anything.
22 Further, the shaking of the head is non-verbal hearsay.

23 MR. REILLY: Alright, let me--

24 THE WITNESS: --Okay--

25 MR. REILLY: --let me--

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(McLaurin-Direct)

1 THE REFEREE: --Go ahead--

2 MR. REILLY: --withdraw that.

3 Q. How does it affect you? How does it make you feel when you see that?

4 A. It, it really, I don't like it. It stresses me, and, not myself, but other clerks,
5 we even contacted Don Lynksey, the head of our union.

6 Q. Don who?

7 A. Don Lynskey.

8 Q. How do you spell Lynskey?

9 A. L-Y-N-S-K-E-Y.

10 Q. And what did you contact, did you personally contact him?

11 A. I personally contacted him.

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

13 A. About that the court wasn't, like, our chief clerk sees that, people saw the
14 signs, they see the, they hear the comments. It makes an uncomfortable
15 situation for us.

16 Q. When you say people hear the comments, what people are you referring
17 to?

18 A. Well, I personally have spoken with Monica and even Judge Forrest's
19 secretary, Chris Resavage. Monica is very uncomfortable with--

20 MR. POSTEL: --Again--

21 A. --the situation--

22 MR. POSTEL: --Your Honor, I object. This is
23 hearsay.

24 THE REFEREE: I'm going to sustain that she cannot
25 state what Monica's state of mind is or that she is

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(McLaurin-Direct)

1 uncomfortable.

2 Q. Has Monica said anything to you about the effect these notations and
3 signs have had?

4 A. Yes, she said she--

5 MR. POSTEL: --Objection. She said, this is hearsay.
6 They can call Monica if they choose to do so. This is a
7 collateral witness coming in on a collateral issue and
8 bringing in hearsay.

9 THE REFEREE: I'm going to sustain that objection.

10 MR. REILLY: Alright.

11 Q. When you were, were you ever warned about doing work with Judge
12 Forrest? I mean Judge Ramich.

13 A. When I was actually, when I went to work for city court, Sharon Race, the
14 Deputy Chief Clerk at the time--

15 Q. --Who is that?

16 A. Sharon Race?

17 Q. Okay.

18 A. Said to me, "We've had some problems with Judge Ramich. If he ever
19 bothers you, or does anything to you, then come right to us."

20 Q. Alright, and were you told that you should not be in his office with the
21 door closed?

22 A. Oh, I was told that recently because I told a police officer that Fred was in
23 the Hazlett Building--

24 Q. --Okay--

25 A. --because the officer was asking me every day on my way in to court, "Do

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(McLaurin-Direct)

1 you know where Fred is, because I'm going to, trying to close on my
2 house and he's got the deed to my house."

3 MR. POSTEL: Again, Your Honor, we are far afield,
4 and it is hearsay. Some unnamed officer talking about
5 something having to do with Fred Cerio. It's, it's blatant
6 hearsay.

7 THE REFEREE: I'm going to sustain that objection.

8 MR. REILLY: Alright.

9 Q. Did you observe Mr. Cerio and Mr. Ramich working together?

10 A. Yes.

11 Q. And when was the last time you saw them together?

12 A. I really can't tell you the date. One minute Fred was there, and the next
13 day, he was gone, and there was no--

14 Q. --And what, did you have any observations about their working together,
15 how it was?

16 A. They were, seemed fine. They were, I, I didn't see any issues.

17 Q. Alright, and did anyone complain to, did Mr. Cerio complain to you about
18 Judge Ramich, or did Judge Ramich complain to you about Mr. Cerio?

19 A. No, the only thing I ever heard Fred say was, like, today's going to be a
20 bad day, or today we're, you know, it's one of those days, or something,
21 but--

22 Q. --Yeah, but the judge--

23 A. --besides that, the only thing he ever said was, "They're like family and--

24 Q. --He said--

25 A. --that's it--

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(McLaurin-Direct)

1 Q. --that?

2 A. He said that to me.

3 Q. That who was like family?

4 A. That him and Judge Ramich were like family.

5 Q. Alright, and they're, Judge Ramich would have good days and bad days
6 sometimes as far as his temper--

7 A. --Well, just like any of the other judges. I mean, everybody has a bad day
8 once in a while, yeah.

9 Q. Right, and did you ever observe any, well, strike that. Did you go, did
10 you do actual work inside the courtroom?

11 A. Yes.

12 Q. And you were up there all the time, almost every day?

13 A. I, I mostly did traffic at, at one point. I did just traffic, and then there
14 were a couple points, I was in the criminal unit, and then I went back to
15 just traffic, and then recently, they had me do, anytime Judge Ramich's in
16 the courtroom, I'm in there unless it's a civil case.

17 Q. Alright, when, when were you doing the criminal cases?

18 A. Back, back in the beginning, like, around the beginning of 2001, 2002,
19 back then.

20 Q. Alright, and you've, but you've been in the, all the recent years, in court
21 with Judge Ramich, off and on?

22 A. Right, off and on.

23 Q. And when you were in court, what were you, what were your duties as far
24 as, let's talk about the one most recently, traffic cases?

25 A. Mm-hmm.

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(McLaurin-Direct)

1 Q. And what did you have to do?

2 A. For the traffic cases, I basically just data enter the information in. On
3 trials, we mark the exhibits, stuff like that, just--

4 Q. --So, you were, you mark exhibits, you put the stamp on them, mark
5 those, you put entries into the computer system for the court?

6 A. Yes.

7 Q. And have you ever seen any clerical personnel in the office or in the
8 courtroom in tears?

9 A. I have not personally, no.

10 Q. So, you've never seen anybody running out of Judge Ramich's courtroom
11 in tears?

12 A. No.

13 Q. And do you know whether Mr. Cerio did free legal work?

14 A. I know what I was told by another clerk that he did her--

15 MR. POSTEL: --Objection. Once again, not
16 testifying from her own observation or knowledge. She's
17 testifying from what she was told by an unnamed individual
18 about a collateral material, collateral issue.

19 THE REFEREE: I'm going to sustain on grounds of
20 hearsay.

21 Q. Did there ever come a time when you noticed that, any drastic change or
22 significant change in Mr. Cerio's behavior?

23 A. He, well, he was there, and then he was gone. There wasn't, I mean, now,
24 I ran into him, actually at Staples, and he wouldn't even look at me. He,
25 like, looked at the bare wall instead of saying hello. But--

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(McLaurin-Direct)

1 Q. --When, when did you see him at Staples?

2 A. Like, a couple weeks ago.

3 Q. Was that after he was aware that you might be testifying here?

4 A. I don't know when he became aware.

5 MR. POSTEL: I'm going to object again as to the
6 operation of this witness's knowledge as to the operation of
7 Mr. Cerio's mind on a collateral matter.

8 THE REFEREE: Her, his operation of mind, that is
9 sustained.

10 Q. Well, I'm not asking, just he wouldn't, didn't talk to you, you saw, he saw
11 you?

12 A. Yes.

13 Q. And did, what did he do?

14 A. He looked up at the wall, like there was--

15 Q. --And walked away or?

16 A. Yeah.

17 Q. Did you try to talk to him?

18 A. I said, "Hello."

19 Q. And he, did he respond?

20 A. He didn't respond.

21 MR. REILLY: Your witness.

22 MR. POSTEL: I have nothing for this witness.

23 THE REFEREE: Thank you very much.

24 THE WITNESS: Yeah.

25 MR. REILLY: We can take a break now, judge,

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(Colloquy)

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because I got my client's wife--

MR. POSTEL: --Your Honor--

MR. REILLY: --and I want to talk to her a bit, ex-wife--

THE REFEREE: --That's fine. That's fine. We're in recess now. It's almost 1:00. Forty five minutes?

MR. POSTEL: Who have you got? Who have you got left? Lori?

MR. REILLY: Lori and the judge.

MR. POSTEL: Okay, besides the judge, just Lori?

MR. REILLY: Yeah.

MR. POSTEL: Good luck with that.

MR. REILLY: With what?

MR. POSTEL: Lori.

MR. REILLY: I'm the one that could get in trouble.

(OFF THE RECORD)

MR. POSTEL: We're ready.

THE REFEREE: Good afternoon all. This is the afternoon continuation. It's approximately 2:15, and we are resuming the Commission's hearing. Does the respondent have another witness it wishes--

MR. REILLY: --Yes--

THE REFEREE: --to call at this time?

MR. REILLY: We do. We call Lori Ramich.

THE REFEREE: Lori Ramich. If you would raise,

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(L. Ramich-Direct)

1 raise your right hand. Do you solemnly swear or affirm to tell
2 the truth, the whole truth, and nothing but the truth, so help
3 you God? Thank you. Please sit down. And when you are
4 speaking, you can speak into the microphone, but that is just
5 recording things.

6 THE WITNESS: Okay.

7 THE REFEREE: It does not--

8 THE WITNESS:--Oh--

9 THE REFEREE: --amplify.

10 THE WITNESS: Okay. Thank you.

11 MR. REILLY: So, you have to make sure they can
12 hear you.

13 THE WITNESS: Okay.

14 MR. REILLY: Ready?

15 THE REFEREE: Oh, please, yes.

16 **LORI RAMICH:**

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

18 **DIRECT EXAMINATION**

19 **BY MR. REILLY:**

20 Q. Lori, would you state your full name and address, please?

21 A. Yes, Lori Beth Ramich, 967 Grove Street, Elmira, New York.

22 Q. And how do you spell you first name?

23 A. Lori, L-O-R-I.

24 Q. Alright, and what's your date of birth?

25 A. 7/1/1959.

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(L. Ramich-Direct)

1 Q. And are you employed at this moment?

2 A. Yes, I am.

3 Q. By whom?

4 A. The Horseheads Central School District.

5 Q. In what capacity?

6 A. I'm a school psychologist.

7 Q. Okay, and you know this gentleman, Tom Ramich?

8 A. Yes, I do.

9 Q. And you were, you got married to him when?

10 A. In July of '86.

11 Q. You remember the month?

12 A. Yes, I do.

13 Q. And, and you got divorced when?

14 A. About '94

15 Q. And do you know the Cerios--

16 A. --Yes--

17 Q. --Fred Cerio? What's his wife's name?

18 A. Kathy.

19 Q. How did you come to know them?

20 A. I guess it goes back first with Tom introducing me to Fred when he
21 worked at a local restaurant/bar place in Elmira. He was either a cook or
22 he was the bartender there, and so Tom and I would go there and visit
23 with him, and eat, and so forth.

24 Q. And this was when you were dating Tom before you--

25 A. --Yeah--

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(L. Ramich-Direct)

1 Q. --married him?

2 A. Yes.

3 Q. And you would, would meet the Cerios sometimes at a bar?

4 A. Yes.

5 Q. And were they, did they appear to be friends?

6 A. Yes, we frequently would have occasions to be together. My youngest
7 child, Jessica, grew up with their oldest child, and in school, we first
8 started becoming friendly back when they were in kindergarten, first
9 grade, and that continued up until probably about the first year of college.

10 Q. Alright, and your daughter, Jessica would spend considerable amount of
11 time over at their house?

12 A. Yes, it seemed to be mostly summers. They had a beautiful built in
13 swimming pool, and so, Jess spent a lot of time there in the summers, and
14 then in the wintertime Lauren spent a lot of time at our house and back
15 and forth.

16 Q. And were you friends with the, with the Cerios, the parents?

17 A. Yes.

18 Q. What would you do--

19 A. --Yes, very much--

20 Q. --together that would lead you to feel that way?

21 A. When, being involved with the Holy Family Schools that the kids were
22 involved with. It's a very small tight unit group, and there were a lot of
23 family functions that would take place as well as school activists for the
24 kids, and we'd often spend time together, and talk, have fun, dances and
25 so forth, and we also had both our girls were involved in soccer, and often

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(L. Ramich-Direct)

1 times we would be at soccer games together. Fred would sit with, with
2 Tom during those things. I tended to be the one that would have to be
3 handing out the oranges and doing things like that for the soccer players,
4 and so forth.

5 Q. Okay, and when you were going to the soccer games, was Fred working
6 for Tom?

7 A. Yes, yes.

8 Q. And when you were with him and, and he was working with Tom, would
9 he talk to you at all about what it was like working with Tom.

10 A. Oh, frequently. I think that the job was very difficult. I think that Tom
11 had been concerned over the years, the political atmosphere of retribution
12 and so forth was difficult, and Fred would repeatedly tell me that, that it
13 was not an issue, that Tom was doing an excellent job, that I needed to
14 not worry about such things, that he appreciated working with Tom, his
15 flexibility, because often times, well, he had a part-time job as a lawyer
16 outside of law clerk. So, he often had to go, come back and forth to court,
17 and he seemed to enjoy working with Tom. He never complained to me
18 about him.

19 Q. When was the last time you had any conversation about, about, with him
20 about working with Tom?

21 A. Actually, when I went to the home of a mutual friend that was involved in
22 a, he was running for a judgeship in the Town of Elmira.

23 Q. Who was that? Was it Difillipo, Jimmy--

24 A. --Difillipo--

25 Q. --Difillipo--

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(L. Ramich-Direct)

1 A. --yes, yes. My daughter babysat for him too, yes.

2 Q. And you went up to Jimmy Difillipo's house?

3 A. Yes.

4 Q. For what reason?

5 A. Because Jimmy was getting together people that would be willing to work
6 on his campaign, and it was one of those nights of people come and pick
7 up posters, give out, you know, pamphlets, and so forth.

8 Q. Was, was that just a couple of years ago, maybe three of four, three years
9 ago?

10 A. I would, yeah, I think so.

11 Q. Three years ago, and he was running for Town of Elmira--

12 A. --He was Town of Elmira Justice.

13 Q. Alright, and you saw Fred up there?

14 A. Yes.

15 Q. And what was Fred doing there?

16 A. When I walked in he was, he was sitting at a table, and he had the, all the
17 papers that are involved in, when the election, Board of Election, has the
18 names on them and then--

19 Q. --The petitions--

20 A. --part, petitions, well, not the actual petition, but the, the names and then
21 the addresses of people and so forth, and so he was giving out the, the
22 names of the area of where I could go to get people to give me
23 opportunity to put posters and stuff in people's yards.

24 Q. Okay, and he was--

25 A. --And--

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(L. Ramich-Direct)

1 Q. --giving, he gave you that information?

2 A. Yeah, and he had said to me, but very oddly, he said, "But you didn't see
3 me here."

4 Q. And?

5 A. And I didn't understand at first what he was talking about. I said, "What
6 do you mean I'm not seeing you here?" And he said, "Because I'm not
7 supposed to be involved with political campaigns."

8 Q. Alright, and at that time did you have a discussion with him about his
9 work with your, with Tom?

10 A. Yeah, he, he, he said, "Well, you know, the politics and so forth," he
11 goes, "but, you know, with everything's going fine, Lori, don't worry."
12 At that point, I didn't have much contact with Tom. So, I didn't know
13 what was going on in city court, and so forth, and he just reassured me
14 that Tom was doing a good job, and for me not to worry about anything.

15 Q. Yeah, your divorce was a lot of fun, wasn't it?

16 A. Not really.

17 Q. It was a little tough, and, and I--

18 A. --It, it's--

19 Q. --was involved in it. You'd become, as your children have gotten older, a
20 little bit closer to Tom?

21 A. Yes, yes.

22 Q. And that's over the last few years?

23 A. Yeah, we talk when it needs to be for kid purposes, if have to--

24 Q. --Yeah--

25 A. --you know.

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(L. Ramich-Direct)

1 Q. And they're both adults and such now?

2 A. Yep, Jessica is 22 and Amanda's 24.

3 Q. And do you remember at all the last time you saw Fred or his wife, or any
4 of his children?

5 A. Actually, Kathy and I went on a, a nice trip once. We went to Buffalo on
6 an overnight with the kids, because we went up to see Justin Timberlake
7 when he was, like, really big back a few years back, and after that time
8 kind of went on and we kind of went our separate ways. Kathy, good
9 purpose, good person and all, but she stayed at home, and I was a working
10 person, and she seemed to have quite a taste much higher than I could
11 afford.

12 Q. In expenditures?

13 A. Yeah--

14 MR. POSTEL: Well, I'm going to object to this. This
15 is outrageous. Outrageous--

16 THE REFEREE: --I--

17 MR. POSTEL: --to have this witness testify, to be
18 asked about the expenditures--

19 MR. REILLY: --Well, I--

20 MR. POSTEL: --of a Commission witness's wife.

21 THE REFEREE: I don't see it being relevant at all.
22 I'm not certain, you know, people go in different--

23 MR. REILLY: --Right--

24 THE REFEREE: --directions, so--

25 MR. REILLY: --and I'll, I'll withdraw the--

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(L. Ramich-Direct)

1 THE REFEREE: --on grounds of relevance, I'm
2 going to sustain--

3 MR. REILLY: --right--

4 THE REFEREE: --the objection.

5 MR. REILLY: I have, I have no problem with that.

6 Q. You used--

7 A. --Okay--

8 Q. --to take trips out of town with, with both of them?

9 A. With Kathy, did, one, one year he and Kathy took my youngest, Jessica,
10 down to Myrtle Beach for a week, and I guess when you talk about how
11 you trust people, I, I, at that time, Fred had asked me and I agreed to sign,
12 and I had talked to Tom about it, that, a paper saying that, if being out of
13 town, if something were to happen to Jessica, he would be in lieu of
14 parent.

15 Q. Right, in the case the child needed medical care--

16 A. --Yes--

17 Q. --or something that was--

18 A. --and--

19 Q. --an emergency?

20 A. Right, and I, he was my friend, so I assumed that that was in her best
21 interest. So, we did that.

22 Q. Did you refer clients to him also?

23 A. Yes, I had a couple of people that, well, I can tell you a family, and then
24 one friend that I knew whose father had died, and needed help, a couple
25 of divorces, a couple of real estate things, my sister, whom he knew,

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(L. Ramich-Direct)

1 referred her to him for real estate, my daughter, unfortunately, went
2 through a divorce.

3 Q. This is Amanda?

4 A. Yes, and Amanda, I had asked her to contact him and get that--

5 Q. --And did you find out that Fred represented Amanda's husband also?

6 A. Yes.

7 Q. Okay, and they worked things out though--

8 A. --Yes, yes.

9 Q. Did you have to pay any money for the divorce?

10 A. I didn't, but she did.

11 Q. She paid money?

12 A. She or her husband did, yes.

13 Q. Okay.

14 A. Her ex-husband.

15 Q. Alright, and did you tell Fred you were referring these people to him?

16 A. Did I tell him--

17 Q. --Yeah, did you call--

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

19 Q. --him up and say, I referred my friend, this friend--

20 A. --probably in passing, I said, hey, did you ever hear from so and so. I sent
21 you somebody--

22 Q. --Okay, and did he ever thank you for any of the referrals?

23 A. I think he was especially pleased with the one that got him some good
24 money.

25 Q. Who was that?

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(L. Ramich-Direct)

1 A. He's, he's a, I'm sorry, I'm upset, Bernard, he's a fireman. He lived
2 behind, over on Miller.

3 Q. Is he the one that had his father died? There was a big estate--

4 A. --Yes, and he didn't, the guy didn't even realize how much money his dad
5 had. He made a--

6 Q. --And so Fred handled the estate?

7 A. Yes.

8 Q. Burnoss, is that the name?

9 A. You're close.

10 Q. Okay. Burnell.

11 A. Burnell, yes--

12 Q. --Alright--

13 A. --yes, yes.

14 Q. Okay.

15 MR. REILLY: Your witness.

16 MR. POSTEL: No questions.

17 THE WITNESS: Okay.

18 THE REFEREE: No questions? Very good.

19 THE WITNESS: Okay, okay--

20 THE REFEREE: That's it--

21 THE WITNESS: --thank you.

22 THE REFEREE: Thank you very much--

23 THE WITNESS: --Thank you.

24 MR. REILLY: Can I walk out with her, judge?

25 THE REFEREE: Certainly.

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(Colloquy)

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MR. REILLY: Your Honor, I'm going to move into evidence, a transcript of testimony given by Judge Thomas E. Ramich on April 25, 2011, in Rochester, New York. We have agreed to redact certain portions of that, as they're not relevant to this proceeding.

MR. POSTEL: No objection.

MR. REILLY: So we mark this at Exhibit C?

MS. SAMPSON: C.

(Judge's Exhibit C was marked for identification)

THE REFEREE: Respondent's Exhibit C has been marked and received into evidence without objection.

(Respondent's Exhibit C was received into evidence)

MR. REILLY: Now, do you want to have to see it now, judge, or do you want to wait?

THE REFEREE: I don't need to see it, I've seen very few of the, of the exhibits at this point--

MR. REILLY: --And we got one--

THE REFEREE: --it may be a point where I, I, I'm going to ask to look at it, but.

MR. REILLY: I'm waiting for the last one to be done. We're just about a page away. She's got her speedy?

MR. POSTEL: Sharpie.

MR. REILLY: Sharpie.

MS. GAUDIOSO: Sharpie.

(Colloquy)

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MR. REILLY: Speedy (unintelligible)

MR. POSTEL: She's speedy with a sharpie

MR. REILLY: And I would also move in the transcript of testimony given on January 24, 2012, by Thomas E. Ramich. We redacted again, certain portions of that record. There may be pages folded over, and they were done by me to indicate the parts that we were going to redact, so it was easier to get to them.

THE REFEREE: Very well.

MR. POSTEL: No objection.

THE REFEREE: That will be Exhibit D?

MR. POSTEL: D.

MS. SAMPSON: D, yes.

(Respondent's Exhibit D was marked for identification)

(Respondent's Exhibit D was received into evidence)

MR. REILLY: Call Thomas E. Ramich.

THE REFEREE: Do you solemnly swear or affirm to tell the truth, the whole truth, and nothing but the truth, so help you God?

THE RESPONDENT: I do.

THE REFEREE: Please be seated.

THOMAS E. RAMICH,

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

DIRECT EXAMINATION

BY MR. REILLY:

(T. Ramich-Direct)

1 Q. Judge, can you state your full name and address for the record?

2 A. Thomas Edward Ramich, 854 Euclid Avenue, Elmira, New York.

3 Q. And are you presently a judge for the City Court, City of Elmira?

4 A. I am.

5 Q. And can you tell me what your educational background is starting with
6 elementary school and going up through law school?

7 A. Well, I'm kind of a native of the area. Grade school would have been St.
8 Patrick's, one through eight in the City of Elmira, high school would have
9 been Notre Dame High School in Elmira, then Corning Community
10 College, locally, for two, well, three semesters, and then St. John Fisher
11 College, a B.S. or B.A., a B.A., graduated from college at St. John Fisher,
12 and then--

13 Q. --What, what did you get a B.A. in? What was your major?

14 A. Psychology.

15 Q. Okay.

16 A. And then St., St. John's Law School in New York City in '75 with a Juris
17 Doctor.

18 Q. And that was the year you graduated?

19 A. It was.

20 Q. And you took the bar exam in the State of New York when?

21 A. Immediately thereafter. So, I, I think, I guess it would have been July of
22 '75 and then admitted immediately thereafter. I believe the same year that
23 you took the bar exam.

24 Q. We took the bar exam at the same time as I recall.

25 A. Yes.

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(T. Ramich-Direct)

1 Q. And then what did you do after you graduated from law school?

2 A. I returned immediately to Elmira and I began my, my legal career in a, a
3 small one other person law firm, an elderly attorney, locally, in Elmira
4 hired me. His, his name was--

5 Q. --Who was that?

6 A. John Lawless, and I, I began working with him in his private practice.

7 Q. What kind of work were you doing for him?

8 A. General practitioner with, with a lot of business and real estate.

9 Q. Alright, and what did you, when did you stop working for him?

10 A. Well, I, shortly after beginning to work for him I was hired as an assistant
11 county attorney assigned to family court.

12 Q. Alright, who hired you?

13 A. The County of Chemung.

14 Q. Alright, and--

15 A. --Lou--

16 Q. --county--

17 A. --the county attorney at that time was Louis Mustico.

18 Q. Alright. He's a Republican?

19 A. He is.

20 Q. Alright, and you were a county attorney? Was that a part-time job, or
21 full-time?

22 A. That was a part-time job, and later that same year I, I was also hired into a
23 second part-time job of assistant corporation counsel for the City of
24 Elmira.

25 Q. Did you have any work that you were doing that wasn't a part-time job

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(T. Ramich-Direct)

1 for a municipality type organization?

2 A. Legal work, you mean?

3 Q. Yes.

4 A. Well, the work that would, would have been in, as part of the private
5 practice.

6 Q. And what, who was involved in that private practice?

7 A. That would have still been the man who hired me, John Lawless--

8 Q. --John Lawless--

9 A. --and I. We, we continued together for probably three or four years,
10 something like that.

11 Q. Alright, and what did you do after the three or four years with Mr.
12 Lawless?

13 A. Then I, I joined another group that was Mustico, Mustico, Mustico, and
14 Ramich.

15 Q. Related to the Louis Mustico who helped you get a job as the county
16 attorney?

17 A. I had gone to grade school and high school with his son, John.

18 Q. Alright, and what--

19 A. --So, it--

20 Q. --did--

21 A. --it kind of, it, it transcended politics.

22 Q. Alright, and what did you do primarily for that firm?

23 A. The same type of general business and real estate.

24 Q. And how long did that relationship last?

25 A. A couple more years.

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(T. Ramich-Direct)

1 Q. And what happened to that?

2 A. We transitioned into, Dave Brockway and I became partners.

3 Q. And that, Dave Brockway is a, is now a family court judge?

4 A. He is.

5 Q. And at some point, he became a judge for the Village of Horseheads?

6 A. Yeah, he, he was the judge probably about the same time as I became a
7 judge.

8 Q. Alright, and did another person join that firm, a David Ralph?

9 A. Yes.

10 Q. And what kind of law did the three of you practice?

11 A. Same type of general stuff.

12 Q. Alright, so then what next, what next happened in your career?

13 A. I became part-time city court judge for the City of Elmira.

14 Q. How did that come about?

15 A. I was initially appointed, and I think that was '82.

16 Q. '82?

17 A. '82, yeah, I think it was '82.

18 Q. Alright, who appointed you to that position?

19 A. Elmira City Council.

20 Q. And why was it part-time?

21 A. Well, that's, that's what it was. It was 50 percent, it was considered 50
22 percent part-time.

23 Q. Was there another Judge?

24 A. Yes.

25 Q. Who was that?

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(T. Ramich-Direct)

1 A. The other judge was Pete Buckley?

2 Q. Was he also appointed part-time or was he elected?

3 A. He was, he had originally been appointed part-time, and then later,
4 elected. And, and basically, at that time, city court was what Peter did,
5 and, and city court was all civil. And recorder's court was what I did, and
6 recorder's court was all criminal.

7 Q. In those days, the city court, criminal side, was called recorder's court?

8 A. Yes.

9 Q. Alright, how long were you a part-time judge?

10 A. I, I think it went until about '96.

11 Q. And how did you come to be nominated by the city council to be a part-
12 time judge? How did you get into that position?

13 A. Well, I, I, I had been very active in the community as far as growing up
14 here. I, I had played a lot of sports when I was younger, and there's a
15 certain profile, I guess, that you get in a small town when you play sports,
16 and my family, number one, all had hairlines like this, and, and also all,
17 did a lot of athletics. So, the, the Ramich name, there are a lot of
18 headlines about Ramich athletics, and there were so many of us that
19 nobody could quite figure out, you know, who did what. So, there was
20 great name recognition for me.

21 Q. And did you have to express interest in someone, to someone that you
22 might be interested in a part-time job? Did you hear that there was an
23 opening? I mean, how did it come about that your name got thrown into
24 the ring and you got nominated?

25 A. Oh--

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(T. Ramich-Direct)

1 Q. --Or picked--

2 A. --well, I, I would say that when I was in fourth grade that was the first
3 time that I had visited what was recorder's court, and at that early age I
4 had hoped to grow up to be a judge, and that was always the, the goal that
5 I had, and even when I started working with John Lawless, who was
6 much older. He was well aware of my, my desire to go in that direction.
7 And John Lawless had been the, before Peter Buckley, John Lawless had
8 been the civil city court judge.

9 Q. Okay.

10 A. Alright, and then it, it, it kind of got his attention though that, I didn't
11 want to be city court judge civil. I wanted to be John Frawley, who had
12 been the, the, the, the criminal side of city court, and John had, he had
13 been recorder's court judge for 26 years, and then he, he then was elected
14 to family court. When John was elected to family court, that opened up
15 the slot in recorder's court, and then the other city court judge, John
16 Lawless, basically then had the, at that time he was an ex-city court judge,
17 but he basically recommended me for that job.

18 Q. And city council went along with his recommendation?

19 A. They did.

20 Q. And can you tell me, what sports did you engage in when you were
21 growing, growing up in Elmira?

22 A. Football, wrestling, track, softball.

23 Q. And you referred, and we got to do this on the record, you referred to
24 similar hairline in your family members. What is, what do you mean by
25 that?

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(T. Ramich-Direct)

1 A. Well, we, we, we're all folically challenged in the same fashion, and, but
2 there, there, some of my family are far better athletes than, than I. For
3 example, one that was a year older than I wound up going to Penn State
4 on a full four-year scholarship as a tailback for Joe Paterno. So, there's a
5 lot of recognition--

6 Q. --And you had a brother or a cousin who had a fairly good job with
7 Corning Community, I mean, Corning Incorporated?

8 A. Yeah, that, that would have been Jim Ramich, and Jim--

9 Q. --Did he have this job, and was well-known before you became a judge?

10 A. Yes.

11 Q. Alright--

12 A. --Jim had been a, a very good local athlete, and he went on to Union
13 College, and he's now in their sports hall of fame for fullback in football
14 and some position on, on, on lacrosse, and, and then after, after Union
15 College, he went on to Columbia and got a Master's degree in finance
16 and, and wound up coming back and being hired at Corning Glass, and he
17 eventually rose to depending on, on how you look at their hierarchy,
18 either number two or three at Corning Glass.

19 Q. Alright, and that was with, Jamie Hogan was the head of Corning Glass,
20 or was it Amo that time?

21 A. I think it was, I think, let's see, I think it was Amo.

22 Q. Okay, and since you've started practicing law, do you belong to any
23 professional organizations, like the American Bar Association or?

24 A. The City Court Judges Association, County Bar Association, just those
25 basics.

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(T. Ramich-Direct)

1 Q. Okay, what, what did you do for the city court bar association? What did
2 you do with them other than--

3 THE REFEREE: --City Court Judges Association.

4 Q. Yeah, City Court Judges Association, were you just a member?

5 A. Just a member.

6 Q. Alright, and since you became, since you've been practicing law in
7 Elmira, have you, have you worked for any charitable organizations?

8 A. Oh, my goodness, I, I, I can't even count how many charitable
9 organizations I was a part of, and I was president of a number of them.
10 An example would be the Chemung County Humane Society, which is a
11 county thing, not a city thing, and, and basically there the county facility
12 had, was in the process of shutting down for lack of money, and I was
13 approached by some animal lovers, basically, to try to save it and get it
14 back going strong and so, I got on the board and, and, and, and in short
15 order became president. One of the things there that I, I take particular
16 pride in is I, I was shocked to, to hear that the, the, the humane society
17 back then was euthanizing animals by using a chamber that was basically,
18 it would give them the bends, so it was like a decompression chamber
19 type thing for diving only in reverse. So, the animals were, were put in,
20 in the chamber and, and it was a very painful way to, to go. So, the first
21 order of business for me was I contacted the American Humane Society
22 people in Washington, and there had to be a better way of doing it, and,
23 and then basically they, they suggested to me that injection was the better
24 form to go, and told me which, which were the, the best drugs to use, and
25 that sort of thing, and we made that transition over into the, if you will,

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(T. Ramich-Direct)

1 lethal injection way of putting animals to sleep, and then in the same
2 position, I, I brought other people onto the board that were good at
3 finances, and basically we turned it to good financial standing, and, and
4 now when I'm saying this, I was on the board for a number of years. It
5 wasn't just a one-year or two-year thing. It, it was, it was several years,
6 and basically when I, when I left the board I felt that it was in, in good
7 order, and such.

8 Q. Could you tell me what job, places you were involved in, in a, charitable
9 organizations before you became a judge? Was that one of them?

10 A. Yes.

11 Q. Alright, and when you left that board, were you a judge at that time or not
12 yet?

13 A. I believe I was a judge by that, that point.

14 Q. And quickly after you became a judge, you were off the board?

15 A. Yes.

16 Q. Alright. What other organizations did you, charitable organizations did
17 you get involved in before you were a judge, if you can remember?

18 A. Things like Red Cross, Economic Opportunity Program, there were a
19 number of youth agencies that had, had local smaller chapters, if you will,
20 Habitat for Humanity, and a lot of them.

21 Q. Okay, how about organizations you got involved with since you've
22 become a judge?

23 A. It gets a little blurry for me there, because a number of them, I, I, I
24 continued on, like, I know that I was still for Ernie Davis Community
25 Center and EOP. There--

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(T. Ramich-Direct)

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THE REFEREE: --What's EOP?

THE RESPONDENT: Economic Opportunity
Program.

A. There in the community there had been a place called the Neighborhood House, and it was on the East side of Elmira, which is basically the poor section of Elmira, and, and it was a place where people, young kids, could go to play basketball and, and other sports, and I was, when I was young, my, I, I had played there, and my family had played there, and such, and it was mainly a, a, a very black neighborhood, if you will, and, and for the most part, the people that ran it was, were black individuals, which reminds me that one of the other places that, that I was involved in was called Glove House.

Q. Okay, what's Glove House?

A. Glove House is right now the largest area youth care facility. So that if somebody was going to maybe be placed by family court for being a Person in Need of Supervision, or even a Juvenile Delinquent, if it's a local thing, it would be the, the Glove House, and the tie-in between Glove House and, and Neighborhood House was that a, a black man named Chuck Jennings, was an ex-professional boxer, and he felt that you, you could teach young people discipline and, and, and good moral qualities by teaching boxing. So, he had started doing that thing at, at the Neighborhood House, and, and then he, he saw that he couldn't, that some of the people needed overnight and longer living accommodations. So, he, he wound up starting the first Glove House, which was a Victorian house on, on Church Street right around the corner from Euclid

(T. Ramich-Direct)

1 Avenue, and--

2 Q. --Near your house?

3 A. Yes, and I, I had in, in college, I had also boxed, and, but my boxing had
4 started at, at, at Glove House with Chuck Jennings--

5 Q. --Alright--

6 A. --and such. So, to, to get back on the Neighborhood House, I, I was--

7 Q. --So, we're away from the Glove House, now we're back at
8 Neighborhood House?

9 A. Now we're back to, to Neighborhood House, because I, and I don't
10 remember if I was judge or not judge when, when this contact was made,
11 but I, I was, I was contacted by a number of people in the black
12 community, and they, they, they indicated that the Neighborhood House
13 had just shut down for lack of money, and they had just filed for
14 bankruptcy, and they were asking me to step in to try to save it, and get
15 another source of, of money. Now, to, to, the, the family ties came in.
16 The, the main source of money for the, the Neighborhood House had
17 come from Corning Glass, and so I, I approached Corning Glass because
18 Jim Ramich was there, and I talked to their head of corporate donations, if
19 you will, and boy, was he upset. He was really upset because, he said,
20 "Look it, I got a lot of execs up here that want us to support the local
21 charities, and every time I pick one charity, I make other execs mad, and I
22 just cut a check for Glove, for, for Neighborhood House for a new large
23 van, only to find out that the, virtually the next day, they declared
24 bankruptcy, and I, I can't trust them."

25 Q. Right.

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(T. Ramich-Direct)

1 A. "I can't trust them."

2 Q. But at some point, you had other people on the board that were involved
3 in trying to raise funds, and eventually Neighborhood House was saved?

4 A. Yeah, there, there's a story to that, as there tends to be. We, we got some
5 funding back and were able to keep Neighborhood House open, and then
6 that went on for two or three years like that, and there was a little black
7 man that was maybe five foot tall, and, Frankie Givens, and he, he was
8 the heart and soul of, of the Neighborhood House, and he and I, we
9 worked together daily, if you will, and we were sitting around one night
10 trying to find, where are we going to get the money for next year's
11 operation of the Neighborhood House, and we, we had basically
12 exhausted everything we could think of, and then Frankie mentioned,
13 "You know, that's so much a part of Ernie Davis." Because Ernie Davis
14 had started out there too, and Ernie Davis stands for so many good values
15 for young people. It's a shame to see the whole place close down. Well,
16 that, that gave me a thought, coming from, going to school at New York
17 City. I remembered that it was the Downtown Health Club that, that
18 basically did the Heisman trophy. So, I then contacted the, I contacted the
19 Downtown Health Club, and, and basically said, hey, guys, here's Elmira,
20 and Ernie Davis, the first black individual to find, to win a Heisman
21 trophy, and down in New York City, 250,000, 500,000 might be a drop in
22 the bucket, but down here in, in Elmira, it, it can, it can save the place for
23 a generation of, of, of young people, and they liked that idea. So, I said
24 maybe it will help if we can do a meeting, and so, they suggested that I
25 get a group together and, and go down and meet with them in New York

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(T. Ramich-Direct)

1 City. So, I, in, in Elmira, Corning Glass is a very, very good charitable
2 donor, if you will, and they have planes flying all around, and, and a lot of
3 times, they will, if you can show them good cause for why you need a lift
4 in one of their planes, they're going there anyways, and, and they'll take,
5 take you down for free. So, I then go back to good old Jim Ramich and
6 say, "Jim, can you, can you get us a ride for my group going down to see
7 the Downtown Health Club people?" And he said, "Look, I'll go you one
8 better. We really need to get this thing working again, and first
9 impressions are so important. How do you feel about you can have your
10 meeting at the Corning Glass corporate headquarters in, in New York
11 City?" And I was, like, wow. So, the, I forget which floor it, they own
12 the whole building, and I believe it was on Madison Avenue, and so, we
13 got the people from the Downtown Health Club, and we met with them,
14 and they promised that, they found us reliable, and they promised that
15 they would help in a number of ways, such as getting former Heisman
16 trophy people to come up to fundraisers, such as a banquet, such as golf
17 tournaments, to help raise money to keep the children's center open.
18 And, and, and then, we, we created a separate entity called The Ernie
19 Davis Community Center, and then in, in order to have this banquet and
20 type of stuff, I, I went back to Jim Ramich and said, "Well, you know,
21 Corning's got this big banquet facility." And, long story short, he, he
22 wound up getting them, Corning Glass to agree to let us have the, the
23 banquet at Corning Glass for free and their, their corporate people would
24 pay for all of the food, and then we could sell tables, like, 15 people a
25 table, type of thing to local businesses to raise, raise money. And that

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1 was where we, we started crossing the line into going from barely staying
2 open year to year, to having a good budget to work with. Now, at, at the
3 same time that I was president of Ernie Davis Community Center, I, I, I
4 was also president of the Economic Opportunity Program, which, as it
5 was set up in the Elmira area, it, it had six, seven different types of
6 charitable social service places to, to serve people, but they were spread
7 all around. As a matter of fact, one was right down the road here in, in, in
8 Watkins Glen, and the, the problem with the Economic Opportunity thing
9 was that for a lot of poor people it's not like they've got cars and can just
10 drive from Elmira to Watkins Glen, or for that matter, drive from the
11 north side of Elmira to the south side of Elmira. So, I had a concept of
12 let's try to do a, a mall, if you will, of social service things, so that if we
13 can get someone that needs help, we can get them in one building, and if
14 one provider then finds that not only do they have this need, but if they
15 got another need, we can just send them down the, the hall.

16 Q. Right.

17 A. And, and, and then so, what I wanted to do was build a new building to,
18 to do that. And, you know, everything always comes down to, to money,
19 and so then, a, a fellow that had, was a couple years older than me, but,
20 shall we say, much smarter and, and much smaller, named Tommy
21 Hilfiger, lived, he had grown up right around the corner from me, and that
22 was right in the Grove Park area, and, and one, one, one day, I was
23 walking by Grove Park and I looked across the park and I, I saw three
24 guys beating up some smaller guy, and I stuck my nose into it, and I ran
25 over to see what the heck that was about, and it turned out they were

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1 beating up Tommy Hilfiger, and so I jumped into that, and what I, I
2 achieved two things, number one, getting him free and getting me
3 pounded pretty much into the ground. But, the good thing about that was
4 that Tommy has always been grateful. He's never forgotten that. So,
5 now trying to network to get my, my Economic Opportunity Program
6 building, I contacted Tommy Hilfiger.

7 Q. By then, he had moved to Manhattan and was having a very successful
8 business in design?

9 A. He, he was the Tommy Hilfiger success that we know now, and, and
10 basically the building was going to cost five and a half million to six
11 million, and that's what we had to try to raise to get the community center
12 going, and then for, for funding reasons, because if you can get some
13 local money, then, then, then if you get local, say, city money, then you
14 can get county money, then you can get state money, and that, that led me
15 to merging EOP into Economic Opportunity. The two of them into just
16 the Economic Opportunity Program, and eventually we raised enough
17 money to build a building, and we, we now, about the only new social
18 service, if you will, building in the Elmira city is the new Economic
19 Opportunity building.

20 Q. Where is that located?

21 A. That, that's located, thank you, that's located in the City of Elmira on
22 Clement Center Parkway and, and Baldwin.

23 Q. Alright, are there any other charitable organizations you belong to?

24 A. Well, can I--

25 Q. --Go ahead--

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1 A. --that whole process of going through those years, getting the Heisman
2 trophy people in, what, what often happened was for example, I, I had Jim
3 Brown, the former football player, and John Mackey, the former tight
4 end, and they, they came to my house, and then basically, I would take
5 them around to where they had to go to speak and stuff like that, and kind
6 of an interesting thing was that while we were in between fundraising
7 things, John Mackey and, and, and, and Jim Brown are sitting in my
8 living room, and my, my rocking chair was kind of old, and all of a
9 sudden, the one that Jim Brown was in, it just blew up, like, and, and Jim
10 Brown falls on the floor, and, and John Mackey thought that was
11 fantastic, and getting John Mackey into a good mood was really great
12 because then he, he liked our charity, and then he wound up linking with
13 Syracuse University and getting the, the, the Ernie Davis people and
14 organizations, you know, there to help keep here making money.

15 Q. Alright, and any other organizations you were involved in, aside from the
16 ones you're involved in now?

17 A. Those are my, those were my favorite ones, but there were, there was just
18 so many, I, I had to have been in 20 some organizations or more.

19 Q. Which ones are you involved in now?

20 A. Now? The, the main thing that I've been doing is the, back in the animal
21 business. The, the Chemung County Humane Society is out on the
22 outskirts of Elmira, the far reaches of Town of Elmira and Big Flats, and
23 that wasn't serving the, the needs of the city in some minds, so the city
24 opened its own animal shelter. The problem was that it was on a shoe
25 string budget, if you will, again, and when you, when you look at what

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1 animals could have, or should have, it was pretty bare bones. So, again,
2 money came down to be the issue, and there, there wasn't, there's a, a
3 group that was formed called Shelter Helpers, and Shelter Helpers was a
4 group of local people that basically wanted to do charitable work to raise
5 money to then give to the city shelter. Now, the, the city shelter is part of
6 the City of Elmira. The, the City of--

7 Q. --It's run by the City?

8 A. It is, and, and the City of Elmira is a municipal corporation, and basically,
9 the, the, the Shelter Helpers just turn the money over to the city, and then
10 they have bought things like, they, they made better runs, if you will,
11 where the, instead of being rough concrete, there were smooth concrete,
12 and instead of having just concrete, there was padded mats bought.
13 Instead of having a bowl of water that, that could get knocked over and
14 spilled, and then the animals got nothing, then there was a different type
15 of self feeding, if you will, water thing, and different things like that to, to
16 make the shelter better for animals.

17 Q. Were you on the board of any of those things, or just--

18 A. --No, because--

19 Q. --helping out--

20 A. --there, there, there's not a board for the Shelter Helpers.

21 Q. Okay--

22 A. --It, it, it's a, a group of local community people just doing, you know
23 fundraising.

24 Q. Any other charitable organizations you're involved with now?

25 A. Not now.

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1 Q. Alright, and you sort of developed a partiality to animals and the safety of
2 animals?

3 A. It kind of went full circle, I mean, kids and animals, kids and--

4 Q. --Right--

5 A. --animals. They're, they're, they're what, what meant a lot to me.

6 Q. And during that--

7 A. --Now, now, in, in addition to that, I forgot that as far as Corning
8 Community College, when, when I graduated from Corning Community
9 College, that was a big help to me. I know when I'm dropping names like
10 Tommy Hilfiger and stuff like that, it sounds like money connection, but I
11 didn't have money. My, my dad had died when I was just starting high
12 school, and my mom was the support of our family, and she ran a small
13 nursery school, if you will, in the house, so money was, was always,
14 always tight. So, so basically, I went to Corning Community College, and
15 back then, I was working two, three part-time jobs to get through Corning
16 Community College. So, I, I really appreciated what Corning College did
17 to, for me, so then I got very active in, in that again, and, and did things
18 like, for me to get back and forth, I couldn't afford a car back then, so for
19 the most part, I either had to get rides with friends, or hitchhike, or walk.
20 So, there was a, a, a Chemung County Transit Authority. So, basically, I
21 advocated, if you will, with the Chemung County people to create a bus
22 run between Elmira and Corning Community College up on the hill in, in
23 Corning so that young adults could get back and forth and, and get their
24 education.

25 Q. Was this before you became a judge or after?

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1 A. After, after.

2 Q. And just so we all understand, those people who are not from Chemung
3 County or Steuben County, first of all, Chemung Glass, I mean, the
4 Corning Glass Works is now Corning Incorporated, correct?

5 A. Yes.

6 Q. And Corning Community College is on top of a hill?

7 A. Spencer Hill.

8 Q. Spencer Hill, and it's, you really can't walk up that hill to go to school,
9 can you?

10 A. It's very steep.

11 Q. It's very steep, and there's all kinds of--

12 A. --And it's--

13 Q. --curves--

14 A. --probably about two and a half miles up the thing, I'd say.

15 Q. Alright, so, tell me more about the Transit Authority.

16 A. Well, no, that, that was, that's it for the Transit Authority. I, I got a bus
17 route established so people could get back and forth, but then, I stayed
18 active at Corning Community College, and I helped them create a, a legal
19 program for paralegals. And in addition to that, they had what they called
20 a "brown bag speakers" thing, so I would go up there on a regular basis
21 and I would be the speaker and I would talk to the people about all kinds
22 of different things, but a lot of it was geared to how do you approach
23 going to college, how do you approach studying, and for a lot of them, a
24 lot of them, really had to work and go to college, so kind of teaching them
25 how to prioritize things, allocate their time. I, for, for years I was very

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1 regular doing that, and, and, and for years, I was very regular doing the,
2 the paralegal thing. Now, part of what I would do in the, in the, in the
3 paralegal thing was I would actually go in for no pay, and, and at no time
4 was I paid anything for going to Corning Community College, and, and I
5 do know that growing, that teaching is an exception to the no money for,
6 for full-time judges, but I, I wasn't doing it for money. I was doing to
7 because I knew what I went through when I went to Corning, and I, I also
8 knew what it was like not to have a father. And so a number of, of the
9 kids that are at Corning Community College, and for that matter, other
10 community colleges, they come from broken families, and they don't have
11 a, good role models, and, and so I wanted to involve myself in, in trying
12 to help some people get to a better future, and, and--

13 Q. --You wanted to share--

14 A. --and--

15 Q. --your life--

16 A. --and interestingly enough, one of the things that that, a lot of this I'm
17 free associating, when I was in family court as, as an attorney, I, I did all
18 of the paternity suits in the City of Elmira--

19 MR. POSTEL: --Can you hold that thought for a
20 second? Can I ask for a bench conference?

21 MR. REILLY: Everybody ready?

22 Q. I sort of forget where we were.

23 A. Well, I was talking about paternity suits, and, and you might wonder how
24 does that tie in with Corning, well when, when I was doing the paternity
25 suits, one of, Elmira has always been in the top ten percent of teenage

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1 pregnancies nationally, unfortunately, and, and the, I forget now exactly
2 what the average age was, but I was certainly shocked, because it was
3 something like 13, and it was, like, babies having babies, and you got into
4 all kinds of problems with the, the, the pregnant mother couldn't go to
5 school, and it created cycles. So, one of the things that I found in, at, at,
6 at Corning was that a number of the young women that were trying to
7 make a go of getting an education and getting ahead, they had, they were
8 single mothers with out-of-wedlock children. So, one of the things that I
9 did at, at, at Corning was to, to make contact with a number of people that
10 I had previously represented in paternity suits who were now older
11 women, and I created basically, a network where the, the women could
12 get together and talk about common problems, like child care. Where,
13 where could we go locally to get child care so that we can go to get a job,
14 or go to get an education, and, and things such as that, and that, that
15 turned out to be very, very successful. Over the years I've gotten all
16 kinds of feedback about, you know, thank you, here's where I am now
17 with my life. I graduated from Corning, I went on to a four-year school,
18 where I went onto this thing, and had I not gone through that program, it
19 might never have happened.

20 Q. And you're hearing from these people to this day?

21 A. Oh, yeah. Like, like around Christmas time, Thanksgiving time, that's
22 typically the time you get cards and pictures. They'll send pictures of
23 themselves, pictures of the kids, things like that, just saying, thanks.

24 Q. And they're, a lot of them are out of the area now?

25 A. Many.

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1 Q. Alright, and they're--

2 A. --I, I've gotten them as far away as Germany, and--

3 Q. --Okay, and you're pretty happy with what you've heard from them?

4 A. Yes, I, I felt that the, the, it was successful.

5 Q. Is there anything else that you are doing for the community now? Is this--

6 A. --Other than church-like things, no.

7 Q. You're, you're active in the church at all?

8 A. Oh, yeah. I, I've been a trustee in the church--

9 Q. --What church?

10 A. Well, that gets a little complicated. It, it, it started as St. Patrick's and,
11 and then, I'm sorry, it started as St. Anthony's, but then St. Anthony's
12 merged with St. Patrick's, and became All Saints, and, and, and, and then
13 St. Patrick's and St. Anthony's merged with St. Peter and Paul's, and, and
14 became, I think All Soul's. It's a money thing again. Unfortunately,
15 times are tough and--

16 Q. --It's a Catholic church--

17 A. --people aren't, aren't contributing a lot to--

18 Q. --But you, you're a trustee for that Catholic--

19 A. --I, I, I'm not--

20 Q. --church--

21 A. --at, at this moment, but I've been on and off, you know, I'll do a term,
22 then I'll take a term off, then I'll go back on, and that sort of thing.

23 Q. Alright, and, and you, you go to church fairly regularly?

24 A. Saints and sinners.

25 Q. Alright, and that's the--

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1 A. --Every Sunday--

2 Q. --story your daughter was testifying to about going to church and then
3 going to do arraignments?

4 A. Yes.

5 Q. And does that continue to this day, or is that changed?

6 A. Well, what, what's changed is that, you know, Amanda's an adult, and
7 Jessica is basically away at, at pharmacy school most of the time. But,
8 when she comes home, she spends every weekend with me, not, not every
9 other, but every weekend, and we do the saints and sinners, same routine
10 as when they were little to, to now, she and I go to, go to church, then go
11 to city court, then go to breakfast together.

12 Q. You're doing that now even though you're not handling the criminal
13 aspects of city court?

14 A. Yes. When it says I'm not doing the criminal aspects, that's not entirely
15 true. It's, it's, it's mostly true, okay, but one of the things that was the
16 hardest about city court was the night arraignments and, and, and the
17 weekend arraignments. During the day, that wasn't so, so bad, because
18 you're, you're awake. But the night arraignments, you just never knew.
19 And, and Elmira's a busy, what do you call a criminal court, and not only
20 that, but the, the, the troopers and, and sheriffs, and, and, and Elmira
21 police, they, they all have a fair amount of search warrants that, that have
22 to do with hitting a crack house, hitting a meth house, recently a, a heroin
23 place. Unfortunately, it seems to be getting worse rather than better. So,
24 you, you can be called at, it typically, it would be between, say one and
25 three at night, and for, for years, the, the, the City of Elmira had closed

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1 down its jail for women, so they had their own jail for men, so if they
2 arrested a man, they could put him into the, into the cell, and then hold
3 him until the next morning for arraignment. But, they had no female, so
4 that if they arrested any female, the only way to incarcerate the woman
5 was to be, was to call a judge in to arraign her in the middle of the night
6 and send her to the county jail. And--

7 Q. --Where they had a facility for women?

8 A. Right, and so, as it turns--

9 Q. --In other words, they'd keep them in the lockup in the city hall where the
10 police department is over night until there could be an arraignment the
11 next day?

12 A. Only the men.

13 Q. Only the men, and then women had to receive different treatment?

14 A. And, and for example, there was, there was, I mean, after doing this for
15 30 years, I know my community, and for a lot of them, I can say things,
16 like, I told your grandfather, I told your father, and now, I'm telling, I
17 know my people, and this one woman that comes from a difficult family,
18 she, one night, the police did everything in their power not to arrest her,
19 but she went to, she went to Ramsey's bar first, which is predominately a
20 black bar on the east side, and a rough one, and wound up getting arrested
21 for breaking up that bar. The police gave her a warning to go home, and,
22 and released her, and, and then she went to the Black Elks bar, which is a
23 couple blocks down, and, and broke up that bar. The police arrested her
24 again, but released her a second time, and, and then she went to Gush's
25 bar, which is now getting up to my area of, of the city, and this time they

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1 called me in to arraign her, and you wouldn't think that it, it, it could
2 create that bad a situation. But, she wreaked real havoc, and she hurt
3 some people, she damaged a lot of property. So, the moral of the, the
4 story is it's really important to go in and do those, those night
5 arraignments. But, you might get called in on one like that at 1:00, and
6 then, then at, at, at 2:30, 3:00 in the morning, the sheriff can call and say,
7 now we've got one, and then you can be called in again for a search
8 warrant, and it depends on the run, of the, the luck, but it can, it can really
9 be exhausting.

10 Q. And during the years, like, for, for the last five, six years, have you been
11 doing a lot of night arraignments?

12 A. Yeah, so, so because doing that work is so labor intensive, even though
13 I'm not doing the criminal now, I'm just doing the civil, I'm, Judge
14 Forrest and I are evenly doing the night stuff.

15 Q. Okay, and you're evenly doing applications for search warrants and
16 having to approve search warrants?

17 A. Yes.

18 Q. And over a significant period of time, were you doing a lot of the night
19 arraignments?

20 A. Yes.

21 Q. And a lot of the signing of, of warrants?

22 A. Yes.

23 Q. Now, with regard to the charitable organizations that you have worked
24 for, have you recommended Judge Forrest to sit on any of those?

25 A. No.

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1 Q. You haven't? Has he followed you in some of those?

2 A. I would say that, well, most of them, he followed me onto EOP, I forgot,
3 on the church thing, despite my less than totally successful marital record,
4 I had started for the Catholic Diocese in here, what's called a pre-cana
5 thing, and what, what--

6 Q. --Pre what?

7 A. Pre cana. It's a biblical thing. The--

8 Q. --Can you spell--

9 A. --the wedding--

10 Q. --cana--

11 A. --is cana and--

12 Q. --C-A-N-A?

13 A. I think it's C-A-N-N-A, and--

14 Q. --Okay--

15 A. --but, so, basically, what that was is a, I would have a group of people
16 together that were married couples, and then other people, young couples
17 that were about to get married, they would come in and meet with us and
18 we'd talk about all sorts of things that make for a successful or
19 unsuccessful marriage, and it wasn't for one parish, it was for all the
20 churches, and so, I started that, and then after, after my divorce, it seemed
21 that it might not be a good thing for me to continue with at that point. So,
22 I stepped off of it, and then Steve stepped onto it. So--

23 Q. --Did you ask him to step onto it?

24 A. --I, I made him aware of the situation.

25 Q. He, he's also Catholic?

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(T. Ramich-Direct)

1 A. He is.

2 Q. Alright, now he testified the other day about being involved in all these
3 special courts, the domestic violence court, the veteran's court, the drug
4 court, those sorts of things. How, do you know how that came about?

5 A. Yes. I was the full-time judge. Steve was the part-time judge. The only
6 way that you get to be a full-time judge is if the Office of Court
7 Administration convinces the state to create new judgeships. Steve and I,
8 at that point, talked a lot, and Steve really, really, really, wanted to be
9 full-time judge. And I could understand that. It's hard to have a private
10 practice and all that, but at any rate, he eventually came to me and he, he
11 said to me, "Look, Tom, I've been working with the O'Maras, and my
12 understanding is that they can get a bill passed that creates another full-
13 time position, or elevates the part-time position to full-time at, at city
14 court if there are specialty courts. If a judge is doing specialty courts,
15 then that judge could be elevated to be a full-time judge." So, I said,
16 "Okay. Why are we talking?" And he said, well, his understanding was
17 that the senior judge that was in the court got first crack, if you will, at
18 any of the specialty courts that might be created. So, Steve at, at, at that
19 point, he, he mentioned to me about he, he had fairly recently moved into
20 his father's house, which is, I would say, a mansion. It's, it's, a beautiful
21 brick thing, and it also sits right across the street from my sister's home,
22 and Mr. Seither's home. They're directly across the street from each
23 other. But, Steve indicated that with, with young kids, housing and all
24 that, boy, that full-time judge would really come in handy for him. So, he
25 asked me if I would decline to take the specialty courts because then he

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1 could take them and get raised to full-time.

2 Q. Did you have to decline them one at a time or as they got developed?

3 A. No, I, I was, I was asked if I was interested in doing those, and I said

4 “No.”

5 Q. So, it started with, I think drug court?

6 A. Yeah, drug court, domestic violence court, and eventually, veteran’s

7 court.

8 Q. Alright, and Steve has been running those?

9 A. Now, now, for, for veteran’s court, before Steve talked to me, I had

10 already contacted the OCA people asking to create a veteran’s court. I

11 was interested in doing the, the veteran’s court thing. But, I, I then

12 stepped off of everything.

13 Q. Why did you step off the veteran’s court?

14 A. So that Steve could get the full-time spot.

15 Q. And, and the veteran’s court is a pretty new development, is it not?

16 A. Yes.

17 Q. And it’s, are you aware of how Steve is doing in running that court?

18 A. I, I would say that he’s doing fine.

19 Q. Alright, you haven’t heard any complaints, appears to be doing a good
20 job?

21 A. Yes.

22 Q. Alright, now, just going through some of the things he talked about the

23 other day, did, and these charitable contributions, I want to ask this so I

24 get it out the way for, for the rest of this, Nancy Eraca testified that

25 Elizabeth Mannion, at one point, had a client in front of you, and you told

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(T. Ramich-Direct)

1 her that your, if her client would not make a charitable contribution, her
2 client would go to jail, did that ever happen?

3 A. No. It was always an option. You can either do 40 hours, typically, of
4 volunteer work or make a charitable contribution.

5 Q. Alright, and he also that--

6 A. --The, the other thing is, is that if I back up some, I got this idea. I, I, I, I
7 actually read the ACD section, and, and I, I, I looked at--

8 Q. --We're talking about charitable contributions, and I want to get into that
9 a little bit later.

10 A. Alright.

11 Q. Alright, he testified yesterday you were unilaterally setting rules without
12 involving him. Do you have any idea what he was talking about?

13 A. Yeah, I do. We, we have a chief clerk in the court, and--

14 Q. --Terry Seeley?

15 A. Terry Seeley, and there were a number of times where she would come to
16 me and she'd say, something like the, the, the, the police want to talk
17 about early morning arraignments, night arraignments, whatever, the
18 sheriff wants to, the probation wants to, and, and, and, and basically, I, I
19 would say, okay, schedule a meeting.

20 Q. Was Steve Forrest involved?

21 A. Well, you see, what happened, I think, was that I, I had been well known
22 as, as the full-time judge, and I think, no disrespect to Steve, when some
23 of these meetings were scheduled it involved me, it involved other court
24 people, it involved whoever wanted to meet with us, but Steve wasn't
25 always invited, but that, that was at the first, okay.

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1 Q. That was when he was a part-time judge or, or--

2 A. --Yeah, yeah. That, that was, he was just starting the transition from part-
3 time to, to, to full-time, and then once he got into the full-time thing, he,
4 he didn't send it to just me. He sent it the email to Terry Seeley, basically
5 saying, whoa, about these meetings, let's include me.

6 Q. Okay.

7 A. And, and she did.

8 Q. And did she indicate to him that there had been no rules set?

9 A. I, I don't know what you call rules, you know, I, I, I would say things--

10 Q. --Well, standard operating procedures, as--

11 A. --Yeah--

12 Q. --we used to call it when I was in the Navy.

13 A. Alright. Let, let me give you an example. Time is, we got so many
14 people coming through court that we, we had situations where the Elmira
15 Police would be holding certain people, and in the morning, they would
16 like to get their's arraigned first, so they can release their officers to the
17 street. Meanwhile, the sheriff has to bring people over from the jail, and
18 they wanted to get their people arraigned first so they can get their
19 deputies back to the jail, and so one or both of those agencies might,
20 might call and say, let's talk about which ones the judge is going to call
21 first.

22 Q. So, you're going to have to step on somebody's toes?

23 A. Any way you went, you tended to make somebody unhappy.

24 Q. Alright, now these night arraignments you do, they continued throughout
25 the usual work week? You would do arraignments at night? Maybe

450.

(T. Ramich-Direct)

1 execute search warrants, arrest warrants, at night?

2 A. Yes.

3 Q. And then come to work the next day?

4 A. And at that point, the next day started at 8:00 in the morning. So, if, if, if
5 you were up doing something at 3:00 and you get home at, at, say, 4:00,
6 for me, my adrenalin was still pumping, and, and I had just, you know, hit
7 the pillow and fall right back asleep sleep, now, if you got a few days in a
8 row like that, you got a busy court started at 8:00, you got night, and I
9 found it very exhausting.

10 Q. Did it tend to, on occasions, make you cranky?

11 A. I'd say crankier.

12 Q. Okay, crankier? Did they change the start time for court to 9:00 at some
13 point?

14 A. Yeah. Fairly recently when--

15 Q. --Was that in the last year or so with the budget constrictions--

16 A. --when, when all the changes were made, they, they moved things from 8
17 until 8:45.

18 Q. You changed the starting time of city court to 8:00, so that you could
19 make sure you get lawyers there without any excuses they had to be in
20 another court, is that one of the reasons?

21 A. Well, to, to back up, again, when I, all those 30 years ago, took over the
22 recorder's court, one of the things I found was that there was a terrible
23 backlog. We had all kinds of jury trials, we had all kinds of cases, and
24 typically, what was happening back then was attorneys were not coming
25 to court. They were sending letters in, basically saying, I represent the

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1 defendant, enter a plea of not guilty, schedule for trial, and that was
2 acceptable back then, but there was, there was a real, real backlog. So, it,
3 it took me some, I was doing a lot of jury trials, two, three a, I was
4 scheduling six a week, and winding up probably with, with two, even on
5 Saturdays. And we cleaned up the backlog, and, and then I changed the
6 operating procedures so that typically, instead of, back then, the court
7 had started at 9:30, and, and the, the attorneys kept telling me, well, I
8 can't come to your court because I got to be in Supreme Court, I got to be
9 in family court, I got to be in county court. So, my feeling was that I'm
10 low man on the totem pole, so I'll make it easy for the attorneys to get in,
11 because then they can get in, we can do the cases, and, and, and not
12 develop a backlog--

13 Q. --At that--

14 A. --with the--

15 Q. --time, was Judge Forrest a part-time judge?

16 A. No, and Judge Forrest was not a judge at all then.

17 Q. Okay.

18 A. At that point, Pete Buckley was civil, and--

19 Q. --Okay, so--

20 A. --Peter and I were together 16 years.

21 Q. Yep, and you changed, you and Peter changed the time the court opened?

22 A. Yes.

23 Q. Alright, and, and then it got changed, got cut back, like we're under now,
24 that we've got to get out of the building at a certain time, and court
25 doesn't open until 9:00?

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(T. Ramich-Direct)

1 A. Well, what, what I noticed was that in, in October, they're, they're now
2 scheduling into February for return to court dates. My system was hands
3 on to try to help people. I, basically, would go with two to three-week
4 adjournments. That way, if I referred someone for drug counseling,
5 alcohol evaluation, anger management, so many of the defendants have a
6 very short attention span, and, and what I found was, if, if you adjourn
7 something for a month and a half or two months, typically what would
8 happen is that they never got around to going to counseling. Also, they
9 tended to get into new troubles, and we would tend to have, instead of
10 one case, they'd come in with two three other criminal charges, and, and
11 then when I started the, the two to three week adjournment thing, I found
12 the numbers dropped dramatically, and it, it was, it was much more work
13 intensive, as far as seeing people, but it tended to get people where they
14 needed to be.

15 Q. And now the powers that be have changed the scheduling procedure in
16 city court on criminal cases, where you have a day for the arraignment
17 and appearance by the attorneys, and then it's adjourned for several
18 months?

19 A. Typically, what happens is they, they come in and, and say, give us a pre-
20 trial, and now the judges aren't even setting the dates. Clerically, they're
21 looking at a chart, and then they're--

22 Q. --They set the date--

23 A. --they're plugging it into whatever the appropriate day, but--

24 Q. --And then you--

25 A. --as, as--

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(T. Ramich-Direct)

1 Q. --and--

2 A. --one day fills up, they move to the next, and move to the next--

3 Q. --okay--

4 A. --and, and that's why I say now it looks like they're scheduling in
5 February.

6 Q. And, and as I recall, on the second appearance for the pre-trial, the
7 defendant is not required to be there on most occasions?

8 A. True, only the attorney has to be there on the first one to talk about stuff,
9 and then--

10 Q. --Pre-trial?

11 A. Right, and then theoretically, between that meeting and the next one, the
12 attorney will talk to the client and see if anything can be worked out.

13 Q. And did you and Judge Forrest have a different style of judging, from
14 your vantage point?

15 A. We do, and, and let me say this, I understand that whoever is the judge
16 has an obligation to do what they think is best. So, each judge has a right
17 to make that call about what, what they think works. But, in my opinion,
18 the, the short adjournments got people back to court and got treatment
19 and was--

20 Q. --Well, how was--

21 A. --successful--

22 Q. --Judge Forrest different than you, if you know? Is he less hands on as far
23 as trying to help the defendant?

24 MR. POSTEL: Well, I'm going to object to that.

25 That's way beyond the scope of this proceeding.

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(T. Ramich-Direct)

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Completely irrelevant to the charge in which Judge Forrest testified. I don't see any relevant basis for this.

MR. REILLY: Well, I think it deals with the relationship between the judges.

MR. POSTEL: His perception of Judge Forrest's treatment of defendants or his scheduling?

MR. REILLY: No--

THE RESPONDENT: --Well, well--

MR. POSTEL: --how is that relevant--

THE RESPONDENT: --I, I--

MR. POSTEL: --wait--

MR. REILLY: --Just let, let me withdraw the question, let me go with a different angle--

MR. POSTEL: --The inclination of a witness is to, a judicial witness to answer on behalf of the referee, but the referee here is Mr. Muldoon.

THE RESPONDENT: Sorry.

THE REFEREE: The issue in, one of the issues in this case as I see it, has been the differences in a variety of ways between Judge Forrest and Judge Ramich. That, to that extent, I think he can comment on that, and to explain perhaps why there's so many hurt feelings, differences, things like that, so I, I'm going to allow this general area. Now, there may be specific questions where the form of the question or something else may be a problem.

(T. Ramich-Direct)

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MR. POSTEL: So, in terms of getting into Judge Forrest's style of running his court, that's a relevant issue, is that the rule?

THE REFEREE: I'll allow, to a limited extent, his, this witnesses perception of how Judge Forrest does things different from him that effects their interaction, lack of interaction, communication, lack of communication.

MR. POSTEL: Thank you.

THE REFEREE: I am going to allow it, yes.

Q. Let me, let me rephrase the question another way. Do you know whether Judge Forrest likes the new procedures?

A. He does.

Q. Alright, and tell me what your old procedure was and why you did it.

A. My old procedure was to adjourn a case two to three weeks.

Q. To keep track of the defendant?

A. And to keep track of whether, whether the defendant is, is actually doing the things that we're hoping that he, he will do. Typically an attorney will say things such as well, my, my client has an alcohol problem. My client has a drug problem. My, whatever, an anger problem. So, if, if we can plug him into a program soon, the treatment gets started soon, and we avoid future problems. And--

Q. --And a lot of times in, in Elmira at least, someone comes in and there's, like, an alcohol test, even if it's a domestic violence case or an assault and battery, and their alcohol level is a .18, and that's there, it's obvious to the defense counsel, as Your Honor, that this person needs some alcohol

(T. Ramich-Direct)

1 counseling.

2 A. Fair statement.

3 Q. Alright, and so you try to get them into programs so they don't repeat, so
4 they fix themselves?

5 A. To, to, to go a bit deeper on that, that effects some of my feelings is when
6 I started as judge, there was some programs that did not exist. There,
7 there's another place called New Dawn, and that's a residential place for
8 people with major, they're going to live there. They're going to live there
9 for 30 to 60 days type of things. We didn't have that, but I saw--

10 Q. --That's, that was run at St. Joseph's Hospital?

11 A. Yes, but it--

12 Q. --It's different than Tully or, or some of the other--

13 A. --it's a local--

14 Q. --big places--

15 A. --it's a local entity, okay, and there, there were, another program called
16 ADRC, and that was part of EOP, and that was brought in to deal with
17 alcohol and drug problems. And, and basically, I brought it in when I was
18 president of EOP.

19 THE REFEREE: Okay--

20 A. --I saw a need. There wasn't a program to treat it. I created the program.

21 THE REFEREE: Okay, now, I, I don't want to go
22 much further in this area. I understand that both judges
23 have different perceptions--

24 MR. REILLY: --Yes--

25 THE REFEREE: --and I wanted to ask to have that

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1 explained, but I don't want to go into a different kind of, I
2 understand that there's a short-term different approaches of
3 what's the most productive--

4 MR. REILLY: --right--

5 THE REFEREE: --way of using court time and
6 getting results.

7 MR. REILLY: Right, and I--

8 THE REFEREE: --That--

9 MR. REILLY: --think I'm--

10 THE REFEREE: --certainly has been established.

11 MR. REILLY: I think I'm done with that.

12 Q. Judge Forrest testified in regard to marks he would put on court envelopes
13 that referred to the Honorable Thomas E. Ramich, Jr., that you would put
14 on your jackets when there was a conflict, "Refer to another Judge." Did
15 you do that or did you do something else?

16 A. Most of the time, I put down "SWF."

17 Q. Return to SWF?

18 A. Yes.

19 Q. Steven Forrest?

20 A. Right. Have I, have I put down, "refer to another judge," yeah, I have.

21 Q. Just--

22 A. --But, but the vast majority of times would be "SWF."

23 Q. Why would you put down another judge, instead of--

24 A. --Struck my mind at the time.

25 Q. Alright, it wasn't intended to insult anybody or upset anybody?

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1 A. No.

2 Q. Judge Forrest yesterday testified that he didn't know that you weren't a
3 junior. Do you accept that as an explanation as to why it's Honorable
4 Thomas E. Ramich, Jr.?

5 A. Well, his stationary and my stationary are exactly the same. There isn't
6 different for him and different for me. And on the stationary is first my
7 name, Thomas E. Ramich, and underneath my name is his name. So, I
8 think it's pretty clear, but, but beyond that, we've known each other for,
9 and what hurts me about the junior thing is it, it, it makes me think of the
10 early loss of my father. I'm not a junior.

11 Q. What was your father's name?

12 A. Joseph John Ramich.

13 Q. Okay.

14 A. And he was 49 when he died. And it was a, a very sudden death, which
15 makes it more difficult. It's, it's the itch you can't scratch.

16 Q. Alright, and just before we come to this Police Benevolent Association
17 dinner, were there issues with regard to arraignments and signing of
18 search warrants where they allegedly could not find Judge Forrest?

19 A. Yes--

20 Q. --And--

21 A. --and it is something that Steve and I, I went to Steve and I talked to him
22 about it more than once, and Steve would indicate to me, well the phone
23 must have been off the hook. The kids must have knocked it off. I must
24 have been, you know, whatever, but a lot of these were, you know, in the
25 middle of the night, and so, at any rate, it was something that he and I

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1 talked about, and it was, it was generally known by the law enforcement
2 folk, if you will, and as, and as, as a result of that, the police chief
3 eventually tried to fix the problem--

4 Q. --Alright, and, and, but his unavailability, their inability to find him, they
5 would find you?

6 A. Yes.

7 Q. And they would have to wake you up to sign an arrest warrant, a search
8 warrant, or do an arraignment?

9 A. And while that might have made me tired, the part that really troubled me
10 was I, I, I really, I really valued my time with my girls, and when, when
11 we got divorced, Jessica lived with her mom, Amanda lived with me, and
12 as, as, as much as we, we tried to balance everything out, it, it was, it was
13 really hard to get both girls and me together to do father/daughter things
14 together, and the weekend before the PBA thing we were going to have a
15 special Saturday father/daughter thing, and, and we went up to Corning,
16 New York, and it, it was going to involve shopping and, and lunch, and
17 dinner, and all that. And I, we no sooner got up to Corning and, and I got
18 called in.

19 Q. Who called you?

20 A. State troopers.

21 Q. For what?

22 A. Search warrant.

23 Q. And was Steve supposed to be the judge on duty for search warrants and--

24 A. --Yes.

25 Q. Did you, were you supposed to alternate in some way who would be

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1 taking the responsibility on weekends or weeknights--

2 A. --Yes--

3 Q. --or both? And so, you were called at what time in the morning?

4 A. Well, it was during the day, because we--

5 Q. --Alright, what time--

6 A. --were, we were up to Corning. We had driven together up to Corning.

7 Q. Alright, so had you had dinner yet?

8 A. We were in the restaurant, but had not ate.

9 Q. Alright, and you got a call on your cell phone?

10 A. Yep.

11 Q. The police, you gave the police your cell phone in case--

12 A. --Oh, yeah, they, they got it.

13 Q. Do they have Judge Forrest's cell phone?

14 A. Don't know.

15 MR. REILLY: Can I have this marked as Exhibit D,
16 E? I'm not going to (unintelligible).

17 Q. Showing you what's marked as Exhibit E. The (unintelligible) of the
18 transmission of that to me, what is on that document? And what is the
19 date of the original message?

20 A. The original message was October 2, 2008, at 2:58 in the afternoon, and it
21 was from the then Deputy Police chief, Michael Robertson to all police
22 supervisors.

23 (Respondent's Exhibit E was marked for identification)

24 Q. Alright, and did you get, were you given a copy of that?

25 A. I was.

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(T. Ramich-Direct)

1 Q. Were you copied on that email or did you get it some other way?

2 A. Don't remember.

3 Q. Alright, do you know whether Judge Forrest got a copy of that?

4 A. I believe he did.

5 Q. Alright, and basically, what does that email say?

6 A. "At the close of business on Friday, October 3rd '08, the city court judges
7 will be switching terms. Judge Forrest will be moving into his criminal
8 term and Judge Ramich will be moving into his civil term. Again, this
9 occurs at the close of business on Friday. If for any reason a judge is
10 required, supervisors are directed to make every attempt to contact Judge
11 Forrest. If contact is not made on the first try, further attempts should be
12 made. If that fails, a visit to his house is warranted. He resides at 556
13 Guinnip Avenue. If all attempts to reach Judge Forrest on a given day
14 should fail, then it is permissible to contact Judge Ramich. If that does
15 occur, be sure that I am notified of such via email. This notification
16 should include details of all means utilized trying to contact Judge Forrest
17 that led up to the necessity to contact Judge Ramich."

18 MR. POSTEL: I'm going to object to this, Your
19 Honor. He's reading the substance of the exhibit into
20 evidence. The exhibit has neither been offered nor
21 introduced into evidence. And I would move to strike that
22 portion that he's read as being representative of what the
23 exhibit says.

24 MR. REILLY: I would ask that--

25 THE REFEREE: --Are you offering this into

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evidence?

MR. REILLY: I am offering this into evidence.

THE REFEREE: Now, was, did what you, what he read, was that verbatim of the--

MR. REILLY: --Verbatim--

THE REFEREE: --that?

MR. POSTEL: Having not been provided with this exhibit pursuant, I have not seen this exhibit ever--

MR. REILLY: --Go ahead--

MR. POSTEL: --once beforehand pursuant to the discovery requirements. I'm not prepared to, to indicate whether I object or not. I'd like a moment to look at it, and potentially have *voir dire*.

THE REFEREE: I will allow that. May I also suggest that, for purposes of time, that we, that if there's copies of this, be provided, and that we perhaps address this at a later point, or we can take--

MR. POSTEL: --I can do this--

THE REFEREE: --five-minute--

MR. POSTEL: --tomorrow--

THE REFEREE: --break.

MR. POSTEL: Let's, yeah, why don't we do it tomorrow?

THE REFEREE: Okay.

MR. REILLY: Okay.

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THE REFEREE: Fine. So, I'm not going to, I'm not going to accept it into evidence at this point. There's been an objection made, and we can address that. I, one, one thing I wanted to ask both counsel is that if there are going to be any other exhibits, I hope that discovery can be complied with, and that if there's going to be photo copies necessary, to provide beforehand, so that we can expedite interruptions such as this.

MR. REILLY: I thought--

MR. POSTEL: --Thank you--

MR. REILLY: --I had provided it--

MR. POSTEL: --thank you, Your Honor.

MR. REILLY: You know, I'm not saying, I can't say I did or I didn't.

THE REFEREE: Okay.

MR. REILLY: Do you want to look at it now--

MR. POSTEL: --Yeah, yeah, we'll take it.

MR. REILLY: Now--

THE REFEREE: --Commission is holding onto Respondent's--

MR. REILLY: --E--

THE REFEREE: --Exhibit E marked for identification only at this point. Please don't discuss, I don't want to discuss this exhibit. It's not in evidence.

MR. REILLY: I understand.

(T. Ramich-Direct)

1 THE REFEREE: And we can return--

2 Q. --Did--

3 THE REFEREE: --to this--

4 Q. --anything improve after October of '08 as far as being able to get in
5 touch with, with Judge Forrest as opposed to you, from your perspective?

6 A. No.

7 Q. And the week before the, the, was it Saturday before the Police
8 Benevolent Association party, you were called into Elmira by the state
9 police to do what?

10 A. A search warrant.

11 Q. And where did you have to go to do that?

12 A. I went to my house, I returned from Corning to my house, and the state
13 police came to my house and brought the various things for me to look at.

14 Q. You brought your daughters with you?

15 A. I did.

16 Q. And about what time of the day was that, or night?

17 A. Well, it was, it was mid-afternoon when we were in Corning. It takes
18 about 45 minutes, give or take, to drive back from Corning to Elmira. So,
19 it, and then it took it a while for the state police to get there. So, I'm, I'm
20 going to say that it was around 2 to 3:00 in the afternoon.

21 Q. And how long did you stay there reviewing the documents before you
22 signed them?

23 A. Oh, it probably takes about 15 minutes to review, if all is in order.

24 Q. If everything appears to be appropriate--

25 A. --And, and everything was in order.

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(T. Ramich-Direct)

1 Q. And it's not complicated?

2 A. Right.

3 Q. Alright, so you signed the search warrant?

4 A. I did.

5 Q. And the police knew how to get to your residence, obviously?

6 A. They've been there many a time.

7 Q. Alright, then what did you do, if anything, with your daughters?

8 A. Well, you never know exactly when people are going to get there, and
9 teenage girls, boy, you know, trying to hold them is, is awkward. So,
10 frankly, I, I remember that, that Amanda went and did something, and,
11 and, and Jessica stayed with me.

12 Q. Alright, you didn't go back to Corning for dinner?

13 A. No.

14 Q. Did you, you didn't take them out to dinner that night, or did you just take
15 Jessica out to dinner?

16 A. Jessica and I would have gone out to dinner.

17 Q. Alright, now, so, when you went to the Police Benevolent Association
18 dinner, that infamous night in 2009, you were--

19 THE REFEREE: --This is--

20 Q. --upset--

21 THE REFEREE: --this is April, late April--

22 MR. REILLY: --April--

23 THE REFEREE: --of 2009--

24 MR. REILLY: --I'm sorry--

25 THE RESPONDENT: --This is the--

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- 1 THE REFEREE: --no, that's fine--
- 2 THE RESPONDENT: --this is the--
- 3 THE REFEREE: --I just want to make sure--
- 4 THE RESPONDENT: --Sunday, the, the--
- 5 Q. --The Police, the PBA dinner that we've talked--
- 6 A. --yeah--
- 7 Q. --about with--
- 8 A. --yes--
- 9 Q. --the so-called joke. You were mad at him?
- 10 A. Yes.
- 11 Q. So, why did you--
- 12 A. --Well, the other thing that happened is, we've talked about saints and
- 13 sinners and stuff, only I wasn't on that weekend. And, and so, I was
- 14 supposed to be again, with Jessica and--
- 15 Q. --That was Judge Forrest's weekend to be doing the search warrants?
- 16 A. --and I got called in.
- 17 Q. Alright, did you ever--
- 18 A. --And, and--
- 19 Q. --ask him, did you ever ask him where he was on that Saturday or
- 20 complain to him?
- 21 A. What, what happened is, I, I don't remember the exact timing, but there
- 22 were a number of arraignments. I went down, I did them. Doing the
- 23 arraignments made me late for the very banquet. So, when I arrived at the
- 24 banquet, the, the thing was already--
- 25 Q. --Was, was that--

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1 A. --underway--

2 Q. --was that day a day that Judge, Judge Forrest was supposed to be doing
3 arraignments?

4 A. Yes.

5 Q. And apparently he couldn't be found?

6 A. Yes.

7 Q. Alright, so you did several arraignments that afternoon?

8 A. Yes.

9 Q. And it made you very unhappy?

10 A. Yes.

11 Q. And you went to the dinner, and everybody, it already started?

12 A. Yes.

13 Q. And did you have any alcoholic beverages?

14 A. No.

15 Q. Do you know whether alcoholic beverages were being served?

16 A. Lots of it.

17 Q. Were there, was there a priest in the audience?

18 A. Yes.

19 Q. Do you know who the priest was?

20 A. I know him well, Father Walter Wainwright from Our Lady of Lords in
21 the Town of Elmira, an ex-Army Chaplain, and we have done many a
22 thing together.

23 Q. So, telling a sexually oriented joke you knew might not get him upset?

24 MR. POSTEL: Well, I'm going to object to that.

25 It's--

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(T. Ramich-Direct)

1 MR. REILLY: --Withdrawn--
2 MR. POSTEL: --obviously--
3 MR. REILLY: --he, he--
4 MR. POSTEL: --speculation--
5 MR. REILLY: worked, he worked--
6 THE REFEREE: --It, it's--
7 MR. REILLY: --with him in--
8 THE REFEREE: --withdrawn--
9 MR. REILLY: --the military, correct?

10 A. Yes.

11 Q. Alright, and were there women in the audience also?

12 A. Yes.

13 Q. So, you got asked to make a, to say something?

14 A. For, for, for 25 years the police have asked me to go to the banquet, and I
15 always went, and they always asked me, "Will you say a few words and
16 tell a joke?" Always there was a request to tell a joke, and--

17 Q. --Did you ever tell any jokes that were actually funny?

18 A. Let me say this, that I have a police officer friend who's retired SWAT,
19 and--

20 Q. --You got to tell us what SWAT is.

21 A. Well, it would be their tough guy. When it's the worst of the worst
22 situations, they send these guys in to deal with the, the worst situations.

23 Q. Someone's held up in an apartment, they have a special team that goes in
24 there with all these night glow devices, and weapons, and, and try to
25 surround the apartment, try to talk the person that's in there out?

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1 A. True.

2 Q. And if they don't get them out, they go into the apartment?

3 A. Yes.

4 Q. Alright, go ahead.

5 A. Well, every year until this year--

6 Q. --In 2009--

7 A. --when I told a joke, he was always, so to speak, the focus of the joke, and
8 frankly, he would have been the focus of the joke this year, or that year,
9 however, I, I guess when I was an altar boy, there was a part of the mass
10 where they say mea culpa, mea culpa, mea maxima, mea culpa, I'm sorry,
11 I'm sorry, I'm sorry. Well--

12 Q. --You did something inappropriate?

13 A. I did. I was angry. I, I, I had just got there. I, I was upset about the
14 ongoing situation. I, I was particularly upset when I walked in and Judge
15 Forrest was already there. Here I've been covering for him, and he's
16 already there.

17 Q. Do you know how long he had been there?

18 A. I do not know how long he had been there. But, I, I definitely was not
19 happy with Judge Forrest, and--

20 Q. --You were mad?

21 A. Yes, I was.

22 Q. Inappropriately mad or appropriately mad, but not appropriately
23 discussing it at a--

24 A. --Things--

25 Q. --thing, function--

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1 A. --things--

2 Q. --like that--

3 A. --things did not go the way that I would like them to have gone.

4 Q. So, you launched into a discussion about having had to cover for Judge
5 Forrest for all this time, and you're angry?

6 A. Yeah, I believe that what I said when I started was, the reason I was late
7 was because I was covering, and then I went into the joke.

8 Q. Did you, did you point your fingers at Judge Forrest? Do you remember
9 doing it?

10 A. No, I, I, you know, it was all, I, I still get nervous when I get up in front
11 of a crowd, and I, I don't remember that part of it.

12 Q. You don't remember, but he could be right when he said that you were
13 pointing at him?

14 A. Yes.

15 Q. Alright, so, you told a joke, and we've heard him say what the joke was
16 yesterday. Was that accurate so we don't have to go back through it
17 again?

18 A. In, in, in, in sum and substance, it was accurate, and about the only
19 modification I'd add to it, is I believe I, I started it with, here's the story
20 of how Judge Forrest saved the world.

21 Q. Alright, and did you pick him as the butt of the joke just because you
22 were mad at him at that time?

23 A. Yes.

24 Q. And you were going to use Joe Miller instead and changed your mind?

25 A. Yes. See, Joe Miller is such, he's kind of a rough and crude guy with a

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1 heart of gold, and, and see, on, on Joe Miller, it, it, it might well have
2 been perceived entirely different than laying it on Steve.

3 Q. Alright, so, you told the joke and what was the reaction in the audience?

4 A. Not good.

5 Q. You layed an egg?

6 A. I did.

7 Q. And people were upset?

8 A. Shocked.

9 Q. Shocked. And then somebody made a comment to try to cut the shocked
10 feeling about your hair?

11 A. Yeah, Tommy Ryan and, and--

12 Q. --Was it Tommy Ryan or somebody else?

13 A. No, it was Tommy Ryan who made the comment. Tommy Ryan was the
14 master of ceremonies. He, he's, he's a scratch golfer, if you will. Prior,
15 the one or two handicapped, and he and I have known each other forever,
16 and golfed together, and he tried to cover.

17 Q. What did he say?

18 A. He said, "well, looking at Judge Ramich's hairline, I guess we can tell
19 why he's bald."

20 Q. And did that strike you as funny or--

21 A. --I laughed.

22 Q. Alright, did other people laugh?

23 A. Many.

24 Q. Were people critical of your, quote, performance, close quote that night?

25 A. Well, let me put--

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(T. Ramich-Direct)

1 Q. --That night, right after it happened?

2 A. No, but let me say this, there are so many times when people are, people
3 often don't tell judges to their face what they're thinking.

4 Q. Understand. Did you hear criticism the next day?

5 A. Yes.

6 Q. And what, who did you hear it from, and what did they say?

7 A. I believe it was Mike Robertson, the Deputy Police Chief.

8 Q. He's now chief of police?

9 A. He's now chief of police, and I believe that his remark was something
10 like, Tom, what were you thinking? I wanted to grab you and pull you
11 down, but I couldn't stop you. What were you thinking?

12 Q. And what did you say to him?

13 A. I lost it. I said, I, I just lost it. I, it's not something I had planned to do.
14 It's, it's in the spur of the moment, in the heat of the moment. I had just
15 come from the arraignment and such. I was upset because of that, and I,
16 I lost it.

17 Q. Did he say anything to you about apologizing to anybody?

18 A. No, not, not at that point, okay--

19 Q. --Somebody--

20 A. --no, what happened was I, I then asked Robbie--

21 Q. --Robertson--

22 A. --Mike Robertson, I, I asked him, "Alright, what do you think I should
23 do?" And, and he suggested, "Well, apologize to the PBA."

24 Q. Alright, did you talk to anybody else that day about their feelings, what
25 they had seen, and what they thought you should do?

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1 A. No.

2 Q. Did you apologize to anybody?

3 A. What I did was I, I, I, I told Robbie, alright, you know, I wasn't, the, the,
4 the head of PBA changes yearly. So, I wasn't sure exactly who was head
5 of PBA, so I asked Robbie, alright, "I'll apologize. Would you ask him to
6 come up and, and see me in my office?"

7 Q. Because you were working?

8 A. Yeah, and, and--

9 Q. --It was a Monday?

10 A. Yes.

11 Q. Okay.

12 A. And, and then he said he wasn't sure when they were on, but he'd, he'd
13 get word to them to come up and see me.

14 Q. And did you meet with them?

15 A. I did.

16 Q. Who did you meet with?

17 A. I believe, oh gee, Taft.

18 Q. Pat who?

19 A. Or no, Taft, the--

20 Q. --Taft--

21 A. --last name Taft.

22 Q. Robert--

23 MR. POSTEL: Robert--

24 Q. --Taft.

25 A. Robert Taft.

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(T. Ramich-Direct)

1 Q. And did he say something to you first or did you say something to him?

2 A. I, I believe I started it.

3 Q. What did you say to him? Withdraw that. Was he there that night, to
4 your knowledge?

5 A. I expect that he would have been.

6 Q. Okay, so what did you say to him?

7 A. I know that I was out of line. I, I should not have used your festivities to
8 carry on. I'm sorry. I did it. Words to that effect.

9 Q. Alright, and did you say at all you were sorry that you might have
10 offended anybody's senses of civility or decorum?

11 A. I don't think I phrased it like that.

12 Q. Alright. And did you, at any point, did someone say to you, you should
13 apologize to Judge Forrest?

14 A. No.

15 Q. Did you decide to try to apologize to Judge Forrest?

16 A. I did.

17 Q. When did you decide to do that?

18 A. Pretty much right after meeting with Rob.

19 Q. The same day?

20 A. Yep.

21 Q. Tell me what happened.

22 A. Well, Steve's office is right next to mine, a common wall in between. As
23 luck would have it, I was walking down the, the hall, and--

24 Q. --Inside the chambers?

25 A. Inside chambers. I was walking down the hall--

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1 Q. --Your office is on the corner.

2 A. It is.

3 Q. And his office is right, just, right next to yours, and there's a hallway that
4 on the right side is, are the walls where you have, where the court is, so
5 you can't go into the court without going through the door, and the
6 hallway goes--

7 A. --A very narrow hallway--

8 Q. --yeah, relatively narrow hallway, walks right by Judge Ramich's office,
9 and into the clerk's area?

10 A. True.

11 Q. Alright, so what happened?

12 A. He was walking towards me, I'm walking towards him, we were, we were
13 close to his office, I said, "Steve," and he went right on by me, you know,
14 bumping me on the way past, went into his office, slammed his door, and
15 that was it.

16 Q. Did you figure then you were just totally persona non grata?

17 A. Yeah, I, I, I thought things were too hot.

18 Q. Did something happen in your office after he slammed the door?

19 A. Some of the pictures on the joint wall that I had hanging on nails fell off.

20 Q. Did you ever try to apologize to him again after he had a chance to, to
21 cool down?

22 A. If, if I had to do it over again, I should have sat down and, I should have
23 realized a personal isn't going to do it. But, write him a letter. Write him
24 a letter and say, I'm sorry. And I didn't do that.

25 Q. Two grown people who are judges just couldn't get together and, and

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1 facilitate that?

2 A. I messed up.

3 Q. Alright, but he wouldn't talk to you about it at least as far as you could
4 tell?

5 A. Well, let's say on, on, at that moment, he wouldn't.

6 Q. Okay. Since that night, have you gone to the PBA annual dinner?

7 A. I, I have been invited to each dinner, and each dinner, by my own choice,
8 I have not gone, and the reason that I have not gone was because I was
9 afraid that if they put both of us at, you know, close quarters, that
10 something might go wrong, and I though the safest way to, to not have
11 anything else go wrong was just don't go.

12 Q. And you had created the problem that might have led to something
13 happening at the dinner?

14 A. So, if anyone didn't go, it should be me, and see, what, what they do at
15 that dinner is they give you three choices of, of real good meals, filet,
16 stuff like that, so, and then all the free drinks you want. It's--

17 Q. --This is a Holiday Inn?

18 A. Yeah, and--

19 Q. --They've got good food there?

20 A. They cater, they cater--

21 Q. --Okay.

22 MR. POSTEL: A little far afield.

23 MR. REILLY: I know. Just a side comment.

24 Q. So, you used to enjoy going there?

25 A. I went every, every year, I went until this happened.

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1 Q. And the tenor is it's like a good old guy thing, or women thing, it's people
2 who are police officers and--

3 A. --It's a private gathering, if you will. It's not open to the public. It's by
4 invitation only, and there are, it, it, it's, I don't know if stag is the right
5 word to call it, but let me put it to this way, although they didn't do it to
6 me, I've seen other people get up and tell jokes, and, and they throw
7 muffins, bread muffins at them, and hoot and holler, and, you know, sit
8 down.

9 Q. A lot of the jokes that are usually told at this are sort of inside jokes?

10 A. It's, it's almost always a joke that is directed toward somebody.

11 Q. Picking on somebody else in a way?

12 A. Like, there are certain police officers that have certain reputations. For
13 example, there's one, there's one officer that, that he has a washing his
14 hands thing, and if he touches anything, he's going to run and, and wash
15 his hands. So, at, at the dinner you can almost guarantee that someone's
16 going to make a joke about the fact that he won't, he won't touch
17 something without washing his hands afterwards. Something like that.

18 Q. And in the past, have some of the jokes been sexual in nature?

19 A. Yes.

20 Q. In any way similar to yours?

21 A. Mine was bad.

22 Q. Pardon me? Not as bad?

23 A. Well, you know, no, I was saying mine was bad. One of the things that
24 made mine, there's been some other sexual jokes that at least had some
25 humor in it.

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1 Q. Yours had none?

2 A. Apparently not.

3 Q. And you made some reference in your joke about Steve being at the, at
4 the Hazlett Building with some unidentified county, female county
5 employee?

6 A. I did.

7 Q. Do you have an idea who you were referring to?

8 A. I, I used that term trying to avoid saying, his wife, not, not, I don't think
9 any people that were there, other than maybe his closest friends knew that
10 she worked at the county, and I did not mean it as a reference to his wife.

11 Q. Who did you mean it as a reference to?

12 A. Just part of the joke.

13 Q. It was part of the joke when you first heard it?

14 A. Yeah.

15 Q. Where did you first hear that?

16 A. Internet. It was an Internet joke that got passed onto me by someone.

17 Q. Okay. Got to be watchful of those things.

18 MR. REILLY: I want to move into the other area,
19 and--

20 MR. POSTEL: We've got--

21 MR. REILLY: --do you want--

22 MR. POSTEL: --15 minutes. (Unintelligible)

23 MR. REILLY: Alright.

24 MR. POSTEL: Let's start it.

25 Q. Let's go into the charitable contributions. Did you, at some point, decide

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1 to, as part of an ACD or other sentence, have someone have the
2 alternative between community service and charitable contributions?

3 A. Yes.

4 Q. And how did you come to get that idea?

5 A. Well, the, the first situation that came to my mind is we, we often did 40
6 hours, 80 hours, whatever number of hours volunteer work, and a number
7 of times we would get letters back, sometimes from, the attorneys,
8 sometimes from the defendant, saying, my life is changed. Now, I'm in
9 school, now I'm working a job. I can't get off time from school or work,
10 and may I, may I pay a fine instead of doing the volunteer work? Well--

11 Q. --But, you can't impose a fine if they've got an ACD, can you?

12 A. And, and that was the, that was the fundamental problem, that, that can't
13 do a fine without, and you don't want to give him a conviction for
14 something just because they got a time problem. So, there, there had been
15 a number of times where, with the DA and defense attorney, they, they
16 did a charitable contribution in that situation. And, and so, I kind of had
17 that in the back of my mind, and then Elmira is a blue collar area, and it
18 doesn't have a lot of money, and I've always had a desire, if you will, to,
19 to, to help local charities for the benefit of the, of the community. So, I, I
20 started thinking, well, gee, why, why not instead of the money going to
21 the state, so to speak, why not give them a choice of volunteer or--

22 Q. --Well, if, if you got somebody who's getting an ACD, you can't fine
23 them, because they'd have to get a conviction--

24 A. --Yeah--

25 Q. --on something.

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(T. Ramich-Direct)

1 A. Right.

2 Q. So, they'd have that on their record, so you want to avoid that with ACDs,
3 so how did it factor in to non ACD cases?

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

5 Q. Well, some of the cases weren't ACDs. They were conditional
6 discharges, or probation, or something like that with other contingencies,
7 and you could have imposed 40 hours community service, or something
8 like that.

9 A. I, I'm still confused.

10 Q. Well, you used the charitable contribution idea on things other than
11 adjournments in contemplation of dismissal, didn't you?

12 THE REFEREE: There were both ACDs as well as
13 CDs, conditional discharges--

14 A. --Well, that's what I didn't remember. I knew I did it for ACDs, and I
15 wasn't sure if I did for CDs--

16 Q. --Well, you had one guy that was a DWI conviction with a .18.

17 A. Alright, but I, I believe that was, where we used that, I believe, and I
18 don't remember that specific case, but I can tell you that on a number of
19 DWIs where we ordered people to go to what's called the Victim's
20 Impact Panel, when people failed to show for the Victim Impact Panel,
21 that was a violation of the conditional discharge that required them to go
22 to the, to the Victim's Impact Panel. So, there was a meeting with, with
23 DA, public defender, public advocate, and myself, and I'm sure that I
24 suggested that, what do you think about doing a charitable contribution in
25 that situation instead of fine or jail.

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1 Q. And did you discuss the idea of doing charitable contributions with the
2 district attorney's office before you started doing them?

3 A. Yes, I, I discussed it both with the public defender's office and with the
4 DA's office. When, when I say that, what I mean is the assistant public
5 defender, assistant DAs, that were in the court, I told them, this is what
6 I'm thinking, and what are your thoughts, check with your, your bosses,
7 and let me know what you think.

8 Q. Alright, and did they do so, to your knowledge?

9 A. Well, DA wise, nobody came back and said, Weeden Wetmore, the head
10 DA, agreed to this, but they never said there was any objection to it either.
11 As far--

12 Q. --How about--

13 A. --as far as the public defender's office, shortly after that, Nancy Eraca,
14 then Cornish, she herself came in on what was a private case, and we
15 talked about what do you think, and she said, "Okay."

16 Q. Did, and in any of these proceedings that you've read, were there any
17 objections by anybody to the idea of the charitable contributions?

18 A. No assistant DA, no defense attorney, and, and no defendant voiced an
19 objection.

20 Q. Alright--

21 A. --And, and I felt that that was consistent with the law that said that you
22 can, you can have an ACD with service to a charitable or public
23 corporation.

24 Q. In other words, service--

25 A. --If everyone agrees.

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1 Q. In other words, it said, service, you interpreted that to include giving a
2 charitable contribution?

3 A. I stretched it.

4 Q. You stretched it?

5 A. Maybe not--

6 Q. --But nobody, nobody objected to it?

7 A. Right.

8 Q. And in, in, in a courtroom we rely, you rely to some extent on prosecutors
9 and defense counsel to keep you on the straight and narrow? If you are
10 doing something they feel is wrong, you hope that they'll tell you?

11 A. I, I thought that certainly somebody would say, hey, I've got a problem
12 with this. I mean, even if you say that it was advantageous to the defense,
13 well, what do you say about the DA? Why wouldn't the DA say, I got a
14 problem?

15 Q. And you, your research just led you to the Criminal Procedure Law
16 section on adjournments in contemplation of dismissal and conditional
17 discharges?

18 A. 170.55.

19 Q. Of the Criminal Procedure Law, or the Penal Law--

20 A. --Of the Criminal Procedure Law.

21 Q. And did you ever see anything in, did you look at Gilbert's at all when
22 you were doing that?

23 A. I did.

24 Q. And you brought a copy of Gilbert's here today? Have you looked at it
25 recently?

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1 A. Yes.

2 Q. Did you see any cases cited there that said a judge cannot ask for a
3 charitable contribution as part of a sentence, to a charity?

4 A. No.

5 Q. And did you ask Fred Cerio to research it at all?

6 A. I'm not going to say I asked him to research it, but we talked about it.

7 Q. And he raised no objection either?

8 A. He did not.

9 Q. So, nobody went in to look at the, the decisions in the office of judicial
10 misconduct?

11 A. Right. I thought I had a win win situation for the community, the
12 defendant, and, and everybody.

13 Q. Alright, and you would, on some occasions, suggest a particular charity?

14 A. I did--

15 Q. --And did--

16 A. --Normally, people would tend to ask, where, where should I do it, and
17 what I should have done, I guess, if I should have done anything, is I
18 should have just said, here are three or four representative charities, you
19 know, whatever. On the other hand, I do acknowledge that in a number
20 of cases, I sure made it a good hint that I would appreciate it if they did
21 something for the animals.

22 Q. And that's because you favored animals, you like to help animals out, and
23 that's the charity that came to your mind?

24 A. Yeah.

25 Q. And, but, did sometimes somebody give a contribution to some different

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1 charitable organization instead of the ones you recommend--

2 A. --A number of times people came back, sometimes in court they'd say,
3 what about, you know, whatever, and, and sometimes they didn't say
4 anything in court, they just went away and gave a contribution to some
5 other organization, and it was all good with me. I, I really just wanted a
6 charitable contribution to some local charity.

7 Q. And, and did you review some of the transcripts that we've been provided
8 with regard to cases involving charitable contributions?

9 A. I did.

10 Q. And did you realize that the case of *People v Edward Bassler*, he gave his
11 contribution to the Humane Society?

12 A. Yes.

13 Q. Not the city shelter?

14 A. That, that's the Chemung County one that's two municipalities over.

15 Q. *People v Daniel Ortiz*, he gave it to Catholic Charities?

16 A. Yes.

17 Q. No objection?

18 A. Oh, can I mention, I know this is probably a bad time to mention it, but
19 when, when you asked about charities and such, I, long-term director at,
20 not now, not then, but, but leading up to that, for years, I'd been director
21 at Catholic Charities.

22 Q. Okay. But you had no objection to him doing that?

23 A. No.

24 Q. And in the case of *People v Guzman*, did attorney Mannion bring up the,
25 the idea of the charitable contribution as opposed to you?

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1 A. Yes.

2 Q. And in *People v Earley*, did Dr. Siglin, I mean, did an attorney named
3 Siglin, who was the assistant district attorney, offer a charitable
4 contribution or voluntary work?

5 A. Yes, I believe that, there, there was a group of young people that were
6 home from college and they were working at local bars to make money,
7 and they got caught in a state trooper sting operation for serving underage
8 minors. Now, when those cases hit the court, Bob Siglin, the assistant
9 DA, asked me, "What do you think about doing charitable contributions?"
10 And he told me specifically that his office wanted to go with no
11 convictions, and I said, "Fine."

12 Q. And he wanted a charitable contribution to be part of the, the sentence?

13 A. Yes.

14 Q. And a lot of times when people get adjournments in contemplation of
15 dismissal, they have a hard time finding the time to do the charitable
16 work?

17 A. Well, especially in Elmira. We, a number of the people that, that come to
18 court work in some specific areas. More likely than not, there's, there's
19 one place that's called DeMet's Candy Company, and they, they have,
20 like a 12-hour on, 12-hour off, and, and if you miss work there, they don't
21 keep you around.

22 Q. This is the beginning of the recession?

23 A. And, and there's another place that used to be called, it's formal name
24 was Keystone Bindery, and that was more up in Horseheads, and, and the
25 street name for it was Keystone Slavery, because there was just no, if

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1 you're late for work, if you miss work, you're gone.

2 Q. Alright, so, but, this was, you got to answer this yes or no. This is at the
3 beginning of the, of the George Bush recession? It was the beginning of
4 the recession--

5 A. --I don't remember--

6 Q. --and people didn't have--

7 A. --Tom, I don't--

8 Q. --didn't have jobs--

9 A. --I don't know exactly what timeframe that is.

10 Q. Alright, 2008.

11 MR. POSTEL: Well--

12 A. --Yeah--

13 MR. POSTEL: I mean, we're getting to the point
14 where he's testifying--

15 THE REFEREE: --Okay--

16 MR. POSTEL: --on behalf of his client.

17 THE REFEREE: Okay, the questions are leading,
18 clearly. Okay--

19 MR. POSTEL: --I don't mind the leading questions,
20 but it's, it's approaching testimony. And if you just ask him
21 when he, when he thinks the Bush--

22 MR. REILLY: --When did--

23 MR. POSTEL: --recession began--

24 Q. When do you think the recession started?

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

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1 THE REFEREE: Okay.

2 Q. Was there a period of time where people were having, jobs were being
3 lost in Chemung County?

4 MR. POSTEL: Listen, I will stipulate between
5 October 2007 and October 2009 the economic times in, in
6 Chemung County were, were deeply impinged by the
7 economic malaise across the country.

8 MR. REILLY: Alright.

9 THE REFEREE: I will take judicial notice of the
10 malaise.

11 MR. REILLY: Thank you, all.

12 Q. Now, at some point this came to a halt?

13 A. Yes--

14 Q. --Tell me how it happened.

15 A. I got a visit from my Administrative Judge. At that time--

16 Q. --And what's his name?

17 A. My Administrative Judge was Michael Coccoma, and he came in--

18 Q. --He came to your court?

19 A. He did.

20 Q. And he came, were you in chambers at the time?

21 A. Yes.

22 Q. And did he just walk in or ask to come in and talk to you?

23 A. He goes where he wants to go. But, but, I mean, he came in, yeah. He
24 came into my office, see, I was in court, and, and actually, I got, I got
25 word that he was in my chambers and wanted to see me. And I left court,

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(T. Ramich-Direct)

1 and went--

2 Q. --You, you stopped doing what you were doing--

3 A. --I did--

4 Q. --and went into your chambers, and you saw Judge Coccoma there, and
5 what did he say to you?

6 A. "I've got a report that you're doing some kind of stuff with charitable
7 contributions. Is that true?"

8 Q. And what did you say?

9 A. "Yes, it is."

10 Q. And did he ask you what you were doing with them?

11 A. It was more, what are you thinking.

12 Q. Alright--

13 A. --And I--

14 Q. --and did you--

15 A. --I, I told him I thought I had a win win situation for the community, and
16 that was why I, I had started doing the, the contributions, and he said,
17 "Stop."

18 Q. And that's it?

19 A. Let me put it this way, he, he made it very clear that I should stop.

20 Q. Did he tell you any way that it was a violation of judicial ethics?

21 A. No, no. He didn't give any, he didn't say, there, there's, you're
22 misinterpreting the statute. He didn't say, there, there's a ruling from
23 Judge Dunbar's court that says you can't do that, and he just said, "Bad
24 idea. Stop."

25 Q. And because he was essentially one of your big bosses, you stopped?

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STATE COMMISSION ON JUDICIAL CONDUCT

**400 Andrews Street
Rochester, NY 14604**

(T. Ramich-Direct)

1 A. Immediately.

2 Q. And there were not more sentences with charitable contributions after that
3 visit?

4 A. No, and, and, frankly, if somebody, if I would have heard that to begin
5 with, I would have been not doing it.

6 Q. If somebody had raised the issue and shown you perhaps some of the
7 cases that say, not a good idea, you might have stopped?

8 A. Yes, I would have stopped.

9 Q. But, (unintelligible) case and like anything else.

10 THE REFEREE: Now, at this point, one question,
11 when was the date of the visit by Judge Coccoma?

12 THE RESPONDENT: Shortly after they stopped. I
13 really don't know, right now--

14 MR. POSTEL: --Would it be fair to say, in or about
15 the time of the last case on the schedule of the 25 cases?

16 THE RESPONDENT: That would be fair to say.

17 THE REFEREE: Okay, very good, very good.

18 MR. POSTEL: I'll agree to that.

19 THE REFEREE: Okay. At this point, we're at right,
20 right at 4:30. Is this an appropriate time for you--

21 MR. REILLY: --Absolutely.

22 THE REFEREE: Okay. Very good. We are in
23 recess, but we need to determine what is the time that we're
24 going to meet tomorrow.

25 (The hearing was adjourned at 4:30 P. M. on October 17, 2012)

490.

STATE COMMISSION ON JUDICIAL CONDUCT

**400 Andrews Street
Rochester, NY 14604**

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EXHIBITS

COMMISSION

Ident. In Evid.

RESPONDENT

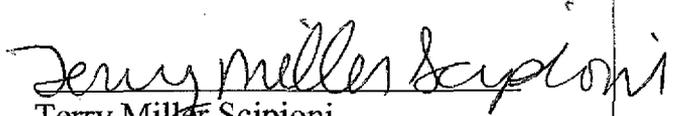
C	Transcript of Investigative Appearance, <i>Matter of Thomas E. Ramich</i> , April 25, 2011.	419	419
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CERTIFICATION

I, Terry Miller Scipioni, a Secretary of the State
Commission on Judicial Conduct, do hereby certify that the foregoing is a
true and accurate transcript of the audio recording of the proceedings
transcribed by me, to the best of my knowledge and belief, in the matter
held on October 17, 2012.

Dated: December 3, 2012


Terry Miller Scipioni

STATE COMMISSION ON JUDICIAL CONDUCT
400 Andrews Street
Rochester, NY 14604

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

-----X

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

THOMAS E. RAMICH :

a Judge of the Elmira City Court, :
Chemung County. :

-----X

Schuyler County Courthouse
105 9th Street
Watkins Glen, NY 14891
October 18, 2012
9:50 A.M.

Be f o r e:

GARY MULDOON, ESQ.,
Referee

P r e s e n t:

For the Commission

JOHN J. POSTEL, ESQ.,
Deputy Administrator

KATHLEEN MARTIN, ESQ.,
Senior Attorney

For the Respondent

THOMAS E. REILLY, ESQ.,
Attorney for Respondent
Learned, Reilly, Learned, & Hughes, LLP
449 East Water Street
Elmira, NY 14901

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

HON. THOMAS E. RAMICH,
Respondent

REBECCA ROBERTS,
Investigator

BETSY SAMPSON,
Investigator and FTR Operator

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(Ramich-Direct)

1 THE REFEREE: Good morning, this is Thursday,
2 October 18th, the third day of a hearing in this matter. We are at Schuyler
3 County Courthouse in Watkins Glen. Yesterday afternoon when we
4 adjourned, we were engaged in the direct examination of Judge Ramich,
5 and that will be continuing, is that correct?

6 MR. REILLY: That's correct.

7 THE REFEREE: Fine.

8 MR. REILLY: And as a preliminary matter, I believe
9 there's no objection to the admission of respondent's Exhibit E,
10 which is--

11 MR. POSTEL: --Correct--

12 MR. REILLY: --the email.

13 MR. POSTEL: No objection.

14 THE REFEREE: Okay. Respondent's Exhibit E will
15 be admitted into evidence. Judge Ramich, if you would take the
16 witness seat, and please do, and, and I'm just reminding you that
17 you are under, you're still under oath.

18 THE RESPONDENT: Yes, judge.

19 (Respondent's Exhibit E was received into evidence)

20 DIRECT EXAMINATION

21 BY MR. REILLY:

22 Q. I forgot to ask you the other day, judge, whether or not you've received
23 any awards from the community other, other entities in the Chemung
24 County area?

25 A. I have.

(Ramich-Direct)

1 Q. And what are those?

2 A. One is the Raymond Fortier, F-O-R-T-I-E-R, Community Service Award.

3 It's a, a regional, it's not a city, it's not a county, it's a Chemung,

4 Schuyler, Steuben type of award.

5 Q. Was it a, counties that it covers?

6 A. Right.

7 Q. Okay.

8 A. The Ernie Davis High School Community Service Award--

9 Q. --Do you, do you recall what years you got those?

10 A. I, I don't, and I, I didn't, I didn't go into look them up.

11 Q. Okay. Go ahead. What was the Ernie Davis Award about?

12 A. Well, the, the, that, that high school is on, on the east side of Elmira, and

13 basically, a lot of the under privileged and minority children go there, and

14 both for actions in court with them and out of court doing programs for

15 them, I became known to the, the school.

16 Q. Alright, so what other awards did you get?

17 A. There was a Mothers Against Drinking Driving Award, Remove

18 Intoxicated Driver Award.

19 Q. Now, why would they give you those awards?

20 A. Well, going back some years, that was before there was any victim's

21 impact panel type of operation in this area. I, I, I saw that there was one

22 in Albany, and then I thought that was a good idea. I, I observed it, and

23 then returned to the area, and ultimately, I, I created a victim's impact

24 panel for Chemung County that operated out of Elmira City Court, so that

25 even though it was located out of Elmira City Court, all of the county,

(Ramich-Direct)

1 town, and village judges referred their DWI or DWAI cases to that
2 victim's impact panel.

3 Q. And did you run it?

4 A. I did for a period of time, and basically, was involved with the, the, the,
5 the heart of the thing was to have victims, people that have lost loved
6 ones to drinking drivers, and I would, I would interact, shall I say, with
7 them, as far as getting them to be involved in the program. Then, from
8 there I started one in Steuben, Schuyler, Tompkins Counties, and then
9 down in Bradford, Pennsylvania, and I forget the name of the adjoining
10 county now in, in, in Pennsylvania.

11 Q. Tioga?

12 A. Yes, Tioga.

13 Q. Thank--

14 A. --Thank you. And as a result of that, the, that was how those awards
15 came about.

16 Q. Alright, and what other awards did you get?

17 A. Faith Temple Church Community Service Award. Faith Temple is, is the
18 largest minority, if you will, church in the area, and I had been involved
19 in a number of their outreach programs, and a number, a large number of
20 their flock, so to speak, was also part of my court flock.

21 Q. Unfortunately.

22 A. Unfortunately.

23 Q. Alright, what else, what other awards did you receive?

24 A. Let's see, that, that would do it for awards.

25 Q. Alright, and you told me there, you got two endorsements in your election

(Ramich-Direct)

1 campaign in 2006, that you were proud of getting .

2 A. Yes.

3 Q. What were they?

4 A. Well, how can you tell, you know, whether people perceive you as doing
5 good judging or bad judging. Everyone's got an opinion. But, I guess in
6 a self-serving way, the, one of the awards that meant a lot to me was the
7 Elmira Police Department, for the first time in its history, they, they had
8 never endorsed a judge previously. They endorsed me. So I looked at
9 that as--

10 Q. --The police department?

11 A. The Elmira Police Benevolent Association, I should say, Elmira Police
12 Benevolent Association. And then I was also endorsed by a group which
13 is, is called the, the Interdenominational Coalition of Ministries, and that
14 is, is basically, made up of a collection of a number of minority churches
15 in the, in the area. So, in, in, in my own self-serving evaluation of things,
16 I, I, I felt good that I had some on the right, and some on the left, both
17 saying we think you're doing good enough to endorse you.

18 Q. So, let's talk about the two days that Jessica came to sit on a jury trial
19 that's already been testified to. Did you know that she was going to be
20 sitting on that trial before she appeared in the courtroom?

21 A. Yes.

22 Q. And did you talk to her at all about it? Did she say anything to you about
23 it?

24 A. You know, I forget if it was, like, one or two days, it was pretty short
25 before that she was to be here that we actually spoke of it.

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(Ramich-Direct)

1 Q. She, she got notice that she could be a juror?

2 A. Yeah, she notified me that she, "Hey, Dad, guess what," and, and she said
3 that she had been summoned for jury duty and I, I did ask her for and take
4 a look at her jury summons. So that way I knew, number one, it was city
5 court, and number two, I knew it was me.

6 Q. Alright, and did you discuss that with her at all?

7 A. Just in, in, in, in, to the aspect of, well, you got to do your duty.

8 Q. Now, had you ever had a family member, you know, cousin, aunt, uncle,
9 wife, on a jury panel in your courtroom?

10 A. No.

11 Q. So, this is the first time you're confronted with this issue?

12 A. Yeah, it, it--

13 Q. --And did you, alright, so, then she gets, she comes in, you, did you tell
14 the other, the lawyers who were there that that was your daughter?

15 A. Yes.

16 Q. And did you have any discussion with them about your feelings about her
17 ability to sit or what they could do if they wanted?

18 A. Yes.

19 Q. What did you tell them?

20 A. I, I, number one, I didn't want them to worry about whether they, that
21 they see the same name. I got to figure they're going to wonder, is she
22 related, and, and that sort of thing. So, I wanted to alert them that in fact,
23 she was my daughter, and secondarily, I wanted to alert them that if they
24 wanted to excuse her, that there was no problem with me.

25 Q. Alright, did you--

(Ramich-Direct)

1 A. --And, frankly, I, I, I was rather hoping that either the DA or the defense
2 attorney would do that.

3 Q. Do you, were you aware of the case law that said that that should have
4 been an automatic disqualification from her sitting in the jury?

5 A. No, and, and I had actually gone and I looked at the for cause reasons that
6 were listed at 360.25 of the Criminal Procedure Law.

7 Q. And there's one provision that talks about people being within so many
8 degrees of consanguinity or blood relationship.

9 A. Yeah.

10 Q. And is, is, and it talks about relationship with the prosecutor, with the
11 defense counsel, but the judge is not included in that, is it?

12 A. True.

13 Q. Alright, and did anyone talk to you about researching the issue
14 themselves, the district attorney or the defense counsel?

15 A. After, after I made that announcement, John Thweatt from the DA's
16 office had indicated that he was going to have his office check and, and
17 see what their position was.

18 Q. Do you know whether they did that? Has he ever--

19 A. --No, I, I don't know what answer he got back.

20 Q. Okay, but he didn't make a motion for the dismissal of, you know, per se,
21 because of the relationship?

22 A. I'm sorry, he did not make it?

23 Q. He did not make a motion to dismiss her, per se, because of the
24 relationship?

25 A. He, he raised no objection to her being on the jury.

496.

(Ramich-Direct)

1 Q. And at some point, she came up and was sitting in the remaining three
2 seats to be fitted?

3 A. And that's a little foggy for me. I, I, I know that I would normally fill the
4 box with six people, do those six, then another six, and then another six
5 until we got--

6 Q. --Alright--

7 A. --the number. So, I don't know if there was six in the final one or three. I
8 just don't remember--

9 Q. --Okay, and did you ask her any questions?

10 A. I, I did.

11 Q. The, the same questions you ask every juror?

12 A. Yes, and--

13 Q. --Like--

14 A. --and more.

15 Q. What did you ask her?

16 A. The, the, the general things about does she know any law enforcement
17 people, anyone involved in, in, in doing that, I mean, this is in open court,
18 and I made it clear in open court that she was my daughter. Everybody
19 knew that she was my, in my opinion, it was clear to everyone in the
20 courtroom that--

21 Q. --Including jurors?

22 A. Yes.

23 Q. Alright, and so, you asked her, do you know the prosecutor, do you know
24 defense counsel?

25 A. Yes.

(Ramich-Direct)

1 Q. What questions did you ask that went beyond what you usually ask?

2 A. The, the, will you make an independent judgment.

3 Q. Whether it'd be effected by you being the judge or?

4 A. I, I don't believe I said that.

5 Q. Okay. And then the prosecution *voir dire* and defense counsel *voir dire*?

6 A. Both asked questions.

7 Q. And I think in the transcript at some point, there's discussion about
8 challenges, and by that point, had each side exhausted their preemptories?

9 A. Yes.

10 Q. And did you say something to them about Jessica being on the jury?

11 A. Well, I, I did. I--

12 Q. --What did--

13 A. --said--

14 Q. --you say--

15 A. --"don't, don't worry about me."

16 Q. So, you said, "Don't worry about me," which, did that mean that you
17 would allow an objection for cause?

18 A. In, in the context that we had spoken, I believed it did.

19 Q. Okay, and yet they accepted her?

20 A. Nobody asked for a for cause exclusion of Jessica.

21 Q. Now, just to ask you, if, if for some reason Jessica, during the course of
22 the trial, committed, did something that was totally improper, would you
23 have had any problem disciplining her for that and removing her from the
24 jury?

25 A. No.

(Ramich-Direct)

1 Q. You've disciplined her in the past as her father?

2 A. She's a pretty good kid.

3 Q. Alright, so, the first day, you took her to lunch?

4 A. I did.

5 Q. And did you discuss that with both attorneys before you did so?

6 A. Well, I, I was sensitive to, from the moment that I heard that she was
7 going to be on the jury. I was sensitive to that whole judge/daughter
8 issue, and it was just a hard one to decide exactly how to deal with, so I, I
9 decided that the best way to deal with it was being completely open about
10 it, and let other people have a say as to what they agreed to or didn't agree
11 to, and my thinking when it came time for lunch was, well, everybody
12 knows she's my daughter, but still, there might be some question about
13 whether judge and daughter should go to lunch together. So, I, I asked
14 counsel if they had any objection to Jessica and I going to lunch as long
15 as we didn't talk about the case.

16 Q. Now, was the defendant present when that was, conversation took place?

17 A. Yes.

18 Q. And where did that conversation take place?

19 A. I, I believe that I was somewhere, we were breaking for lunch and I
20 believe that it was in the courtroom between the judge's bench and the
21 door to my chambers.

22 Q. Alright, and meanwhile, Jessica was waiting?

23 A. I told Jessica to wait.

24 Q. And there's a notation in the court jacket for that trial that you had
25 notified both counsel about taking her to lunch?

(Ramich-Direct)

1 A. Yeah, which I would have written contemporaneously.

2 Q. Did you take her to lunch?

3 A. I did.

4 Q. Where did you go to take her to lunch?

5 A. We went to Horrigan's Restaurant.

6 Q. Did you get served faster than Mr. Postel?

7 A. The, the service was satisfactory to me.

8 Q. You've been there before?

9 A. I, I am well known at, at Horrigan's.

10 Q. Alright, and so you and Jessica were there. Did you talk at all about the
11 case?

12 A. None.

13 Q. The second day, did you, did you, did the jury trial last beyond lunch?

14 A. Yes.

15 Q. Was there a lunch break?

16 A. Yes.

17 Q. And did you take Jessica to lunch then?

18 A. I get foggy on that one. I, I, I am assuming that I did, but I just don't
19 remember whether we did or not.

20 Q. Okay.

21 A. She, she had other things that she had to do too.

22 Q. Alright, she was in school at the time?

23 A. She was a full-time student in pharmacy school, but at that time, she was
24 working a summertime job.

25 Q. What, where was she working, do you remember?

500.

(Ramich-Direct)

1 A. St. Joseph's Hospital on call.

2 Q. Alright, and when you took her to lunch on, on the first day, did you drive
3 her to lunch and drive her back?

4 A. Yes.

5 Q. Alright, now, the verdict comes down and the defendant is convicted. Do
6 you remember what he was convicted of?

7 A. Resisting arrest.

8 Q. Alright, and the case was adjourned to a later date for sentencing?

9 A. It was.

10 Q. What date was it adjourned to?

11 A. Don't, typically, probation department in Chemung County always
12 wanted six or more weeks. So, it would be approximately six weeks from
13 the time that I ask them to do a pre-sentence investigation.

14 Q. Alright, because the probation department, with a conviction like that, has
15 to do a pre-sentence investigation?

16 A. Well, as long as I would not be sentencing him to more than 180 days in
17 jail, they would not have to do a probation report, but because of some of
18 the aspects of the case, I didn't want to just move immediately into
19 sentencing. I wanted to learn more about young Mr. Piper.

20 Q. Do you know what the district attorney's position was even before the
21 trial as to what they wanted as his, as a punishment?

22 A. Yes.

23 Q. What did they want?

24 A. Jail.

25 Q. For how long?

501.

(Ramich-Direct)

1 A. Well, there was never, the minute that any talk of jail came up in, like,
2 pretrial things, there was always a quick rejection by defense of any--

3 Q. --Like they didn't want--

4 A. --agreement--

5 Q. --it--

6 A. --any agreement. Oh, but--

7 Q. --And this is--

8 A. --but, but this was a hot case in the area. It had gotten a lot of publicity in
9 the newspapers.

10 Q. It was a family event, wasn't it?

11 A. It was.

12 Q. There are more than one, one individual in his family that was charged
13 with some kind of a crime?

14 A. Yes.

15 Q. And it was in the newspapers fairly extensively, at least the first day it
16 happened?

17 A. Yes.

18 Q. Alright, so, you're waiting for jury sentencing date, which is, which was
19 in July some time? Is that about right?

20 A. Seems to be about right.

21 Q. Alright, and during that time, did you discuss anything about the trial with
22 Jessica?

23 A. After the, after the verdict had been rendered, Jessica said something to
24 me to the effect of, well, if you're adjourning it for sentencing, how do
25 you make your decision? And, and I basically explained that the

502.

(Ramich-Direct)

1 probation report, probation department does a report and they tell me
2 stuff, and, and then I consider many things, and I use that probation report
3 as the, the basis for, you know, what I know about the case.

4 Q. Was there any further discussion about the defendant or the--

5 A. --No, it was, it was generic--

6 Q. --alright--

7 A. --it was--

8 Q. --but you testified, I think, in the, in the hearings we've had that she might
9 have told you something about--

10 THE REFEREE: --Excuse me.

11 MS. ROBERTS: (unintelligible)

12 MR. POSTEL: Downstairs.

13 UNKNOWN: Downstairs, okay.

14 MS. ROBERTS: Yeah.

15 MR. POSTEL: Do you want to do an arraignment?

16 THE RESPONDENT: Wait for me.

17 THE REFEREE: Okay. The record should reflect that somebody
18 walked in to the, police officer and a, an inmate, apparently walked in,
19 apparently into the incorrect courtroom and they were directed to the
20 proper place. Thank you. Sorry.

21 Q. You, I think you indicated when you testified, when we were up in
22 Rochester, that she may have discussed with you something that she felt
23 about the character of the defendant, that he reacted inappropriately?

24 A. Yeah, that was after sentencing.

25 Q. That was after sentencing?

(Ramich-Direct)

1 A. Yes.

2 Q. And you have reviewed your testimony?

3 A. I recollect my testimony.

4 Q. Well, prior to coming here and testifying, have you discussed with Jessica
5 what she recalled being said and done after, after the verdict?

6 A. Yes.

7 Q. And did she have a different recollection than you did?

8 A. Yes.

9 Q. Alright, now, what was the sentence you gave to the defendant?

10 A. A conditional discharge, and \$500 fine, and I believe that part of that
11 conditional discharge was a, a requirement to do anger management.

12 Q. Alright, and at the sentencing date, did the district attorney still have the
13 position that he wanted him incarcerated for a period of time?

14 A. Yes.

15 Q. And how much time were they asking him to be incarcerated for?

16 A. I don't remember, but it wasn't small.

17 Q. It was more than 180 days?

18 A. Well--

19 Q. --If you remember.

20 A. I, I don't remember the exact number, but I just know it was not a small
21 amount.

22 Q. Alright, and so why did you not incarcerate him? Well, let me back up on
23 that. What was the probation department's recommendation as far as
24 sentence?

25 A. I, I have not rechecked that, but I, I--

504.

(Ramich-Direct)

1 Q. --Give us your best recollection.

2 A. I, I, I think they recommended jail.

3 Q. Alright, so, why did you not incarcerate him, if you can remember?

4 A. He was a young person, number one. It was one of, I believe it was kind
5 of a spontaneous situation, and, and he made some real bad, I thought,
6 judgments, but it wasn't a planned out type of misconduct. In addition to
7 that, he had a job, and when I looked at his background, my, my feeling
8 was that if he lost that job in the Elmira area, it would be difficult for him
9 to find other employment, and I believe that at the time that he was being
10 sentenced, that I, I knew that there was a young child that was either just
11 come into his life or coming into his life.

12 Q. This trial took place in 2010, is that correct, June of 2010?

13 A. I'm bad on dates.

14 Q. Alright. I mean the record reflects it was in June of 2010, June--

15 A. --Alright--

16 Q. --1, I believe, June 2?

17 MR. POSTEL: One and two.

18 Q. One and two. And did the district attorney's, did the defense counsel file
19 a notice of appeal?

20 A. A notice of appeal was filed.

21 Q. And did you ever see that a record on appeal had been put together at all?

22 A. I, I later did check after my testimony in Rochester, and I found that
23 although a notice of appeal had been filed, that it had, it had never been
24 perfected. No, no additional appeal materials were filed with county
25 court, and as of the last time that I checked, the thing was on, it was to go

505.

(Ramich-Direct)

1 to the county court judge for dismissal for failure to prosecute.

2 Q. And this, after the testimony in Rochester, that was the second time you
3 went to Rochester to testify, is that correct?

4 A. Yes.

5 Q. And the appeal was never perfected?

6 A. Never--

7 Q. --Never.

8 A. The, the--

9 Q. --Did you, let me, did you also review the letter from Mr. Piper where he
10 attached the case that said she had to be automatically disqualified?

11 A. Yes.

12 Q. Had you ever seen that case before?

13 A. No, I was--

14 Q. --No one had--

15 A. --I was unaware of that case.

16 Q. No one had pointed it out to you at all?

17 A. No.

18 Q. Alright.

19 A. May I, may I, one of my concerns at the beginning of deciding whether or
20 not to have Jessica on the, on the jury was that she is my daughter, and
21 not being able to find any for cause basis for excluding her, I was
22 concerned that any way I went, somebody could be upset with that, and
23 that if I excluded her on my own motion, that then there might be a claim
24 that I was using my judicial powers to help my daughter avoid jury duty.

25 Q. Alright, well, that you favored one side or the other, you know, she--

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(Ramich-Direct)

1 A. --Well, I, I, frankly, had, I had no idea whether Jessica would favor one
2 side or, or the other. My, my feeling was that, as far as Jessica goes, that
3 she's a level headed person, and she's going to, she's going to look at and
4 listen to everything from both sides and make a, make a decision.

5 Q. Alright, you, you, let's, let's move into the issue regarding Mr. Cerio.
6 Was that testimony he gave troubling to you?

7 A. I would say hurtful to me.

8 Q. Did you, tell us how you met Mr. Cerio and what your relationship with
9 him was before you hired him.

10 A. Fred was a, a young attorney just starting out in, in practice, and there was
11 a, a, a local bar/restaurant, kind of like Horrigan's, only it was on the
12 south side of the city, and that was known as the, the Hi bar, as in H-I, not
13 high bar, and that, that bar was owned by a fellow named Danny Sandore,
14 and Danny Sandore was one of, at that time, I was a private, I was a part-
15 time judge.

16 Q. Okay.

17 A. And I had a private practice, and, and I represented him in his private
18 legal affairs, and--

19 Q. --Was he related to the Sandore that testified yesterday?

20 A. Yes. Patti Sandore, who testified yesterday, is married to his brother,
21 Tommy Sandore. So, I knew them all.

22 Q. Alright, so, you would, would you see Fred at the Hi Bar?

23 A. And, and that was where I first met Fred.

24 Q. Did he have another job?

25 A. Fred was basically, a short-order cook at, at the Hi Bar with the

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1 beginnings of a practice with an older attorney.

2 Q. Mr. Golos?

3 A. Mr. Golos.

4 Q. And when you went to the bar, when you went to the Hi Bar, did you go
5 there for dinner or was it just to have a few drinks?

6 A. No, it would usually be food connected. Might have a beer or two with
7 whatever food, but it wasn't to--

8 Q. --And--

9 A. --just drink--

10 Q. --and there were occasions your then wife would go with you to the Hi
11 Bar?

12 A. Yes.

13 Q. Was that frequent over the next few years?

14 A. Yes.

15 Q. Alright, and when you went there, was Mr., was Fred Cerio cooking or
16 was he off duty?

17 A. He would normally be cooking in the, in the back kitchen and--

18 Q. --And did he come out into the main area of the bar?

19 A. With his white apron on and such, and he's come over to the table and
20 we'd talk.

21 Q. What would you talk to him about?

22 A. Everything and anything. Some of it was legal connected, some of it was
23 sports connected, some of it was community directed. There wasn't any
24 one, he's a nice guy.

25 Q. Alright--

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1 A. --He's a social guy.

2 Q. Did you, had you known him before meeting him at the Hi Bar?

3 A. No.

4 Q. Alright, and how long did you keep going to the Hi Bar and seeing him
5 there, I mean, how long did his job there last?

6 A. Oh, he, he continued working at the Hi Bar well after I hired him.

7 Q. Alright, now, tell me how it came about that you hired Mr. Cerio to be
8 your law clerk, court clerk--

9 MR. POSTEL: --Court attorney--

10 Q. --court attorney?

11 A. Well, as I indicated, when I first started going there, I was a part-time city
12 court judge, 50 percent, and then that changed, and, and I, I think it was
13 '96, or thereabouts, and I became full-time, and as a full-time judge, I was
14 for the first time, entitled to have a, a court attorney. And I don't know
15 how Fred found out about that.

16 Q. Was there an advertisement in the newspapers? Was there, I mean
17 obviously it had to be published that there was an opening.

18 A. Well, it, it, I, I have no idea where they published it.

19 Q. Okay.

20 A. I have no idea how Fred found out about it, but he did.

21 Q. But Fred came to you and wanted to get the job?

22 A. Yes.

23 Q. And had any other, other individuals, lawyers, come to you to get a job as
24 the court attorney?

25 A. Yes.

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1 Q. Who had come to see you about that?

2 A. Well, the, the main person that was in consideration by me was a fellow
3 named Michael Troccia, who, who was a local, a native of the area of, of
4 another large Italian family, shall we say.

5 Q. And he had been in private practice or he was working for the district
6 attorney's office?

7 A. He, he had experience in both.

8 Q. So, he had been an assistant DA for a period of time?

9 A. I don't know how long, but some period.

10 Q. So, you were considering him, and you were considering Fred, so, and
11 Fred, you interviewed?

12 A. There were other people who had--

13 Q. --Right--

14 A. --inquired--

15 Q. --but the primary, primary ones you were considering were, was Troccia
16 and Cerio?

17 A. Yes.

18 Q. And can you tell me what conversations you had with Fred about the job,
19 why he wanted it, and what his background was?

20 A. Well, from our interactions, I knew that Fred was married to Kathy, and I
21 knew that Kathy, I don't know her formal title, but she basically, worked
22 with heart patients at Arnot Hospital. And Fred came to me and, and
23 said, basically, he explained to me in great detail the reasons why his wife
24 had stopped working at the hospital, and he indicated that their kids, he
25 already had Lauren and--

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1 Q. --His daughter?

2 A. His daughter, and I, I believe she was pregnant again, and--

3 Q. --The wife?

4 A. The wife, and he indicated that, number one, money was a problem, and
5 number two, for a young family insurance was a real big issue.

6 Q. Did he tell you what was going on with his wife and her job at Arnot
7 Ogden Medical Center?

8 A. Yes.

9 Q. What did he tell you?

10 A. He, he indicated that she had some personal problems that made her not
11 want to, she was not discharged by the hospital in any way. She, she
12 chose to not continue to work.

13 Q. Did she, did he tell you she just had stopped working there, and she's not
14 coming back?

15 A. He was unclear as to whether she would work again.

16 Q. Alright, and so, he had, at that time, was he involved in the private
17 practice with Mr. Golos, or was he on his own with Mr. Golos, or
18 otherwise, if you remember?

19 A. I'm not sure.

20 Q. Alright, and--

21 A. --I, I know that he was still in the building with, with Mr. Golos, but I,
22 that's one of the reasons why it's hard for me to tell whether he was there
23 doing private practice or there as part of Abe. Abe, Abe--

24 Q. --If he--

25 A. --was probably in, in his high seventies or, or, or low eighties at the time.

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STATE COMMISSION ON JUDICIAL CONDUCT

400 Andrews Street

Rochester, NY 14604

(Ramich-Direct)

1 Q. And would, did, compared to Mr. Troccia, did Mr. Cerio have the same
2 amount of experience in criminal law?

3 A. Not even close.

4 Q. Alright, and how much experience, from your knowledge of him, did he
5 have in criminal law?

6 A. A few plea bargain type of traffic ticket things--

7 Q. --And--

8 A. --no trials--

9 Q. --at the time when you were interviewing him with a job, had you and
10 your wife and he and his wife had socialized?

11 A. Yes.

12 Q. Still at the Hi Bar or was it other places?

13 A. Other places, church connected, community happening connected.

14 Q. School connected, Holy Family?

15 A. Yeah, but that, that was right at the beginning of--

16 Q. --okay--

17 A. --all that.

18 Q. And was, was your, was Jessica good friends with Lauren at that time that
19 you were interviewing him, if you remember?

20 A. That was beginning at, at that point. I, I knew that they were--

21 Q. --So, given the fact that he had a lot less experience in criminal law than
22 Mr. Troccia, why did you hire him?

23 A. He needed it more than the other person did, number one, number two,
24 when I talked to Mike Troccia, Mike told me that his, his ideal future was
25 with the FBI.

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(Ramich-Direct)

1 Q. So, he was going to, he was looking to get a job with the FBI?

2 A. If, if, if he could move on to the FBI, that would have been his path of, of
3 choice, and, and after I, I hired Fred, Mike came back and asked me to
4 give him a recommendation for the FBI, and, and I later did give Mike a
5 recommendation, and I, I later did meet personally, the FBI actually sent
6 an agent down from Buffalo to meet with me, and kind of interestingly, I
7 always thought FBI are pretty sharp people, and they, he got lost, and he
8 wound up calling me from a farm house saying, "Yo, judge, I'm not sure
9 where I am. Can you get me to your house?"

10 MR. POSTEL: I don't think it's unusual to hear
11 those words from the FBI.

12 MR. REILLY: I think we've all had experiences.

13 Q. Okay, so you, he came to the office, you interviewed him, he interviewed
14 you?

15 A. Yes, the other, the other thing was that I, I took Fred as a bright young
16 person, number one. And, and number two, Elmira City Court, real busy,
17 and I was doing, I don't know, 10,000 cases that, you know, of various
18 sorts, a year. High volume cases, and having never had a, a law clerk, I
19 had to have a way to deal with all those cases, and I was very good with
20 computers, and, and, and because I was good with computers, I had
21 created templates, if you will, for all the suppression hearings, and about
22 anything you could think of, I'd been there, done that. So, I had my
23 templates in my computer and Word Perfect, and then in addition to that,
24 I had a series of, of cases, you know, on, on about any given point, that
25 could come up, I would have a number of cases, so I could, myself, adapt

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1 to whatever case came in front of me, and, and pump out, you know, a
2 decision on a, a--

3 Q. --Okay--

4 A. --point of law--

5 Q. --so, what's the relationship of that with Fred?

6 A. Well, I, I'd done it alone for that many years, so I, I felt that I had the
7 luxury of being able to train Fred how to do all of those type of things.
8 And, and I, I took it for granted that he would in fact successfully learn it.

9 Q. And did he?

10 A. He did.

11 Q. Alright, and over the course of years up until, like, I guess, a year ago, or
12 so, did you continue your friendship with, with Fred?

13 A. Yes, to, to, to, to--

14 Q. --Can you tell me what things you did with him and his family?

15 A. Well, well, the, the, the children became more and more a part of our
16 lives as the children got older, and went to school, and, and that. As far
17 as Lauren, and, and Jessica, they, there'd be the go to the movies, go to
18 events. We all, my wife did, Fred did, I did, would drive the kids. We'd
19 take turns driving to places and bringing them home. And in the, in the,
20 in, in, in the summer, because Fred had a nice pool at his house, Jessica
21 spent a lot of time at, at Fred's house.

22 Q. How many summers did that go on for?

23 A. Many.

24 Q. Alright.

25 A. It was a regular thing.

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1 Q. And you were relating to me before you got on the stand today, something
2 about a boat Fred had purchased.

3 A. Yes, right, I'm, I'm, I'm lost here for a geographic direction, but Fred--

4 MR. POSTEL: --That's the front of the building.

5 Route 14 runs north/south, your right shoulder is south,
6 your left shoulder is north.

7 A. Alright, then, then south of Watkins Glen, that way--

8 Q. --Bob's, Bob's Marina or something like that. I'm trying to remember the
9 name. It was a--

10 A. --Yeah--

11 Q. --marina--

12 A. --and, and I forget the, it wasn't the prime marina. There was a secondary
13 marina, and Fred bought a, a very used, call it a cabin cruiser, because it
14 had underground sleeping quarters, and, and--

15 Q. --Not underground?

16 A. Underwater sleeping--

17 Q. --Okay--

18 A. --hopefully not underground, yeah, and Fred and I, Fred asked me to
19 come up and look at the boat with him, and it, it needed extensive work to
20 fix it up, and he knew that, number one, one of my hobbies was
21 woodworking, and number two, I did a lot of repair type of things, and so,
22 he wanted me to help him decide how to fix the different things on the
23 boat. So, that, that was my initial visit with him to the boat, and then after
24 that, shall I say there were regular getaways on weekends, where, just sit
25 around and--

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1 Q. --Who would be there?

2 A. Fred and I, and, at, at first it, it would, Lauren would, would be there, but
3 not Jessica. And then Lauren decided that she didn't like, so to speak,
4 the, the, the, the, the boat became known as "The African Queen" because
5 it was so old and beat up, and she didn't enjoy that presence, so to speak,
6 so, at, at, at first, or not at first, it was, it would be Fred and I, and, and
7 then Fred made friends with other people that had boats nearby, and
8 sometimes they'd come and join us.

9 Q. And, and, and so, at some point, I guess, when these charges were
10 brought, you became, and Fred disappeared, you became aware that there
11 was, Fred had issues?

12 A. I was shocked.

13 Q. Alright, and did anyone try to get you and him together to work out
14 whatever the problems were?

15 A. No.

16 Q. And at that time, when he stopped being in your office, did you still
17 consider him to be a friend?

18 A. Yes.

19 Q. And at one point, you'd been, you'd been disciplined before, correct, by
20 the office of judicial--

21 A. --Unfortunately--

22 Q. --misconduct--

23 A. --yes.

24 Q. And did you have conversations with Fred after that happened?

25 A. Absolutely. Fred and I sat down in chambers and we, we talked in

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1 chambers very regularly about, sometimes law work, sometimes about his
2 family, sometimes about my family, and when I say that, I would include
3 things like we, we talked about our wives, we talked about our kids. We
4 eventually talked about my divorce situation. There was basically nothing
5 that he and I did not talk about. Nothing was off limits in, in our
6 discussions. He, he knew all of my intimate feelings, and let's put it this
7 way, I don't know what all of his intimate feelings were, but he told me
8 an awful lot of very personal things about his wife, children, and--

9 Q. --He was having difficulties with his marriage and finances?

10 A. Finances would be the, the bigger problem. As far as him and Kathy, I,
11 I'm sure he loved her, and she loved him. There, there, there was no bad
12 will between them. But Kathy would often spend long periods of time in
13 bed.

14 Q. Alright, so after you were, do you remember when you were disciplined--

15 A. --I mean --

16 Q. --last--

17 A. --not leaving the bedroom for, and, and Fred told me, and I had witnessed
18 this myself at visits to his house, Fred did all of the cooking, Fred did all
19 of the laundry, Fred did about everything that you could do with kids.

20 Q. And did you, did you, after you had your discipline the last time, did he
21 talk to you about doing legal work for referral from you?

22 A. He did.

23 Q. And what was that conversation about? Well, what was the
24 conversation?

25 A. Basically, he said, look, I need this job. I don't want to lose the job. I

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1 don't want to see you get hurt. You don't need any more troubles. So,
2 look, if anything comes up that, that you might need legal help in, don't
3 even think about touching it yourself. Just let me know, and I'll be glad
4 to do it.

5 Q. Alright, and did you have any instructions you gave him about billing
6 people or billing you for any work you might do?

7 A. No.

8 Q. So, did you anticipate you might get a bill?

9 A. Yes.

10 Q. Did you expect that you wouldn't be charged?

11 A. I, I didn't know. We, I mean, we didn't even discuss that. It, it wasn't
12 discussed at all about whether there'd be bills or, or not.

13 Q. Alright, over the course of the years, before Fred got involved, you
14 referred clients to other attorneys in the area, correct?

15 A. I did.

16 Q. Alright.

17 A. And then after that, then when I closed down my practice, on a regular
18 basis, I would have ex-clients calling me about, they got this situation, or
19 that situation, and, and will you represent me, and typically, I, I, I had to
20 tell them no, because I was now full-time, and most of the time, I, I would
21 refer things to, to Fred, and there was some areas that I knew that he did
22 not do work in, such as personal injury, and so, I would refer a personal
23 injury elsewhere.

24 Q. Alright, and just talking about some of the referrals that stand out in your
25 mind to Fred, do you remember referring Renee Chalk to him?

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1 A. Yes, I, I had, I had known Renee's husband, well, to-be husband, Marty
2 Chalk, over 25 years, and there, there came a time when he asked me to
3 marry him and Renee, and that was basically, I should say that I, I had
4 known that they were dating, and I, I had met her before, but I, I came in
5 close contact with her after marrying her and Marty.

6 Q. Okay, and did you refer some gentleman who had a fairly substantial
7 family estate that needed to be taken care of?

8 A. Well, Brian Burnell was an Elmira fireman, and I testified earlier about a
9 SWAT policeman that was a close friend of mine, Joe Miller, and Brian
10 Burnell lived kitty corner to Joe Miller, and I had gotten to know Brian as
11 a neighborhood person and as a fireman, and Brian, Brian had grown up
12 without knowing his father. His father had disappeared when he was
13 young, and then out of nowhere Brian got a, a letter that his father had
14 died, and there was a substantial estate involved, and, and Brian came to
15 me and asked me if I would handle his estate situation for him.

16 Q. And what did you tell him?

17 A. I told him that I was not able to do that but I could recommend him to a
18 good attorney.

19 Q. And who did you recommend to see?

20 A. I, I recommended him to see Fred, and at the time that I did that, I knew
21 that the estate in question was well above \$1,000,000.

22 Q. Alright, and do you know whether Fred undertook to represent him?

23 A. I, I know that Fred did, and I, I personally talked to Fred and, and told
24 him that Brian was going to call him. I, I gave Fred an overview of, of
25 what the case was about, and Fred said he was interested, and Fred said

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1 that he would meet with Brian.

2 Q. Alright.

3 A. Nothing, nothing was mentioned about money, fee, or anything.

4 Q. And about how long was it after Fred started working for you that you
5 started referring cases to him? Was it immediately or a couple years
6 after?

7 A. I actually referred cases to Fred even before he worked for me.

8 Q. Alright, and what, cases from former clients?

9 A. Well, before he worked for me, I was still part-time, so I could do things,
10 but there was, there was, there was some work I didn't want to do, so--

11 Q. --It would take up too much time?

12 A. That--

13 Q. --Or it was outside your expertise?

14 A. Yes, and, and so, then, Fred was my main referral. He was struggling as
15 far as a law practice.

16 Q. Alright, and, what, did there come a time, you know, within the last few
17 years, when you realized that Fred was having a big problem, that
18 something was going on?

19 A. Yes.

20 Q. And do you remember exactly when that was?

21 A. No.

22 Q. Was it the last day you and he talked before he got moved?

23 A. I knew that he was upset on that day.

24 Q. And did you ask him anything about why he was upset?

25 A. I did.

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1 Q. And what did he tell you?

2 A. Words to the effect about, look, we're like an old married couple, we, we
3 bicker during the day, but at the end of the day, we're always together.

4 Q. And did he ask you anything about the security of his job?

5 A. He did that more than once. There, there were, usually when research
6 stuff came down, the way we dealt with that is Fred and I would sit down,
7 and I would talk to Fred, and I, I would say to Fred, okay, here's how I
8 see the case. Here's what I believe the issues are. And I believe that this
9 section is, is the key section. I would give him as much of a lead, if you
10 will, in, into, into the direction to go, and say, you know, I'd say, this is
11 the type of thing I'd like you to get back to me on.

12 Q. And was there a problem with the work he did?

13 A. No.

14 Q. Well, why would he feel like he might lose--

15 A. --Well--

16 Q. --his job?

17 A. In, in general, there wasn't a work, and I, I was happy with what his work
18 was, but from, from time to time, there were mistakes made as, as far as
19 he, he might be citing something that I knew had been--

20 Q. --Overturned?

21 A. Overturned, and I'd say, no, no, no, no, no, that's no longer good law, and
22 he'd get, he'd get concerned about his, his job, and I, I don't, I don't
23 know how many times, but I know that I always used the same phrase. It
24 was "Fred, I'm not going to fire you. You can quit if you want to quit,
25 but I'm not going to fire you." And--

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(Ramich-Direct)

1 Q. --And you knew at the time he still needed this job?

2 A. I knew he needed the job, yes.

3 Q. And, and now, you could be at times, cranky?

4 A. Yes.

5 Q. And are there times when you may have said something to Fred that
6 might have been hurtful to him, like calling him incompetent?

7 A. No, I, I disagree with the incompetent, absolutely.

8 Q. But did you ever--

9 A. --But, but as far as personalities, I, I, I would say Fred was very laid back,
10 and quiet, and, and I was more outspoken, shall we say, and there were,
11 there were certainly times that I came across harsher, if you will, than I
12 would have meant to.

13 Q. So, he may have taken it the wrong way?

14 A. But, but we always talked about it, and we always talked about it.

15 Q. Okay, in, in 2006, you ran for reelection, and did Fred assist in that
16 campaign?

17 A. Yes.

18 Q. What did he do?

19 A. Well, we, we were together a lot, shall I--

20 Q. --During the campaign?

21 A. During the campaign, and, and he was like my person to talk to about all
22 of the stuff going on, and, and he did, he did, he contacted people.

23 Q. Alright, and you were concerned, and you were, always been concerned
24 about the, John O'Mara's firm and them running candidates on the
25 Republican ticket against you?

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1 A. Yes.

2 Q. And did you--

3 A. --I, I--

4 Q. --ask him to try to monitor that situation?

5 A. No.

6 Q. Did you have discussions with him about that?

7 A. Oh, yeah, we, we talked about that, that, that lay of the land thing all the
8 time.

9 Q. Alright, and did he ever suggest to you that you were paranoid?

10 A. Yes.

11 Q. Okay, and he felt free in saying that to you and discussing it with you?

12 A. Yes, and, and many, we, we had a totally open talking relationship, and
13 there was things that I said to him about his life and family, and there was
14 things that, that, that he said to me about my life and, and family.

15 Q. You had that one girlfriend he represented in the speeding ticket.

16 A. Yes, Cindy Greger.

17 Q. And did he have any conversation with you about your relationship with
18 her during the course of that representation?

19 A. When he returned after bringing her the, the final whatever, he, he spoke
20 with me, he, he, he told me that it, it had all been taken care of, and I did
21 thank him for that, and his reply to me thanking him was, "Just do me one
22 favor. Run, don't walk, get away from her. She's not right for you."

23 Q. Okay, and did you do that?

24 A. Not immediately.

25 Q. Alright, to--

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1 A. --I, I mean, I have my own opinions about, and, and it, it took me a while
2 to figure out what--

3 Q. --Finally, he--

4 A. --what I thought I should do.

5 Q. Finally, you realized he was right?

6 A. Yes.

7 Q. Now, to go through some of the specific accusations he, he's discussed
8 the other day, do you remember a time in October of 2009 when you were
9 doing a jury trial, and he came into see you and talk to you about some
10 case that he considered to be new, and he said that you, you yelled at him
11 to get out of the chambers? And the case dealt with a judge giving a jury
12 the misdemeanor and the violation for the jury to decide both, both issues.

13 A. Yes--

14 Q. --And did you--

15 A. --I do recall that.

16 Q. Did you get mad at him that day?

17 A. No, but when I'm doing jury trials, a lot of that is very hectic, and we're
18 fitting in, see, we're a street-level court, and even when you're doing a
19 jury trial, they're bringing in other cases, and you're trying to fit
20 everything in and get it all done, and, and basically, I would say that it's a
21 high-stressed time for me. And as far as the case that he was trying to
22 alert me to, I was already aware of it. I, see, just because I had a law
23 clerk, I never stopped doing my own research.

24 Q. Right, you, you took continuing legal education with the judicial system?

25 A. Well, that and in addition to that, the Office of Court Administration has

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1 a, an Intranet type of computer thing, and on that Intranet thing, they, they
2 often list new cases and, and I stay right up on reading that daily. But, in,
3 in addition to that, I look at other legal, what, informations. I stay current
4 as best I can on--

5 Q. --on that--

6 A. --law--

7 Q. --particular case, that particular month, he wasn't sure what day it was,
8 except said it was early October of 2009. Do you, you recall having a
9 jury trial around that time?

10 A. Yes.

11 Q. And him coming in?

12 A. Yes.

13 Q. And you, is it possible that you told him to get out?

14 A. I, I think it was more like, yeah, yeah, yeah, get out--

15 Q. --And could you have been loud?

16 A. No, maybe sharp, but not loud.

17 Q. Alright, and do you know whether Fred took the rest of the day off, as he
18 indicated? Are you--

19 A. --No idea--

20 Q. --aware of that at all?

21 A. I, I have no idea.

22 Q. Alright, July 5, 2003, Fred Seither, Jr. gets a ticket.

23 A. Can we move back to when Fred and I would meet to talk about things?

24 Q. Okay. When would you meet with Fred to discuss things?

25 A. Elmira Court is a street-level court, busy. In the, in the morning, the

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(Ramich-Direct)

1 number of arraignments, either from police, state troopers, or sheriff, can
2 be very large. It could be, it, it could be, you know, ten or twelve, it
3 could be 30 some on, on, on top of returning cases. And they, through
4 that period of time, they would all be, may be returnable at 8:00. So,
5 when I went out there at, at 8:00 and started court, well, one probation
6 officer and other attorneys later remarked about iron kidneys. "Iron
7 Kidney Ramich," because when I went on the bench, it was to move the
8 cases, you had to be out on the bench.

9 Q. Alright, you had--

10 A. --So--

11 Q. --you had the jail wanting their, their prisoners processed, and you had the
12 city jail wanting their prisoners processed first?

13 A. And I had defense attorneys coming in who wanted to get their case in
14 and, and get on with whatever they're going to do during the day, so it
15 was, like, everybody wanted to be first. But it was a high-volume time.
16 So--

17 Q. --Was it almost every day that there were defendants in the lockup
18 upstairs in the courtroom?

19 A. Yes.

20 Q. And you had--

21 A. --Multiple. I, I can't remember a day when I didn't have multiple.

22 Q. And did you have to process them first?

23 A. Yes.

24 Q. And Mr. Cerio said he came into the court regularly, every day until, I
25 think, 12, 12:30?

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1 A. Yes.

2 Q. And he came in early?

3 A. We, we had a very flexible relationship, but the, the general thing was
4 that Fred would, in the morning, drive his kids to, to school. He would
5 get them ready for school, he'd get their lunches, he'd, he'd do all of that
6 kind of stuff. When he was done with getting them to school he would
7 come down to court. It was--

8 Q. --And was that consistent during the time that he worked for you?

9 A. Yes, and in addition to that, Fred grew, with my permission, you know,
10 Fred started out as a, as a short order cook and, and, and attorney. And
11 eventually he formed his own real estate company, and in his real estate
12 company he had three or four brokers working for him, which, which
13 creates a volume of stuff, if you will, to do. And there would be times in
14 the morning when he had situations connected with the, the real estate
15 company. In addition to that, I, I mentioned earlier that I had ties with
16 Corning Community College, close ties, and Fred, with my
17 recommendation, and approval, began teaching at Elmira, at Corning
18 Community College, and there--

19 Q. --Did you have to give a, a letter of recommendation for him?

20 A. I did verbal.

21 Q. Okay.

22 A. I, I knew the people very well. It was like talking with you and I.

23 Q. Okay. So, you called someone up at the college, what department was it,
24 a paralegal?

25 A. There were, there was two ends of it. There was the, the Corning

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1 Community College per se, and then connected with Corning Community
2 College was Southern Tier Law Enforcement Agency. And, and so
3 people that wanted to become law enforcement agencies would get
4 training in, in the, shall we say police sciences there, and the, the people
5 that ran the Southern Tier Law Enforcement Agency, the, the majority of
6 them were retired Elmira Police people, such as retired police chief,
7 retired other officers, and--

8 Q. --And sheriffs?

9 A. Yes, and, and--

10 MR. POSTEL: --I'm, listen I'm going to object to a little bit of this. I
11 think we're getting fairly far afield now.

12 MR. REILLY: Alright, now--

13 MR. POSTEL: --In terms--

14 THE RESPONDENT: --Okay

15 MR. POSTEL: --of where we are--

16 THE REFEREE: --Sustained, sustained.

17 Q. So, at any rate--

18 A. --He got the job, and what hours did he teach and what days did he teach,
19 if you remember?

20 Q. I don't, I don't know, but I, I do know that his tests were given in the
21 early mornings, and that when he had to give tests, that, that he typically
22 could not come in early, and that, that, that was no problem. He, he
23 would, he would check with me, and he would say, okay, I got this going,
24 I got that going, is it okay, and I said, the, the bottom line was I trusted
25 Fred. The saying that I had was, just be there when I need you.

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(Ramich-Direct)

1 Q. Right.

2 A. Just be there when I need you, and I knew that he would always get his
3 hours in.

4 Q. I want to go through some of the specific allegations. Fred Seither was
5 your brother-in-law?

6 A. Can I, can I mention, just before we move off of that morning thing?
7 Because of the number of mortgage closings that Fred was doing with
8 Renee, he often, he had to close some of those in the morning. He was
9 doing them around the clock. He--

10 Q. --Okay, so he, his office schedule sometimes required that he be at his
11 office rather than in the courtroom when he was supposed to be?

12 A. Yes.

13 Q. And that was never a problem?

14 A. No.

15 Q. Alright, so, we move to Fred Seither, Jr.

16 A. Thank you.

17 Q. Alright, he's your brother-in-law?

18 A. He is.

19 Q. And in July 5, 2003, he got a speeding ticket in the Town of Walworth?

20 A. He got a speeding ticket somewhere.

21 Q. Alright, and did you, did you talk to Fred about asking him to take care of
22 it?

23 A. Yes, I did.

24 Q. And did you, he testified, he'd walk into the courtroom, court's in
25 session, it's early morning, the first thing is you get off the bench, say,

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1 Fred I want to see you.

2 A. No.

3 Q. Is that what happened?

4 A. I did give it to Fred. I freely acknowledge that I gave it to Fred. I just
5 didn't give it to him then. Fred and I would meet, basically, I would get
6 through with the morning session, which sometimes I'd go right through
7 the lunch hour into 1:00, and we wouldn't meet at all. Other times, I
8 might be done at, at say, it would tend to be around 11:30, and then that,
9 that period of time, usually 11:30 to, say, 12:00 would be the time Fred
10 would, I'm, I'm not saying he wasn't in the building, he just wasn't with
11 me, and--

12 Q. --So, you didn't necessarily give him these tickets first thing in the
13 morning, and get off the bench?

14 A. No.

15 Q. You'd wait until later?

16 A. Yes.

17 Q. And Mr. Seither gets a ticket, and did you give it to Fred and ask him to
18 help take care of it?

19 A. Yes.

20 Q. And did you tell him anything about not billing Mr. Seither?

21 A. No.

22 Q. What did you assume he was going to do about billing?

23 A. I was pretty sure that Fred would not bill.

24 Q. Because it was a family friend, family relative of yours?

25 A. Yes.

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(Ramich-Direct)

1 Q. And that's pretty much standard stuff that if it's a, a friend or whatever,
2 that sometimes the attorneys don't bill?

3 A. Yes.

4 Q. And did you tell him you wanted this taken care of immediately?

5 A. No.

6 Q. What did you--

7 A. --I, I basically just gave him the ticket and said, "Take care of this."

8 Q. Did you have instructions with him that you had previously discussed
9 about doing things during court time, on cases you might refer to him?

10 A. Well, again, going back to after I first met John Postel, that was where
11 Fred and I had, had talked, after we went through that chapter, and it was
12 very clearly discussed that anything that Fred did, had to be out of his
13 private office.

14 Q. Alright, and did you know that he did any work in the cases you referred
15 to him in, in the courthouse?

16 A. I wouldn't see him. His, his, his office would not, what he was doing in
17 his office is, is out of my sight.

18 Q. Alright, as you're sitting in your courtroom, you're facing the defendants
19 and court, court people that are in there, either for cases or family, or
20 whatever, you're facing them, and there's a railing between them and the
21 area immediately near the court, or defense counsel, district attorneys,
22 correct?

23 A. Yes.

24 Q. And to the right is the jury seats?

25 A. Yes.

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1 Q. And his office was in the far right corner of the courtroom?

2 A. The back of the courtroom.

3 Q. It was a one-room office?

4 A. Yes.

5 Q. And did he usually keep the door shut when he was in there?

6 A. Absolutely, because, in, in example, I, I had asked Fred to sit in court
7 with me to listen to some cases, and he did so maybe two days, and after
8 the two days, we, we were in chambers, and Fred said to me, "I can't do
9 this anymore." I, I said, "What do you mean?" He said, "There's people
10 looking at me." And I said, "What do you mean?" He said, "They're
11 staring at me, and it's just making me really uncomfortable to have them
12 looking at me like that." And, and then I said, "Alright, then you don't
13 have to sit out there in court anymore."

14 Q. Was he there to help you sort of monitor what the, the public defender's
15 office did or did not do?

16 A. Yes, and, and--

17 Q. --And he stopped, after he complained to you, you stopped doing that?

18 A. The first time he said he was uncomfortable with people looking at him, I
19 said, "Okay." And--

20 Q. --Alright, and--

21 A. --the reason I mention that is because Fred, I can't think of a time when
22 Fred came into court that he didn't, when he went into his office, that, the
23 first thing he did was close his door, and then, with, with a full courtroom
24 that could have 100 plus people in it, people coming and going, I, I never
25 had any real idea whether Fred was still in there, whether he, whether he

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1 left or there. It wasn't a concern to me one way or the other.

2 Q. --If--

3 A. --But I knew nothing about what he was doing.

4 Q. At times when you had work that you wanted him to do, would you put it
5 in a basket outlining what you wanted done?

6 A. No.

7 Q. He wouldn't pick it up?

8 A. That wasn't the way we worked. And, and he mentioned, the basket in
9 the chief clerk's office, well, let's just say, I never used that.

10 Q. Did Judge Forrest use it?

11 A. I don't know.

12 Q. Alright. June of 2006, your daughter, Amanda, gets a ticket for speeding
13 on June 27, 2006, in the Town of Erwin?

14 A. Yes.

15 Q. Which is a, a town that is just slightly west of Corning, correct?

16 A. Yes, in Steuben County.

17 Q. Alright, and did you ask Mr. Cerio to take care of it?

18 A. Yes, I did.

19 Q. Did you tell him not to charge your daughter?

20 A. No.

21 Q. You sort of left it up to your, his discretion, but you assumed he'd
22 probably wouldn't?

23 A. Yes.

24 Q. Alright, did he ever bill her?

25 A. Not to my knowledge.

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1 Q. And did you tell him to do that, take care if it immediately?

2 A. No. I--

3 Q. --You--

4 A. --you know, I, I trusted that Fred would do what needed to be done at, at
5 the pace that it needed to be, I didn't feel I needed to tell him, do it
6 immediately.

7 Q. Do you know from your own experience that traffic tickets, like speeding
8 charges can't be taken care of immediately?

9 A. Absolutely.

10 Q. Did you do them when you were a private attorney?

11 A. Yes, and, and beyond that, I personally knew quite well, Ron Yorio who
12 was the assistant DA that he'd be dealing with, and--

13 Q. --In the Town of Erwin?

14 A. Yes, and kind of knowing his life pattern, it was highly likely that it
15 would take a while to make contact with him.

16 Q. Alright, and, and--

17 A. --I, I say that not trying to bad mouth Ron. I, I, I just knew that he could
18 be difficult to get in touch with.

19 Q. Did, I guess there was some discussion about the \$150 fine. Were you
20 upset when you found out the fine was \$150 for parking on the
21 pavement?

22 A. Not that that was the result of the action. What he and I talked about was
23 my daughter, Amanda. I was upset that Amanda cost the \$150 because of
24 her driving, and, and we, we had quite the discussion about--

25 Q. --Who did--

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1 A. --Fred and I, we, we had a very long discussion about his daughter,
2 Lauren's driving and, and my daughter, Amanda's driving, and we, we,
3 we both, shall we say, wish that our daughters drove better.

4 Q. But she never got any other tickets?

5 A. My Amanda?

6 Q. Yeah.

7 A. No.

8 Q. And she didn't have any tickets before then?

9 A. No.

10 Q. So, that's why she got the parking on the pavement?

11 A. Yes.

12 Q. Alright. In, three years ago, you apparently told, asked Mr. Cerio to
13 contact Empire Insurance to make sure your daughter, Amanda, whose
14 coverage was scheduled to be cancelled, would be covered while she was
15 away at college, do you recall that?

16 A. Yes.

17 Q. And can you tell us what you did and what happened?

18 A. In that latter part of the day, Fred would come in, we'd be talking about
19 things, and I basically said, Fred, look, I got this issue here with
20 Amanda's stuff, can you straighten it out.

21 Q. And you were busy with other court matters and, and had--

22 A. --And--

23 Q. --a--

24 A. --and--

25 Q. --hard time taking time off--

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1 A. --my, my, my thinking was that, that it, it was state insurance stuff, and,
2 and they, they actually had, what, an office of judicial support, but I, I
3 didn't go to judicial support to try to help. I went to Fred.

4 Q. Alright, and she had to provide proof that she was a full-time student, or
5 student, at Mansfield College?

6 A. Yes.

7 Q. In Pennsylvania, correct?

8 A. Yes.

9 Q. And did you tell him to do any of that at, at the office, the courthouse?

10 A. No.

11 Q. And did he accomplish it?

12 A. Yes.

13 Q. Did you ever thank him for it?

14 A. I don't think so.

15 Q. Why not?

16 A. It, it wasn't that I wasn't grateful that it, but it's so busy, and I just, my
17 mind, you know, the thing moves on, and, and I, I know that it was taken
18 care of, and--

19 Q. --And you just forgot to thank him?

20 A. Yeah.

21 Q. May 1, 2008, you wanted to put a purchase offer on a house, and did you
22 direct him to help you out with that, or did you ask him to help you out
23 with that? What happened?

24 A. I, I, I did, but--

25 Q. --Did what, direct him or ask him?

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1 A. I asked him, but let me explain how this whole thing developed.

2 Q. Okay.

3 A. At that time, I was in the middle of a jury trial. And because Fred and I
4 talked all the time, Fred knew that I wanted to downsize on my house.
5 My, my, my, the house I lived in for 25 plus years was an old Victorian
6 double, an apartment on one side, on, on the other side, and that's where
7 my family was raised, but now, being divorced and having one child, I
8 didn't need that big house. But there was an obligation that for me to be
9 city judge, I had to live in the City of Elmira. I could not live outside, and
10 so, that limited the number of houses that might be, shall I say, it was
11 either one where I, I, I had to find one that I liked, and could afford. And,
12 and for the most part, a lot of the ones I liked, I couldn't afford. But,
13 Fred, Fred is running a licensed real estate business, and so, I had made
14 that clear to Fred that I was, I was looking to find a new house. And--

15 Q. --And that he might help you find a house?

16 A. Yes, and, and then Fred, Fred is the one who found that house. Fred
17 came to me, and there was never a, a sign up on it.

18 Q. This is the house that's just up the street--

19 A. --Up Euclid--

20 Q. --up Euclid--

21 A. --up Euclid--

22 Q. --Avenue further to--

23 A. --to--

24 Q. --the north?

25 A. Yeah, about four blocks north--

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1 Q. --Okay--

2 A. --of where my old house was--

3 Q. --go ahead--

4 A. --and, and Fred came in to me and he said he was aware that this, this,
5 this house had just been listed, what they call it, I think, multiple listing,
6 and, and he was aware of it, and he thought it was perfect for me. And
7 that was how I, the, the house had belonged to a church, and, and the
8 church was on the south side, and I forget which drug store, it might have
9 been Rite Aid, it might have been Wegmans, or not Wegmans, what is it,
10 well, a, a, a pharmacy wanted to buy the church, tear it down, and, and,
11 and put in a drug store. And, in fact, they, they made a deal. So, they
12 were going to tear down the church, and because they were tearing down
13 the church, they didn't need their minister anymore. Well, the church
14 apparently, had inherited that house on Euclid Avenue, and now they,
15 they wanted to sell the house, because no more minister.

16 Q. And so, that's a little bit more complicated than your usual closing?

17 A. It is.

18 Q. Alright, and tell us how Fred got involved in doing the closing. Did you
19 tell him to help you out with it, or did you ask him, or did he just
20 volunteer?

21 A. Well, I, I, I did ask Fred to help me with the purchase of the house?

22 Q. Did you tell him not to bill you?

23 A. No.

24 Q. Did you leave that up to him?

25 A. Yes.

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1 Q. And what did, did he help you--

2 A. --As a matter of fact, on, on that one, I expected a bill. Because I, I knew
3 that that was more complicated than your everyday matter.

4 Q. And, and you, you also sort of hired him in this capacity as a real estate
5 broker as well?

6 A. I, frankly, I didn't think of it that way.

7 Q. Yeah, but you expected to get billed. Did you ever get billed?

8 A. No.

9 Q. Did you ever ask him for a bill?

10 A. Well, I got, I got a closing statement, and on the closing statement, there
11 was no attorney fee.

12 Q. Alright, so, you assumed he wasn't going to bill you?

13 A. And I talked to him about that. I said, "Fred, I know you did work. I'm
14 willing to pay you." And he basically said, you've done so much for me,
15 and all that, no, no, no, no, no, no, no, and, and then after that, I went to
16 Horrigan's and I got a--

17 Q. --The restaurant?

18 A. The restaurant, and I got a, a larger gift certificate, family size, and then
19 some later day, when, when Fred came in to the office, I offered that to
20 him, and he again said, "No, no, no, no, no, no." He wouldn't take it.
21 And I carried that thing with, I put it in my wallet, and I, I carried it with
22 me until this summer, and this summer, I lost my wallet.

23 Q. Alright--

24 A. --And, and the gift certificate.

25 Q. And he, he never accepted it, and you didn't keep trying to give it to him?

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1 A. True.

2 Q. Alright, now, tell us about this FedEx package for your daughter, I think
3 it was, was it Jessica, that you were waiting for?

4 A. Yeah--

5 Q. --It was on December--

6 A. --I, I--

7 Q. --24--

8 A. --I think, I think when Fred testified he said it was for Fred Seither. But it
9 was for Jessica.

10 Q. Right, and, and this develops the day before Christmas, December 24th?

11 A. Yes.

12 Q. And court was in session?

13 A. Yes.

14 Q. And it was--

15 A. --But what had happened is on, on, on Christmas Eve, we typically don't
16 schedule a lot of cases, but so, I expected that, that, that we'd have a very
17 light day on, on that day.

18 Q. On the--

19 A. --And--

20 Q. --24th?

21 A. On the 24th, and when I got home on the 23rd, I, I found the, the, the slip
22 that said, we tried to deliver this and couldn't do so, and--

23 Q. At your door, office, or at your--

24 A. --at, at--

25 Q. --at your house--

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1 A. --my home, at my home.

2 Q. What time did you find that?

3 A. I probably would have been getting home around 5, 5:30, something like
4 that.

5 Q. And--

6 A. --My, my, my home is about five minutes from court.

7 Q. And did it tell you what you had to do to get the package?

8 A. It did.

9 Q. And what did it tell you you had to do?

10 A. Go up to where their local office is, and, and pick up the package.

11 Q. And did you have time to do that?

12 A. Well, I expected that, that night, I expected that I would have, and then
13 when I went in the next day, it, I forget what it was, but we were busy.
14 We were busy--

15 Q. --But you said that, that's your, now we're on December 24th?

16 A. Now we're on, on the 24th, we were busy, and I knew--

17 Q. --In, in family court custody cases, per se, means Christmas Eve day--

18 A. --I'm sorry?

19 Q. Christmas Eve day?

20 A. Yeah?

21 Q. Alright--

22 A. --Well, you know, drug busts or other busts happen when they happen.

23 Q. So, what happened?

24 A. So, it, it, it was busy, and I looked out at how many people that I, I had,
25 and I was pretty sure that at, there was no way I was going to be able to

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1 get up there before noon.

2 Q. And you had to be there before noon?

3 A. I, yeah--

4 Q. --Or they--

5 A. --let's just say I believed that, so it can shut down at noon on Christmas
6 Eve--

7 Q. So, if it got shut down at noon, it couldn't be picked up, so she wouldn't
8 get her Christmas present?

9 A. And, and that was very significant to me, because at, at that point, Jessica
10 was very ill, and very ill, as in there were concerns about her not
11 surviving.

12 Q. And what was the present?

13 A. It, it, it was something that was, Jessica and I were looking in a mail order
14 catalog, and she had seen something that she liked, and I believe it, you
15 know, it was a cutsie girl thing, and, and, and so she didn't ask for it, but I
16 knew she liked it.

17 Q. Just to get a little bit, this is all confidential her, your daughter's illness
18 had something to do with, like, anorexia?

19 MR. POSTEL: Listen--

20 MR. REILLY: --Alright, withdraw the question. I
21 withdraw the question.

22 A. Well, can I--

23 Q. --Did, let me--

24 A. --can I--

25 Q. --let me--

(Ramich-Direct)

1 A. --can I--

2 MR. POSTEL: --He's already--

3 A. --just say--

4 MR. POSTEL: described the--

5 MR. REILLY: --Alright--

6 MR. POSTEL: --and I don't think we want this on
7 the record.

8 THE RESPONDENT: No, I understand that. I was
9 just--

10 MR. POSTEL: --That's my point--

11 THE RESPONDENT: --I, I, I--

12 THE REFEREE: --Fine--

13 THE RESPONDENT: --do, I agree. It was--

14 THE REFEREE: --right, wait, wait, wait, please,
15 please. The question has been, there was an objection. The
16 question was withdrawn. Please ask a question-

17 MR. REILLY:--Alright, now--

18 THE REFEREE: --of the witness.

19 Q. The gift was important for you to be able to give to Jessica Christmas
20 Day, so, what did you ask Fred to do?

21 A. It was kind of in the realm of, oh my God, I'm not going to be able to get
22 up there and get that present. I, I, I, I really want, I don't want her to go
23 without this present. And, and Fred, like, jumped right in and, you know,
24 Fred was close with Jessica. I, I, I--

25 Q. --He, she was good friends with his daughter?

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1 A. Not just his daughter, but, but both daughters, and particularly his son,
2 Joey.

3 Q. Alright, so what did, did he volunteer to get it?

4 A. Fred said, "I'll be glad to get it. I got to go up there anyways."

5 Q. Did you tell him where he had to go?

6 A. Well, he had the, the, the, the, the, I gave him the slip.

7 Q. Okay, and did he go to the wrong place?

8 A. No.

9 Q. Well--

10 A. --No, I know what you're talking about. Did we get into a talk that he
11 was going to go to the wrong place or not.

12 Q. Well, what was that? Did he tell you where he thought it was supposed to
13 be?

14 A. That, that part I don't, I don't remember having any problem with Fred
15 going up to get it. That's all I remember.

16 Q. Did he tell you that there are two FedEx offices? Do you remember that
17 at all?

18 A. No, I don't believe there are two FedEx, I think there's a UPS office at
19 one place and I believe there's a FedEx office in--

20 Q. --Right--

21 A. --another place. But not--

22 Q. --So--

23 A. --two FedEx.

24 Q. He had, he thought the FedEx office where he had to pick up the package
25 was at a different place?

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1 A. He may have.

2 Q. Did you, did you, he says you said, "No, you idiot. It's at the holding
3 point." Did you say that?

4 A. I don't remember using the term "idiot."

5 Q. Could you have said "idiot?"

6 A. Not likely, not in that context.

7 Q. Would have been sort of joking when you said it?

8 A. Well, would I want to be hurtful to him, whose going to go up and pick
9 up my daughter's package, no.

10 Q. Alright, now tell us about this dump trailer in April of 2009, and getting a
11 registration. What was that about?

12 A. That, that probably goes back, the process, maybe two years. Go, go back
13 to my old house. Go back to Fred's real estate, and Fred, Fred knew that I
14 wanted to downsize, and, and we had talked about that. So, Fred, he
15 came over to my house on a very regular basis, and Fred, as a real estate
16 person, said, you need some curb appeal work. You need, you ought to
17 do this and you ought to do that. And, and those things that, most of the
18 things he was recommending was, like, landscaping stuff. And, and, so,
19 he, he thought I should build up and even some lawn areas, if you will,
20 and, and then put in some landscaping stone, and, and things like that.
21 And, it, it worked, that house is right on a corner, so there is a lot of
22 exposure, you know, from the, from the street. So, it made sense to me,
23 and, and but, I said, "Fred, how am I, how am I going to get all that
24 done?" And he said, "Well, look it, a mutual friend, Jimmy Difillipo, has
25 a dump trailer, and, and I," meaning, Fred, "I've got a vehicle with a tow

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1 continued to get Jimmy's vehicle and dump thing, and we, we did a
2 number of, of loads there, and what that entailed was Fred coming over, it
3 was, like weekend after weekend, and--

4 Q. --He would work on landscaping?

5 A. Well, no, he, he would deliver the thing, okay--

6 Q. --The dirt?

7 A. Yeah, and then he'd go.

8 Q. Alright, and then--

9 A. --Okay--

10 Q. --you would distribute--

11 A. --but, but it was, it was certainly interfering, if you will, with, with his, his
12 weekend schedules. So, that was when we started talking about, well,
13 Fred brought to my attention the, the, the "cash for clunkers" thing. And
14 the, the, the car that I'd had before was a real old thing and it wasn't
15 capable of, shall we say, pulling anything. So, that couldn't be used even
16 if I got a hitch for that, it just was in too bad of condition to, to pull any
17 weight. So, when the "cash for clunkers" thing came on, that became,
18 okay, you know, now's the time to do two things, get a new vehicle and
19 get a dump trailer, and that way, you can do it all yourself--

20 Q. --A dump trailer or a dump truck?

21 A. A dump trailer.

22 Q. Okay, go ahead. Did you ask Fred to help you with the "cash for
23 clunkers" program?

24 A. Yes, and as far as getting the vehicle, I mean, Fred had no idea what,
25 what vehicle I might have wanted or, or not wanted. I contacted the, the

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1 sales people at Williams Toyota, and I basically, selected what vehicle I
2 wanted, and I, I found out from them, what documents I needed to do the
3 “cash for clunkers.”

4 Q. And did you tell Fred to help you out with it, or did you ask him if he
5 would help you out with it?

6 A. Yes.

7 Q. Yes, what, tell him or ask him?

8 A. Ask him.

9 Q. Okay.

10 A. But, it, it wasn't to negotiate a deal for the car, not at all. What, what it
11 involved was, if, if I back up some. When I was teaching Fred how to
12 practice law, one of the things that I did was I said, “Fred, look, when,
13 when you got some of these traffic ticket stuff, if you try to deal with state
14 DMV, it's a bureaucracy, and you can run around and, you know, get
15 nowhere fast. So, the better way to do it locally, is good old Katie
16 Hughes.” Katie Hughes was the county clerk, and head of the
17 Department of Motor Vehicles. So, I, years before, had taken Fred over
18 and I introduced her, him to Katie, and Fred thereafter on, on a number of
19 times, would go to Katie and get Katie's help in dealing with various
20 DMV things.

21 Q. Alright, so his, her office is what, a block away from Fred?

22 A. Fred's office was right on the other side, so, yeah, I'd say that the Marine
23 Midland Bank basically separated Katie's office from Fred's office.

24 Q. It's now the HSBC Bank, and now some other bank?

25 A. So, so typically, Fred, Fred would go back to his office, and, and then

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1 he'd go over and see Katie.

2 Q. Did you ask him to do that on court time?

3 A. No.

4 Q. Was this the last minute deal for the "cash for clunkers," you had a time
5 limit that you had to get this fixed and done?

6 A. On, on the day of, the last, the last day, I needed one more--

7 Q. --Last day of what?

8 A. The last day of being able to do "cash for clunkers," I needed one other
9 document, and the, the document that I needed was a copy of the old car's
10 registration to, to show that you'd had it for more than one year, and I had
11 lost, if you will, I had lost my, my registration for the old car, because I'd,
12 I'd had the old car for, I don't know, 12, 15 years, and--

13 Q. --You had to get a new registration?

14 A. So, I had to get a, a copy of that to, to bring down to the, the car
15 dealership. So, basically, what Fred was going to do was, in my mind, he
16 was going to go back to his office, and then go over to Katie Hughes at
17 the county clerk's office, ask her to run him a copy of my registration,
18 then give it to me, then I go down and, and, and, and close the deal. And
19 I think, I was scheduled to be down there 3:00, 4:00 of, of that day, 4:00
20 of that day.

21 Q. And, and, and at Williams Toyota?

22 A. Yeah.

23 Q. And Williams Toyota is about 30 miles away in Sayre, Pennsylvania?

24 A. Yes.

25 Q. At that time?

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1 A. Yes.

2 Q. And did he get you the new registration?

3 A. No.

4 Q. What happened?

5 A. I don't know, I, I, I, I just never, I didn't get it, and I, there wasn't any
6 time really to mess around trying to figure out why. So, I just contacted
7 Katie and got my own copy. I mean, it was, like a, what, a ten-minute--

8 Q. --Right--

9 A. --maybe--

10 Q. --was court in session that day when this was going on?

11 A. Yes.

12 Q. Alright, this dump trailer that you purchased in, around April 27, 2009,
13 did you ask Fred to see that it was registered?

14 A. Kind of.

15 Q. Well, tell us what you mean by "kind of."

16 A. I hope you're getting the picture that Fred and I being together on a
17 weekend, was not an unusual thing, and, and so, we, we went up to
18 Lowe's to, to get the--

19 Q. --Lowe's hardware store, L-O-W-E-S?

20 A. Yes, and so, I got the trailer, he got the hitch, and while we were there, is
21 my recollection, of when I gave that to Fred and asked him to get it
22 registered.

23 Q. Why didn't you ask him to do that? Why didn't you do it?

24 A. Convenience, basically, I don't know if you want to say, lazy,
25 convenience, whatever, but I--

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(Ramich-Direct)

1 Q. --Because it would require taking time out of court to do it?

2 A. Well, I mean, that, I spent an awful lot of time, at that point, in court, but
3 it, it, it really was a convenience factor.

4 Q. Alright, and at some point in, April 28, 2009, did you tell Mr. Cerio about
5 your now ex-girlfriend, Ms. Greger, was having problems with her
6 attorney's handling of the marital home during her divorce?

7 A. Yes.

8 Q. And did you ask him if he would assist in that?

9 A. The, the home? Are we talking about the ticket or the home?

10 Q. The home?

11 A. Yeah, I did.

12 Q. And did you tell him not to bill, not to bill her for that?

13 A. What I asked of Fred is, remember Fred is working for a mortgage
14 company.

15 Q. Yeah.

16 A. And Cindy had already checked with her company and, and couldn't get
17 what she wanted to get for that. So, my own thought was that since Fred
18 is working for a mortgage company, that that would--

19 MR. POSTEL: --Well, I'm going to object to this
20 entire line. I didn't object to it yesterday when it was
21 brought out on cross-examination, but it's not in the
22 charges. It's not relevant--

23 MR. REILLY: --Okay--

24 MR. POSTEL: --to the charges--

25 MR. REILLY: --I withdraw the question--

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(Ramich-Direct)

1 MR. POSTEL: --it is well beyond the scope of this
2 proceeding.

3 MR. REILLY: Withdraw all that.

4 THE REFEREE: I--

5 MR. POSTEL: --I mean--

6 THE REFEREE: --fine. Thank you.

7 MR. POSTEL: If you can, we can amend the charges
8 to include this, but I believe you'd prefer not to.

9 THE RESPONDENT: No thank you.

10 MR. REILLY: I prefer not to.

11 Q. Let's, let's go off of that. Tell me about the leasing of a building owned
12 by the family business. Did you ask Fred around, in April of 2009, to
13 assist in any way with that?

14 A. Yes.

15 Q. What did you ask him to do?

16 A. Again, Fred is a licensed real estate person, and I was not familiar myself
17 with what the going square foot rental rate might be for a commercial
18 building. So, I got the lease, I went to Fred, and I said to Fred, "Fred, can
19 you find out what the going rate for commercial space is in, in that area?"

20 Q. And did you tell him this is for your Ramich Realty, or whatever that
21 business was?

22 A. Yes.

23 Q. Alright, did you expect to get billed for this?

24 A. I doubted he would.

25 Q. Alright, did he, he do something beyond get the, the, that standing rate?

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(Ramich-Direct)

1 A. Yes.

2 Q. What did he do beyond that?

3 A. I, I, I know that Fred and I had talked about, well, I, I can just use the old
4 lease and, and amend it to whatever we work out for the new lease, and
5 Fred basically said, oh my God, oh my God, don't do it, don't do it. Let
6 me take care of it. I don't want to get into any issues about whether this
7 is the practice of law or not. I'll be glad to do it, and I gave him the lease,
8 and he took the lease, he eventually came back to me, and, and, and said
9 that he had checked out and, and, and he got comparables for what, what
10 commercial space went. And Fred advised me that your, your current
11 rental rate is about where it should be. Whatever you do, don't try to get
12 a raise, and he indicated that from some knowledge through his real
13 estate, that his own real estate company that the tenant that was in there
14 was actually checking out other locations that they might move to.

15 Q. Alright, so did he prepare the paperwork for the amendment of the lease?

16 A. Yes.

17 Q. It was something that he volunteered to do?

18 A. Yes. Now, another thing that had happened is Kerry Leipold was the
19 manager of the, the business. And I don't remember how many, but, I, I
20 did realize that Kerry was sending emails to the court, and I contacted
21 Kerry and said, "Whoa, you know, no, no, no. This isn't part of the court.
22 You can't be contacting us, us here." And he said, "Okay, I won't."

23 Q. Alright--

24 A. --And I, somewhere in the process of that whole thing, that happened
25 probably mid way through.

(Ramich-Direct)

1 Q. And you had no discussion with, with Fred about billing you or not billing
2 you?

3 A. No.

4 Q. Now, at some point, it was obvious Fred was no longer physically being
5 in city court?

6 A. Yes.

7 Q. And at some point, did he come to your house with food and something
8 else?

9 A. Well, that, that was actually before Fred wasn't in city court.

10 Q. Alright.

11 A. It was towards the tail end of when he was.

12 Q. Alright, so, you were, you remember his discussion about the "coppo"
13 issue?

14 A. I do.

15 Q. And was that when he came to your house?

16 A. Yes.

17 Q. This is your new house?

18 A. Yes.

19 Q. Does the front door have a doorbell?

20 A. No.

21 Q. So, if he rang on the front door, you wouldn't know it?

22 A. I, I would not know it, and, and Fred had been to my new house a number
23 of times, and the driveway goes right by the side of the house and stops
24 right by the side door, and the side door was always the way Fred came
25 in.

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(Ramich-Direct)

1 Q. And was there a doorbell there?

2 A. Yes.

3 Q. And--

4 A. --But it--

5 Q. --did--

6 A. --didn't work.

7 Q. It didn't work?

8 A. But that was right, it, it, the, the side door was, like, right on the kitchen.

9 So, if you, if, if you knocked on the door, it was easily heard in the--

10 Q. --Alright, so--

11 A. --house--

12 Q. --this "coppo" conversation, at some point, he shows up at your house
13 with food, is that correct?

14 A. Yes.

15 Q. And you let him in?

16 A. Yes.

17 Q. And you knew he was upset about something?

18 A. Yes.

19 Q. And what did he say to you? What did you say to him?

20 A. We, we, we talked of, was I mad at him or not, and if I was mad, why was
21 I mad, that type of thing?

22 Q. Did he ask you about whether or not he was getting fired?

23 A. Yes.

24 Q. And so, tell me about the "coppo" discussion. What did you say to him
25 that involved the mafia in any way?

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(Ramich-Direct)

1 A. I don't know. What, what, what we discussed about what troubled me
2 was that in the morning operations of the court, again, the sheriff's
3 department always wants their stuff first, the police department wants
4 their stuff, probation wants to get in and get out, all that kind of stuff.
5 Fred had a very good relationship with the deputy county attorney, or
6 deputy county exec, and so I had asked Fred, alright, I'm thinking of
7 operating the court in, in, in some fashion, I forget what it was, to
8 accommodate and, and, and check with them and find out is this okay to
9 the county.

10 Q. This is what you're discussing with him when he shows up with food?

11 A. Yeah.

12 Q. Okay.

13 A. And, and then when, when Fred got back to me about what he perceived
14 the county, whether they did or didn't have a problem with, with doing it
15 whatever way, I started doing it that way.

16 Q. Okay.

17 A. And, and--

18 Q. --Then he disappeared?

19 A. Well, wait, no, and, and then in very short order, I got a letter from, I
20 forget if it was the sheriff or the deputy county exec, but one of them was
21 saying, we object to you operating the court in this fashion because it's
22 wasting our people's time, and it was in that context that I said to Fred,
23 "Fred, look it, if I'm going to count on you getting me this information,
24 it's got to be right."

25 Q. Alright, so, there was never at any time the word "coppo" was used, you

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(Ramich-Direct)

1 referred to Fred to as, his, your, your "coppo?"

2 A. I, I, I don't remember that. I, I, I mean, I'll, I'll say this, that I'm Italian,
3 Irish, and Fred's all Italian, but--

4 Q. --Could you have used that?

5 A. Yes.

6 Q. Okay, and could you have talked to him about your relationship with the
7 O'Mara firm, and your, your concern about them always being after you?

8 A. Well, the, the main reason why Fred would be the one to talk to the
9 county people was because he had a good relationship and, and, I didn't.
10 So, it, it, it seemed that, that the best way to communicate back and forth
11 and find out what happened, would, would be to have Fred do it. And,
12 and that, that is also why, when it came time for my house, my new house
13 closing, and it turns out that the O'Mara Firm is representing the sellers,
14 Fred was "Oh my God. Don't go anywhere near there. If you go in there,
15 it's going to be something going wrong. Let me go over there alone,
16 because it'll be nice and smooth."

17 Q. Alright, let me just ask you one final question, you were disciplined how
18 many years ago?

19 A. Ten, twelve, it was in, around 9/11/10.

20 Q. Ten years ago. So, you knew it was really important not to screw up
21 again?

22 A. Absolutely.

23 Q. So, all of a sudden in the space of, like, I think about two or three years,
24 you have the joke with Judge, about Judge Forrest, you have the
25 charitable contribution issue, you have your daughter on a jury, which you

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(Ramich-Direct)

1 later found out there's a case saying you can't do that, and you have these
2 problems with Fred Cerio. How do you think you, how do you think
3 these all happened?

4 A. Well, I, I guess bad decisions would be, but on the charitable
5 contribution, I thought that what I was doing was okay. I couldn't have
6 been more open about this is what I'm doing, talking to the DA, talking to
7 the public defender, public advocate. It, it was as open as could be that
8 that was what I was thinking of doing, and it was because I thought I was
9 right, and, and nobody said I was wrong, so I proceeded in that direction,
10 not thinking that I was moving into judicial misconduct. As, as far as the
11 Jessica thing, again, I agonized over trying to decide, how do I handle
12 this. I, I looked at the law, I, I thought I had looked at what I had to look
13 at. I didn't go searching for cases on the point, but I did look at the, the
14 books that were available to me for for cause, so I thought what I was
15 doing was right as far as Jessica. As far as Fred goes, as I say, Fred and I
16 had specifically talked about the prior problems, and had specifically
17 talked about the let him do stuff to stay out of trouble, and we had
18 specifically talked about he'd do everything out of his own office.

19 Q. And so all of these charges and accusations he's brought is a total surprise
20 to you?

21 A. Very painful.

22 Q. Alright, so, going back to one thing you didn't discuss was the joke about
23 Judge Forrest.

24 A. That's on me.

25 Q. Alright, you're just, you're totally wrong with that?

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(Ramich-Direct)

1 A. Yes.

2 Q. It was a moment of emotion?

3 A. It was the, the, the connection between the not being able to be with the
4 kids because of doing other arraignments and they just kept happening
5 one after another at that stretch of time, and it was like--

6 Q. --You just snapped--

7 A. --there was like the perfect storm or the, or the perfect bad combination of
8 things and I, just that very afternoon, within a matter of hours of being
9 before the microphone, I had yet again had to change my plans--

10 Q. --Okay--

11 A. --with the girls, go in and do the arraignments. I finish the arraignments,
12 I, I went right down, I went directly down to the--

13 Q. --And you, and you saw Fred there, and you were really angry--

14 A. --And I, I was upset--

15 THE REFEREE: --Steve--

16 Q. --Steve, I mean--

17 A. --Right--

18 Q. --Steve Forrest--

19 THE REFEREE: --Judge Forrest that you saw--

20 A. --yes--

21 Q. --sorry, now--

22 THE REFEREE: --okay--

23 Q. --and then, if, I would, just, this is the last question. Amanda's divorce
24 cost \$400?

25 A. Yes.

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(Ramich-Direct)

1 Q. You would refer her to Fred?

2 A. Yes.

3 Q. And did you contribute anything to the cost of that divorce?

4 A. Yes.

5 Q. Did you give her \$200?

6 A. I did.

7 Q. Alright, and--

8 A. --The idea was that the, the, the soon to be ex-husband should pay half,
9 and then I'd pay Amanda's half.

10 Q. And when you referred her to Fred, you told her very clearly that she was
11 going to have to pay any of his fees?

12 A. No.

13 Q. Did you have discussion with her about--

14 A. --I did the same I've ever done. I just said, "Go see Fred."

15 Q. Okay.

16 A. And, and then eventually, she got back to me and said, "This is what it
17 is," and, and then I said, "Here you go--

18 Q. --Here's \$200?

19 A. Yeah.

20 MR. REILLY: Your witness.

21 MR. POSTEL: Recess?

22 THE REFEREE: Recess.

23 MR. REILLY: Recess.

24 (OFF THE RECORD)

25 MR. POSTEL: I'm ready.

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(Ramich-Cross)

1 THE REFEREE: Counsel, we're back on the record,
2 and approximately noon. Judge Ramich, if you will resume
3 your seat here. You're still under oath. Beginning of cross
4 examination by the Commission. You may proceed.

5 MR. POSTEL: Thank you.

6 CROSS EXAMINATION

7 BY MR. POSTEL:

8 Q. Judge Ramich, can you tell us when did you become a full-time judge?

9 A. I, I would say January 1 of '96, perhaps.

10 Q. 1996?

11 A. I think so.

12 Q. And your salary at that time was what?

13 A. I have no recollection.

14 Q. Your current salary is?

15 A. I think it's 108, \$108,000.

16 Q. Would it be fair to say--

17 A. --Oh, wait, I'm sorry, it--

18 Q. --It's gone up, hasn't it?

19 A. Previous to April 1 of this year, it was \$108,000, and as of April 1, 2012,
20 I think it went to 126.

21 Q. So, it's in or around 125 plus?

22 A. Yes.

23 Q. And in terms of your position prior to 1996, you were then a part-time
24 judge for the Elmira City Court, is that correct?

25 A. Yes.

(Ramich-Cross)

1 Q. And your salary, would it, would it approximate half of what you were
2 making as a, when you became a full-time judge?

3 A. In that neighborhood.

4 Q. Alright, and the process that was used to create a full-time, well, as I
5 understand it, Judge Buckley was the Elmira City Court Judge in charge
6 of civil, and that was full-time?

7 A. No.

8 Q. No, that was part-time too?

9 A. No, we had, we had two 50 percent city court judges. Peter was 50
10 percent, doing all civil, and I was 50 percent, doing all criminal.

11 Q. Right, there was so-called recorder's court?

12 A. Yes.

13 Q. And when you became a full-time judge, the recorder's court, as you
14 understood it, ceased to exist. You had jurisdiction over anything and
15 everything that the Elmira City Court had jurisdiction over, right?

16 A. Yes, it, it, it, it, it all, both sections became Elmira City Court.

17 Q. And in addition to your full-time position, one half-time position
18 remained, is that correct?

19 A. Yes.

20 Q. And that was filled by Judge Forrest?

21 A. Yes.

22 Q. The creation of the full-time court, was not something that the Office of
23 Court Administration could snap its fingers and do, is that right?

24 A. It was a process.

25 Q. In fact, it was a legislative process, it had to be authorized by the New

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(Ramich-Cross)

1 York State Legislature, signed into law by the Governor of the State of
2 New York, is that correct--

3 A. --True.

4 Q. Now, we've talked, you and I, on and off a number of times, right?

5 A. Yes, we have.

6 Q. And in our discussions, many of them have occurred at the Commission's
7 office in Rochester, New York?

8 A. That's true.

9 Q. And in connection with most of our discussions, they've been about me
10 giving you, sending you a letter, as unpleasant as it may be, about
11 allegations that we've gotten that we need to talk about, right?

12 A. That's true.

13 Q. And you have graciously appeared when we ask you to appear, right?

14 A. Yes, I have.

15 Q. And in connection with your appearance, you've come in and you've
16 testified under oath, is that correct?

17 A. Yes.

18 Q. You raise your right hand, and you swore to tell the truth, is that correct?

19 A. Yes.

20 Q. And it's a room in which that room, like this one, had a New York State
21 flag and an American flag, did it not?

22 A. It looked very official.

23 Q. And, not just in this occasion, but in connection with the prior
24 investigation and discipline, you had also testified, right?

25 A. Yes.

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(Ramich-Cross)

1 Q. And in anticipation of your testimony, when you received the first most
2 recent letter, the one about Cerio and the other stuff that we had, you
3 were concerned about that, right?

4 A. Very concerned, and, and, and troubled.

5 Q. Alright, and you thought about and prepared for that testimony, right?

6 A. They, I was surprised at how far they went back, as opposed to being
7 something that was very current and, and fresh in my mind, instead, they
8 went back further, and I, I did think back as best as I could about what I
9 remembered of those events.

10 Q. And as you sit here today and you think back to the times when you and I
11 have sat across from the table from one another, it would be fair to say
12 that, for the most part, you and I had a discussion about the allegations,
13 right? I would ask some questions, and you would talk to me?

14 A. True.

15 Q. Would you, would you say that as a matter of a characterization, it was
16 not an inquisition, but rather a discussion, me trying to learn from you
17 what happened?

18 A. Well, it was adversarial, but in, in a, in a, in a polite way.

19 Q. And in furtherance of your adversarial position, you wanted to share and
20 bring forward as many facts as possible in terms of describing for me,
21 your response to the allegations, right?

22 A. Yes, trying to give you my recollection of how things came down.

23 Q. And in addition to me, Ms. Martin was present, right, the lawyer assisting
24 me today?

25 A. She was.

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(Ramich-Cross)

1 Q. And Ms. Roberts was present, is that correct?

2 A. True.

3 Q. And Ms. Roberts was then running the electronic recording equipment on
4 those occasions?

5 A. Well, I, I remember her, her person--

6 Q. --Being there--

7 A. --so to speak, being there, but not exactly what she was--

8 Q. --what she was doing--

9 A. --doing.

10 Q. Okay.

11 A. I was focused elsewhere.

12 Q. And in addition to the Commission's, and I put it in quotes, "team," there
13 was a person who was sitting at the head of the table doing what referees
14 or Commission Members do, according to the law, as required by law, in
15 some capacity--

16 A. --Yes--

17 Q. --right?

18 A. Yes.

19 Q. And on the first occasion, that was actually the Chair of the Commission,
20 the Honorable Thomas A. Klonick, is that correct?

21 A. I, frankly, I, I have no idea who he was.

22 Q. Well, I'm going to give you an opportunity, since this record will go
23 before the Commission, to refresh your recollection. I show you what is
24 in evidence as Commission, Respondent's Exhibit C, listing the
25 participants in your first testimony. Does that refresh your recollection

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(Ramich-Cross)

1 about who was there?

2 A. It does.

3 Q. And--

4 A. --And it does appear to be the Honorable Thomas Klonick.

5 Q. And at the second one, it wasn't Judge Klonick, was it? There was a
6 lawyer from the community, who I think you might have even known,
7 Edward Nowak, he presided, is that correct?

8 A. That's true.

9 Q. And you took each of those appearances seriously as an opportunity to
10 share with the Commission team and the Commission itself, your
11 understanding of what these allegations were?

12 A. Yes.

13 Q. Alright, and you know that in fact, we paid attention to what you said?

14 A. I, I, I think you listened to all that was--

15 Q. --And--

16 A. --said--

17 Q. --you, it would be fair to say that with regard to the entirety of about what
18 you testified to, you convinced us that some of it did not belong in terms
19 of what problems might there be for you?

20 A. Well, my, my hope was that you would accept my explanation of how
21 certain things came down in a non-misconduct way.

22 Q. And in fact, with regard to some things, that's correct, isn't it?

23 A. I think two things.

24 Q. Okay, that's, we don't need to know what they are. I'm just trying to get
25 a sense between us that everything we talked about didn't result in a,

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(Ramich-Cross)

1 charges for you, right?

2 A. True.

3 Q. Okay. In terms of bringing to us the importance of what we should
4 understand, the Commission team and the Commission itself, should
5 understand about the relationship with Fred, you described in detail much
6 about what you've described here today, is that fair to say?

7 A. Yes.

8 Q. And going into your testimony, would it be fair to say that you considered
9 the Cerio allegations the most significant portion of the allegations in
10 terms of what you thought you had exposure on?

11 A. Yes, both by way of surprise and by way of potential seriousness.

12 Q. Okay. You talked to me about the concept of having had a referral
13 relationship with Fred in a number of cases, right?

14 A. Yes.

15 Q. And you told us then that one of the reasons you did not think that
16 remuneration was necessary on the legal cases, any of them, was because
17 you had referred cases to Fred at the conclusion of your private practice,
18 right?

19 A. At, at the conclusion of my private practice and thereafter--

20 Q. --I wasn't done. That was the first part.

21 A. Alright, yes--

22 Q. --Okay, yes, and then thereafter, is that correct?

23 A. Yes.

24 Q. Alright, but you didn't tell us that you had had an arrangement with Fred
25 that you had discussed years before, in which you agreed with him that he

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(Ramich-Cross)

1 would represent you for free and you would send him cases?

2 A. That's true.

3 Q. Alright, do you consider that an important part of, of your explanation for
4 why--

5 A. --I--

6 Q. --you didn't--

7 A. --I--

8 Q. --pay him--

9 A. --do, yes I do.

10 Q. But you didn't tell us about that, did you?

11 A. That, that's true, and it was more because of the, the coming before the
12 Commission, as, as, as, as gentlemanly as, as you might be, I, I find it
13 very serious, very scary, and there are, there are a number of things that,
14 that, under stress, one forgets that they wanted to say. And, and, and, and
15 frankly, if poor Mr. Reilly were to talk, he could probably tell you about
16 how concerned I was that I didn't say this, and I didn't say that about
17 different situations.

18 Q. Well, you raise a very good point, and that's that Mr. Reilly, your current
19 attorney, represented you in connection with your appearances during the
20 investigation, both on April 25, 2011, and January 24, 2012, is that
21 correct?

22 A. Yes.

23 Q. Would you turn to page 47 of the first one, the April testimony, please?

24 At line 15.

25 A. Forty seven?

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(Ramich-Cross)

1 Q. That's correct.

2 A. Okay, and line 15--

3 Q. --15, right.

4 A. Yes.

5 Q. Beginning in line 15, and going through line 25, and just over to the top
6 of the next page, you did in that portion talk about the referrals that you
7 had made, and specifically sizeable estates, plural, is that correct?

8 A. Yes.

9 Q. So, you were conscious of the concept at that time that there was an issue
10 about your not having paid personally or arranged for Mr. Cerio to be
11 paid, that he acted on your behalf without compensation, is that correct?

12 A. Yes.

13 Q. And you didn't talk to us during that period of time about all these
14 numerous referrals we now hear concerning mortgages to Renee Chalk,
15 did you?

16 A. I, I just didn't remember all of the things that, there's a lot more referrals
17 that I still haven't mentioned today that were made to him.

18 Q. Alright, but you considered the referral issue to be important enough to
19 bring it up to us as an explanation, right?

20 THE REFEREE: Today?

21 MR. POSTEL: Today, no, excuse me, in his
22 testimony on April 25--

23 A. --Yes--

24 MR. POSTEL: --2011.

25 THE REFEREE: Okay.

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(Ramich-Cross)

1 Q. You knew, did you not, that as a consequence of your prior discipline, the
2 issue of practice of law with regard to Thomas Ramich and Fred Cerio,
3 was a potential problem, right?

4 A. I did.

5 Q. And in fact, you've testified that Fred said to you in connection with the
6 real estate, the leasing agreement, whoa, don't do that because you know
7 what happened last time, words to that effect?

8 A. True.

9 Q. So, you were sensitive to the issue of the practice of law, you and court
10 employees, right?

11 A. Yes.

12 Q. On this fee issue, you told us today that there was a Horrigan's gift card?

13 A. Yes.

14 Q. You said it was sizeable?

15 A. Yes.

16 Q. You never mentioned the amount.

17 A. I didn't remember the exact amount.

18 Q. You just got rid of it a couple of months ago, right?

19 A. I did.

20 Q. Did you use it?

21 A. No, that, I didn't--

22 Q. --Did it expire--

23 A. --there's no expiration date on Horrigan cards. They're slow in
24 everything.

25 Q. What did you do with it?

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(Ramich-Cross)

1 A. It was, I, I kept it in my wallet. It was in my wallet from the time I
2 offered it to Fred until whenever, and I just, I, I normally don't carry my
3 wallet with me, but--

4 Q. --I don't either, but that's interesting.

5 A. Alright, but I, and the only reason that I lost my wallet is because when I
6 went on vacation I took my wallet with me, and I'm not used to picking it
7 up, and I lost it.

8 Q. So, you lost the wallet and you lost the card?

9 A. I did. But, I, I would, if you want an estimate for where it is--

10 Q. --No, that's fine. I, if you say sizeable, I believe it was sizeable. Where
11 in that testimony did you tell us that you had the gift certificate the whole
12 time?

13 A. It just didn't come to my mind.

14 Q. You didn't testify to that, did you?

15 A. At, at that moment in time, it didn't cross my mind.

16 Q. You didn't testify to it, so we're--

17 A. -- I did not--

18 Q. --clear? And you didn't produce it either, did you?

19 A. I did not.

20 Q. The gift certificate was done in connection with your house closing,
21 right?

22 A. Yes.

23 Q. And the house closing, you would agree, had a number of issues that were
24 both legally complex and professionally dicey for you? That's a
25 compound question, but would it be fair to say that both of those are true?

(Ramich-Cross)

1 A. It, it was not your, in some ways, it was simple, in some ways it was more
2 complex than your, your basic house closing.

3 Q. Alright, would you, would you agree that in your basic house closing you
4 have to get an order from the Supreme Court approving the sale of the
5 house by the seller?

6 A. You normally would not.

7 Q. Would you agree that in a simple or routine house closing you wouldn't
8 have to notify the attorney general that you're selling your house or that
9 the seller is selling their house?

10 A. Well, each of those things that you mentioned would be done by the
11 seller's attorney, not the buyer's.

12 Q. True, but my question to you was you would agree that that's not part of a
13 routine sale of a house?

14 A. True.

15 Q. And in terms of the seller doing, you would also agree, would you not,
16 that the buyer's attorney has to look those things over to ensure they're
17 done properly?

18 A. True.

19 Q. And that was done in this case, is that right?

20 A. True.

21 Q. And in addition to his reviewing of those non-normal steps, he took other
22 action on your behalf that would generally be part of the routine house
23 closing, is that correct?

24 A. Yes.

25 Q. Such as he sent the purchase offer in for you, is that right?

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(Ramich-Cross)

1 A. I, I don't remember if he did or, or I did. But, the, the real estate agent
2 that was there was a mutual friend--

3 Q. --Jo Chalk--

4 A. --and, and I, I went to grade school and high school with her, and
5 maintained a friendship and I just, I don't remember if I got it to her, or
6 Fred got it to her, but definitely Fred was involved in the, in the purchase
7 offer thing, and one of the things that Fred and I had, had discussed is
8 that--

9 Q. --Well, I didn't ask you that, did I?

10 A. No.

11 Q. Thank you. I said, my last question was, was it Jo Chalk?

12 A. Yes.

13 Q. Thank you. In addition to the purchase offer, he would have reviewed the
14 prorations at the end and discussions about who had to pay what, right?

15 A. Yes.

16 Q. And you know for a fact that occurred, is that correct?

17 A. Yes.

18 Q. And there was a closing statement that he produced to give to you as well,
19 is that correct?

20 A. Yes.

21 Q. And he negotiated, or attempted to negotiate on your behalf, your
22 obtaining the fireplace utensils that were with the house, is that correct?

23 A. No.

24 Q. Did you tell him you wanted him to do that?

25 A. No, I, I dealt with that directly with Jo Chalk myself.

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(Ramich-Cross)

1 Q You did that yourself?

2 A. I did.

3 Q. Alright, and there was some issue that came up about how the taxes
4 would change as a consequence of moving from a not for profit to a
5 residential homeowner?

6 A. Yes.

7 Q. And he dealt with those issues as well, is that correct?

8 A. He reminded me of them, but that wasn't surprising to me because I had
9 done--

10 Q. --I didn't ask you if it was surprising. I'm saying that that was an issue
11 that came up in the course of the closing?

12 A. It was something that he was aware of, and it was something that he
13 mentioned to me.

14 Q. And your testimony here today is that he, this came to you, this house
15 actually came to you from him through his capacity in which he owned a
16 real estate brokerage of some sort, is that right?

17 A. Well, well, my belief is that that's how he, he found out about it before a,
18 a for sale sign went up.

19 Q. That he gave you the inside word because this was a good deal?

20 A. It, it was the, a house in the area that I wanted to live and the size that I
21 was hoping to find, and in the price range that I had made him aware of--

22 Q. --In considering all those factors, would you think that that's a good deal?

23 A. Yes.

24 Q. Okay. If Mr. Cerio came to you with this house through his brokerage
25 knowledge, is there any reason why he wasn't listed as your broker on the

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(Ramich-Cross)

1 purchase offer?

2 A. Because it was a friendship type of thing, hey, Tom, guess what, there's a
3 great house up the street from you.

4 Q. As your broker, he would have been entitled to a certain portion of the
5 seller's fee, is that correct? That's the practice in Elmira, isn't it true?

6 A. Yeah, if he was the, if he was acting as actual broker.

7 Q. And in fact, that would have cost you no money, isn't that true?

8 A. True.

9 Q. Because there was already Jo Chalk acting as a seller's broker, and the
10 percentage that was paid by the seller, listen to me, please, would have
11 been on the sale price, is that correct?

12 A. I agree with you, but I, I'm not sure where Jo Chalk was on that, whether
13 she came down listed as seller's broker or my broker.

14 Q. So, even though Fred was a broker--

15 A. --I, I, I, if I had to guess, I would say that Jo Chalk was listed on my side.

16 Q. Even though Fred was a broker, even though Fred keyed you into this
17 good deal, you didn't use him as a broker in order to get him a little bit of
18 a taste on this deal?

19 A. It was something that was never at all, by me, even thought of or
20 discussed. I mean, Fred is a licensed broker, and normally in my practice
21 of law that, that was always something that was done broker to broker. If
22 there was an issue about who was entitled to a broker's fee, it was worked
23 out by the brokers.

24 Q. While we're talking about Fred, is it fair to say that as a description of
25 him as a human being, he is really laid back?

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(Ramich-Cross)

1 A. Very.

2 Q. He's non-assertive?

3 A. True.

4 Q. You have in fact referred to him as Casper the Ghost, haven't you?

5 A. I have.

6 Q. Can you tell us what that means when you refer to him as Casper the
7 Ghost?

8 A. In, in, in my mind Casper the Ghost was a very friendly ghost, if you will,
9 and one of the things that tended to happen in, in those comics was
10 Casper would appear out of nowhere, and, and disappear out of nowhere,
11 and you just never saw him come, you never saw him go, and frankly,
12 what Fred and I had kind of laughingly shared about is that I, I thought
13 that with his short hair and, and head shape that in, in, in a way that the
14 head of Casper and the head of Fred were somewhat similar, and the
15 behavior of the two were somewhat similar, nice guy. I never knew when
16 he was going to show up. I never knew when he was going to go. He just
17 kind of appeared and disappeared.

18 Q. He even has less hair than you do, and I don't mean that in an insulting
19 way. Would that be true--

20 A. --That's a true fact.

21 Q. Okay.

22 A. As hard as that is to achieve.

23 Q. So, we've talked about and around what I have in front of you, which is
24 the prior discipline from the Commission on Judicial Conduct.

25 A. Which one is that one?

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(Ramich-Cross)

1 Q. Mark as Commission Exhibit 65, please. You received a Censure from
2 the Commission on a certain date about ten years ago, right?

3 (Commission Exhibit 65 was marked for identification)

4 A. That's true.

5 Q. And I direct your attention to the last page. There's a date.

6 A. The, the date on that was December 22, 2002, as far as certification.

7 Q. Merry Christmas.

8 THE REFEREE: Before we go further--

9 MR. POSTEL: --I have other exhibits that I'm going
10 to show.

11 THE REFEREE: Okay, I'm, what number is that?

12 MR. POSTEL: 65.

13 THE REFEREE: And I'm going to want to go over
14 what has been marked and what has been offered.

15 MR. POSTEL: We will have, will be identifying all
16 of these.

17 THE REFEREE: Thank you. And one, one other
18 question. There's a reference to Jo Chalk. Is that J-O-E or
19 J-O?

20 MR. POSTEL: J-O, I believe.

21 THE WITNESS: J-O.

22 THE REFEREE: That's female?

23 MR. POSTEL: Yes.

24 THE WITNESS: Yes.

25 THE REFEREE: Thank you.

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(Ramich-Cross)

1 Q. Without regard to the question of money on any of these cases that Fred
2 worked for you, the basic, your basic belief was that your relationship,
3 your personal relationship with him, was such that he should be doing
4 them for free, right?

5 A. I would say that it was more that he would be doing them for free,
6 because we were so friendly. And basically, Fred, among other referrals,
7 to my knowledge, his best friend is Jimmy Diflippo, who's younger, and
8 he often referred to me as the, the old bro, B-R-O, and, and, and Jimmy as
9 young bro. It was, I thought it was a, a very I will do for you, you will do
10 for me, we're buddies, and whatever we, whatever we agree to, we agree
11 to.

12 Q. And in fact he never complained to you about the fact that he received no
13 compensation on any--

14 A. --Absolutely--

15 Q. --of these cases--

16 A. --Not.

17 Q. In fact not, not even going beyond the question of, not being
18 compensated, he put money out on your behalf, didn't he?

19 A. He did.

20 Q. In connection with the registration of that trailer?

21 A. Yes.

22 Q. And to this day, as we stand here, you have still not paid him back, isn't
23 that true?

24 A. It, it's true.

25 Q. I'm asking you only if it's true.

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(Ramich-Cross)

1 A. It's true.

2 Q. I would be glad to recross you on response to a redirect question as to
3 why that is, but all I've asked you is have you paid him back. Yes or no?

4 A. I have not.

5 Q. At the time of your testimony before the Commission, you were, you
6 testified then that as of that time, you had not paid him back, isn't that
7 true?

8 A. That's true.

9 Q. And at the testimony before the Commission, you represented to the
10 Commission that you would be paying him back forthwith, isn't that true?

11 A. I'm not going to say I didn't say that, but I certainly didn't remember
12 saying that.

13 Q. So, we'll put that, you just can't remember it as you sit here today?

14 A. True.

15 Q. Okay, so, we'll put that aside, and we'll come back to that.

16 A. It's something that I've thought about, about whether I should or
17 shouldn't, and one of my--

18 Q. --So, you're trying to get in the explanation that I asked you not to give
19 because I didn't ask you that question, is that--

20 A. --Excuse--

21 Q. --what we're doing?

22 A. Excuse me.

23 THE REFEREE: Continue on with the question.

24 MR. POSTEL: Thank you.

25 Q. When you said to him on these cases, "Take care of it," did you expect

(Ramich-Cross)

1 that he would in fact take care of each of those three traffic tickets?

2 A. Yes.

3 Q. You had confidence in his abilities to perform the required legal task to
4 effectuate some disposition with a favorable reduction within the range of
5 what the practice is in the relevant court areas, is that true?

6 A. That's true and, and part of my reason for feeling that way is that I felt
7 that I taught him well.

8 Q. And when you gave him, when you had the conversation about the
9 Mansfield University thing with your daughter, and he said he would do it
10 for you, you expected him to make the call, is that correct?

11 A. Yes--

12 Q. --You relied on him to do that?

13 A. Yes.

14 Q. When you reached out to him to take care of each of the three traffic
15 tickets, you did, you, you made that, that, that gesture to him, the, the
16 action in which you got, he did it and agreed to it, you brought it to his
17 attention, that was done in your chambers on each of those three
18 occasions?

19 A. It was.

20 Q. Did it occur to you that the use of your chambers as a venue in which to
21 speak with your court attorney about his personal, and your anticipated
22 non-compensated use of him on behalf of your daughter, relative, and
23 girlfriend, put him in a position that was essentially untenable?

24 A. No, because of all the--

25 Q. --Now, my question--

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(Ramich-Cross)

1 A. --rest of our--

2 Q. --to you is yes or no?

3 A. No.

4 Q. Alright, did it occur to you that in that, that matter of making that
5 connection on these cases, you were implicitly bringing to him the
6 authority of you as the judge and your chambers in which he worked?

7 Did it occur to you is my question.

8 A. No.

9 Q. As you sit here today, and you think back, you believe that should have
10 occurred to you?

11 A. I put myself in a bad position by--

12 Q. --My question is as--

13 A. --Yes.

14 Q. Yes, alright. In terms of your, your communication with him to take care
15 of those three cases, did you have the specific foresight to say to him, in
16 connection with what you do on this case, do nothing in your court
17 office? Did you give him that instruction on any of those three?

18 A. Yes.

19 Q. Which one?

20 A. Lease.

21 Q. The lease?

22 A. Only the lease.

23 Q. Okay, but on the other ones, you did not, right?

24 A. I did not.

25 Q. Did you give him the instruction not to use any of the resources of the

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(Ramich-Cross)

1 court in connection with what he would do in the matter?

2 A. I did not.

3 Q. If you would look at Commission Exhibit 65, please, the Determination of
4 Censure, and directing your, directing your attention, excuse me, to
5 Finding number 16.

6 A. Alright.

7 Q. This had, has to do with your practice of law at the time, involving your
8 representation of individuals named Gerald and Eileen Droleski, is that
9 correct?

10 A. True.

11 Q. And in connection with the Commission's findings about the areas of
12 misconduct in connection with your representation of Mr. and Mrs.
13 Droleski, there was specific mention and condemnation of the fact that
14 activities in connection with that private practice had been performed by
15 secretary or clerical personnel of the court, the end of the sentence, is that
16 correct?

17 A. It is.

18 Q. Turning your attention to paragraph 18 of that determination. That had to
19 do with your representation of Russell and Mary Suzanne Kissinger, is
20 that correct?

21 A. True.

22 Q. And again, the Commission made specific reference in terms of finding
23 that it was improper that, as saying many of these services performed at
24 the offices of the Elmira City Court and some performed by secretarial or
25 clerical personnel of the court. They specifically, the Commission, in

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(Ramich-Cross)

1 connection with your actions on behalf of the Kissingers, made that
2 reference, isn't that true?

3 A. True.

4 Q. And in considering those, the use of the court staff and facilities, turning
5 to the end of the Determination, paragraph that ends, "more over," do you
6 see that? It's about one, two, three, four, five, six paragraphs up from the
7 bottom.

8 A. Which, which page is it?

9 Q. Well, we have different pages.

10 THE REFEREE: Is there a numbered paragraph that
11 you're referring to?

12 MR. POSTEL: No. This is the language of the
13 Determination.

14 THE REFEREE: Okay.

15 MR. POSTEL: This is the Commission, not the
16 findings of fact.

17 Q. The paragraph on page 11 that begins. "Respondent's misconduct," do
18 you see that?

19 A. Yes.

20 Q. Would you read that to us, please?

21 A. "Respondent's misconduct was again exasperated"--

22 Q. --Exacerbated?

23 A. Yeah, that too. "by his use of court personal and court facilities in
24 connection with these matters."

25 Q. Alright. The end of page ten, begins with the word "Moreover," the

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(Ramich-Cross)

1 sentence, the last sentence. Do you see that?

2 A. Which, which paragraph?

3 Q. Last, last, last line of the, of the page.

4 A. Yes.

5 Q. "Moreover." And it reads, "Moreover." Would you read it to us, please?

6 A. "Moreover Respondent's use of his court secretary in the matter
7 demonstrated a serious confusion between his judicial role and his former
8 role as practicing attorney."

9 Q. In consideration of the Commission's specific language to you about
10 blurring the lines in your court between private and public, did it not
11 occur to you that every time you used Fred Cerio on your behalf or on
12 behalf of one of your relatives, that you should have been extra sensitive
13 to ensure through instruction and observation that he not employ the
14 facilities of the State of New York on your or others behalfs?

15 A. I thought the discussion that I had with Fred shortly after this covered that
16 eventuality. We fully discussed whether there was a distinction between a
17 full-time state worker versus a, a private attorney who was a, a part-time
18 lawyer, a part-time court employee and a part-time private practitioner
19 who could do whatever legal work he chose to do, as long as it was in his
20 private practice.

21 Q. That's the discussion that you did not make reference to during your
22 testimony with regard to Fred Cerio in April of 2011, is that correct?

23 A. True.

24 Q. And that, the discipline occurred in 2002, right? You identified that at--

25 A. --Yes--

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(Ramich-Cross)

1 Q. --the beginning, sure--

2 A. --sure.

3 Q. When you were representing Greger, and when you had the lease, the
4 lease, and the real property, I'll refresh your recollection. The Greger
5 matter was in 2009, right?

6 THE REFEREE: And you're showing to him an
7 exhibit?

8 MR. POSTEL: Commission Exhibit 4. Thank you,
9 Your Honor.

10 A. 2009 is correct.

11 Q. And when did you buy your house, your new house, 2008?

12 A. I, frankly, don't remember that, but if that's what the document indicates,
13 I--

14 Q. --Well--

15 A. --that's--

16 Q. --you have to--

17 A. --about right.

18 Q. Certainly the leasing issues came up in 2009, is that correct?

19 A. Yes.

20 Q. Did you think between 2009 and, excuse me, 2002 and, excuse me, 2003,
21 since you would have talked after the holiday break, I gather, right?

22 A. It could have been any time.

23 Q. Okay. But let's, let's say 2003--

24 A. -- Fred and I, Fred and I saw each other on a very regular basis.

25 Q. Alright, did you think between 2003 and 2009 that this was an idea that

(Ramich-Cross)

1 you should reinforce as a consequence of your prior discipline?

2 A. I trusted Fred as a, a friend and I didn't have any, I didn't have any
3 consideration. I never doubted, I should say, that he would do everything
4 in his private practice. That--

5 Q. --That's a no.

6 A. I forgot where we were.

7 Q. That's the problem with this. Did it not occur to you during those years
8 that it was a message you should have reinforced, especially in light of
9 the fact that you had been punished as a consequence of the court, the
10 court staff and the private practice of law?

11 A. Because I had been punished, and because I knew, didn't want to go
12 there--

13 Q. --Once again, my question is yes or no? Is it something you had
14 considered? Because we're probably going to forget the question after
15 this answer you give, so is it yes or no? Is it something you considered
16 during the interregnum of seven years?

17 A. No.

18 Q. And in connection with that prior discipline, Fred Cerio was actually
19 involved in that matter, isn't that correct?

20 A. Yes.

21 Q. So, his very name is in the Determination, because he represented you in
22 a closing that you didn't go to, but you had done the underlying work,
23 isn't that true?

24 A. Yes.

25 Q. The first one that we talked about yesterday with Mr. Cerio, and that's

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(Ramich-Cross)

1 part of Charge 1, is the *Seither* case, right, your brother-in-law?

2 A. Yes.

3 Q. Did you tell your brother-in-law, I can get you a deal here and it won't
4 cost you anything, because I've got a guy who's going to do it for you?

5 A. No.

6 Q. Did your brother-in-law come to you and say, listen, I got a traffic ticket,
7 how can you help me?

8 A. Yes.

9 Q. Did you understand that to be a request for him, for you to, to engage in
10 special consideration on his behalf?

11 A. No.

12 Q. And when he said, how can I help, how can you help me, Fred Cerio's
13 name popped in, right?

14 A. I, I took it as Fred Seither had lived here in Watkins Glen. When he
15 married my sister, he moved to Elmira. He was not familiar with the
16 Elmira area like I am. I took his request--

17 Q. --How long was that? How long ago?

18 A. Well a while.

19 Q. Well, do you know when they got married?

20 A. No.

21 Q. She's your age. She's your twin.

22 A. Wait, wait, I can do it, I can do better.

23 Q. We can do decades, can't we?

24 A. I can, I can do nine to ten years.

25 Q. Okay. Is that you, your sister's first, second, third husband?

587.

(Ramich-Cross)

1 A. First, and, and scary to think about it. She's my twin.

2 Q. Everything I've heard, she's quite lovely.

3 A. And, and never, never five foot tall, never 100 pounds, you'd never know
4 we were brother and sister. It's kind of like beauty and the beast.

5 Q. Fraternal?

6 A. Yes.

7 Q. Alright, so you get, you see the--

8 A. --You can guess who's the beast--

9 Q. --listen, so we, we didn't get to the answer to my question. And, and,
10 and I just want you to listen to my question.

11 A. I can do--

12 Q. --If you--

13 A. --that--

14 Q. --can't answer yes or no, I'd like you to tell me.

15 A. That's so hard--

16 Q. --And--

17 A. --though--

18 Q. --I know, I understand, and we've seen that over X number of hours of
19 testimony. But I'd like you to do that, please. The question was when
20 Seither came to you for help with his ticket, was it Fred Cerio's name
21 who popped into your head?

22 A. Yes, immediately.

23 Q. But Fred Cerio's not the only lawyer you know, is he?

24 A. No.

25 Q. You know hundreds of lawyers?

588.

(Ramich-Cross)

1 A. Many.

2 Q. Alright, so--

3 A. Some of them good.

4 Q. Bigger than a bread basket?

5 A. Yes.

6 Q. Okay. You know at least a dozen lawyers who you would trust to
7 represent a relative, right?

8 A. Yes.

9 Q. But the only one you went to in connection with this case in terms of
10 taking action, was Fred, right?

11 A. I--

12 Q. --Yes or no, judge?

13 A. Yes.

14 Q. In other words, you had not contacted any other lawyers who had refused
15 to take this case?

16 A. True.

17 Q. In considering Fred, did you consider that he was appropriate for this
18 because he was someone who was personally close to you?

19 A. Someone I could count on, yes.

20 Q. And it was easy for you to get this case to Cerio, right?

21 A. Yes.

22 Q. You didn't have to make a call, you didn't have to go through a secretary,
23 true?

24 A. True.

25 Q. You just said, "Take care of it," and gave him the ticket, right?

589.

(Ramich-Cross)

1 A. Yes.

2 Q. When you took, so you actually got the ticket, you took it from Seither,
3 right?

4 A. I did.

5 Q. Did you tell Seither, I'll take care of this for you?

6 A. Words to that effect.

7 Q. Alright. You didn't have to do that, did you?

8 A. I could have said, no.

9 Q. You could have given Seither a recommendation for a lawyer, is that
10 true?

11 A. True.

12 Q. Seither could have gone to the lawyer and said, my brother-in-law, Tom
13 Ramich, said, you're the man, or you're the woman, right?

14 A. True.

15 Q. Did that occur to you that probably the better course was to say, here's a
16 name of a couple of lawyers?

17 A. It--

18 Q. --The question was, did it occur to you?

19 A. No.

20 Q. This was family, is that true?

21 A. Yes.

22 Q. And because it was family, you wanted to keep it close, is that true?

23 A. True.

24 Q. And the ultimate family example here is, in terms of representation, is
25 Amanda, right?

590.

(Ramich-Cross)

1 A. My oldest daughter.

2 Q. Right, and in terms of personal importance to you, Amanda Ramich's
3 speeding ticket on a personal level was even more important than Ramich
4 Realty and your house closing, is that fair to say?

5 A. Absolutely.

6 Q. And when Amanda got the ticket, she showed it to you, right?

7 A. She did.

8 Q. And your reaction was not favorable at that moment, was it?

9 A. Certainly not.

10 Q. But you got the ticket from her, right?

11 A. I did.

12 Q. And you gave it to Fred, right?

13 A. I did.

14 Q. And the reason you gave it to Fred was because again, as with Seither, he
15 was someone who you believed you could count on?

16 A. Yes.

17 Q. And he was someone who was close to you, is that correct?

18 A. Yes.

19 Q. And as with, well, you certainly weren't going to call an attorney and say,
20 take care of this, well, let me, I don't know, let me ask this. Did you
21 consider calling a lawyer and saying, calling any of those dozen or so
22 competent attorneys in the Elmira area and saying, listen, Nancy, no, not
23 Nancy, that's not a good name, listen Erica, would you take care of this
24 case for me, or my daughter got a case, I'm referring it to you, did that
25 even occur to you?

591.

(Ramich-Cross)

1 A. No.

2 Q. In not having to do that, once again, you would not have to go through a
3 secretary, identify yourself, get to the lawyer, and then explain the
4 personal circumstance involving your daughter's ticket, right?

5 A. Yes.

6 Q. In fact, by using Fred, you maintained a level of confidentiality, keeping
7 it in house, that you would not otherwise get going to a lawyer outside of
8 the court, is that correct?

9 A. Yes.

10 Q. And that was the same thing with Seither, right, it was not going outside
11 of the court, maintained a level of family confidentiality?

12 A. Yes.

13 Q. Now, the Amanda ticket was a little worrisome to you for the reason other
14 than the fact that it's your daughter because you had concerns about,
15 would it be fair to say, what you've told us is a lead foot?

16 A. True.

17 Q. Although she hadn't had any tickets before or since, it is a concern that is
18 with you almost all the time, is that true?

19 A. Yes.

20 Q. Alright, and you counted on Fred to ensure that this was taken care of
21 because you didn't know whether she would get a ticket in the future with
22 that lead food, right?

23 A. It would not have surprised me despite my discussions with her.

24 Q. And that would have, in fact, affected your insurance rates, jacking them
25 up, true?

(Ramich-Cross)

1 A. I didn't think of that, but, yes it would.

2 Q. Alright. You're the one who pays the insurance on, you were at that time,
3 the one who paid insurance on her car?

4 A. Yes.

5 Q. So, it would have affected your insurance rates as well as hers, is that
6 correct?

7 A. Yes.

8 Q. So, the last of those three traffic cases, is the woman, Cynthia Rajskey,
9 then Greger, excuse me--

10 A. --Yeah, right--

11 Q. --right, Greger--

12 A. --well, frankly, I didn't know--

13 Q. --Cindy--

14 A. --I didn't--

15 Q. --Cindy Greger--

16 A. --know her, her new married name, but I, I, I knew she was married, but
17 when we were friends, it was Cindy Greger.

18 Q. Okay, so we can agree that for the purpose of our dialog here today, we'll
19 refer to her as Cindy Greger?

20 A. Yes.

21 Q. And she's the woman who testified in the proceeding in this matter
22 concerning the ticket and her relationship with Fred, right?

23 A. Yes.

24 Q. Did I give you that one?

25 A. Greger, yes.

593.

(Ramich-Cross)

1 Q. Thank you.

2 A. Exhibit 4.

3 Q. Right. Once again, in terms of, of Ms. Greger, this was a circumstance in
4 which Fred Cerio represented someone who was personally close to you,
5 is that correct?

6 A. Yes.

7 Q. She was without a doubt, your girlfriend and everything that means at that
8 time, is that correct?

9 A. True.

10 Q. And you had been in a dating relationship with her for about two years, is
11 that correct?

12 A. True.

13 Q. You thought well of her at that time, is that true?

14 A. True.

15 Q. Her opinion of you was important to you at that time, is that true?

16 A. I, I, we--

17 Q. --Her opinion of you, you wanted her to have a good opinion of you?

18 A. Sure.

19 Q. You're, she, she's your girlfriend, I mean, you may, you may want to tell
20 us that you don't care about what your girlfriend thinks, but--

21 A. --No, I, I--

22 Q. --you do, right?

23 A. Sure, I did.

24 Q. Yeah, it's human, normal human reaction. Would you agree with that?

25 A. I would.

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STATE COMMISSION ON JUDICIAL CONDUCT

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Rochester, NY 14604

(Ramich-Cross)

1 Q. Okay. Greger never asked you for assistance in dealing with this, is that
2 true?

3 A. No.

4 Q. It's not true?

5 A. No.

6 Q. Greger asked you for assistance?

7 A. Yes.

8 Q. So, when you heard Greger testify here in this proceeding that she never
9 asked you for assistance, she was lying?

10 A. She may have forgot.

11 Q. Oh, was it an Andy Pettitte misremember circumstance?

12 A. I can't speak for her.

13 Q. One way or another, without characterizing it as a lie or not, it's your
14 testimony that that testimony on her behalf under oath was inaccurate?

15 A. Yes.

16 Q. So, it's your testimony then that she came to you for assistance in this
17 case, and that you agreed to assist her?

18 A. Am I limited to yes?

19 Q. Yes or no?

20 A. Yes.

21 Q. And in seeking your assistance, did she seek your assistance as a judge or
22 as a legal professional? What was your opinion of that?

23 A. Someone who would get her legal help on the ticket.

24 Q. Oh, so, she, she wanted help, and you agreed to find help for her?

25 A. Yes.

595.

(Ramich-Cross)

1 Q. And the fact that you could do that, did it, it, was that, were you
2 motivated in any part, even a small part, by a desire to impress your
3 girlfriend?

4 A. Sure.

5 Q. And in, in taking that action to impress your girlfriend, the first name that
6 popped into your mind was Fred Cerio?

7 A. Yes.

8 Q. And it occurred to you in connection with getting Fred to represent her,
9 that there would be no fee involved, right?

10 A. Unclear.

11 Q. Had you expected a billing, bill from Mr. Cerio?

12 A. Because of the non-family situation, I felt that that was something that
13 might well happen.

14 Q. Did you, at the end of the case, offer him any money?

15 A. I did not.

16 Q. And when he billed you, did you go to him and say, you know, you can
17 bill Cindy for this, it's not my case?

18 A. We did not have that discussion.

19 Q. Alright, even though it was a non blood relationship, this was a defendant
20 with whom you had a close personal and in fact, intimate relationship,
21 isn't that true?

22 A. Yes.

23 Q. So, now we come to Ramich Realty. As I understand it, and please
24 correct me if I'm wrong, and I say this with all respect to you, Ramich
25 Realty was a company founded by your father?

596.

(Ramich-Cross)

1 A. True.

2 Q. And it was operated by your father until his untimely death?

3 A. True.

4 Q. It is a business which has personal meaning to you because of your
5 father's connection to it, isn't that true?

6 A. True.

7 Q. You are not the sole owner of Ramich Realty, are you?

8 A. I am not.

9 Q. Your sister is a co-owner, is she not?

10 A. She is.

11 Q. In addition to your sister, you have a cousin who is a co-owner, is that
12 true?

13 A. I, I have an aunt who, oh, wait, I, I have a, yes, I do have a cousin.

14 Q. Alright, if I were to use the expression with regard to your family, "Aunt
15 May," would that have any meaning?

16 A. Aunt Mary would.

17 Q. Well, so, the answer would be no.

18 A. No to May.

19 Q. But yes to Mary?

20 A. Mary, Mary, yes.

21 Q. And is Aunt Mary, along with you, your sister, and your cousin, also an
22 owner of Ramich Realty?

23 A. She is.

24 Q. Is there anybody, as you sit here thinking about it, that I'm missing?

25 A. No, it would be the four of us.

597.

(Ramich-Cross)

1 Q. Alright, but it's your sister who is the president, right?

2 A. Yes.

3 Q. A circumstance occurred in which, well, Ramich Realty's assets are
4 what?

5 A. Two commercial buildings.

6 Q. Were they purchased by your dad?

7 A. They were constructed by my dad.

8 Q. The one in question here today, and about which Mr. Cerio testified, and
9 you testified on direct, is located where, please, judge?

10 A. Corning Road in the Town of Horseheads.

11 Q. Do you know the address?

12 A. Not off the top of my head.

13 Q. Okay, but you know what kind of building it is, right?

14 A. I do.

15 Q. What is it?

16 A. It's a combination, it, there's a one, well, it's office and, and warehouse.

17 Q. How many square feet?

18 A. It's small. I, I don't know the square footage, but it, it--

19 Q. --You used the expression "bread box" earlier.

20 A. Yeah--

21 Q. --Bigger, bigger than 1,000 square feet?

22 A. I, I can't visualize in my mind what 1,000 square feet, I mean, I kind of
23 know, what's that ten by ten, no, that's--

24 Q. --That would be 100--

25 A. --100 by 100, 100 by--

598.

(Ramich-Cross)

1 THE REFEREE: A 30 by 30 building would be close
2 to 1,000 square feet.

3 THE WITNESS: Thank you.

4 THE REFEREE: Is it one story?

5 THE WITNESS: One story, maybe a little larger.

6 Q. Okay.

7 A. Not much.

8 Q. And is there any, it's, the top story, is there anything located on that top
9 story?

10 A. On, on the front of the building there's a sign that identifies it.

11 Q. Okay, and it identifies the tenant, right?

12 A. It does.

13 Q. Does the tenant have a billboard on top of the building?

14 A. No.

15 Q. But the tenant's business is billboards, right?

16 A. It is.

17 Q. And it's Park Outdoor Advertising?

18 A. It is.

19 Q. And Park Outdoor Advertising, one of the officers is a gentleman with the
20 name Kerry?

21 A. Yes.

22 Q. That's K-E-R-R-Y?

23 A. It is.

24 Q. I suppose confusing on occasion, but we'll get past that. Leipold, L-E-I-
25 P-O-L-D?

599.

(Ramich-Cross)

1 A. True.

2 THE REFEREE: L-E-O-P-O-L-D?

3 MR. POSTEL: L-E-I.

4 THE REFEREE: Lei?

5 MR. POSTEL: P-O-L-D, L-E-I-P-O-L-D.

6 THE REFEREE: Okay.

7 MR. POSTEL: Leipold. The pronunciation may be
8 confusing, but that's the way it's spelled.

9 Q. Is it pronounced Leipold?

10 A. Yes.

11 Q. Not Leipold?

12 A. Well, my belief is it's Kerry Leipold.

13 Q. Right, that's my belief as well.

14 MR. POSTEL: Now that we have a mutual belief,
15 Mr. Referee, do you have an alternate belief?

16 THE REFEREE: I was just thinking of Leopold and
17 Lobe, how that is spelled in my--

18 MR. POSTEL: --This is not that.

19 THE REFEREE: Thank you, I apologize.

20 Q. With regard to Mr. Leipold, is it fair to--

21 THE REFEREE: --I withdraw my objection--

22 Q. --say that he is someone who had maintained a business relationship with
23 Ramich over a number of years prior to the execution of, of the lease,
24 which is in evidence here today?

25 A. True.

600.

(Ramich-Cross)

1 Q. And you have, you know Mr. Leipold?

2 A. Personally.

3 Q. And there came a time when the lease was coming up, the prior lease was
4 coming up, right?

5 A. Yes.

6 Q. It was going to expire, right?

7 A. Yes.

8 Q. Mr. Leipold had been in a building, in an area which, in which you
9 believed that the rents you were receiving were better than fair, is that
10 true?

11 A. Yes.

12 Q. You were, you were actually making money for Ramich Realty--

13 A. --Right--

14 Q. --I, let me withdraw that because it's a bad question.

15 A. Well, can--

16 Q. --It's--

17 A. --I go--

18 Q. --inartfully--

19 A. --back to the earlier--

20 Q. --phrased--

21 A. --question?

22 Q. Sure, you want to explain the money circumstance? It's one of the rare
23 times I'll let you go.

24 A. Thank you. I'll be short for one of the rare times. I didn't know whether
25 it was above or beyond fair market value, which is why I went to Fred as

601.

(Ramich-Cross)

1 a realtor and asked him, "Would you tell me, what's the going rate?"

2 Q. Alright, so, in the earlier lease, you didn't know whether you were doing
3 well or not?

4 A. It was a longer-term lease, so--

5 Q. --How long had it been?

6 A. I don't know, but I, I would estimate it to be, like, ten years--

7 Q. --Who was the lawyer who represented you on that one?

8 A. I don't, I think it was their attorney.

9 Q. So, the corporation didn't have a lawyer represent them and review the
10 lease?

11 A. Right.

12 Q. Did, but you reviewed the lease?

13 A. I don't--

14 Q. --In your family business--

15 A. --remember. Ten years ago I would have looked at it, yes.

16 Q. And you, in fact, you looked at it as well here, right?

17 A. I did.

18 Q. You didn't execute it though, so we're clear?

19 A. I did not.

20 Q. It was executed by your sister?

21 A. True.

22 Q. Okay, the copy we have is unexecuted, but in fact, it was executed by
23 Park Outdoor and by Ramich Realty through your sister, whose name is
24 Seither?

25 A. So, it, probably when it was executed is probably Pamela Ramich, and,

602.

(Ramich-Cross)

1 and then, then Pamela Ramich Seither.

2 Q. Okay, so, the most recent one would be executed as Pamela Ramich
3 Seither?

4 A. The most recent one would.

5 Q. Okay. Your Aunt Mary is important to you, is she not?

6 A. She is.

7 Q. And there is income thrown off by this building, which is shared among
8 the four of you, is that correct?

9 A. True.

10 Q. Had this building not been leased, you would have had to still continue to
11 pay the taxes on it, is that correct?

12 A. True.

13 Q. So, the idea of affecting a rental, a renewal of the lease was important to
14 you personally, yourself, in terms of your own assets, and to those of you,
15 in terms of consideration of your relatives' assets, is that correct?

16 A. True.

17 Q. It's always better to be receiving money--

18 A, --Than paying money.

19 Q. We agree.

20 A. We do.

21 Q. And going to Fred, it's your understanding, produced a circumstance in
22 which, one, you received a rental rate which was above the comparable
23 rate in the area, inuring to your benefit, is that true?

24 A. The rent remained the same.

25 Q. Okay, but it was still above what the comparables were in the area?

603.

(Ramich-Cross)

1 A. According to Fred, yes.

2 Q. And you believed Fred and trusted his judgment, is that--

3 A. --I did--

4 Q. --true? You also, through your use of Fred, negotiated for improvements
5 and maintenance repairs, is that correct?

6 A. Yes.

7 Q. And the issue, if I'm right, was two-fold. The issue of which repairs and
8 improvements should be done, excuse me, I apologize, three-fold, how
9 much they will cost, and the ultimate question as you've answered
10 already, who will pay for them, because keeping money is better than
11 spending money, right?

12 A. True.

13 Q. So, those three issues came up and they were part of the negotiations, is
14 that right?

15 A. Yes.

16 Q. And you were involved in those negotiations with Fred in terms of
17 determining who and how much, excuse me, who, what, and, what, how
18 much, and who?

19 A. Fred communicated with me.

20 Q. Right, and you expressed to him on behalf of Ramich Realty what you
21 were willing to do and how much you were willing to pay?

22 A. I did.

23 Q. And there were some issues about how much things were going to cost,
24 what the ultimate cost would be, right?

25 A. I, I, I'm sure there was.

604.

(Ramich-Cross)

1 Q. Alright--

2 A. --The--

3 Q. --but you effectuated a deal?

4 A. Yes.

5 Q. And you relied on Fred to draft the lease agreement, is that correct?

6 A. Yes.

7 Q. And you relied on Fred to act on behalf of Ramich Realty in the
8 negotiations with Outdoor Advertising, Park Outdoor, as to the lease
9 terms, the lease price, and the maintenance and improvement costs, all of
10 those issues, right?

11 A. Yes.

12 Q. You entrusted him with that work?

13 A. I did.

14 Q. And do you believe that he acted in a way that inured to your benefit?

15 A. Yes.

16 Q. Would it be fair to say that you understood that he actually did some
17 significant work on this case?

18 A. Yes.

19 Q. Excuse me, this, this, this, this deal, right

20 A. Yes.

21 Q. You never offered to pay him for it, did you?

22 A. No.

23 Q. Did you say, thank you, to him at the end of the deal, thanks for getting
24 me a good deal and saving me money on the improvements and
25 maintenance?

605.

(Ramich-Cross)

1 A. Yes.

2 Q. How did he react to that?

3 A. Fred was kind of, like, oh, no big deal.

4 Q. You didn't get him a gift card to Horrigan's on this one, did you?

5 A. I did not.

6 Q. So, Fred did all this work, and what he got out of it, according to your
7 testimony, is a thank you from you, right?

8 A. True.

9 Q. And so that we're clear, the referrals of the matters that you sent, have
10 testified to about, you personally could not have done a single one of
11 those deals, is that correct? You could not have represented any of those
12 parties?

13 A. True.

14 Q. So, the money, if there was any that came out of those deals, did not come
15 out of your pocket, is that correct?

16 A. That is true.

17 Q. And in terms of having Fred do the work on the lease deal, would be also
18 true that there were any number of other lawyers amidst that group of 12
19 competent Elmira lawyers, to whom you could have sent the money,
20 excuse me, sent the deal, is that right?

21 A. There are other commercial attorneys in Elmira that could have done it.

22 Q. You were represented, there's testimony that came out, and your wife has
23 talked, your ex-wife, has come and testified about the fact that you had a
24 divorce, right?

25 A. Unfortunately, true.

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STATE COMMISSION ON JUDICIAL CONDUCT

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(Ramich-Cross)

1 Q. And one of the, and your lawyer in that divorce was your lawyer here
2 today, Thomas Reilly, right?

3 A. Fortunately, true.

4 MR. REILLY: Thanks.

5 Q. Despite anything that's been said, the record will reflect that. Did you
6 consider referring any of those cases to Mr. Reilly, Greger, Ramich,
7 Seither?

8 A. No.

9 Q. Did you consider giving Mr. Reilly the lease negotiation?

10 MR. REILLY: I declared--

11 A. --He doesn't do--

12 MR. REILLY: --myself incompetent--

13 A. --that type of work.

14 Q. You knew that he didn't do that kind of work?

15 A. I knew that he did not do that type of work.

16 Q. But you knew that he did do traffic tickets, right?

17 A. I did.

18 Q. And he'd been in your court on those before, is that correct?

19 A. He had.

20 Q. And he had established himself as competent, had he not?

21 A. Yes, absolutely.

22 Q. The fact that he's here today is testimony to that, Mr. Reilly. When you
23 went to Fred about your house, you knew that there was no prohibition
24 from representing yourself on the house, right?

25 A. No.

607.

(Ramich-Cross)

1 Q. Did you think you were prohibited from representing yourself?

2 A. I was worried that there could be an issue.

3 Q. Did you go to the law books and check it out?

4 A. No.

5 Q. Was the fact that Davidson and O'Mara was a firm on the other side
6 impact your decision not to do it yourself?

7 A. Absolutely.

8 Q. Alright, they are, for want of a better term, a firm that is personally
9 adversarial to you?

10 A. True.

11 Q. Alright, the lawyer involved in the case, excuse me, the lawyer involved
12 in, in the closing was a gentleman name Bryan Maggs. Do you know
13 him?

14 A. I do.

15 Q. Is he someone that is considered part, by you, part of the Davidson and
16 O'Mara firm ilk?

17 A. Yes.

18 Q. So, he's not someone with whom you have a good relationship? And I
19 say this, I don't know Mr. Maggs at all, and--

20 A. --No--

21 Q. --I don't know the relationship.

22 A. It, it, it, it could have been a problem.

23 Q. Alright, is Davidson and O'Mara within the, to your understanding,
24 within the orbit of the Santulli Republican Party in Chemung County?

25 A. Very.

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STATE COMMISSION ON JUDICIAL CONDUCT

400 Andrews Street
Rochester, NY 14604

(Ramich-Cross)

1 Q. And we talked about Mr. Santulli, who do you know him to be?

2 A. Mr. Santulli, at the present time and for many years, has been the County
3 Exec of the County of Chemung.

4 Q. And Mr. Santulli is personally adversarial to you as well, is that correct?

5 A. I would not expect him to help me in any situation.

6 Q. Alright, politically, he's been on the other side of you every time you've
7 run, right? You're thinking about it?

8 A. Yeah, Mr. Santulli and I went to high school together, and I believe he
9 was two years older than I, and there was a time when we were personal
10 friends.

11 Q. That changed though, didn't it?

12 A. As, as political involvement started, then basically, things went different
13 ways because I was not of his party.

14 Q. In fact, the last time you ran, you had expected no opposition, is that
15 correct?

16 A. True.

17 Q. But suddenly at the last moment, opposition appeared, is that correct?

18 A. True.

19 Q. And part of, to your understanding, the garnering of the opposition was
20 through Mr. Santulli, is that correct?

21 A. He was definitely on the other side.

22 Q. Was he involved in getting an opponent, to your knowledge?

23 A. Do I know that by, by--

24 Q. --That was your belief, isn't that true?

25 A. It would be my belief.

609.

(Ramich-Cross)

1 Q. It was also your belief in terms of your prior, your most recent election
2 that a certain woman employed by the county as, by the Board of
3 Elections with the last named Forrest, was active in opposition to you,
4 was that true?

5 A. Yes.

6 Q. And that woman's first name is?

7 A. Linda.

8 Q. Thank you. It's like you can read my mind. Linda Forrest?

9 A. True.

10 Q. And you believed that Linda Forrest had actively worked against your
11 self-interest in connection with your election in 2006, is that correct?

12 A. I did.

13 Q. And as we have talked about, and we'll get to a little bit later to the
14 Charge II, but since we're talking Santulli, you believed, it's fair to say,
15 that part of the rift that developed between you and your co-judge had to
16 do with your beliefs concerning Linda Forrest's activities on behalf of the
17 candidate opposing you, is that right?

18 A. True.

19 Q. Had you reached out to Steve Forrest before there was an opponent to
20 gain some sense from him whether there would be an opponent?

21 A. Yes.

22 Q. And had you sought through him, or talked with him, a Republican, about
23 the idea of being cross-endorsed? That's a yes or no question.

24 A. Yes.

25 Q. And was it personally disappointing to you? And, judge, you'll note I'm,

610.

(Ramich-Cross)

1 this is a, I'm not asking this in a leading fashion. It's cross-examination.
2 I'm saying simply, was it personally disappointing to you when you
3 formed the conclusion that Linda Forrest was working against your
4 interest?

5 A. Yes.

6 Q. You had hoped that at least your co-judge's wife would not act against
7 you, is that correct?

8 A. Yes.

9 Q. And that has stayed, that disappointment has stayed with you, and we can,
10 I believe, see it on your face here today, it was bitterly disappointing to
11 you, wasn't it?

12 A. Yes.

13 Q. When you reached out to Steve about the concept of cross endorsements,
14 how did he respond to you?

15 A. Favorably.

16 Q. So, you believed one thing, and something else happened, right?

17 A. Yes.

18 Q. Does that add to your disappointment?

19 A. No, I mean, I mean, it, I, I--

20 Q. --It's so high that it can't be any more?

21 A. I, I was, I was shocked.

22 MR. POSTEL: We've been going for a while.

23 Would it be untoward to allow the witness an opportunity to
24 have a break?

25 THE REFEREE: That would be fine. It's--

611.

(Colloquy)

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MR. POSTEL: --Even though he's not mine, I think it's still important for him to have some water or something.

THE REFEREE: That's fine.

MR. POSTEL: Would you have any objection to giving--

MR. REILLY: --No--

MR. POSTEL: --your client a break?

MR. REILLY: Break for--

THE REFEREE: --Well--

MR. REILLY: --lunch or--

THE REFEREE: --it, it's--

MR. POSTEL: --No, well, lunch is fine, yeah, I didn't even think of it, but that's a great idea.

THE REFEREE: It's 1:00--

MR. POSTEL: --Yeah, let's go do it. Are you, you okay?

THE WITNESS: (unintelligible)

MR. POSTEL: Alright, and I say that, can we go off? Can we go off?

THE REFEREE: Yes, yes, we may. Yes, we're off the record.

(OFF THE RECORD)

MR. POSTEL: I'm prepared, Mr. Muldoon, to proceed at your pace.

(Ramich-Cross)

1 THE REFEREE: This is the afternoon. We're back
2 on the record. Judge Ramich, you're still under oath, and
3 we are continuing on with cross-examination by Mr. Postel.

4 Q. Judge, with regard to Mr. Cerio's employment for you, he was hired by
5 you initially at a rate he testified to in the, somewhere around 22,000, to
6 your knowledge?

7 A. Yes.

8 Q. Alright, and as, you were his personal appointing authority, is that
9 correct?

10 A. Yes.

11 Q. He served at your pleasure, is that correct?

12 A. Yes.

13 Q. Did you have also personal appointing authority over a secretary?

14 A. A secretary?

15 Q. A secretary?

16 A. Yes.

17 Q. And who has that been?

18 A. Her name is Pat Minchin.

19 Q. Has she been consistently your secretary?

20 A. Yes.

21 Q. In terms of Mr. Cerio's position as your appointed court attorney, you
22 heard that he expressed facts that his salary had risen to about, somewhere
23 in the low 40's currently, is that correct?

24 A. Yes.

25 Q. Is it your understanding that, in connection with raises for state employees

613.

(Ramich-Cross)

1 in the Office of Court Administration, at the court attorney level, that
2 there are standard steps or bumps that they go through based on seniority?

3 A. And another factor.

4 Q. And in terms of not getting the bump or the step up factor in the
5 individual's hiring authority, or the individual's supervisor, could produce
6 evaluations that stood between a raise in that individual--

7 A. --True--

8 Q. --is that true? At no time have you ever produced an evaluation which
9 stood between Mr. Cerio and a raise, is that true?

10 A. I always reported the highest possible report.

11 Q. You gave him good grades, right?

12 A. Yes.

13 Q. And that was your job to do every year?

14 A. Yes.

15 Q. In addition to doing evaluations for Mr. Cerio, you had supervisory
16 authority over his hours, is that correct?

17 A. Yes.

18 Q. And you had supervisory authority over his use of his vacation time, is
19 that correct?

20 A. Yes.

21 Q. Well, in other words, he can't decide, he can't call you today, couldn't
22 call you in the morning as a matter of practice and say, Tom, I'm not
23 coming in today, and not, on a jury trial day and not have given you
24 notice, right? That would not have been approved by you?

25 A. There were, there were a number of times when there was sudden things

614.

(Ramich-Cross)

1 that came up, either with his family--

2 Q. --Emergency--

3 A. --or, or--

4 Q. --circumstances--

5 A. --businesses and, and he would indicate is it okay if I don't come in either
6 today or tomorrow, but a short window like that, and his basis for asking
7 for that was always okay with me.

8 Q. But I'm concerned about something, and it's this, you were his
9 supervisor, true?

10 A. True.

11 Q. And the State of New York gave you supervisory authority over this man,
12 is that not correct?

13 A. Yes.

14 Q. It was your obligation as his appointing authority and as his supervisor to
15 ensure that the people of the State of New York were getting the value for
16 which they were paying, is that correct?

17 A. True.

18 Q. And as you've testified here extensively about your personal relationship
19 with Mr. Cerio, do you believe that that personal relationship caused that
20 line to be blurred between supervisor and friend?

21 A. No, because I, I could evaluate what he was doing and when he was doing
22 it.

23 Q. And there was never any doubt that you were the judge and he was the
24 court attorney, is that correct?

25 A. True.

615.

(Ramich-Cross)

1 Q. And in furtherance of your supervisory authority, as a, let me step back.
2 As a completely irrelevant matter, you would not be surprised to learn,
3 and I throw this out irrelevantly, that in my job as Deputy Administrator
4 for the Commission, I sign time sheets for the whole team.

5 A. I would not be surprised.

6 Q. Right, you know that we have, you and I both, share the concept of
7 supervisory authority in different ways, but we have responsibilities,
8 right, as supervisors?

9 A. Yes.

10 Q. Part of my supervisory authority of time sheets, would it be fair to say that
11 you had authority over time sheets as well?

12 A. Yes.

13 Q. As a state employee, he was mandated to file with the State of New York,
14 the Office of Court Administration, on a weekly basis, a sheet reflecting
15 the hours that he spent in the employ of the state, is that correct?

16 A. Yes.

17 Q. And in order to qualify for his salary, at whatever level, and for his
18 benefits, which we understand are important to him, as you've described,
19 he must have met that 17 and a half hours through either work, sick time,
20 or annual leave, is that correct--

21 A. --Yes.

22 Q. And as his supervising authority, it was your obligation to sign off on
23 what he put in front of you, strike that, I apologize. As his supervisory
24 authority, it was your obligation to review what he put before you in
25 terms of his hours, is that correct?

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(Ramich-Cross)

1 A. Yes.

2 Q. And you're not going to tell us that you disregarded the importance of
3 your supervisory authority, are you?

4 A. No.

5 Q. Alright, you took that part seriously, is that correct?

6 A. Yes.

7 Q. In other words, you would not allow Fred to take a week's vacation, but
8 to charge a week's worth of time as being there, would you?

9 A. No.

10 Q. It was your signature, and it has been your signature, and for those many
11 years, you signed off and put your Thomas E. Ramich on the bottom of
12 his time sheets, is that correct?

13 A. Yes.

14 Q. And as a matter of practice, Mr. Cerio, as he has described to us, well,
15 Mr. Cerio described to us that you heard him say that his times, his
16 amount of time per week is 17 and a half hours, right?

17 A. Yes.

18 Q. You knew that, correct?

19 A. Yes.

20 Q. And he would put before you a time sheet that reflected his 17 and a half
21 hours, met one way or another, over all those years, is that correct?

22 A. Yes.

23 Q. And in terms of what he would put down, it would come out to about
24 three and half hours a day, right?

25 A. I, I never looked at it that way. So, I don't know if--

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(Ramich-Cross)

1 Q. --It actually comes out to--

2 A. --I don't know what--

3 Q. --three and a half--

4 A. --he averaged--

5 Q. --hours a day--

6 A. --but, but he might have had days where he put in little on one day and
7 then more on another. I, I, I'm sure, for example, if, if he was sitting in a
8 jury trial, that that would be a longer period of time there, because
9 typically, he'd be there--

10 Q. --And you'd balance that out on the other side?

11 A. Exactly.

12 Q. Okay, but you said there were some times that that happened. As a matter
13 of practice, on a regular basis, you knew that he was going to be there
14 Monday to Friday, 9 to 12:30, is that correct?

15 A. No.

16 Q. So, if we were to produce a series of time sheets for a ten-year period in
17 which he said that he was there Monday to Friday, 9 to 12:30, minus sick
18 or annual leave, and you had signed off on those, that would be false,
19 those would be false sheets?

20 A. I went by what I knew him to be doing per week, and if I knew that he
21 was basically there 17 or a half or more hours, I didn't pay that close
22 attention to how much on this day, how much on that day--

23 Q. --But you signed the sheets every week for ten years. That's at least, and
24 more, maybe 15 years--

25 A. --Yeah--

618.

(Ramich-Cross)

1 Q. --that's 700 sheets.

2 A. Yeah.

3 Q. Right?

4 A. Yeah.

5 Q. Your signature, his time, pro forma, he was telling you he was working
6 Monday to Friday, 9 to 12:30, isn't that true?

7 A. I'm not sure.

8 Q. Alright, but, you--

9 A. --I, I--

10 Q. --you told us originally you paid attention to the sheets.

11 A. No, what, what I'm saying is, is that those would be his normal hours, but
12 I don't--

13 Q. --That's all I asked.

14 A. I don't know which exceptions there were.

15 Q. And I'm not asking you, because that would be irresponsible of me to
16 think that you, you would know that sitting there, and so, I'm not going to
17 ask you that question. But his normal hours were 9 to 12:30, isn't that
18 correct?

19 A. Yes.

20 Q. And those normal hours reflected as a matter of normalcy in his time
21 sheets that you signed, isn't that correct?

22 A. Okay, yes.

23 MR. POSTEL: I apologize.

24 Q. Judge, you talked to us on direct examination about the FedEx Christmas
25 Eve 2008 matter involving Fred, right?

619.

(Ramich-Cross)

1 A. Yes.

2 Q. And you told us that this was especially important to you that day because
3 it was a present for your daughter, Jessica, is that correct?

4 A. Yes.

5 Q. And as you described it on your direct examination, you said that you and
6 she had gone through a catalog, is that correct?

7 A. Yes.

8 Q. And the present was some little girly thing, as you described it, is that
9 correct?

10 A. Because I don't remember specifically what it was.

11 Q. As important as it was to you at the time, you don't recall it now?

12 A. No.

13 Q. But it was important to you because of your daughter's ill health at that
14 time, is that correct?

15 A. Well, it was especially important.

16 Q. Especially important?

17 A. It was more important than had there not been other issues.

18 Q. Alright. And in your efforts to obtain that gift from FedEx, Fred was not
19 the first person you talked to in an attempt to obtain it, is that true?

20 A. I don't remember now.

21 Q. And so that we're clear, you heard Mr. Cerio testify on direct examination
22 that it was a gift that you had told him was for Fred Seither, he made no
23 reference to Jessica Ramich, is that--

24 A. --True--

25 Q. --correct? Alright. Isn't it true that when you learned that the package

(Ramich-Cross)

1 was there and when you took steps to get it, that the first person you
2 called to get it was in fact, your daughter, Jessica Ramich?

3 A. I don't remember that.

4 Q. In terms of refreshing your recollection, would you look at page 60 of the
5 first day's transcript?

6 A. Okay.

7 Q. And line 11. In the course of, of, of your testimony, in terms of
8 refreshing your recollection, did you testify, "And my key concern was
9 that if I didn't get up there by noon, then I wasn't going to get that
10 package, and I wasn't going to give, be able to give it to Jessica. So, the
11 very first thing I did was on the phone, and I called Jessica, and I said,
12 'Jessica,' she was home from school, 'can you go up and get the
13 package?' I figured, well, she's not going to know it's for her. And she
14 said, 'No, I'm, I'm, they're doing my hair right now, and it's going to take
15 from here to there to get it done.'" Does that refresh your recollection as
16 to what you did?

17 A. Yes.

18 Q. So, the first person, your testimony is, the first person you called to get
19 the package for Jessica was Jessica?

20 A. Apparently.

21 Q. And as sick as she was, she was having her hair done?

22 A. Oh, I didn't mean she was sick in bed and, or hospital.

23 Q. Well, you, you were close to tears on your direct examination and
24 described a sickness, and I'm not doubting in any way that your daughter
25 was ill, in fact, I believe and know she was. But, at the time of this event,

621.

(Ramich-Cross)

1 she was not ill, was she? December 24, 2008.

2 A. My recollection was that, that the, the problem was there then, and got
3 worse.

4 Q. Well, the problem was not so bad that she couldn't go to school, right?

5 A. She has, even at the worse time of the problem, she had a number of
6 doctors that she was seeing in Albany, and she had a number of doctors
7 that she was seeing in Elmira, so that despite the fact that it, it was very
8 bad, she continued going to pharmacy school with, without break, there
9 was a big issue about whether she should stop going to pharmacy school,
10 and receive different medical treatment.

11 Q. But the first person you thought about going to get the package was her,
12 herself, right?

13 A. Apparently.

14 Q. And you took action to get her to do that, is that right?

15 A. Well, at--

16 Q. --Did you, did--

17 A. --at, at this moment, I don't remember that, but apparently I did then.

18 Q. Do we have any reason to believe that this is false testimony?

19 A. No.

20 Q. And does this not refresh your, I gather your testimony is it doesn't
21 refresh your recollection?

22 A. It, it does not refresh my--

23 Q. --Alright--

24 A. --it, it's been a long time.

25 Q. In terms of Charge II, and the story about the aliens that you told, you've

622.

(Ramich-Cross)

1 told us on direct examination that when you got up to tell the story, you
2 were still ticked at Steve Forrest, right?

3 A. True.

4 Q. And the basic understanding for why you were ticked had to do with your
5 having to cover an arraignment for him, is that correct?

6 A. True.

7 Q. And over the course of the years that you'd been together, that was not
8 the first arraignment you had covered when he was on duty, is that
9 correct?

10 A. True.

11 Q. There have been occasions though over the years when Judge Forrest has
12 covered for you, isn't that true--

13 A. --Yes--

14 Q. --as well?

15 A. Yes.

16 Q. Did Judge Forrest ever call you to complain about having to cover for
17 you?

18 A. Call me or--

19 Q. --Call me--

20 A. --or speak to me--

21 Q. --call you?

22 A. Call me, no.

23 Q. Alright, did he ever, to your knowledge, attempt to publicly humiliate you
24 as a consequence of whatever, however being put out he was by having to
25 cover for you?

623.

(Ramich-Cross)

1 A. There was ongoing comments made at court and--

2 Q. --Okay--

3 A. --such.

4 Q. Did he ever stand up in front of a group of people outside the court and
5 say--

6 A. --No--

7 Q. --this man--

8 A. --no--

9 Q. --failed in his duties?

10 A. No.

11 Q. When you got up and said those words in effect to him in front of that
12 group, had it not occurred to you that he had not done the same to you
13 despite the fact that he had covered for you as well?

14 A. No.

15 Q. It never entered your mind that Forrest had covered for me and I should
16 give him some slack?

17 A. The quantity, in, in my mind, there was a fair amount that no one's going
18 to be available all the time, every time, however--

19 Q. --You thought it was unbalanced?

20 A. Much too many times, which is what led, in my opinion, to that email
21 from the police chief to the police department.

22 Q. A year before the event? Well, let's get that email.

23 A. Because it had been going on that long.

24 THE REFEREE: What exhibit number is that?

25 MR. POSTEL: Exhibit, Respondent's E.

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(Ramich-Cross)

1 Q. Showing you Respondent's E, what's the date that Robertson sent that?

2 A. October 2nd, '08.

3 Q. Now, do you have any personal relationship with Mr. Robertson?

4 A. I've known him as a, a, a number of positions in the police department as
5 he went up the chain.

6 Q. And you've had close relationships with him?

7 A. Well, I, I, I, it's a small police force.

8 Q. Outside of the position as judge?

9 A. Have I ever socialized with--

10 Q. --Do you know--

11 A. --him and his wife--

12 Q. --him in a social way?

13 A. I've, I've certainly seen him in the community, but I've--

14 Q. --Are--

15 A. --never gone out and--

16 Q. --Do you know the name Lori Sweeney?

17 A. I do.

18 Q. Who is Laurey Sweeney?

19 A. Laurey Sweeney would be the person referred to as "L2", my first, my,
20 my, my, my only wife was named L-O-R-I Ramich, and for a number of
21 years after the divorce, then I dated, and was very good friends with L-A-
22 U-R-E-Y Sweeney.

23 Q. When was your divorce?

24 A. I'm trying to remember. I don't remember.

25 Q. Ballpark.

625.

(Ramich-Cross)

1 A. You know, I just don't remember.

2 Q. When did you date Laurey Sweeney?

3 A. Well, unfortunately, after the divorce.

4 Q. Alright, and Laurey Sweeney has a sister, is that correct?

5 A. Yes.

6 Q. And--

7 A. --She--

8 Q. --do you--

9 A. --she--

10 Q. --know--

11 A. --had a sister.

12 Q. To whom was that sister married?

13 A. The sister was married to Scott Drake, who was the police chief.

14 Q. Alright. Who was that letter from?

15 A. That is from Mike Robertson, known as "Robbie."

16 Q. What is the connection between Mike Robertson and Scott Drake, at that
17 time?

18 A. The chief of police would be Scott Drake and the deputy chief would be
19 Mike Robertson. There would have been two deputy police chiefs.

20 Q. You testified yesterday on direct that you received that memo, is that
21 correct?

22 A. True.

23 Q. You testified on direct yesterday that Judge Forrest probably received that
24 memo.

25 A. True.

626.

(Ramich-Cross)

1 Q. Okay, you don't know whether Judge Forrest received that memo or not,
2 is that correct?

3 A. As a fact, no.

4 THE REFEREE: Is that a memo or is that an email?

5 MR. POSTEL: An email.

6 THE REFEREE: Okay, thank you.

7 Q. Would it be fair to say that as the years went by, you developed, strike
8 that, your frustration and antipathy towards Judge Forrest, as a
9 consequence of having to cover for him and his arraignments, developed
10 and increased over the years as you had to do, in your mind, more and
11 more, is that correct?

12 A. Yes.

13 Q. As it developed, you believed it to be a real problem to the point that it
14 was a hardship in terms of affecting your personal life, isn't that true?

15 A. True.

16 Q. At no point though did you reach out to Administrative Judge Mulvey and
17 say, this is unfair, isn't that true?

18 A. Yes.

19 Q. Alright, at no time did you reach out to Mulvey's executive assistant,
20 Karen Ambrosiak to say, listen, something's going on here and this is
21 unfair, isn't that true?

22 A. True.

23 Q. Alright, and so that we're clear, and we can save time for redirect, and
24 because I can tell by the look on your face, the reality is you would never
25 do that because of the relationship with the administrative office you

627.

(Ramich-Cross)

1 have, right?

2 A. True.

3 MR. REILLY: I'm not clear when Judge Mulvey
4 was Administrative Law Judge. It may not have been in
5 2006. I'm not sure.

6 MR. POSTEL: I'm talking about at any time when
7 Mulvey's been on the bench.

8 MR. REILLY: Okay, alright.

9 MR. POSTEL: Been in that position.

10 A. True.

11 Q. Okay, and before Mulvey, it was O'Shea, Judith O'Shea, right?

12 A. Yes.

13 Q. And you didn't reach out to O'Shea and say, Forrest is killing me with not
14 doing his job, did you?

15 A. No.

16 Q. And that's not something you would do because of your relationship then
17 with the administrative office, is that correct?

18 A. No, actually, despite an interesting history, Judy and I got along, I
19 thought, well.

20 Q. But, despite getting along well, you still didn't reach out to her to say,
21 please talk to Ramich, I need, talk to Forrest, he's killing Ramich?

22 A. It, no I didn't think of going out of house.

23 Q. You, there is no supervising judge in the City of Elmira Court, right?

24 A. True.

25 Q. The supervising authority for the City of Elmira Court is the

628.

(Ramich-Cross)

1 Administrative Judge for the Sixth Judicial District--

2 A. --it--

3 Q. --true--

4 A. --is.

5 Q. As you sit here, today, do you believe that the hardship caused to you that
6 day by having to cover for Judge Forrest is an acceptable excuse for your
7 having publicly demeaned him?

8 A. It is not the way I should have dealt with it, so, no, it's not a sufficient
9 excuse.

10 Q. And what time was that arraignment over?

11 A. I, I, I don't remember. I, I know that it went through a good portion of
12 the afternoon. I don't remember one, or five, or seven, I don't remember
13 how many, but I do remember that I went basically from the arraignment
14 to the, what do you call it, the, the pensioner's banquet, and, and, and
15 arrived late as a result of that.

16 Q. Alright, and when you got to the banquet, you didn't seek Forrest out to
17 express to him your frustration over his not being available again, did
18 you?

19 A. No.

20 Q. Alright, would it be fair to, you heard Judge Forrest explain that for about
21 the prior 30 days, you and he had not been on especially good terms?

22 A. True.

23 Q. And you heard him say that, that was my question, right? You heard him
24 testify to that?

25 A. I didn't remember the exact, but I, I do remember him saying we weren't

(Ramich-Cross)

1 on good terms.

2 Q. Alright, and in fact, you weren't on good terms, right?

3 A. True.

4 Q. The next day, or at any time, and you probably think I'm going to ask
5 about an apology, but I'm not right now, did you reach out to him, not for
6 the purpose of an apology, but from your point of view, from having
7 suffered the hardship, and knowing that you were angry, did you reach
8 out to him and say, what the heck happened, where were you, why didn't,
9 why didn't you do your job, those words, to that effect?

10 A. I'd had that conversation with him earlier on other missed arraignments,
11 and there was no good result of that. So, I basically, felt there's no sense
12 going there again, especially since--

13 Q. --Did you think about--

14 A. --thing, things were--

15 Q. --talking--

16 A. --worse.

17 Q. Did you think about talking to him about--

18 A. --About the arraignments again?

19 Q. Right.

20 A. I did not.

21 Q. Aside from complaining to O'Shea, Mulvey, and Ambrosek about, you
22 call Forrest and get his fanny in gear on these arraignments, aside from
23 complaining about him, did you ever reach out to anyone to say, let's
24 mediate this, talk about it, sit down and see what we can work out?

25 A. The, the Chief Clerk of Elmira City Court was aware of the situation.

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(Ramich-Cross)

1 Q. Did you reach out to a supervising authority for help in resolving this
2 through a meeting man to man with this fellow?

3 A. No.

4 Q. And after the event, you never spoke with him man to man to apologize
5 for your comments, is that true?

6 A. Other than the passing in the hall where I said, "Steve," and that was it.

7 Q. Right, did you consider the use of the word "Steve" in a hallway to be an
8 apology? And I'm not talking about your intent. I'm talking about
9 objectively viewing the word "Steve" in the hallway.

10 A. Oh, you mean, if, if you think, or if I think that that added up to a
11 complete apology, no.

12 Q. Did it add to even a little apology?

13 A. No.

14 Q. Of course not. It's use of a man's name to get his attention. That's what
15 you were trying to do, right?

16 A. Well, I realize that I had not apologized--

17 Q. --Well, I'm just--

18 A. --to Steve--

19 Q. --asking you if you've ever spoken personally with him to apologize?

20 A. I have not.

21 Q. And you know now, and you've known for years since the very next day
22 when you heard people complain about what you had said, that this was
23 wrong and inappropriate?

24 A. Yes, I wish I had not done it.

25 Q. And on the very night in which you told this story, you had a sense from

631.

(Ramich-Cross)

1 the room that this bombed, right?

2 A. Yes.

3 Q. So, it gave you a sense that this was not actually perceived publicly to be
4 a funny joke?

5 A. True.

6 Q. And you haven't called, not meeting him, you haven't called him to reach
7 out at any time to say, Steve, I'm sorry for what I said about you?

8 A. No.

9 Q. Alright, does it strike you as unfair of Forrest to be offended by your
10 publicly describing his male genitalia as small?

11 A. In most situations I, I'd say, no. In, in, in the setting of that meeting,
12 somebody was always, basically, the, the butt, if you will, of, of a joke.

13 Q. A joke directed to an issue that you knew as particular sensitivity to men,
14 the size of their genitals, right?

15 A. I can't say what other men feel. I can tell you that when--

16 Q. --Then I, then--

17 A. --when Tommy Ryan made the remark about--

18 Q. --your hair--

19 A. --my situation, I accepted it as a--

20 Q. --he made a vague--

21 A. --fair--

22 Q. --reference to you--

23 A. --a fair, a fair joke.

24 Q. --Right, he made a vague--

25 A. --Oh, there was, there was, there was no misunderstanding about what he

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1 was insinuating about me.

2 Q. Alright. How long has Tommy Ryan served on the bench?

3 A. He's been on, he, he's a retired police officer.

4 Q. So, he's never been on the bench?

5 A. He has never been a judge.

6 Q. And he's, he wasn't a judge when he made this comment?

7 A. He was not a judge.

8 Q. And you were not his co-judge when he made that comment?

9 A. True.

10 Q. This was a circumstance in which a judge, a member of the judiciary of
11 the State of New York, was making public comment, whether attempted
12 humor or not, about, not just any other judge in the State of New York,
13 but that judge's very co-judge. Do you understand the significance of that
14 type of relationship?

15 A. Yes.

16 Q. Do you understand that that would make it a much more personalized,
17 degrading, and demeaning comment?

18 A. I doubt that anyone took the joke as a statement of true fact.

19 Q. I did not indicate or ask whether anyone took it, to your knowledge, as a
20 statement of true fact. I'm saying, do you understand today that a
21 comment of that nature, a description of that nature, of a co-judge is one
22 with particularly sensitive impact, yes or no?

23 A. Yes.

24 Q. In going into the room, you knew the joke you were going to tell, right?

25 A. Right.

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1 Q. You had practiced the joke a couple of times in front of other people, isn't
2 that true?

3 A. I don't believe so.

4 Q. The name Bruce Hall, does that ring a bell?

5 A. Yes.

6 Q. Had you told Bruce Hall that you were going to tell this joke and worked
7 it out?

8 A. I might have, now that you mention it.

9 Q. Alright. In addition to the arraignment issue, you had other personal
10 problems with Judge Forrest, isn't that true?

11 A. Of long-standing.

12 Q. Did you view this as your opportunity to get him publicly?

13 A. No.

14 Q. But you took it, advantage of it and used it as an opportunity--

15 A. --Well--

16 Q. --to get him publicly, didn't you?

17 A. It was in the heat of the moment. It wasn't, unfortunately, it wasn't one
18 that, that I had planned and thought of all the significance and all that
19 kind of stuff. It was in the heat of the moment.

20 Q. And so we know that you didn't call him to apologize afterwards. Did
21 you send him a personal handwritten letter to apologize for how you had
22 humiliated him?

23 A. As I, I, testified yesterday, and, and looking back, that would have been
24 the better way to go. Since a personal thing might not have been smooth,
25 I should have at least done something in writing to avoid the personal

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1 factor.

2 Q. Would it be fair to say the short answer is, no?

3 A. Yes.

4 Q. In, at the very least, and in a deep personalized manner, expressing and
5 dealing with your concerns about a personal discomfort between the two
6 of you, did you at least send him an email saying, Steve, I apologize?

7 Two words, or not even two words--

8 A. --I made no other contact with him.

9 Q. So, the answer is no?

10 A. Yes.

11 Q. And you've said that you didn't return to the event the very next year, is
12 that correct?

13 A. Yes.

14 Q. Would it be fair to say that the reason you didn't return to the event, at
15 least in part, was because of your embarrassment over what had occurred
16 the prior year?

17 A. No.

18 Q. So, you weren't embarrassed by what you had done?

19 A. I was very embarrassed by what I did, but that wasn't why I didn't go
20 back the next year.

21 Q. It played no part in your decision not to--

22 A. --No--

23 Q. --go back?

24 A. Everybody was aware of it. There was no additional embarrassment
25 factor.

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(Ramich-Cross)

1 Q. As you think about how embarrassed you were by having told the joke,
2 did it occur to you how much more Judge Forrest was embarrassed by
3 being the punch line of the story?

4 A. No.

5 Q. Judge, I know that's not an easy area, and I know, but the area we're
6 going to get into next is probably less easy. It's *Piper*.

7 A. Do what you got to do, John.

8 Q. Alright. You told us on direct examination that you knew before June 1st
9 that Jessica had received the notice, the summons, to go to court, right?

10 A. Yes.

11 Q. And you knew from looking at it that of all the luck in the world, it was a
12 day in which you were supposed to preside over a jury trial, right?

13 A. Unfortunately, true.

14 Q. And at no time between when you learned that she was coming and when
15 she was seated did you look for case law regarding the inappropriateness
16 of this circumstance, is that true?

17 A. That's true.

18 Q. But, as you know, and you learned during the course of the investigation,
19 there is in fact case law on this issue, is that correct?

20 A. I believe that there's a case that involves a wife of a judge.

21 Q. Correct.

22 A. I don't know of a case that involves a daughter of a judge.

23 Q. Do you, do you think that there's a substantial legal difference or
24 conceptual difference between a wife and a daughter?

25 A. What I'm saying is I knew of no case as far as a daughter.

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(Ramich-Cross)

1 Q. And, but you didn't even know of the case involving a wife, right?

2 A. I did not.

3 Q. And in terms of the case, it's *People v Hartson*, H-A-R-T-S-O-N, and I
4 would ask that the court take judicial notice in addition to the exhibit of
5 the citation for *Harston*, it's 553 New York supp. 2nd 537. In connection
6 with the *Hartson* case, judge, the court that issued that opinion was an
7 Appellate Division, is that correct?

8 A. Of the Third Department.

9 Q. And you are a judge in the City of Elmira, in the County of Chemung, in
10 the Sixth Judicial District, is that correct?

11 A. True.

12 Q. The Sixth Judicial District is within the Third Judicial, Third Department,
13 is, Appellate Division, it that correct?

14 A. True.

15 Q. That case is controlling case law for you, is that correct?

16 A. It would be.

17 THE REFEREE: It's around 1992 or so?

18 MR. POSTEL: The case is--

19 THE RESPONDENT: --1990--

20 MR. POSTEL: --1990.

21 THE REFEREE: Thank you.

22 Q. Judge, having learned of this case, did you take efforts to determine
23 whether it was still good law?

24 A. No.

25 Q. So, you can't tell us that it's been reversed in any fashion, can you?

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1 A. No.

2 Q. We heard moving testimony yesterday from your daughter, and some of
3 the most moving, I think you would agree, was her description of how
4 proud she is of you, fair to say?

5 A. Special to me.

6 Q. And at that point in the hearing, it caused you tears, right?

7 A. It did.

8 Q. Alright, just to ensure that the record is accurate, on the other side, it
9 would be fair to say that you are inordinately proud of her, is that true?

10 A. I don't--

11 Q. --And don't, and I mean, I don't mean--

12 A. --I think I'm appropriately--

13 Q. --appropriately--

14 A. --proud--

15 Q. --proud of her. The word "inordinately," you are hugely proud of her,
16 right?

17 A. I am very proud of Jessica, yes.

18 Q. Alright. And when she was there in the courtroom on the panel in the
19 jury, you were aware of her presence throughout both days, is that
20 correct?

21 A. True.

22 Q. How much of you wanted her to be proud of you for the way you were
23 handling the case?

24 A. It's not something I thought of.

25 Q. You didn't think of the fact that your daughter is there, and here I am, she

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STATE COMMISSION ON JUDICIAL CONDUCT

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Rochester, NY 14604

(Ramich-Cross)

1 can see me in action? You're testifying today that based upon your
2 relationship, that never occurred to you?

3 A. Jessica's seen me in action so many times that--

4 Q. --Trying a case?

5 A. No, but being a judge, and, and--

6 Q. --By doing arraignments, right?

7 A. But, but she's seen me being a judge many a time, so it wasn't like it was
8 a new experience that I felt I had to prove myself.

9 Q. Well, certainly wasn't a hum drum every day experience, was it?

10 A. It was unusual for Jessica to be there. I guess if, if, if I had any feeling, it
11 was proud that she was there as required.

12 Q. And she wasn't just in the gallery watching this, she was part of the
13 proceeding in which you were presiding, isn't that true?

14 A. Which in my mind, could, could be interpreted many ways.

15 Q. I didn't hear a yes or a no there.

16 A. Could you rephrase the question--

17 Q. --She was--

18 A. --because I forgot it--

19 Q. --she was part of the very proceeding over which you were presiding?

20 A. Yes.

21 Q. If she had been the defendant, hypothetically, you would have had to get
22 off the case, right?

23 A. Yes.

24 Q. If she had been an important witness in the case, you would have gotten
25 off the case, yes or no, judge?

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1 A. Yes.

2 Q. If she had been, chosen another path in life and graduated from law
3 school, and been representing the defendant in the case, you would not
4 have presided, would you?

5 A. True.

6 Q. If she, and as part of that, if she had chosen, what some would say is the
7 right path, and became an ADA, you would have gotten off the case as
8 well, right?

9 A. Yes.

10 Q. But you had a concern about the appearance created by bumping her off
11 the jury and whether that showed that you were exercising some judicial
12 action showing favoritism, right?

13 A. That's true.

14 Q. After she told you she got the notice, and you knew she was coming into
15 your court, did you contact your administrative judge to say, I got a
16 problem here, I need help, what should I do?

17 A. No.

18 Q. Did you seek any outside help from any legal authority, professional state
19 legal authority in those, in that period of time to say, holy cow, what am I
20 going to do, my thinking is this, she's got to sit?

21 A. The extent of what I did was to look at two books that were available to
22 me. I didn't see a clear answer to that question. I did not seek outside
23 assistance.

24 Q. And as I gather, your, the focus and thrust of your research had to do with
25 the concept of far, for, it's the Long Island in me, for cause challenge,

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1 right?

2 A. It was.

3 Q. And you found no for cause basis for granting a for cause challenge for
4 getting her off, right?

5 A. I did not see any for cause listed in that section, and I didn't see any cases
6 in the annotations that addressed that.

7 Q. The concept of for cause, right?

8 A. That addressed the concept of Judge/daughter.

9 Q. What else did you look at besides the for cause?

10 A. Well, I, I looked at the, there's a set of books from Office of Court
11 Administration, Jury Pattern Instructions, and it's a red binder book, a
12 series of them. I looked in there, and I, I looked in Gilbert.

13 Q. During the course of our discussions and your testimony at the second
14 proceeding, it was this year, January 24th, we talked about Mr. Piper's
15 complaint to us and the whole issue of Jessica sitting, right?

16 A. We did.

17 Q. You got a copy of the complaint which Mr. Piper sent to us, which is
18 Exhibit 61 in this proceeding, is that correct?

19 A. Yes.

20 Q. The second page of that is the *Hartson* case, is that correct?

21 A. I, I'm looking at Exhibit 61 that's the *Hartson* case--

22 Q. --Right--

23 A. --which is--

24 Q. --no, excuse me--

25 A. --the top--

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1 Q. --Exhibit 61--

2 A. --that--

3 Q. --is the *Hartson*--

4 A. --that's--

5 Q. --case--

6 A. --that's the top--

7 Q. --that was attached to it, right--

8 A. --that's the top two--

9 Q. --the top, right, the top of the page. The third page was the complaint
10 from Mr. Piper, is that correct?

11 A. True.

12 Q. When you got that complaint as part of your notification, were you
13 surprised to see that the *Hartson* case was included?

14 A. Yes, very.

15 Q. Alright, you had presided over Piper's case, you got a chance to see him
16 at the courtroom, did you think that he was a particularly intellectual
17 fellow?

18 A. No.

19 Q. He's an average run of the mill Joe from Elmira, graduated from Elmira
20 High School, no college education of any type or sort--

21 A. --Blue collar type of guy--

22 Q. --blue collar guy. Did it strike you as, how the heck could it have
23 happened that Joe Piper got a hold of this case and I had no idea about it?

24 A. It did.

25 Q. In addition to looking at those books, you have available to you access to

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1 Westlaw through the Office of Court Administration's account, is that
2 true?

3 A. Yes.

4 Q. You didn't look this up on Westlaw to see if there was anything that
5 would come up, did you?

6 A. No.

7 Q. You didn't even go to Google, did you, and type in the words "judge,
8 daughter, jury?" or words of that nature, did you?

9 A. I've never used Google for legal research on anything.

10 Q. Well my question was did you?

11 A. No.

12 Q. And so that we're clear--

13 MR. POSTEL: --Do I have the *voir dire*, the *voir*
14 *dire*? Are you there?

15 MS. MARTIN: Yes, as an exhibit.

16 MR. POSTEL: I have it. Thank you.

17 Q. Showing you Commission Exhibit 62, is that the *voir dire* that you
18 prepared in connection with the conclusion of jury selection in this
19 matter?

20 A. Yes.

21 Q. Can you tell us at the end, the beginning of jury selection, how many
22 jurors were pulled out of the pool?

23 A. Twenty six.

24 Q. At the end of jury selection, how many jurors were left?

25 A. I'd have to count, I, I--

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1 Q. --It says right there, doesn't it?

2 A. Oh, jurors remaining, twelve.

3 Q. And how many jurors are required in a--

4 A. --Six.

5 Q. So, you had actually left twice the number of jurors that you needed to fill
6 the pool, is that correct?

7 A. Yes.

8 Q. So, Jessica's participation in the trial was not necessary or mandated as a
9 consequence of the number of jurors, was it?

10 A. No.

11 Q. Additionally, in addition to those jurors, if you had run out, you could
12 have taken steps to get another juror, another, additional jurors, isn't that
13 correct?

14 A. Not to my knowledge.

15 Q. If you run out of jurors in a pool, or if they don't give you a pool that's
16 big enough, are you telling me, what, the case is dismissed?

17 A. No, but we've gone, what we've done in the past was to go back to square
18 one.

19 Q. Now, addressing your concern about the appearance created by having
20 her knocked off, Jessica called the appropriate authority before reporting
21 for duty that day to learn that she should report, is that correct?

22 A. On information and belief, yes.

23 Q. Well, you heard her testify to that yesterday?

24 A. Well, yeah, she, I didn't see her or hear--

25 Q. --Well--

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1 A. --her do it.

2 Q. Do you have a reason to disbelieve her testimony?

3 A. Absolutely not.

4 Q. You credit that, right?

5 A. I would expect that if she said she made that contact, that she made that
6 contact.

7 Q. And that's what a juror is supposed to do, isn't that right?

8 A. Is to, to call the recording.

9 Q. Right. So, she met her obligation, didn't she?

10 A. The first step of her obligation.

11 Q. With regard to that, she met it, didn't she?

12 A. She did.

13 Q. Okay, and that she was advised, as you, you've learned from her, that she
14 had to go and show up, right?

15 A. True.

16 Q. So, there was some kismet luck, whatever, involved between when she
17 got the summons, however many weeks before June 1st, and June 1st, the
18 matter could have been settled, her number may not have come up, there
19 could have been a number of intervening factors, and so that when she
20 made the call, she would not have had to go. That happens, right?

21 A. You mean, like, if the trial settles or, or something to that effect?

22 Q. Or her number doesn't come up, is every juror required--

23 A. --No, it doesn't work that way in Elmira. In, in Elmira, it's just a
24 recording that basically tells everybody that was called for that panel
25 either to show up or not show up.

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1 Q. It's an accounting method to ensure that they're going to have, they've
2 given numbers to people and that the people have gotten back to them, is
3 that what it is, to give them an idea that they're going to have a--

4 A. --It--

5 Q. --right--

6 A. --it--

7 Q. --number--

8 A. --well, it, it, it, it, it's a message to them that the trial is a go, and they
9 have to come in for jury duty.

10 Q. Alright.

11 A. If, if, if for some reason the case settled or was adjourned, then the
12 message would simply say, you need not appear. But they, they don't
13 know who's calling in, or at all. It is merely the, the juror is going to hear
14 a recorded message, either come or not come.

15 Q. And she got the message, come, correct?

16 A. Yeah, yes.

17 Q. And she went, didn't she?

18 A. She appeared.

19 Q. She went to the Elmira City--

20 A. --And checked--

21 Q. --Court--

22 A. --into Elmira City Court as she was required to do.

23 Q. She met that obligation as had been expected of her by the summons and
24 the call, isn't that correct?

25 A. Yes.

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1 Q. And in addition to showing up at the court, and you heard her testimony,
2 she sat in the gallery in the back of your courtroom, right?

3 A. True.

4 Q. You recognized her at that moment, didn't you?

5 A. True.

6 Q. And so that we're clear, not every juror who sits back here gets to go into
7 the box, isn't that right?

8 A. One never knows who is going to be called out of the, the random
9 selection--

10 Q. --Hopper--

11 A. --hopper, okay, bingo--

12 Q. --bingo turner--

13 A. --turner--

14 Q. --thing--

15 A. --yeah, yeah.

16 Q. Okay, so, as she was sitting back there, there was some chance that she
17 would not be placed up for *voir dire*, right?

18 A. True.

19 Q. If, in fact, she was part of the third panel that went up that day, isn't that
20 true?

21 A. Yes.

22 Q. So, if the first two panels had filled the jury, you never would have gotten
23 to her?

24 A. Then she would have fulfilled her duty, and, and I would have said, thank
25 you to her as well as everybody else who didn't get called up, and said,

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1 you now get credit for your jury duty because you've gone through the
2 process and you have a four-year exemption, thank you so much for
3 coming down and doing your civic duty.

4 Q. But, you turned the wheel and you pull the names, right?

5 A. As my luck tends to go.

6 Q. And one of the names you pulled was Jessica Ramich, is that correct?

7 A. I did.

8 Q. As you looked out and saw her there, you knew that she was doing what
9 she was supposed to be doing, right?

10 A. I knew that she had begun the process of doing her jury duty.

11 Q. At that point, you knew that she had done what she was supposed to have
12 done?

13 A. Up to that point, yes.

14 Q. Right, and when you called her name, she stood up and walked over and
15 stood up in the box, isn't that true?

16 A. She did.

17 Q. And she had done and met her obligation in every manner to that point, is
18 that correct?

19 A. Yes.

20 Q. Alright, at that point, did it not occur to you that your concerns about
21 whether or not she had met her obligation were baseless because, in fact,
22 she had met her obligation, and your excusing her would not have made a
23 difference, she had done what she was expected to do?

24 A. No, because the only way she could have left is if I said, you may go. She
25 couldn't voluntarily say, thank you very much, I've come down to court,

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1 goodbye.

2 Q. That's correct. You would have had to say it. It was your decision not to
3 say that, isn't that correct?

4 A. It was.

5 Q. You've read the *Hartson* case a couple of times in connection with this
6 proceeding, is that right?

7 A. True.

8 Q. You understand that the core of the *Hartson* case has to do with the
9 concept of fundamental fairness to a defendant, is that true?

10 A. True.

11 Q. And that the notion of fundamental fairness is supported by an impartial
12 jury, is that true?

13 A. Yes.

14 Q. Did it not strike you during any of that time when she was out in the
15 gallery and seated there during the *voir dire* that the notion of
16 fundamental fairness would be impinged by the presence of the judge's
17 daughter on the panel?

18 A. I felt that my daughter would be impartial, would be intelligent in
19 listening to all the evidence, and would make a decision based on what
20 she saw and heard without any consideration to what I might have
21 thought about anything. I thought she'd make an excellent juror as far as
22 being unbiased.

23 Q. You didn't hear my question, because--

24 A. --Apparently--

25 Q. --you answered a question about Jessica. My question was about the

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1 daughter of a judge, not about Jessica. Did it not occur to you that the
2 presence of the daughter of the judge presiding over the case had a
3 potential impact on the jury, such as to deny the defendant their
4 fundamental rights, without regard to the fact that it's Jessica Ramich?

5 A. No, my concern was more towards the appearance of impropriety.

6 Q. You, your own personal impropriety?

7 A. Well, the, the, the, let me think. No--

8 Q. --She can't, it's not impropriety for her, right? She has no obligation.

9 A. No, I, I thought of it in terms, would it appear that there was something
10 wrong to have a judge's daughter on a jury.

11 Q. And balancing those things out, you came down on the side of putting
12 your daughter on the jury, right?

13 A. I came down with the conclusion of, I sure hope I can find a for cause
14 reason that I could rule one way or the other, and when I couldn't find it
15 listed in, in, in for cause, I then talked to the attorneys and I, frankly, had
16 high hopes that one or the other would object to her presence, and I would
17 have granted a for cause exclusion.

18 Q. So, you put it off to the lawyers to make this decision, you didn't make it
19 yourself?

20 A. I felt that if I made it myself, that I could be charged with favoring my
21 daughter and, and getting her out of jury duty by saying goodbye.

22 Q. You knew though, if you were waiting for a for cause challenge, that
23 there was no provision in the law for a for cause challenge on this basis.
24 You told us you had done the research.

25 A. I, I had, but--

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(Ramich-Cross)

1 Q. --And you hadn't found one?

2 A. But I've had attorneys make different arguments for cause that weren't
3 necessarily listed specifically in the charges.

4 Q. So, you were waiting for the lawyers who appear before you in a case to
5 say to you, judge, I don't want your daughter, the judge's daughter on the
6 jury, and I believe there's a for cause basis for getting rid of her?

7 A. Yes.

8 Q. Okay, we, you know, and you've testified that putting a lawyer into that
9 position is extremely difficult for that lawyer, right?

10 A. Yes, which is why I went out of my way to say things such as, don't
11 worry about me.

12 Q. Regardless of that qualification, you still understood and you recognized
13 then, and you testified during your testimony that it's a difficult, nearly
14 untenable position?

15 A. I think we're all in an awkward position.

16 Q. Did you say to them, I'm not going to make, I'm not going to disqualify
17 her, if you make a for cause challenge, I'm going to grant it?

18 A. My recollection of the way things came down was that before we went on
19 the record, before Jessica went in the box and all that, that there'd been a
20 discussion between the DA, the defense attorney, and me, you know,
21 pointing out that she was my daughter, and that I would do a for cause
22 thing. And I understand there's nothing in the transcript that says that,
23 but that was my recollection.

24 Q. You have before you the transcript in the proceeding, page, Commission
25 Exhibit 60. Would you turn to page 82, please?

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1 A. Yes.

2 Q. Alright, middle of the page, Laverne Mallacoccio, whatever.

3 A. Yes.

4 Q. Right? There's a question by you, "Laverne Mallacoccio, any for cause
5 from district attorney?"

6 A. Right.

7 Q. Your answer is "Not for cause, no."

8 A. Right.

9 Q. "The, the court, any for cause from the defense? Mr. Zimmerman, no.
10 Any preemptory from the district attorney? Mr. Thweatt, yes, we would
11 strike Mr., Ms. Mr. Mallacoccio." At that point, after Thweatt had used
12 that preemptory challenge, it is uncontested, is it not, that both the defense
13 and the prosecution had exhausted all the preemptory challenges?

14 A. Yes, they both had used three.

15 Q. And at that point, you say, "All right. That gets interesting." Is that
16 correct--

17 A. --Yes.

18 Q. And that was a reference to Jessica's, it was--

19 A. --That she--

20 Q. --But--

21 A. --was--

22 Q. --now--

23 A. --she still, she was still in the box, and up, up for consideration.

24 Q. Alright, and it's interesting because it's Jessica, right?

25 A. Yes.

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- 1 Q. At that point, you don't say, in the absence of preemptory challenges, I'm
2 excusing her, do you?
- 3 A. No.
- 4 Q. You say, "Remember, it is what it is."
- 5 A. "Don't worry about me as far as Jessica."
- 6 Q. Right.
- 7 A. And then you say, "Any for cause from the district attorney?" and he says,
8 "No." Is that true?
- 9 A. Yes.
- 10 Q. And then you say, "Any for cause from defense?" and he says, "No."
11 Isn't that true?
- 12 A. True.
- 13 Q. Is there anything, and at that point, you remind them that they have no
14 preemptories left. Jessica is seated, right?
- 15 A. True.
- 16 Q. And was Jessica the last member of the jury seated?
- 17 A. I don't remember.
- 18 Q. Because from there, you go to alternate jurors.
- 19 A. Then she would have been the, the last juror.
- 20 Q. There is nothing in this record before you, and especially in terms of the
21 public consideration of for cause on Thweatt and Zimmerman, which
22 indicates in any way that you encouraged them or let them know that a for
23 cause would be granted, is that correct?
- 24 A. My feeling is that what I said there about "Remember, it is what it is.
25 Don't worry about me as far as Jessica," and then went directly into the

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1 for cause thing, was an indication to them that if they wish to do the for
2 cause, they could do so without worrying about me.

3 Q. Would you turn to Respondent's Exhibit D, your transcript of testimony
4 on January 24, 2012, page 33, specifically, and I'll help you, bottom of
5 the page? Judge, when you testified before the Commission counsel in
6 that matter in, in January of this year, is it fair to say that you understood
7 that attorneys want a happy judge in trials in which they --

8 A. --Yes--

9 Q. --litigate?

10 A. Yes.

11 Q. That understanding by you is no different today, is that true?

12 A. True.

13 Q. And it was no different on June 1, 2010, is that true?

14 A. True.

15 Q. Did it occur to you that regardless of your comment, "It is what it is.
16 Don't worry about me as far as Jessica," that an attorney who makes a for
17 cause objection to the judge's daughter in any way puts themselves in a
18 difficult position? Did it occur to you?

19 A. No, not with that. I expressed my feelings in words that I felt at the time
20 alleviated that concern to the attorneys. We, we can look back and we
21 could say, maybe it should have been said this way, maybe it should have
22 been said that way, but at the time, I felt I was putting the attorneys at
23 ease, don't worry about a happy judge, so to speak, do what you will with
24 Jessica.

25 Q. As you considered, Jessica was subject to *voir dire* in the normal course

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(Ramich-Cross)

1 of, by both attorneys, is that right?

2 A. True.

3 Q. Alright, and during that normal course of *voir dire*, she had expressed the
4 response to the question about whether she had respect for the police, "A
5 lot." Isn't that true?

6 A. I, I don't remember that--

7 Q. --Page 72 of the transcript. The hearing--

8 A. --It would certainly not surprise me.

9 Q. That she had had a lot of experience and respect for the police, right?

10 A. It appears that on page, on that page, it says, "the court system."

11 Q. "The court system."

12 A. "I respect it a lot."

13 Q. And how about before that, did they talk about exposure to the police
14 department?

15 A. Yes.

16 Q. And--

17 A. --"Have you... had any encounters or any dealings with the police just
18 observing the police or being in settings, maybe social settings, or things
19 like that where the police have been around?"

20 Q. In point of fact, is it not true that Ms. Ramich's exposure to criminals and
21 the court system was on a weekly basis almost?

22 A. And she replied, "Yes, a lot."

23 Q. "A lot," right.

24 A. She clearly, honestly answered the question, "Yes--

25 Q. --I'm not--

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(Ramich-Cross)

1 A. --a lot"--

2 Q. --suggesting that she didn't. I'm suggesting, and I'm going to ask you
3 that in follow up to that, did it occur to you to disclose to the defense
4 attorney that what "a lot" meant was her daily, excuse me, her weekly
5 exposure in Arraignment Part on Sunday mornings to defendants in
6 custody?

7 A. No.

8 Q. It didn't occur to you that that's something they may have wanted to think
9 about?

10 A. No.

11 Q. Did it occur to you that that exposure on a weekly basis to those people
12 would have given you a for cause basis for excluding her?

13 A. No. No prejudiced shown.

14 Q. You didn't allow an opportunity, or you didn't disclose this and provide
15 an opportunity to challenge or develop that issue, did you?

16 A. I felt that her answer, "Yes, a lot," gave them something that they could
17 consider as to whether they wanted to follow up on that, what do you
18 mean by "a lot." Any follow up they wanted to do, they could do.

19 Q. Now, you and I have talked about the concept of juror misconduct, right?

20 A. Yes.

21 Q. And you're aware of the concept of juror misconduct, is that correct?

22 A. Yes.

23 Q. And you understand that as the trial judge, events may occur involving
24 jurors behavior in one way or another that forces their exclusion from the
25 jury, is that correct?

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(Ramich-Cross)

1 A. Yes.

2 Q. And that that potential for jury, juror misconduct extends to any potential,
3 any empanelled juror, is that correct?

4 A. Yes.

5 Q. That would have meant that had it occurred with regard to your daughter,
6 Jessica, doing something that one of the other jurors objected to or was
7 concerned about, and bringing it to the attention of the court, you would
8 have had to inquire about her conduct as a member of the jury, is that
9 correct?

10 A. Yes.

11 Q. In addition to that, it may have been, or jury misconduct, can involve
12 individuals who would have been other than your daughter, Jessica, is that
13 correct?

14 A. Yes.

15 Q. And in those circumstances, part of your obligation is to question the
16 jurors to determine what happened, isn't that correct?

17 A. Yes.

18 Q. So, Ms. Ramich would have been a witness before you, is that correct?

19 A. There's a possibility.

20 Q. Alright, did it occur to you from any time between when you were told
21 you had the notice, and you decided to put her on the panel, or allowed
22 her to be on the panel, that the idea of a judge's daughter, not Jessica, but
23 the idea of a judge's daughter, going, sitting there with the other jurors
24 and going into the jury room, conveyed to the jurors this, conveyed to the
25 other jurors, the impression that she had special status?

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(Ramich-Cross)

1 A. No.

2 Q. It did, never, it never occurred to you that they would think because the
3 judge's daughter is on the jury, that we should listen to her or give her
4 more consideration?

5 A. No, especially a child.

6 Q. Well, you knew that she had experience in court, right?

7 A. Yes.

8 Q. Did it occur to you that by having the judge's daughter on the jury, it may
9 have chilled the open exchange of ideas because of a concern about
10 conduct and/or expressions of opinion in the jury box being reported to a
11 judge of the court?

12 A. No.

13 Q. But in point of fact, that is exactly what happened, isn't it? Later, after
14 the conviction, Ms. Ramich talked to you about what happened during the
15 deliberations? Yes or no, sir?

16 A. No.

17 Q. She did express to you her personal views about the defendant, isn't that
18 true?

19 A. After sentencing.

20 Q. Would you go to your testimony, please--

21 A. --I'm there--

22 Q. --January 2012, page 44?

23 A. Yes.

24 Q. By way of background, and so that we're clear, is it fair to say that
25 sentencing in this matter occurred on July 19, 2010?

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(Ramich-Cross)

1 A. Is that in the transcript?

2 Q. Well, I'm not going to--

3 A. --I, I don't know off the top of my head.

4 Q. But it would have been six or seven weeks later, right?

5 A. True, true.

6 Q. Directing your attention to Commission Exhibit 59, *Joseph Piper*
7 surcharge hearing on July 19th.

8 A. That's not necessarily--

9 Q. --Could it have been later?

10 A. Wait, it should be.

11 MR. POSTEL: Am I boring you?

12 THE REFEREE: No, but I want to take a five-minute
13 break.

14 MR. POSTEL: Okay.

15 THE REFEREE: Counsel, counsel approach the
16 bench.

17 (OFF THE RECORD)

18 THE REFEREE: We are back on the record.

19 MR. POSTEL: Thank you, Your honor. For the
20 purpose of the record, we've stipulated that sentencing was
21 on July 19, 2010.

22 MR. REILLY: That's correct.

23 THE REFEREE: Very good, thank you.

24 Q. Going back to the trial itself, Judge Ramich, it is unquestioned, is it not,
25 that during the break between the end of *voir dire* and the beginning of

(Ramich-Cross)

1 opening statements you took your daughter to lunch?

2 A. True.

3 Q. And in terms of how that was affected, she would have had to leave the
4 jury box and walk back to your chambers, is that true?

5 A. The, the jury box is sealed on one end and she would have to turn to her
6 left to leave the jury box, and then walk basically in front of the judge's
7 bench, and from there, she could leave out the back, the regular public
8 door to the court, or if she continued across the front of the courtroom,
9 that would take her to the door to my chambers.

10 Q. Which one happened here?

11 A. Before lunch?

12 A. How did she get to you, judge?

13 A. My recollection is that she came towards, I, I believe that I was
14 somewhere between the, the, the bench and the door and she came to me,
15 but I'm not, I'm not sure of that--

16 Q. --Sure.

17 A. I, I, I remember that she did come to me, if that's what you're looking for.

18 Q. In fact, what you had told her is, "Jess," looking at page 118, "Jess, stick
19 around here and we will see you in just a minute."

20 A. Yes.

21 Q. "Jess, why don't you go back with Spring," is that correct?

22 A. Spring would be a court clerk, who would be her--

23 Q. --Spring Strunk?

24 A. Spring Strunk--

25 Q. --No easy thing to say--

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(Ramich-Cross)

1 A. --would, would, would be down the hall from my office in a general, a
2 bigger office where all the clerks were.

3 Q. Okay, and it was after that that the jurors left the courtroom, is that
4 correct?

5 A. Yes.

6 Q. Did it occur to you that by having a special contact and a special dialog
7 with your daughter that you were conveying to her in the eyes of the jury
8 a special status?

9 A. No. I, I believe that that was when I asked if anyone had an objection to
10 her and I going to lunch.

11 Q. The lawyers?

12 A. Yes.

13 Q. After the trial was over the next day, and the jury convicted the defendant,
14 between June 2nd and July 19th you, that was the summertime, Jessica
15 Ramich would have spent every Saturday and Sunday with you, is that
16 correct?

17 A. True.

18 Q. And during that time, Ms. Ramich and you talked about the *Piper* case,
19 isn't that true?

20 A. Yes.

21 Q. And as part of those discussions, you heard Ms. Ramich testify yesterday
22 that there was an issue about her being contacted on Facebook by the
23 defendant's relative, is that correct?

24 A. I, I, note that she did testify to that. I don't remember her talking to me
25 about that.

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(Ramich-Cross)

1 Q. Alright, but you did talk about other things between conviction and
2 sentencing about the case, isn't that true?

3 A. Generically, she asked about how I make a decision as to sentencing.

4 Q. And she also disclosed to you her own personal opinions about the
5 defendant, isn't that true?

6 A. I believe that was after sentencing.

7 Q. I'd like to direct your attention to page 44, middle of the page, of your
8 transcript of testimony concerning *Piper* in January 2012. I'm going to
9 read to you a series of questions and answers. I'd like you to read along
10 with me from page 12. "All right, so generally--

11 A. --Wait, wait, I'm sorry, line--

12 Q. --page--

13 A. --line 12--

14 Q. --line 12, thank you.

15 A. Okay.

16 Q. "All right, so generally speaking, what would have been the deal with
17 this? Answer, I know that every Saturday, we got together and every
18 Saturday night, we go out to dinner together and she stays overnight
19 Saturday night, and then we go to church Sunday morning. As a matter of
20 fact, we call it saints and sinners. Sunday morning, I would go to church
21 with Jessica, the saints, and then after that--

22 A. --Excuse me.

23 Q. Thank you.

24 A. I'm lost.

25 Q. Line 16, "Sunday morning I would go to church with Jessica--

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(Ramich-Cross)

1 A. --Which page? Am I on the wrong page?

2 Q. 44, page 44.

3 A. Oh, I'm on the wrong page. Alright.

4 Q. I'll do it again. Page 44, line 12.

5 A. I'm with you now.

6 Q. Okay, "Alright, so, generally speaking, what would have been the deal
7 with this? Answer, I know that every Saturday, we get together and every
8 Saturday, we go out to dinner together, and, and she stays over night
9 Saturday night, and then we go to church Sunday morning. As a matter of
10 fact, we call it saints and sinners. Sunday morning, I would go to church
11 with Jessica, the saints, and then after that, we would go over to, to the
12 Sunday morning arraignments of people arrested Saturday night, and then
13 after doing the arraignments, then Jess and I would go to breakfast
14 together. We do that without fail." Were you asked--

15 A. --I, I--

16 Q. --that question--

17 A. --I'm sorry. I guess I'm not with you.

18 Q. Do you have the January 2012 testimony?

19 A. Am I in the wrong book?

20 Q. Yes, that's the *Piper* trial.

21 A. Okay. I'm sorry.

22 THE REFEREE: No, wait--

23 MR. POSTEL: --That's it, that's it.

24 THE REFEREE: Okay.

25 A. Alright, now I'm with you.

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(Ramich-Cross)

1 Q. Okay, would you read that quietly to yourself to save time, please?

2 A. I, I read the lines from 13 to 20.

3 Q. Okay, were you asked that question and did you give that answer?

4 A. Yes.

5 Q. Turning to line 24, did you then continue, "Well, so, Saturday, would in
6 all likelihood be the next time. Now, we had an open thing where,"
7 "Question," I interrupted you. I apologize now for that, "She could come
8 over to the house and stay any time she wanted? Answer, and often did,
9 okay, both girls, okay." And that was the answer. "Question, the quality
10 of your relationship with your daughter was what? Answer, very good.
11 Question, Okay, very comfortable, right? Answer, yeah. Question, Easy,
12 your house was their house? Answer, Right. Question, Okay, were you
13 living with anybody at this point? Answer, No. Tell us, question, tell us,
14 so what perspective did you get from her in terms of what she saw in the
15 case? And what did she tell you about it after it was over on that
16 Saturday morning or, Answer, she made a comment that she thought the
17 defendant got out of control." Were you asked those questions and did
18 you give those answers?

19 A. I was asked that and I did give that answer.

20 Q. Alright, and then the follow up question, "In his testimony? Answer, No,
21 in his behavior that he was charged with at the party." Were you asked
22 that question and did you give that answer?

23 A. Yes.

24 Q. Going down to line 21, excuse me, 20, "Question, Gotcha, got you.
25 Answer, just that this whole thing could have been, Answer, just that this

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(Ramich-Cross)

1 could have been avoided if he didn't lose it that night." Were you asked
2 that question and did you give that answer?

3 A. I did.

4 Q. "Question, Right, and, generally speaking, did that comport with your
5 view of the matter? Answer, Yes." Were you asked that question and did
6 you give that answer?

7 A. Yes.

8 Q. Did you at any time between June 2, 2010, and July 19, 2010, the
9 sentencing date, disclose to the defense attorney that Ms. Ramich, one of
10 the jurors, was habitually spending the night at your home on weekends?

11 A. No.

12 Q. Did you at any time disclose to the attorneys that you had any discussion
13 of any nature concerning the *Piper* case with Ms. Ramich, one of the
14 jurors?

15 A. No, because I believe I was mistaken when I said it was--

16 Q. --I didn't, judge, you'll have an opportunity on redirect. You know the
17 way the system works. But, let me see if we can save some time. Your
18 testimony is when you testified to that, it was a mistake?

19 A. True.

20 Q. Turning to Charge III. It is uncontested, is it not, judge, that one of the
21 main thrusts of your work on behalf of the community, as well as one of
22 your personal important interests, is the proper treatment of animals for
23 whom there is no home?

24 A. Yes.

25 Q. And in connection with that, you served as president of the Humane

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(Ramich-Cross)

1 Society for multiple years, is that correct?

2 A. Yes.

3 Q. In addition, you were on the board of the Humane Society for multiple
4 years, in addition to that, is that correct?

5 A. Several years ago.

6 Q. And so that we're clear, this group, the Shelter Helpers, or Friends of the
7 Shelter, is an interchangeable name for money collected by a woman
8 named Barbara McClure, is that correct?

9 A. And others.

10 Q. Alright, but the head of it, to your knowledge, was Barbara McClure?

11 A. She was one of the main--

12 Q. --Did you direct money to be given to anyone other than Barbara McClure
13 in connection with Shelter Helpers?

14 A. No. Well, yes.

15 Q. Who?

16 A. The City of Elmira, the assessors, or Chamberlain's office.

17 Q. In terms of the Shelter Helper individuals, did you direct money to be
18 given to anyone other than Barbara McClure?

19 A. No.

20 Q. And Barbara McClure, to your knowledge, runs that, ran that Barb's
21 Soups On restaurant?

22 A. She did.

23 Q. And your directions to the individuals when they had to pay the money,
24 was to go over there and hand her whatever amount of money you
25 decided was appropriate for them, right?

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(Ramich-Cross)

1 A. There, there, I don't remember if there was one case or two cases, but
2 certainly there was times when I did that. There were also other spots that
3 they were sent to. What, what--

4 Q. --You did that though, right?

5 A. Yes.

6 Q. Okay, and you said, you testified yesterday, and I see it here on counsel's
7 table, this big black book called Gilbert's, you checked to see if it didn't
8 say that you could make people pay contributions, right?

9 A. Yes.

10 Q. You didn't find anything in there that it said it was okay to have people
11 pay contributions though, did you?

12 A. I think it was the, the provide services. I, I--

13 Q. --So, let's talk about that. But in terms of the specific language of
14 Gilbert's, and I'll mark it as an exhibit right now. We can take some time
15 if you want to go through it. Can you show me anything in this book you
16 had that said it's permissible to do charitable contributions--

17 A. --No--

18 Q. --by defendants? I'm going to show you what's marked as Commission
19 Exhibit 63. It is Section CPL, Criminal Procedure Law, Section 170.55.

20 A. Yes.

21 Q. How long have you been practicing criminal law, judge, in one way or
22 another, and/or presiding over criminal cases?

23 A. Over 30 years.

24 Q. You're familiar with 170.55, right?

25 A. Yes.

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(Ramich-Cross)

1 Q. It's the conditional discharge authorization for the State of New York in
2 criminal cases, is that correct?

3 A. Yes.

4 THE REFEREE: I'm sorry, 170.55 is the
5 Adjournment in--

6 THE RESPONDENT: --Adjournment in--

7 THE REFEREE: --Contemplation--

8 THE RESPONDENT: --Contemplation of
9 Dismissal--

10 MR. POSTEL: --Dismissal, the ACD. That's where
11 you (unintelligible)--

12 THE REFEREE: --okay--

13 MR. POSTEL: --right?

14 THE RESPONDENT: Yeah.

15 MR. POSTEL: Adjournment in Contemplation of
16 Dismissal?

17 THE RESPONDENT: Right.

18 MR. POSTEL: Thank you. You know, you'd think
19 that he'd written a book on the matter.

20 Q. Can you tell us, looking at that section, where it says that you have the
21 authority specifically to direct defendants to make charitable
22 contributions?

23 MR. REILLY: I would stipulate that's not in the
24 statute.

25 MR. POSTEL: My question stands.

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(Ramich-Cross)

1 A. I looked at--

2 THE REFEREE: --I'll, I'll overrule the objection.

3 THE RESPONDENT: I'm sorry.

4 A. I looked at (6), subsection (6).

5 Q. And where, there's language in there about charitable contributions?

6 A. As I interpreted it.

7 Q. I'm asking you, is there language in there on charitable contributions?

8 A. No.

9 Q. But you interpreted (6) to give you the leeway to make defendants pay
10 money to charities, right?

11 A. A service to the, to the not for profit corporation.

12 Q. You interpreted the work "service" to mean payment?

13 A. Yes.

14 Q. But it doesn't say payment, right?

15 A. It does not.

16 Q. And we've used the word "contribution" repeatedly here. In point of fact,
17 would it be fair to say that the word "contribution" is a conscious decision
18 involving a choice? One contributes or one does not.

19 A. It's a payment.

20 Q. It's a payment made through choice?

21 A. Yes--

22 MR. REILLY: --Object to that--

23 THE REFEREE: --I'm sorry?

24 MR. REILLY: I'd object to that definition, that a
25 contribution is necessarily by choice.

(Ramich-Cross)

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MR. POSTEL: I'm asking the man if he--

THE REFEREE: --I'm, I'm--

MR. POSTEL: --understands--

THE REFEREE: --going to overrule the objection.

The, the question as framed, is proper for the witness to answer or--

MR. POSTEL: --Witness has answered it.

A. I felt that if someone made, in order for someone to make a contribution, they had to agree to do it.

Q. As part of the ACD dispositions that this was part of, the defendants avoided having to pay any fines, is that correct?

A. Yes.

Q. And any surcharges, is that correct?

A. Yes.

Q. And it was your representation to defendants in those circumstances that not only did they avoid that, by avoiding fines and surcharges, the money didn't get sent to Albany, isn't that true?

A. That's true.

Q. And so your goal was to keep the money out of Albany, and give it to the local community, is that correct?

A. Yes, I was trying to help the local charity.

Q. In terms of the contributions to Soups On, excuse me, Shelter Helpers, you can't say today whether or not they are a 501C3 corporation or not, is that correct?

A. I, I never expected they were.

(Ramich-Cross)

1 Q. You did not, so, they weren't a formal charity, were they?

2 A. No.

3 Q. You had defendants in your court go to some restaurant and pay some
4 lady to settle a matter before you, isn't that true?

5 A. My understanding was that a group of citizens had met with the city and
6 that whatever money this group of people collected, would be turned over
7 by, not kept by them, not used by them, but turned over to the City of
8 Elmira that was a municipal corporation.

9 Q. But you know, don't you, that at no time did you ever take steps to
10 oversee or audit the use of the money for payments made to Ms. McClure
11 at Soups On?

12 A. I contacted Barb to ask if she had gotten a contribution and she indicated,
13 at least in one case, that she had, and that she had turned it over to the
14 city. Multiple, did I do it every time, no.

15 Q. Isn't it a fact that if we look at all the, many of the transcripts here, what
16 you say to them is "Did you pay the money?"

17 A. Yes.

18 Q. And you were--

19 A. --And, and usually I was looking for them to bring in--

20 Q. --A receipt?

21 A. Yes.

22 Q. The overwhelming practice was for them to go there, get a receipt, and
23 give it to you, right?

24 A. And the receipt was the, was the, the proof that they had made the
25 contribution.

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(Ramich-Cross)

1 Q. And you agree as well that if, it was your position, and you told
2 defendants, no payment, no ACD, right?

3 A. No.

4 Q. So, if a defendant didn't make the payment, you never said that they
5 wouldn't get the ACD?

6 A. My course of, of, as, as I recollect it, was here, that the DA was the first
7 one that was going to offer an ACD. So, the ACD was on the table, then
8 the question was, are you going to do volunteer work or are you going to
9 do a charitable contribution.

10 Q. I'm going to show you Commission Exhibit 21, which is the file in the
11 matter of *People v Matthew E. Cleary*, and direct your attention to the last
12 entry in the handwritten notes in the file.

13 A. I didn't hear the name.

14 Q. Matthew E. Cleary.

15 THE REFEREE: Exhibit 21?

16 MR. POSTEL: 21, correct.

17 Q. Is it not true that the file in this case indicates that ACD was not paid,
18 excuse me, a charitable contribution was not paid, and an ACD was not
19 granted? Isn't that what the language says?

20 A. No.

21 Q. Could you read us the language on the front page?

22 A. Well, I'm looking at five, the entry May 14th '09 that says, "Defendant
23 and father DAS," which would have been the DA and his first initial,
24 "defendant paid \$300 donation today, case closed, dismissed."

25 Q. Sure. What does it say immediately before that on the prior page on the

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(Ramich-Cross)

1 last entry?

2 A. It, it says, "On April 22nd '09, defendant plus public defender, DA,
3 defendant failed to pay any contribution, ACD not granted, original
4 charge continued."

5 Q. And as you look further into that file, isn't there a letter from Theresa
6 Seeley indicating that the contribution was not made? 3/30/09?

7 A. Yes.

8 Q. And what does Ms. Seeley say to the defendant on behalf of the court?

9 A. Do you want the whole letter?

10 Q. No, just the portion about her not paying, him not paying.

11 A. "To date, we have not received that proof. Please be advised that you are
12 hereby directed to provide the court with proof of the completion of the
13 conditions of your ACD no later than April 17th '09. Your failure to
14 provide said proof to the court might result in a warrant being issued for
15 your arrest and presentment to the court."

16 Q. So, not only do you not get the ACD if you don't pay, but a warrant may
17 be issued for your arrest, isn't that what it says?

18 A. That's what it says. And then the defendant's letter in reply to that
19 letter--

20 Q. --There's no question on the floor. I'm showing you the file 56 in the
21 matter of *Edith Riley*. Directing your attention to line 15. Would you
22 read, that's a statement by the court, is that correct?

23 A. "An ACD means that the charge would be dismissed against you. To get
24 the ACD, you have to pay 150 to a charity or take the chances of going to
25 trial. Do you want to pay 150?"

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(Ramich-Cross)

1 Q. So, you said to that defendant specifically, to get the ACD, you got to
2 pay. Right? Those are the words you used?

3 A. Yes. "Do you want to pay 150?"

4 THE REFEREE: Is that Exhibit 46--

5 MR. POSTEL: --56.

6 THE REFEREE: 56. Thank you. Okay.

7 Q. I'm going to show you what's marked as Commission Exhibit 50, a
8 transcript in *People v Terry Miller*, and I'm going to direct your attention
9 to line 3, excuse me, page 3, line 12. Would you take a moment and look
10 at that yourself. Did you say to the defendant, "If a receipt is not in the
11 file, then we will send the police out to bring you back to court"?

12 A. Yes.

13 Q. And that was in reference to the charitable payment by the defendant to
14 the charity in that case, is that correct?

15 A. Yes.

16 Q. As we've gone over ACDs, you also imposed the charitable payment in
17 cases involving a Conditional Discharge, is that correct?

18 A. Yes.

19 Q. I've shown you Commission Exhibit 64, is that correct?

20 A. Yes.

21 Q. That's the provisions of the Penal Law concerning Conditional
22 Discharges, is that correct?

23 A. Well, it, it, it starts at Subsection (f), but I believe it is.

24 Q. What section is that?

25 A. 65.10--

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(Ramich-Cross)

- 1 Q. --Of the--
- 2 A. --Penal Law--
- 3 Q. --Penal Law. And in your 30 years of practice, you've become familiar
- 4 with that section, isn't that true?
- 5 A. True.
- 6 Q. Alright, what section of the Penal Law concerning Conditional
- 7 Discharges provided you with authority to make defendants make
- 8 payments to charities as part of the disposition of their case?
- 9 A. H.
- 10 Q. What does that read?
- 11 A. "Perform services for a public or not for profit corporation, association,
- 12 institution, or agency, including, but not limited to services for..., " and
- 13 then it goes on.
- 14 Q. So, you interpreted the word "service" to mean payment?
- 15 A. In both ACD and CD.
- 16 Q. Judge, when Ms. Eraca testified, you were in the courtroom, were you
- 17 not?
- 18 A. Yes.
- 19 Q. And you heard her testify about what she believed the practice with
- 20 regard to the payment of, making of charitable payments in connection
- 21 with CDs and ACDs was termed in the legal community, is that correct?
- 22 A. I don't remember.
- 23 Q. Did she use the word "buyout?" Did you hear her use the word "buyout?"
- 24 A. I'm not saying she didn't. I just don't remember whether--
- 25 Q. --Alright--

675.

(Ramich-Cross)

1 A. --whether she did or not.

2 Q. Alright. Haven't you yourself used the term "buyout" in connection with
3 the use of charitable payments as a means of avoiding fines and getting an
4 ACD or a CD?

5 A. I don't think the term "buyout," but I, I, I certainly use terms that, that
6 indicated that, that, that the payment would resolve, take care of, finish,
7 words to that effect.

8 Q. And in multiple cases, you would agree that it wasn't just a choice
9 between volunteer service and a charitable payment, the charitable
10 payment was made as a condition without the defendant's input?

11 A. If you're asking me, did, did the defendant raise the issue of a payment on
12 his own, no.

13 Q. And in terms of whether it was volunteer hours or payment to the charity,
14 you didn't always give them that choice, isn't that true?

15 A. I, could you rephrase?

16 Q. Sure. In terms of either the defendant, as part of the Conditional
17 Discharge or the ACD being granted, you didn't always give them the
18 choice specifically by saying, you get a choice of volunteer hours or a
19 payment?

20 A. That would be true.

21 Q. In fact, the matter morphed into a practice in which charitable payments
22 were part of what was required to get a Conditional Discharge or an ACD
23 over those two years?

24 A. No.

25 Q. But you did it, you did it, you did it 25 times, didn't you?

676.

(Ramich-Cross)

1 A. I did it a number of times. I, I don't know whether it was 25. It may have
2 been more.

3 Q. With regard to Commission Exhibit 9, the matter involving *Daniel*,
4 excuse me, *David Oshann*, there was a contribution expected or required
5 in connection with that disposition, isn't it true?

6 A. Yes.

7 Q. And Mr. Oshann was convicted of petit larceny, is that correct?

8 A. No. Oh--

9 Q. --He was charged with petit larceny?

10 A. He was charged with petit larceny.

11 Q. And what was he convicted of?

12 A. Disorderly conduct.

13 Q. And in connection with the information in this case, there were
14 allegations that he had stolen money, is that correct?

15 A. No.

16 Q. Excuse me, that he had stolen goods or there had, deprived the victim of
17 some value, some monetary value?

18 A. Gillette Mach 3 razors.

19 Q. And what's the total value claimed in the information?

20 A. \$17.29.

21 Q. Look at the front page of the file cover, please.

22 A. Yes.

23 Q. And as you look at the totality of what you imposed here, is it fair to say
24 that you did not authorize restitution for this defendant?

25 A. True.

677.

(Ramich-Cross)

1 Q. In fact, what was written on the file cover is "contribution or restitution,"
2 isn't that true? Last entry.

3 A. Actually, it's, it's Paul Barton, shows defendant paid 350 to Shelter
4 Helpers as restitution.

5 Q. As restitution.

6 A. As restitution.

7 Q. So, the contribution to the Shelter Helpers was in place of restitution,
8 isn't that correct?

9 A. Yes.

10 Q. So, the, the victim doesn't get their money back, but a charity, to whom
11 you have a particular affinity, gets how much money?

12 A. \$350. That--

13 Q. --Is that the only case in which you made a defendant make a charitable
14 contribution in lieu of restitution?

15 A. I would think so, however, I, I note that this is Tops Market, and my
16 experience has been that when non-perishable goods, such as razors--

17 Q. --I'm good, judge, keep talking, I'm listening.

18 A. My experience has been that when non-perishable goods, such as razors,
19 are what's taken and, and when they recover that, that there's no, that they
20 don't ask for restitution. If it was meats, if it was things like that, then
21 they would tend to ask for restitution.

22 THE REFEREE: But the property would be, the non-
23 perishable property would be returned to the complainant?

24 THE RESPONDENT: That's my understanding.

25 Q. Is there any evidence in the file that that happened?

678.

(Ramich-Cross)

1 A. The assistant district attorney that's present would normally ask for the
2 restitution if it didn't happen.

3 Q. So, you relied on them?

4 A. I relied on the assistant DA.

5 Q. But the file itself considers the concept of restitution, and says that the
6 contribution is in place of that, isn't that true?

7 A. That's true.

8 Q. Showing you Commission Exhibit 11, the *Bassler* case. Looking at the
9 information there, is this another case in which a criminal complainant
10 alleged the suffering of an economic crime?

11 A. Yes.

12 Q. And in connection with that, there was a disposition, is that correct?

13 A. Yes.

14 Q. It was, the charge itself was on a, was a bad check case, right?

15 A. Yes.

16 Q. How much?

17 A. \$39.

18 Q. Was restitution ordered in this case?

19 A. I can't tell from this.

20 Q. Is there any indication in the court record that restitution was ordered?

21 A. No.

22 Q. There was, however, a charitable contribution payment was made, is that
23 correct?

24 A. Yes.

25 Q. Pursuant to the disposition in the case, is that correct?

679.

(Ramich-Cross)

1 A. Yes.

2 Q. At any time in connection with your reviewing your practices and
3 procedures, did you take it upon yourself to give tax advice to defendants
4 about the deductibility of these payments?

5 A. No.

6 Q. Turning to Exhibit 16 before you, matter of *Bassler*, page two.

7 A. Alright.

8 Q. Did you advise the defendant in *Bassler*, "It's a charitable deduction for
9 him on his taxes."

10 A. --I, I stand corrected--

11 Q. --a business expense." Did you say that?

12 A. Yes.

13 Q. What position are you to give tax advice to anyone in connection with a
14 disposition of this nature?

15 A. That would not be one of my responsibilities.

16 Q. Had you checked with the Internal Revenue Service to determine the
17 deductibility of that charitable payment?

18 A. No.

19 Q. And in terms of your decision to interpret the CPL and the Penal Law in
20 such a fashion to allow you authority to mandate charitable payments by
21 defendants, did you consider in connection with that in any way, the
22 Rules Governing Judicial Conduct and what they say you can and cannot
23 do?

24 A. No.

25 Q. As you sit here today, you know, in fact, that the Rules Governing

680.

(Ramich-Cross)

1 Judicial Conduct specifically preclude a judge from charitable
2 fundraising, isn't that correct?

3 A. Yes.

4 Q. Did it occur to you that what you couldn't, and that's in terms of your
5 personal position off the bench, right? The Rules say that as a judge,
6 personally, you can't solicit funds for a charity.

7 A. You can't use your title to do that, no.

8 Q. You can't solicit funds any, in any way for a charity.

9 A. I'm not familiar with the technical, all of the language in that, but, I, I do
10 generally understand that it is not proper for a judge to use his title to
11 favor a charity.

12 Q. And isn't that exactly what you did here, raise money for charities?

13 A. Yes.

14 Q. And you did more than just solicit money personally from individuals,
15 isn't that correct?

16 A. I don't understand.

17 Q. You did more than solicit money through a fundraising campaign for a
18 specific charity, you didn't sign a letter and send that out and say, I'm the
19 president of this organization, please contribute to, you didn't knock on
20 doors, you didn't sit at a table and ask for money, right?

21 A. Correct, I did not do that.

22 Q. Instead, what you did was you used the authority and power of your court
23 to raise money for various charities in Elmira, isn't that correct?

24 A. Yes.

25 Q. And in terms of the Rules Governing Judicial Conduct, it's fair to say that

681.

(Ramich-Cross)

1 you have been fully familiar with the Rules Governing Judicial Conduct
2 since you were a part-time judge in 1982, isn't that true?

3 A. Fully familiar, well, I'm familiar with some of them.

4 Q. I'm going to show you, well, first of all, let me offer into evidence, in
5 terms of taking judicial notice, as well, Commission Exhibit 65, the
6 Determination in *Matter of Ramich*, 63 and 64 of the CPL and the Penal
7 Law provisions concerning Conditional, Adjournments in Contemplation
8 of Conditional Discharges.

9 (Commission Exhibits 63, 64, and 65 were marked for identification)

10 MR. POSTEL: Ms. Sampson, am I missing any?
11 The Rules Governing Judicial Conduct.

12 MS. SAMPSON: That's 67.

13 (Commission Exhibit 67 was marked for identification)

14 MR. POSTEL: 66, I have it. Alright, I'm not going
15 to offer the 67.

16 Q. That's right in front of you, right, judge, the Rules Governing Judicial
17 Conduct?

18 A. Yes.

19 Q. Alright, I'm going to show you what's marked as Commission Exhibit 66.
20 It's a page of testimony from the proceeding in the matter, in the
21 proceeding pursuant to 44 (4) of the Judiciary Law In Relation to Thomas
22 E. Ramich, a Justice of the Elmira City Court, April 18, 2002, before the
23 Honorable Sherman Levy, Esq., the judge's testimony in this prior
24 proceeding, which is public record. I'm going to show you what's
25 marked as Commission Exhibit 25.

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(Ramich-Cross)

1 (Commission Exhibit 66 was marked for identification)

2 MS. ROBERTS: 66.

3 MR. POSTEL: 66, thank you.

4 A. I have that.

5 Q. Alright. You testified on your own behalf in connection with the prior
6 proceeding, is that correct?

7 A. Yes.

8 MS. MARTIN: Mr. Postel, Mr. Reilly would like to
9 look at those last two exhibits.

10 MR. REILLY: I don't have copies of those.

11 MR. POSTEL: Well, they're just, I'm asking for
12 judicial notice, but it's the provisions in the Penal Law and
13 the Criminal Procedure Law.

14 MR. REILLY: Alright.

15 THE REFEREE: That's 63 and 64, correct--

16 MR. POSTEL: --Correct.

17 THE REFEREE: Okay.

18 (Commission Exhibits 63, 64, and 65 were marked for identification)

19 Q. You testified in the prior proceeding, right?

20 A. Yes--

21 Q. --On your own behalf, and you were represented by an attorney in that
22 proceeding, is that correct?

23 A. Yes.

24 Q. And in the course of that proceeding, you were asked by your own
25 attorney whether or not you were fully familiar with the provisions of the

683.

(Ramich-Cross)

1 Rules Governing Judicial Conduct since you were a part-time judge in
2 1982, is that correct?

3 A. It does say, "fully aware."

4 Q. And you answered, "yes," is that correct?

5 A. I did.

6 Q. So, as you think and review your knowledge of the Rules, and their
7 application to the fundraising efforts that you made on behalf of these
8 charities, did it never occur to you over those, that period of time in 2008
9 and 2009, that you were violating your ethical obligation?

10 A. No.

11 Q. Did you ever call your Administrative Judge to say, hey, I got this great
12 idea?

13 A. No--

14 Q. --Can I do it?

15 A. I did not.

16 Q. Did you contact the Administrative Judge's executive assistant to share
17 that information?

18 A. No.

19 Q. Did you seek an opinion from the Advisory Committee on Judicial Ethics
20 to see if what you were doing was kosher?

21 A. I did not.

22 Q. As you thought about the Rules Governing Judicial Conduct, judge, and
23 as you were fully aware of them, did you consider them to be
24 requirements or simply advisory?

25 A. Requirements.

684.

(Ramich-Cross)

1 Q. When I showed you Commission Exhibit 65, judge, your Determination
2 in the prior matter, you recognized it, right?

3 A. Yes.

4 Q. It was a particularly painful period in your life, is that correct?

5 A. True.

6 Q. And you, at that time, had some fear of being removed from judicial
7 office, is that correct?

8 A. True.

9 Q. But it turned out that the Commission decided not to remove you, but to
10 instead Censure you, is that correct?

11 A. True.

12 Q. And in Censuring you, is it fair to say that they expressed confidence in
13 what your actions would be from that date forward?

14 A. Yes.

15 Q. Directing your attention to the second to last paragraph, judge. The
16 Commission made an expressed statement of mitigation in terms of its
17 decision to Censure and not remove you, did it not? It said in mitigation.

18 A. Yes.

19 Q. Tell us, what is it that the Commission said in terms of its view of you at
20 that time.

21 A. "In mitigation, he has acknowledged his misconduct, and as the referee
22 concluded, he now appears to recognize the necessity for scrupulously
23 following relevant judicial Rules in the future."

24 Q. When you read that, did you recognize that to be the Commission giving
25 you a second chance?

685.

(Ramich-Cross)

1 A. I did.

2 Q. The Commission expressed their confidence that you would scrupulously
3 follow the Rules Governing Judicial Conduct, right?

4 A. True.

5 Q. Since 2002, as you've looked at the proof that we've had in the last three
6 days, would you say that you have abided by that?

7 A. At the time that I did each thing, I felt that I had. Looking back now, I
8 made mistakes.

9 Q. Is the answer yes or no? Did you scrupulously follow the Rules
10 Governing Judicial Conduct as the Commission had expressed their
11 confidence in you?

12 A. No.

13 MR. POSTEL: I have no further questions.

14 MS. MARTIN: Mr. Postel?

15 THE REFEREE: Mr. Postel, there's--

16 MR. POSTEL: --I'm not offering that. Oh, I'm
17 sorry. My litigation team has asked for the opportunity to
18 whisper something in my ear.

19 THE REFEREE: Very good, and we will wait two
20 minutes and then I have a couple of questions myself. But
21 I'd like you to continue.

22 MR. REILLY: Do you want me to do the redirect
23 now?

24 THE REFEREE: I think so, yes.

25 MR. REILLY: I don't know whether that, that he

686.

(Ramich-Cross)

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said he shouldn't close on his cross-examination yet. I think he, they may be telling you he may need to ask some more questions.

THE REFEREE: Oh, I'm sorry.

MR. POSTEL: I just, I want to correct the record on this thing.

THE REFEREE: Very good. You had a question for, one further question, Mr., or further questions, Mr. Postel?

MR. POSTEL: No, just--

MR. REILLY: --No objections--

MR. POSTEL: --a correction to Commission Exhibit 16, I understand I misspoke, is *Krazinski* and not *Bassler*.

THE REFEREE: Before you finish, the exhibits that you refer to, 63, 64, 65, 66, those have been identified. Are you, are you moving those into evidence?

MR. POSTEL: I am not.

THE REFEREE: You are not moving those into evidence?

MR. POSTEL: That's correct.

THE REFEREE: Okay.

MR. REILLY: Just, could I have a copy of the, the, the original decision that I, I don't think, I don't think my client ever found his copy. Redirect? John?

MR. POSTEL: I'm looking for them.

MR. REILLY: I think it was 65 and 66.

(Ramich-Redirect)

1 THE REFEREE: Mr. Postel, are you--

2 MR. POSTEL: --I'm giving them to him right now.

3 THE REFEREE: No, I mean, are you finished
4 with your--

5 MR. POSTEL: --I'm, I'm completed.

6 THE REFEREE: Okay, fine--

7 MR. REILLY: --Oh, I just wondered if you could
8 provide me with copies--

9 MR. POSTEL: --Oh, yeah, yeah--

10 MR. REILLY: --of them--

11 MR. POSTEL: --yeah, yeah--

12 MR. REILLY: --I got the Rules.

13 MR. POSTEL: Okay.

14 MR. REILLY: I got the Rules.

15 REDIRECT EXAMINATION

16 BY MR. REILLY:

17 Q. I'm going to be incredibly brief, because I think there's, well, just a few
18 issues to bring up because of your testimony, but Fred Cerio gave you,
19 apparently he gave you the receipt for the cost of registering that, that
20 vehicle?

21 A. I eventually found it.

22 Q. Where did he put it, do you know?

23 A. It was not in my chair. It was somewhere on my desk under other things,
24 and--

25 Q. --And you just, you found it eventually, how long after it was done?

688.

(Ramich-Redirect)

1 A. I, I don't remember. I, I did eventually find it, but I don't know what
2 period of time it was.

3 Q. And you didn't make any attempts to pay it?

4 A. No.

5 Q. Why not?

6 A. I wasn't sure how that would be interpreted once the charges were filed,
7 as, as whether that was something good or bad. I, I, I never intended for
8 Fred to pay it. I, I clearly should have paid it, and in, in, in the past,
9 frankly, Fred had done other registrations for me, and the difference was
10 that normally Fred came to me and said, "Hey, Tom, here." And then
11 once he gave it to me, then I said, "Okay, here, thank you very much,"
12 here's--

13 Q. --Are you saying you found the receipt after you got invited to go up to
14 Rochester to testify?

15 A. Yes.

16 Q. Alright, and then you said you would pay it when we were up in
17 Rochester, but you were concerned about sending anything in
18 correspondence, like a check, to Fred?

19 A. I had two people that were friends with Fred, I had sent in his direction
20 and asked them to see if he would talk to me. I, I sent friends because I
21 didn't want to put him in, I was afraid if I directly contacted him--

22 Q. --When, when you told, when you were up to Rochester, you said you
23 would pay, did you think of contacting me, giving me a check so I could
24 forward it to the Commission and have them forward it to Fred?

25 A. I did not.

689.

(Ramich-Redirect)

1 Q. And with regard to the timing and conversations with your daughter about
2 her feelings about the defendant, she said they occurred after sentencing
3 and you testified here that it may have occurred before sentencing?

4 A. No, I'm, I'm saying that at, at the time I testified, that was my
5 recollection, but it was a long time back.

6 Q. At the time you testified, your recollection was that that conversation was
7 after sentencing or before sentencing?

8 A. When I testified, it was that it was before sentencing, and--

9 Q. --What changed your mind?

10 A. Talking with Jessica.

11 THE REFEREE: Further questions, oh--

12 MR. POSTEL: --Oh, you're done--

13 THE REFEREE: --I'm sorry, no, I'm sorry.

14 MR. REILLY: I have nothing further.

15 THE REFEREE: Okay.

16 MR. POSTEL: I have nothing.

17 THE REFEREE: I have a few more questions. As a
18 judge, you presided over a number of jury trials?

19 THE RESPONDENT: Yes.

20 THE REFEREE: Have you ever had a trial, a jury
21 trial in which the issue of juror misconduct has arisen?

22 THE RESPONDENT: Not, not misconduct, no,
23 never.

24 THE REFEREE: Okay. Have you, in, in the City of
25 Elmira, a number of occasions you may have had jurors

690.

STATE COMMISSION ON JUDICIAL CONDUCT

400 Andrews Street

Rochester, NY 14604

(Colloquy)

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who you knew in one way or another?

THE RESPONDENT: Often.

THE REFEREE: Okay. Have you ever gone to lunch with any other juror when a case was pending?

THE RESPONDENT: No.

THE REFEREE: Okay. At the end of a trial, have you ever spoken to jurors on the record or off the record, once the proceedings are concluded, about their thoughts about the case itself?

THE RESPONDENT: Always. And when I spoke to them, I, I would start off the trial telling them that they may not discuss the case with anyone during the course of the trial. If anybody approaches them, they should break off the communication and report to the court that someone tried to talk to them. I would also say to them words to the effect that, as jurors, during the course of the trial, they must not discuss the case even with other jurors until such time as the case was in, had been completed, closing statements, and in the jury room. Then later on, after a verdict was reached and I was excusing the jury, I would thank the jurors for their service and then I would say to them, all throughout the trial, I've told you that you can't talk to anybody about the case, but now that a verdict has been reached, sometimes the attorneys that have been represented would like to know how you viewed the case and what affected

(Colloquy)

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you this way or that way. So, if you wish to talk to any of the attorneys, now you may do so. On the other hand, if you feel that it's been a long day and you're tired and you just want to go home, then you can tell them, no, I'd rather not talk about it, and they'll understand, and you can just go home.

THE REFEREE: Okay. When it, with the PBA dinner, you did not go back the next year, is that correct?

THE RESPONDENT: I did not go back the next year or any year since then.

THE REFEREE: Okay. And there's someone named Pat Minden--

THE RESPONDENT: --Minchin--

MR. POSTEL: --Minchin--

THE REFEREE: --Minchin. How do you spell that name?

THE RESPONDENT: That would be Pat, P-A-T-R-I-C-I-A, last name, M-I-N-C-H-I-N, and she would be my, my, my personal secretary.

THE REFEREE: Fine. And there's someone named Bryan Max or Miggs?

MR. REILLY: Maggs.

MR. POSTEL: Maggs.

MR. REILLY: M-A--

THE RESPONDENT: --M-A--

(Colloquy)

1 MR. REILLY: --I-E-G-S.
2 MR. POSTEL: No, M-A--
3 THE REFEREE: --M--
4 MR. POSTEL: --M-A-G-G-S.
5 THE RESPONDENT: --M-A-G--
6 MR. REILLY: --No--
7 THE RESPONDENT: --G-S.
8 MR. POSTEL: It's right in the documents--
9 THE RESPONDENT: Maggs, it's, it's Bryan--
10 MR. REILLY: --M-E-G--
11 THE RESPONDENT: Maggs--
12 MR. REILLY: --G-S--
13 MR. POSTEL: --M-A-G-G-S.
14 THE RESPONDENT: He is a--
15 MR. POSTEL: --Maggs, Bryan Maggs--
16 THE RESPONDENT: --he is a partner in the
17 O'Mara Law Firm, and the County Attorney for Chemung.
18 MR. POSTEL: It's right up here.
19 MR. REILLY: I know that.
20 THE REFEREE: Do either attorney have any follow
21 up questions to what questions I asked?
22 MR. POSTEL: I have nothing else.
23 MR. REILLY: Nothing further.
24 THE REFEREE: Fine.
25 MR. REILLY: And defense would rest.

693.

(Forrest-Re-redirect)

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THE REFEREE: Fine.

MR. POSTEL: I have a rebuttal witness.

THE REFEREE: You have a rebuttal witness?

MR. POSTEL: Quick.

THE REFEREE: Okay, very good. Thank you.

Thank you very much.

MR. POSTEL: I'm ready to go right now.

THE REFEREE: Okay.

MR. POSTEL: I call Steven Forrest.

THE REFEREE: You're, you're being recalled as a witness--

MR. POSTEL: --Recalled--

THE REFEREE: --as a witness, sir.

THE WITNESS: Yes, and--

THE REFEREE: --And you are--

THE WITNESS: --I'm still under oath, and I am--

THE REFEREE: --you are still under oath, yeah, thank you.

RE-REDIRECT EXAMINATION

BY MR. POSTEL:

Q. Judge Forrest, I'm going to show you what's marked as Respondent's Exhibit E for this proceeding. It's an email forwarded through a series of emails allegedly originating from an individual named Michael Robertson on October 2, 2008. Would you take a brief moment and familiarize yourself with that?

(Forrest-Re-redirect)

1 MS. ROBERTS: What exhibit is that?

2 MR. POSTEL: E.

3 A. E.

4 Q. Have you ever seen that email before?

5 A. Not to my knowledge, no.

6 Q. Do you understand or have any understanding of what that email relates
7 to in connection with you personally?

8 A. Well, yes, I mean, my reading of the email is the very reason why Judge
9 Ramich very rarely had to cover for me. I made sure the police have my
10 cell phone number, my wife's cell phone number, our home number is in
11 the book, and I even made sure they had our correct address, and let me
12 tell you why, because one time, Robbie Robertson asked me for a search
13 warrant late at night, and they actually went to my old address. I used to
14 live around the corner from him, and he didn't even realize I had moved
15 yet.

16 Q. They went to the wrong house?

17 A. They went to the wrong house--

18 Q. --Okay--

19 A. --but they--

20 Q. --I understand--

21 A. --have, the--

22 Q. --that's good--

23 A. --always--

24 Q. --that's all we--

25 A. --have--

695.

(Forrest-Re-redirect)

1 Q. --need--

2 A. --everything in terms of ways to get a hold of me, and I didn't set up those
3 protocols, but I know I made sure they had that information. I don't
4 recall, I see it's involving Mike, Michael Robertson, whose now the chief,
5 police chief. I believe he was deputy chief back in 2008. I don't recall
6 talking to him about it, and to my knowledge--

7 Q. --Did he ever confront you--

8 A. --I'd never seen this, this memo.

9 Q. Did he ever show you, did he ever talk to you about the substance of
10 that--

11 A. --Not that I'm--

12 Q. --at that time in--

13 A. --aware of, no.

14 Q. Alright, in terms of weekend coverage for arraignments, did you and
15 Judge Ramich alternate?

16 A. Yes.

17 Q. Did there come a--

18 A. --We still do--

19 Q. --come a time when you had to cover because Judge Ramich was
20 unavailable?

21 A. Absolutely.

22 Q. And did there come times when Judge Ramich had to cover because you
23 were unavailable?

24 A. Absolutely.

25 Q. As you look back to that date of the banquet, did, were, did you learn that

696.

(Forrest-Re-redirect)

1 there was an event in which you were contacted to do an arraignment, but
2 did not do it for some reason or another?

3 A. That's correct.

4 Q. And was your cell phone the point of contact for you on that date?

5 A. Yes.

6 Q. And do you, do you know why it was that you, you were not available that
7 date?

8 A. Yes, it's my--

9 Q. --Simply, simple, please--

10 A. --recollection, I was coaching one child in soccer. I took the other child to
11 a soccer game. We barely made it on time. I left my cell phone in the
12 car. I sat through that as a parent, the second soccer game. We no sooner
13 got into the car, and I realized, oh my gosh, I forgot to take my cell phone
14 to the field. I immediately looked at it, and lo and behold, I see that I had
15 gotten a call approximately, my recollection is 20 minutes or so before the
16 end of the soccer game.

17 Q. About what time was that?

18 A. I'm guesstimating that would be probably around maybe, quarter of four,
19 4:00.

20 Q. Alright, when you get to--

21 A. --In that--

22 Q. --the--

23 A. --area--

24 Q. --dinner--

25 A. --afternoon--

697.

(Forrest-Re-redirect)

1 Q. --when you get to the dinner later, and Judge Ramich made his statements
2 concerning you, what time was it that he made those statements?

3 A. Well, as I testified to two days ago, it's my recollection that particular
4 dinner ran fairly late, and I'm again guesstimating that his comments were
5 made somewhere in the area of 9:30 P. M. because the dinner broke up
6 around 20 of 10, quarter of 10 completely.

7 Q. Alright, in terms of your personal assumption of the duties and
8 obligations of the specialty courts, was that something that Judge Ramich
9 signed off on or had to approve in order for you to do it?

10 A. No.

11 Q. In order for, did you seek his approval or authority before doing so?

12 A. Yes, with regard to the drug, the adult drug treatment court, the
13 misdemeanor adult drug treatment court, we had a very good dialog. I
14 always kept him in the loop on everything I was doing, and again,
15 remember, the adult misdemeanor drug treatment court was set up
16 effective and operational January of 2006, but he was made aware all the
17 way through the setting up of that court of exactly what I was doing at
18 every step of the way, yes he was.

19 Q. In terms of moving your court from a part-time court to a full-time court
20 effective April 2007, is that correct?

21 A. Yes.

22 Q. Was Judge Ramich in charge of making the decision on whether that
23 should be done or not?

24 A. No, not at all.

25 Q. That was a legislative decision, is that correct?

698.

(Forrest-Re-redirect)

1 A. Well, ultimately, it was Governor Pataki and the Legislature with regard
2 to the players that were involved from the Office of Court Administration.
3 I first had to get the approval of Jan Plumadore. It was his committee.

4 Q. My question is was--

5 A. --And, and, and Judy O'Shea--

6 Q. --was that Judge Ramich's decision?

7 A. No.

8 Q. It was done by the Governor and the Legislature on recommendation from
9 the Office of Court Administration?

10 A. That's correct.

11 Q. In connection with that, did you send out any memorandum seeking
12 support?

13 A. Yes, I did.

14 Q. Did you receive a memorandum of support from Judge Ramich in
15 response to your request?

16 A. He was the only one that did not sign the memorandum of understanding
17 and support. I sent 52 of them out, got 51 back, and he was the only one
18 that did not sign.

19 MR. POSTEL: No questions.

20 A. To the best of my--

21 MR. POSTEL: --I'm done--

22 A. --recollection.

23 MR. POSTEL: --Thank you.
24
25

(Forrest-Re-recross)

1 RE-RE-CROSS EXAMINATION

2 BY MR. REILLY:

3 Q. To the best of your recollection?

4 A. Yes.

5 Q. Did, did, Steve, did the establishment of the specialty courts help their
6 becoming establishment of the, of the, a full-time, another full-time
7 judge?

8 A. Only the adult misdemeanor drug treatment court. Even the
9 Memorandum of Understanding refers to the fact that the, I brought some
10 of the stuff with me, if you want to see the whole shebang on the
11 Plumadore committee, the fact that that bill affected 47 of the 61 city
12 courts--

13 Q. --Yeah, but that's--

14 A. --58 of the 153 judges in New York State. I've got--

15 Q. --I understand--

16 A. --all--

17 Q. --no, I understand that.

18 A. Yeah--

19 Q. --But I'm just asking whether the establishment of the specialty courts
20 helped to become a, a, an establishment of a full, second full-time judge
21 in Elmira?

22 A. Only the adult misdemeanor drug treatment court. The domestic violence
23 court was established two years after I was full-time. The veteran's court
24 was established three years after--

25 Q. --So, which--

700.

(Forrest-Re-recross)

1 A. --I was full-time--

2 Q. --which one, the the, the domestic violence court is the one that was
3 established first?

4 A. No, no, no, the adult misdemeanor drug--

5 Q. --You told--

6 A. --treatment court was established in January of '06. I became full-time
7 April 1st of '07.

8 Q. Alright, who--

9 A. --The domestic violence court was set up and established in September of
10 2009, and the veteran's court was approximately a year later.

11 Q. Who, who ran the adult drug court?

12 A. I did, exclusively.

13 Q. As a part-time judge?

14 A. For approximately 14 months, 13 months, yes.

15 Q. Okay.

16 A. And then exclusively as the full-time judge, yes.

17 MR. REILLY: I have nothing further.

18 MR. POSTEL: I have no questions.

19 THE REFEREE: One final question, or one area,
20 maybe a couple questions. On the day of the PBA, you said
21 that you had missed a phone call?

22 THE WITNESS: Yes.

23 THE REFEREE: Okay, now was that a phone call
24 for an arraignment, or for a search warrant, or what?

25 THE WITNESS: My understanding is it was an

701.

(Colloquy)

1 actual arraignment, and here's the best of my recollection, I
2 thought it was Joe Marone that I called back and got. My
3 understanding is it was an arraignment in the late part of the
4 afternoon, and I do want to make one other thing clear, part
5 of the protocols are the we call in every Saturday and
6 Sunday morning. I did that on Sunday. There were no
7 arraignments in the morning, but we are expected to have
8 our cell phones with us, just in case something like this
9 came up, and it did happen to come up on April 25th of '09,
10 that Sunday, and my understanding is I thought it was a, a
11 simple arraignment late in the afternoon. I could be wrong
12 about that, but all I know is when I called in, they said
13 Judge Ramich was already on his way, and that's what I
14 recall of that particular day, and that was late afternoon. I
15 thought it was, like, 4, 4:30. I'm not aware if there was a
16 search warrant later. I know--

17 THE REFEREE: --Okay--

18 THE WITNESS: --nothing--

19 THE REFEREE: --know--

20 THE WITNESS: --about that. I--

21 THE REFEREE: --know--

22 THE WITNESS: --don't know, I, that's my
23 recollection.

24 THE REFEREE: Okay.

25 MR. POSTEL: Thank you, nothing further.

702.

(Colloquy)

1 THE REFEREE: Both sides--
2 MR. REILLY: --(unintelligible)--
3 THE REFEREE: Okay, you're excused at this point.
4 THE WITNESS: Alright.
5 THE REFEREE: Thank you--
6 THE WITNESS: --Yep--
7 THE REFEREE: --very much--
8 THE WITNESS: --okay--
9 THE REFEREE: --thank you, very much--
10 THE WITNESS: --yep--
11 THE REFEREE: --very much--
12 THE WITNESS: --okay.
13 MR. POSTEL: Can we approach?
14 THE REFEREE: Yes.
15 MR. POSTEL: And we're off?
16 THE REFEREE: We're off.
17 (WHEREUPON the hearing in the *Matter of Thomas E. Ramich*
18 was concluded at 4:15 P. M. on October 18, 2012)
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703.

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EXHIBITS

COMMISSION

		<u>Ident.</u>	<u>In Evid.</u>
63	Westlaw McKinney's Criminal Procedure Law 170.55.	681	
64	Westlaw McKinney's Penal Law 65.10.	681	
65	Commission Determination in <i>Matter of Thomas E. Ramich</i> , December 22, 2002.	681	
66	Excerpts of hearing transcript in <i>Matter of Thomas E. Ramich</i> , April 18, 2002.	681	
67	Rules Governing Judicial Conduct.	681	

RESPONDENT

E	Email from Michael Robinson to Scott W. Drake, police supervisors, October 2, 2008.		490
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CERTIFICATION

I, Terry Miller Scipioni, a Secretary of the State
Commission on Judicial Conduct, do hereby certify that the foregoing is a
true and accurate transcript of the audio recording of the proceedings
transcribed by me, to the best of my knowledge and belief, in the matter
held on October 18, 2012.

Dated: December 3, 2012

Terry Miller Scipioni
Terry Miller Scipioni

STATE COMMISSION ON JUDICIAL CONDUCT
400 Andrews Street
Rochester, NY 14604