

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

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

MARK J. GRISANTI

a Justice of the Court of Claims,
Acting Supreme Court Justice,
Erie County.

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Erie County Family Court, Part 3
One Niagara Street, 7th Floor
Buffalo, New York 14202

June 13, 2022
10:04 a.m.

B e f o r e:

WILLIAM T. EASTON, ESQ.

Referee

P r e s e n t:

For the Commission

JOHN J. POSTEL, Deputy Administrator

DAVID M. DUGUAY, Senior Attorney

For the Respondent

TERRENCE M. CONNORS, Esq.

VINCENT E. DOYLE, III, Esq.

TYLER GATELY, Esq.

A l s o P r e s e n t:

HON. MARK J. GRISANTI, Respondent

KATHRYN TRAPANI, Executive Assistant to the Deputy Administrator

VANESSA MANGAN, Senior Investigator



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THE REFEREE: Okay. This is a hearing in the matter of Mark J. Grisanti, Court of Claims, Acting Supreme Court Justice, Erie County. We're holding this hearing at the 7th Floor, Courtroom 3 of the Family Court Building, and we're doing it pursuant to Section 44, subdivision 4 of the Judiciary Law.

My name is William Easton. I've been appointed by the Commission on Judicial Conduct as a referee to hear this -- the evidence here, and report a proposed findings of fact and conclusions of law at the end of this.

I'll now take appearances of Counsel. I believe we -- note your appearances.

MR. POSTEL: Appearing for the Commission, Deputy Administrator John J. Postel and Senior Attorney David Duguay, as well as Senior Investigator Vanessa Mangan, who will be in in a moment, recognizable in her pink suit.

MR. CONNORS: Good morning. My name is Terry Connors, and I'm here with Vince Doyle from Connors, LLP, representing Judge Grisanti. In addition, Tyler Gately, who is an associate with our firm, is also here in support, and may participate, depending upon what we decide.

THE REFEREE: And I'll note the presence of

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the Judge as well.

JUDGE GRISANTI: Thank you. Thank you.

THE REFEREE: That's everyone that's in the courtroom. Oh.

MR. POSTEL: And the recorder and the clerk for the proceeding is Kathryn Trapani.

THE REFEREE: And with Ms. Trapani's appearance noted, that would be everyone in this room, and there's no one -- the public is not here and there's no other person in attendance.

These proceedings are being digitally recorded by Ms. Trapani. And she will go on and off the record according to her schedule and at my direction. The recording will be transcribed, and in order to facilitate a clear, accurate record, please speak slowly, clearly, and directly into the microphone. There is a sort of counter-intuitive thing here. The mics aren't on, but it is being recorded, so you have to project your voice. Refrain from moving away from the mics and talking over other speakers. Please refrain from creating excessive background noise, and please turn off your cell phones and other electronic equipment.

The Commission will keep a running list of exhibits, as will I, which will be provided to the transcriber for the inclusion in the appendix to the transcript.

1 Commission Counsel will use numbers; Respondent's
2 exhibits will be marked with letters. It is my function to
3 indicate clearly for the record which exhibit is in, whether
4 or not each exhibit had been received into evidence.
5 Commission staff will keep a list of exhibits with a notation
6 exhibiting when the exhibit was received into evidence.
7 And at the conclusion of the hearing, the original exhibits
8 will be forwarded to the clerk of the Commission, and the
9 audio recording will be provided to the administrative staff
10 for transcribing. When the transcripts are prepared, they'll
11 be distributed with copies of the admitted exhibits to
12 Counsel, Commission Counsel, and to myself.

13 At the end of the hearing, we'll discuss the
14 schedule for submitting briefs with proposed findings of
15 fact and conclusions of law after these transcripts are
16 received.

17 The rules of evidence applicable to a non-jury
18 trial apply at this proceeding, and I'll administer an oath to
19 each witness.

20 Any preliminary matters that we want to discuss
21 before we start?

22 MR. DUGUAY: Just briefly, if I may, Mr.
23 Easton?

24 We did have communication with Counsel.
25 We've exchanged exhibit lists, so they will be before each

1 of us. And I believe that is it with regard to any
2 preliminary matter, other than I'll note the size of the
3 courtroom, it appears that we will be best served by having
4 us remain in our seats in front of the microphones and not
5 approaching the witness; is that correct?

6 THE REFEREE: That's correct.

7 MR. DUGUAY: Thank you.

8 THE REFEREE: Is there an extra copy of that
9 exhibit list that you've agreed to?

10 MR. DUGUAY: I believe there may be -- I
11 believe there may be some -- right. There may be some
12 additions to Respondent's.

13 THE REFEREE: All right.

14 MR. DUGUAY: We'll provide a list in a second
15 of an older list, if we may, but --

16 MR. DOYLE: Yeah.

17 MR. DUGUAY: -- if you want to take a minute,
18 we can get the copies of them distributed.

19 THE REFEREE: Okay. Well --

20 MR. DOYLE: Is that the Commission's list?

21 MR. DUGUAY: That's the Commission's list.
22 Do you have a copy, Mr. Doyle?

23 THE REFEREE: I just need a Commission list
24 right now, because I --

25 MR. DOYLE: Okay. You're not going to get to

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ours, probably?

THE REFEREE: I -- optimistic as we are, I doubt that will happen.

MR. DOYLE: Judge, one preliminary matter; I'm just noting, where I'm seated, I may not be able to see the witness. Is it okay when a witness testifies if I were to move to a different seat?

THE REFEREE: Certainly.

MR. DOYLE: Okay. I didn't want to do that and distract everyone in the middle.

THE REFEREE: All right. Are we ready to proceed?

MR. DUGUAY: We are. I'd like to confirm that we have previously marked as Exhibit 1, a 911 audio recording. It's a call from Respondent on June 22, 2020 from [REDACTED] -- 21 [REDACTED] Avenue. That's Exhibit 1. Is Exhibit 1-A previously marked is a transcript of that audio recording.

(Commission Exhibits 1, 1-A were marked for identification)

MR. DUGUAY: We'd like to move entry of both those exhibits pursuant to prior agreement with Counsel.

MR. CONNORS: No objection.

THE REFEREE: Is the transcript agreed upon

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by the parties, or -- and is it -- if so, is it something you want the Referee to use as an aid in hearing the tape, or independently admissible on its own?

MR. CONNORS: I think that works well. We have gone over the transcripts, and they appear to be pretty accurate. I mean, obviously, you may see or pick up one or two words as they are delivered, but by and large, we think it's an accurate reflection of what the video and audio depicts.

THE REFEREE: Okay. Then I'll admit both, and with the proviso that I can listen to the tape, use the transcript as I see fit, and if it fills in the details, so be it, and if it doesn't, so be it.

(Commission Exhibits 1, 1-A were admitted into evidence)

MR. DUGUAY: Commission will now approach with Exhibit 1-A at this time.

THE REFEREE: All right. Both 1 and 1-A are received.

MR. POSTEL: Now that such exhibits are received, we'd ask that Ms. Trapani please play Exhibit 1 at this time.

MR. CONNORS: So if we're going to play it in evidence -- I thought we would do opening statements first. I did not intend to waive any.

THE REFEREE: Oh, yes, yes.

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MR. CONNORS: Yeah.

THE REFEREE: I think we --

MR. DUGUAY: I'm sorry. As one of our preliminary matters, the Commission will not be doing an opening. We will waive an opening.

THE REFEREE: You'll waive an opening? And an opening from the Respondent.

MR. CONNORS: Mr. Easton, Counsel for the Commission, and Judge Grisanti, I expect it will come as no surprise to anyone in this courtroom that the judge that I am going to describe in my opening statement and will be the subject of the evidence that we elicit, both on cross-examination and the evidence that we submit as our affirmative case will bear no resemblance to the person who's depicted in the videos, and no resemblance to the individual who's named in the Formal Written Charge.

But I want to make one thing extremely and pointedly clear: we do not contest for one moment that on June 22, 2020, Judge Mark J. Grisanti reacted emotionally and behaved badly. But that, we submit, is neither the beginning nor the end of the story. That's a snapshot of his life, and a snapshot of his career. Less than ten-minute encounter with the Meles, and about an hour and a half or a little bit more at the scene on [REDACTED] Avenue in North Buffalo.

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None of us, we submit, Your Honor, should be judged by what have done on the worst of our days. And it may be that June 22, 2020, was not the worst day of Judge Grisanti's life, but it's clear that his evaluation and fitness to be a judge doesn't begin or end on that day. Ironically, his anniversary will be this month -- seven years on the bench in June.

But what happened on June 22, 2020, was the culmination of the toxic relationship that brewed on [REDACTED] Avenue for a number of years. Some of these issues go back between the Meles and the people on [REDACTED] 10, 12 or more years. And that, we submit, will not be beyond dispute throughout the course of this proceeding. It will provide some context, some explanation for what happened at 8:45 on June 22, 2020.

When Maria Grisanti walked across the street on [REDACTED] Avenue, she walked from her home at 21 [REDACTED] across the street to the Mele home at 16 [REDACTED]. And she'll tell you it was probably the biggest mistake of her life. But when she walked over there, it wasn't about the six inches that the Mele vehicle impinged upon their driveway. That was the impetus. It was about what had happened over the number of years and their interaction between the families. And that we will depict for you through the witnesses in this case.

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Judge Grisanti walked slightly behind or in tandem with Maria as she walked across the street. You'll see from the video and hear from his testimony that he was essentially very leery of what was going to happen. He was most of the time trying to restrain her and bring her back. He knew about the Meles. He knew about their history. And he knew that there were problems that existed between them and other neighbors. In some instances, violent problems. Violent problems resulting in orders of protection, criminal complaints, issues that have brewed for a number of years.

And we will say and argue to you that Mark Grisanti went there with the objective to try to stop it from occurring. But he couldn't do it. And I don't say for a moment that that excuses his behavior. I don't say for a moment that that excuses his language, raw and unfit for a judge. But I do say that it provides the explanation and context for this particular proceeding.

Mark Grisanti, you will learn from this hearing, rose from a relatively poor neighborhood, attended law school, eventually left the practice of law for public service. He served as a New York State senator for four years. After he was caught in the middle of a political power struggle, he lost his seat and went back to the practice of law.

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Interestingly, you'll learn that he went back to the practice of law in the impoverished neighborhood where he grew up, handling most of his cases pro bono or with very, very small fees. It was not an immensely successful practice.

After a short period of time in the practice of law, he was appointed a judge to the Court of Claims by Governor Cuomo. That was in 2015. But since that time, his record as a jurist has been impeccable, never a complaint with the Commission, and that's part of the calculation when you're making determinations with respect to sanction. I know that's not your role, but it's relevant with regard to what will ultimately occur here.

Never an attorney discipline proceeding as well. But more importantly, his popularity among the lawyers and litigants soared. It did because he had a practical approach on the bench. His colleagues on the bench valued his assistance whenever their calendar got too congested or there was a particularly thorny problem, Mark Grisanti stepped in and helped. He was asked on many occasions by Justice Feroletto, who will testify in this proceeding, to assist. "We have a crowded calendar in Genesee County. We have a crowded calendar in another venue. Will you go and help? Will you take on a particularly difficult case?" He never said no. He simply never said no in those seven



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years.

Not only did he handle and help with other calendars; you'll learn from the testimony in this case that his own statistics were incredibly impressive. We all know that the Office of Court Administration keeps track. They have report cards for judges. They keep track with standards and goals. And his standards and goals were almost amazing. I think he averaged 10, 11, 12 percent with the most that they were over and above standards and goals. And in some years, even less. His rate of dispositions, handling motions, resolving cases, was always at the top of the class. If it were truly a report card, he'd get straight As.

But more importantly, what he displayed for the lawyers who will tell you who will come here to testify, was a courteous demeanor, a judicial temperament that really allowed everyone to have their day in court. He was known for his patience and his understanding on the bench, and the fact that he would go above and beyond to get cases resolved. He was a lawyer's judge. He'd call you in the evenings. He'd call you on the weekends. He'd work on cases for you to see that they were resolved and for the litigants to give them their day in court. It was an impressive seven years for him.

But it wasn't only his statistics that were



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1 impressive. I mean, he collected a number of awards and
2 honors that you'll learn about. We'll put them together in a
3 little package for you, Your Honor, so we won't, you know,
4 go through them ad nauseum. But you should know that he
5 was active in revising commercial division rules to expedite
6 cases. It was Judge Grisanti who served on the ADR
7 Committee for attorney mediators, the kind of things that
8 help lawyers with their cases and move them forward. He
9 has awards from the Western New York Anti-Violence
10 Project, League of Conservation Voters, Baptist churches,
11 even though he's a Roman Catholic, Good Government
12 clubs. I'm particularly proud to tell you about the fact that
13 he won the prestigious Liberty Bell Award that's provided
14 each year by the Erie County Bar Association after a
15 thorough evaluation of candidates.

16 You see, Mark really found his niche on the
17 bench. His practical approach and his dogged pursuit of
18 justice was something that was a hallmark of his career.
19 And that's important because the evaluation of his conduct
20 falls into categories of judicial conduct or misconduct, and
21 extra-judicial conduct. And I don't think you'll hear
22 anything from anyone in this case other than glowing
23 reviews for what he did on the bench. The criteria of
24 integrity and independence, which are criterion that is
25 mentioned in all of the cases decided by the Commission;

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he scores highly for those particular. But that's the way he's been fifty-seven years and for his four years in public service.

And if we closely examine that neighborhood dispute, you'll learn why it happened, the context of those events, and an explanation. Not an excuse, but an explanation. He doesn't deflect any blame that he deserves for his behavior, but he will explain to you what happened and what was happening in his life, because you'll learn about a number of stressors that were occurring immediately congruent with the events of June 22, 2020.

So the Mele family, you'll hear from Joe and you'll hear from Gina Mele. They lived, as I said, across the street at 16. It's diagonally across from the Grisanti home, directly across from the Chwalinski home. They'll be witnesses as well. They've been called the scourge of █████ Avenue. Virtually every family on that street had run-ins with the Meles, some over minor matters, things that wouldn't be worth the time of day, other over major matters, physical threats, physical contact, and as I mentioned earlier, orders of protection and criminal complaints that were filed.

Unfortunately, on June 22, 2020, Mark knew that history when his wife walked across the street. He knew there was a potential for violence and a potential for a

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problem, and he tried unsuccessfully, but he tried to extricate her from that issue.

But with that backdrop, let me go directly to June 22, 2020. It was a Monday. Mark worked that day at Supreme Court. Although appointed as a Court of Claims judge, he primarily serves as an acting Supreme Court justice. He came home from work. He and his wife -- I'm not sure if they went grocery shopping or went to dinner first, but it's not significant. I believe they did go to dinner. We have the receipts from the restaurant where he had dinner with his wife. He had a drink at the bar, and he had two glasses of wine with dinner. And that may play some role if there's some claim that he was intoxicated that evening.

He then either did some shopping at Aldi's grocery store, or it had already been done. He went to Home Depot after that to do -- buy some things for the house that they were working on some projects, and they went and they had ice cream, and returned back to [REDACTED] sometime around 8:35 or so.

When he got back on [REDACTED] Avenue -- and up until this confrontation, he did everything right. He was offended by where the Meles had parked their vehicle, and you'll see a photo of it. Their bumper does extend partly into his driveway. But the problem is, if you're going south

1 on that street, the very high truck, it's -- makes it difficult to
2 maneuver around the side. Not the end of the world, not a
3 big deal, but an irritant that existed for a long time.

4 So what did Mark do? He did the right thing.
5 He called D-District, Buffalo Police, and said, "Listen, can
6 you send someone down, maybe ask them to move?"
7 Judge, there's five feet right in front of the -- that they could
8 pull up. They could move their vehicle very easily and not
9 jeopardize anything. They said at B-District [sic], call 911.
10 So he called 911. That's the call you'll hear. He called 911,
11 told them that the idiot across the street was parked, could
12 they come down, move the truck, give him a ticket, do
13 whatever they could -- knock on his door, all right?

14 He didn't kick the truck, as is alleged by some
15 individuals. He didn't spit on the truck, as is alleged by one
16 of the Meles. He didn't break a window. He didn't do any
17 of those things that would generate the kind of fracas and
18 chaos that ensued. And then we have video -- we have
19 tapes. I can see that.

20 Then he went about and walked his dog. The
21 dog was in -- not to digress too much, but the dog was very
22 ill, fifteen, sixteen years part of the household, and Maria
23 and Mark walked the dog and came back. When they came
24 back, the Meles had come off the porch, and the Meles said
25 a lot of things. And you'll hear them. We have transcripts.

1 But essentially, it's, "You got a problem? What's your
2 problem with our truck?" You know, "What's going on?"
3 And then the f-bombs fly. You'll hear the first encounter
4 from Gina Mele when she calls Maria -- "Fuck you," she
5 says. Then she calls her "a fucking cunt." Now, this is,
6 like, ten seconds into the event, all right? And then, all hell
7 breaks loose. That fateful trip across ██████ Avenue by
8 Maria, with Mark pulling her back by the arm. She gets to
9 the other side of the street, and she'll tell you it was the
10 worst decision she ever made in her life. And all of a
11 sudden, they're all out there in the apron of the Mele
12 driveway. They're tugging and pulling on Maria. She's got
13 her arm up. There's two women there -- there's Gina Mele,
14 and there's her sister. Her sister's Theresa Dantonio. They
15 get Maria in a headlock, and Joe sticks his arm in between
16 the two of them. He says he's in the middle of it -- Joe
17 Mele. You'll hear Maria -- Joseph, he's a big, husky, burly
18 guy, you know, and they had her in a choke hold. The
19 Chwalinski witness, Linda, will tell you exactly what she
20 saw. But you don't have to rely on that exclusively. You'll
21 hear Gina Mele say on the transcript, "Fucking choke her.
22 Choke her out." Okay? So obviously, Mark's terrified.
23 He's trying to get her away. He and Mele engage. Mele
24 comes at him, takes a swing at him. The fracas continue,
25 and they move across the street. It continues from their

1 side of the street to the Grisantis' side of the street. Now
2 they're in the apron of the Grisanti driveway. And they're
3 fighting and yelling and screaming. Neighbors are coming
4 out to watch. You know, Mark is loud at that time, and
5 Mele comes at Mark to throw a punch at him. He misses,
6 grabs Mark's chain, pulls his chain and his shirt, and then
7 goes down to the ground. Falls, hurts his shoulder, and I'm
8 not sure what he's going to say now, but that's likely where
9 he hurt his eye. He had a -- he has a black eye as about it.

10 So when that happens, that officers are just
11 about pulling up at that time. It's about -- I think -- around
12 8:42 when the 911 calls. It was his second 911 call.
13 Remember, I told you about the first one that Mark made?
14 And Ofc. Ryan Gehr's on the scene with his partner, Ofc.
15 John [sic] Muhammad. They come to the scene, and they
16 get out of their cars. They try to separate the people. By
17 this time, the Meles have gone back to their side of the
18 street, the Grisantis were on their side of [REDACTED] Avenue.
19 Okay?

20 There's a lot of yelling and screaming. A lot of
21 foul language, a lot of f-bombs back and forth. A lot's built
22 up and boiled over and, you know, a lot's percolated
23 between these families and others as well. And Gehr talks
24 to the Meles -- Maria's yelling and screaming across the
25 street. She's yelling at them. He tells her to shut up; she

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1 doesn't shut up. She's boiled, okay? And he says, "If you
2 don't shut up, I'm going to have to" -- I don't know his exact
3 words, but he insinuated he was going to have to arrest her.
4 She said, "I don't care. Arrest me." So he says -- Ofc.
5 Gehr, in the heat of the moment -- I'm not being overly
6 critical of him, but he says, "The fuck I will." And he
7 comes over, grabs Maria -- you'll see it on the video. The
8 Muhammad body camera's probably the best way to see it,
9 and that'll be in evidence as well. The reason I say that is
10 because Judge Grisanti is standing next to Muhammad.
11 That's what he sees. And he sees Gehr grab her, throw her
12 to the ground. Now, Maria's all of five foot two, maybe,
13 120 pounds. She goes to the ground, and Mark's there
14 watching it, and that's his wife. They've been together for
15 twenty-five years.

16 And there's some context for this as well. This
17 is 2020. 2018, allegations of police brutality against BPD.
18 I'm not saying they're founded or unfounded, but they're in
19 the headlines. The summer of 2019, the same thing. In
20 2020, you may have seen this because it was widely
21 publicized. There was a protester in front of City Hall, they
22 were moving the phalanx forward, the protester was
23 pushed, went down to the ground, opened up his head. I'm
24 not saying it was right or it was wrong, but that's the
25 context of this.

19.



1 Mark sees Gehr take her to the ground, and he
2 goes over there to Mark -- to Ryan Gehr. He gets there, and
3 you'll see on the video -- there's a couple of different
4 versions, but you'll see him take -- I believe it's his left
5 hand -- he pushes the shoulder of Gehr. Pushes him away
6 and says, "Dude." Okay? And in the meantime, John [sic]
7 Muhammad is there, too. John [sic] Muhammad, you will
8 say -- you will hear -- when Gehr rushes over to grab Maria
9 and put her to the ground, John [sic] Muhammad says,
10 "She's good. She's good." Basically telling him, calm
11 down, slow it down.

12 So I know that there's a criticism of a judge
13 doing that, but I can't help but think of one of us in that
14 same situation and whether the reaction -- what it might be.

15 Ofc. Gehr, I think, will say to you that in the
16 heat of the moment, he didn't really even feel too much
17 going on. He calls it a touch at one point, or a push at one
18 point. But they'll be here. They can describe it, and you
19 can hear what they have to say.

20 That's the encounter, I think, by my best
21 estimate, that lasted about ten minutes on [REDACTED] Avenue.
22 But that's not all that is important, because there's some
23 interaction with the police as well that took place.

24 You'll hear, you know, Mark's mentioning of the
25 fact that his children are police officers. You'll hear him

1 mentioning the fact that he knows Mayor Byron Brown,
2 and that he may be related to a gentleman who was a
3 Deputy Commissioner at the time, Gramaglia, or a
4 detective by the name of Costantino. Mark will tell you
5 why he mentioned those names. Not to curry favor, not to
6 try to impress anyone, but he'll tell you why it is that he did
7 mention those names. But most importantly, he never once
8 said he was a judge. And I don't care how many times Gina
9 and Joe say that he did, that's just more of their lies. We
10 have the video, and I don't think the Commission will even
11 claim that he asserted or taunted or flaunted his judgeship
12 as well.

13 But importantly, a judge's conduct is not only
14 judged in the heat of that particular moment. It's judged by
15 his reaction, by what he does afterwards, and there's a
16 number of cases that talk about that, and we'll provide them
17 for you at the end when we file our findings of fact and
18 conclusions of law.

19 And what these cases say, the Commission
20 looks at. "Okay, how did you react after you made the
21 mistakes? How did you be -- what was your behavior after
22 you misbehaved? Did you apologize? Was the apologize
23 [sic] done before the Commission entered the scene, before
24 they conducted an investigation?" You'll see he apologized
25 that night after he calmed down. He apologized at the

1 station house. He had good recognition that his conduct
2 was not appropriate, and it wasn't just his apology; it was
3 his insight. Before this even started as an investigation,
4 Mark Grisanti immediately sought counseling. He went to
5 his colleagues and to peers, others who had been in this
6 particular situation and the problems that they might have
7 had, to see if they could shed some light on his behavior,
8 shed some light on his conduct that evening, and perhaps
9 provide some mentorship. He reached out to professionals,
10 licensed clinical social workers, treating physicians,
11 medical doctors, psychiatrists, and counselors.

12 And he asked me for some suggestions. I
13 referred him to Horizon Health Services for this type of an
14 assessment. I did that because, established in 1975, they're
15 the largest provider of these services in Western New York.
16 They've got the credentials. They're quality people. And
17 they can do the type of assessment that he wanted for
18 himself, and ultimately, an assessment that a hearing officer
19 would hear, and the Commission should hear as well.

20 They're going to come and testify. We'll bring
21 them here and make them part of the record. We disclosed
22 it to the Counsel for the Commission because it bears on
23 mitigation as well. And we think there will be three of
24 them. We don't think they'll duplicate, but we think you'll
25 hear from Christopher Frigon, F-R-I-G-O-N. He's a

(Matter of Mark J. Grisanti)

1 licensed clinical social worker. He has the extra credentials
2 to do the kind of assessments that you need. There's a
3 psychiatrist by the name of Joshua Morra, someone who
4 has exceptional credentials. They did comprehensive
5 evaluations for anger management, alcohol or substance
6 abuse, and they looked into his history. You know, they
7 wanted to see if there was something that could explain the
8 conduct of a person that they saw and will tell you was
9 socially and professionally functioning at a high level. And
10 there is information that they'll provide that during that six-
11 month period right around that June 2020, there was
12 significant stress, anxiety, and multiple personal losses that
13 Mark had experienced.

14 Now, he's probably reluctant to tell you, but I'll
15 tell you what they were. His mom was dying at the time,
16 and she eventually did pass away. His father-in-law was
17 gravely ill. Two aunts passed away: one due to COVID.
18 Hospitalizations of both his mother and his mother-in-law.
19 And you know, not to make a huge issue about it, but the
20 family pet of sixteen years passed away during the same
21 time period as well. And I know if any of you are dog
22 owners, that could be a significant matter.

23 So they had a diagnosis and a working
24 diagnosis. They will tell you that he appears to be stable
25 from a mental health perspective. His symptoms were

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mild, and professionally and socially, he functions at a very high level. You know, basically giving him a clean bill of health.

But he didn't stop. He continued. He continues up to this very day counseling because he wants to make himself a better person, and by extension, a better judge.

So in a final analysis, there will be some key points that we think will be developed during the course of the trial, and certainly those that we will provide citations from -- directly from Commission cases that will establish that these points are relevant for your consideration and for the consideration of the Commission.

He never mentioned he was a judge. It doesn't matter, as I said, how many times Gina or Joe say it; it's simply a lie. None of his conduct on June 22 involves judicial action. It's all extra-judicial. He displayed the ability to recognize the seriousness of misconduct several times at the scene, and later at the station house. He never pointed to external factors to try to excuse his conduct, only to provide context and some explanation. And I'm taking these right out of the language of some of the Commission's cases.

He recognized the wrong-doing, and the reason that's important is because that forestalls the inevitable conclusion on the part of Commission, that they might need

1 to sanction him more harshly. But he recognized it.
2 There's no chance this is ever going to happen to him again.
3 He understands the essential role that his decisions alone
4 that evening played a part in this predicament, and he'll tell
5 you why he did it and what he did. He takes personal
6 responsibility for his actions that evening. And
7 importantly, you're talking about a single, isolated incident
8 of a matter of minutes with the Meles, and hours with the
9 police officers. And that's important.

10 Some of the cases talk about state of mind at the
11 time that the misconduct occurs. And his altercation
12 occurred when he was at the heat of passion, response to a
13 personal attack, and the defense of his wife. And we
14 submit that that's an issue that may serve as a mitigating
15 factor to cloud his judgment.

16 But we'll summarize all of these for you after the
17 proof is in and we have a chance to cite it through the
18 transcript, because we believe that the proof will show that
19 neither his conduct on June 22, 2020, nor his actions
20 thereafter, nor his actions on the bench warrant a removal,
21 the ultimate sanction. And we will certainly make those
22 arguments vigorously to you in our written papers.

23 As I mentioned to you, I've just addressed
24 Charge I. Mr. Doyle is looking at Charge II and III, which
25 are the financial disclosure and the issues that pertain to

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reporting requirements, and would briefly like to make just a few remarks on those topics since he'll handle that particular aspect of this hearing.

But thank you for your time and your attention.

THE REFEREE: Thank you. Mr. Doyle?

MR. DOYLE: Yeah, Mr. Eaton [sic], very -- this will be much briefer.

Unlike Charge I, there aren't many factual disputes, I don't believe, as to Charges II or III. We have stipulated all the record -- or will stipulate all the records into evidence regarding both Charges. In fact, many of the records came from us -- came from Judge Grisanti. There are legal issues involving these Charges that we will fully brief to you later on, so I won't be including that -- those arguments in my brief statements, but I did want to summarize the allegations, our responses, and the evidence that will come in.

Charge II of the Formal Written Complaint alleges that Judge Grisanti was assigned to eight cases involving an attorney by the name of Matthew Lazroe, who I think is testifying to you tomorrow. Without disclosing a financial relationship with Mr. Lazroe -- that's the Charge -- Judge Grisanti sold his law practice once he was appointed by the Governor. He sold his law practice to two attorneys. One was named Peter Pecoraro, and the other is Mr.



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Lazroe. The agreement back in 2015 required a down payment, and then monthly payments beginning in July of 2015 until the balance was paid.

Unfortunately, Mr. Pecoraro got sick from cancer shortly thereafter and passed away. He passed away in 2018. Once Mr. Pecoraro got sick, Judge Grisanti did not make any effort at all to ask him for the payments. Mr. Lazroe did make his half of the payments, but he didn't assume Mr. Pecoraro's responsibility; he simply paid his half of the payments from 2015 through 2019. We've admitted the financial transaction. We've admitted -- there's a spreadsheet of sorts that details the payments from Mr. Lazroe. All of that will come in to you.

Regarding Charge II and the allegation regarding the eight cases, there are certain court records that will also be admitted to you. And again, those are documents that we provided. So eight cases, in three of them, Mr. Lazroe represented a party in a case that was assigned at one point or another to Judge Grisanti. Each of those three cases is sort of different from the other, and unique in its own way that had some relevance to the Charges and your consideration.

One of those cases, the *Bayview* case, was a foreclosure case. And I think -- I don't know, Judge, if you've ever practiced any foreclosure work, but I think

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you're going to hear probably more than you want about foreclosure work in this case, because many of the cases are foreclosures. And you'll hear about how the courts have adapted and sort of special rules and procedures that have developed to handle these cases, including in Erie County, a foreclosure department where these cases are triaged and there's some attempt to reach settlement of them in some cases, all without the judge being involved. And most of the time, without a judge actually being assigned yet. The case is just sort of automatically transferred to this department.

As to this particular case, the *Bayview* case, Mr. Pecoraro -- or pardon me, Mr. Lazroe did represent the homeowner, and we'll hear about exactly when that started. Judge Grisanti's only involvement seems to have been issuing a scheduling order and then in order to discontinue the action at the request of the bank. There's no indication there was ever an appearance by Mr. Lazroe in front of Judge Grisanti, and as I mentioned. In fact, there was an issue as to when Judge Grisanti was assigned and whether Lazroe was even involved in that time at all, or whether Judge Grisanti's chambers was aware of it.

Another of the three cases that Mr. Lazroe represented, a party -- the *Buffalo Seminary* case, which is the name of a local girls' high school, was an unopposed



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motion for a default judgment in an action to collect a debt -- a tuition debt -- in which there was a written confession of judgment. Mr. Lazroe represented the creditor, and Judge Grisanti's only involvement seems to have been signing the order that granted this unopposed default judgment.

The third of the cases -- the *Jones* case, was a lemon law case, essentially. It was about a car case, a car case, in which Mr. Lazroe again represented the plaintiff. The case was pending since 2017, assigned to a different judge up in Niagara Falls, just north of us. In January of 2020, the Administrative Judge, Judge Paula Feroletto of the 8th District, asked Judge Grisanti to temporarily supervise thirty cases from Niagara Falls that were supposed to be trial-ready but weren't. The judge to whom the case was actually assigned, the *Jones* case and the other thirty cases, Judge Furlong was temporarily ill and Judge Feroletto, as Mr. Connors mentioned, having a lot of confidence in Mr. Grisanti and his effectiveness as a judge, asked him to try to get these thirty cases trial-ready. And like most of these other thirty cases, Judge Grisanti issued a scheduling order regarding discovery, the case was eventually transferred to another judge, Judge Sedita, who handled the disposition of the case. And that seems to have been Judge Grisanti's only involvement.

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So I mentioned eight cases involved in Charge II. I just talked about three of them where Mr. Lazroe represented a party. The other five cases are all cases where Judge Grisanti signed an order that assigned Mr. Lazroe to some role in the case. Three of those were foreclosure cases, so again, we'll go through that process, and Mr. Lazroe was appointed what's called a Guardian/Military Attorney, and that's something I had to learn about, and you will as well. But it's an -- it's a person who has a very, very limited role in a foreclosure action. Fees are provided by statute. They're very modest. And Mr. Lazroe was appointed. The other two cases were guardianships, and Mr. Lazroe was appointed Court Evaluator.

There will be testimony about how those assignments were made, Judge, and again, we agree, we stipulate, we have no problem with the orders, that Judge Grisanti signed the orders making those assignments, but you'll hear testimony about how the assignments are actually made, who makes that -- who picks the attorney, and how the order then comes to Judge Grisanti to sign.

So just a couple of points about Charge II before I leave it. There are legal issues about the recusal rules and the disclosure rules and whether what happened in any of the eight cases violate those rules. We'll save that for our

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post-hearing briefs. But some facts will come out that we think might be relevant to whether the rules are violated, or certainly to the issue of mitigation and potential discipline, such as, in our view, the lack of actual substantive judicial decisions made by Judge Grisanti that were either favorable or not favorable to Mr. Lazroe's party, or whoever he was involved in.

The fact that Mr. Lazroe, in terms of the appointments, the five cases where he received appointments, he was fully eligible. He had done everything necessary under what are called the Court Rule Part 36 to be eligible to receive those assignments, and no one has any issue or has raised any issue with how he performed the duties for those assignments. The relatively small number of assignments, it's five assignments over two years, in relation to the number of assignments that Judge Grisanti in his Part, made during that period.

And perhaps most importantly, Judge, and this is my last point on Charge II, is there is absolutely no proof that there was any agreement, understanding, or *quid pro quo* between Judge Grisanti and Mr. Lazroe tying the assignments or Judge Grisanti's action in any of these eight cases to the fact that they had this financial transaction. There's no hint of that, and Mr. Lazroe and Judge Grisanti will both say it's absolutely not true.



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Moving on to Charge III, Judge, I can be even briefer. It alleges two things, and they both have to do with disclosures.

The first is that -- and they both -- both allegations of Charge III relate to this income from the sale of his law practice. So the first part of Charge III is that Judge Grisanti inaccurately reported his income on a -- the 2016 Annual Financial Disclosure statement, which is the statement that's required. It goes to OCA's Ethics Commission. That Charge refers to a single year. Judge Grisanti disclosed the income in each of the years that the payments were made, and there's no Charge that that disclosure was inaccurate. But this part of the allegation of Charge III, I'll refer to as the "Annual Disclosure" allegation to distinguish it from the second part.

The second part is that he failed to report that same income to the Clerk of either the Court of Claims or the Erie County Supreme Court, as is purportedly required by Section 100.4(H)(2) of the Judicial Conduct Rules. And I'll refer to that -- just my shorthand is the Court Clerk Disclosure. That's a separate requirement, as opposed to the OCA Financial Disclosure requirement.

So as to the Annual Disclosure allegation, Judge, there are two specific allegations related to each other. In 2006 [sic], referring to what happened in 2015,



(Matter of Mark J. Grisanti)

1 because you disclose for the prior year, so in 2016, Judge
2 Grisanti filled out the required disclosure forms. They're
3 done online. In his form, he disclosed the fact that he had
4 sold his law practice. He disclosed the fact that he received
5 monthly payments for the sale of his practice. He disclosed
6 who gave him the -- who was making the payments and the
7 amount of the payments that were called for. In that
8 disclosure, he did not separately indicate that there was a
9 down payment paid, which seems to be an oversight. We'll
10 hear from Judge Grisanti about that. The Commission
11 claims that that -- the failure to disclose that down payment
12 was the first inaccuracy in the Annual Disclosure statement.

13 The second inaccuracy as to that -- again, we're
14 still on the OCA Financial Disclosure statement -- was that
15 after disclosing all of the information about the sale, to
16 whom it was, and what the monthly payments were, the
17 next question in this computer form brings up kind of a
18 drop-down box where you have to check the total amount
19 of the payments. Box A is payments that are under 5,000
20 total. Box B is between five and twenty. Judge Grisanti
21 mistakenly checked Box A. In fact, the total payments he
22 received for that one year, because it included the down
23 payment, was just under 20,000, so he should have checked
24 Box B. The Commission again claims that checking the
25 wrong box made the disclosure inaccurate.

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And it's our position that the facts will show the judge obviously intended to disclose the transaction accurately, and to put sufficient detail into the disclosure. He put it in several spots. It's typed in. Him, by hand, typing it in. And you will see the disclosure, and see several times that he disclosed all of that.

To the extent that the failure to specifically and separately indicate the down payment or to check the wrong box were errors, our position is they were not intentional. And when they were pointed out to the judge by the Commission and questions served to him before he was charged -- before the Charges were brought -- he corrected it. He submitted a correction to OCA.

And then finally, Judge, as to what I referred to as the court clerk disclosure allegation, the Rule 100.4(H)(2) requires judges to report to the clerk of the court on which they serve, quote, "the date, place, and nature of any activity for which the judge received compensation in excess of \$150 in that year." Again, that's an in addition to the OCA disclosure, which the judge disclosed the sale.

The Commission alleges that Judge Grisanti violated this rule by not disclosing the information about the sale of his law practice in this additional. Our response is a legal one, which is based on opinions from the Judicial



1 Ethics Committee, two judges with similar situations, that
2 judges are not required to file a disclosure because it's not
3 for activity in that year. It's for their prior work and the
4 value they built up in their law practice. And again, that
5 will be in our post-hearing brief, so I don't want to spend
6 more time on that, but I just wanted to give you the context
7 of that.

8 And I really appreciate your courtesy and
9 patience, Judge.

10 THE REFEREE: Thank you.

11 MR. DOYLE: Thank you.

12 MR. POSTEL: Mr. Easton, it's come to my
13 attention at this time there's a party waiting to speak with
14 Mr. Connors, I believe. So if I could ask for a brief recess
15 on their behalf so that can be addressed?

16 THE REFEREE: That's fine. Thank you.

17 MR. CONNORS: That doesn't auger well.
18 Outside?

19 MS. TRAPANI: Mr. Easton, shall I go off the
20 record for a moment?

21 THE REFEREE: Yes.

22 (Recess from 10:53 a.m. to 10:58 a.m.)

23 MS. TRAPANI: We're back on the record.
24 Thank you.

25 THE REFEREE: We just took a break. We're

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back on the record. It's approximately eleven o'clock. We did inadvertently go through and start this matter without opening statements, but we rectified that and gave the Respondent, I think, ample opportunity --

MR. CONNORS: Thank you.

THE REFEREE: -- to make an opening statement. The one thing I'd like to address here is we just took a break, and it relates to you, Judge Grisanti. If you need a break to consult with your attorneys, feel free at any point to say you would like to consult with your attorneys privately.

JUDGE GRISANTI: Thank you, Judge.
Appreciate that.

THE REFEREE: Also, the -- again, for breaks as well, I know that many of us in this room have had medical situations involving our backs, and there may be stretch breaks -- or we can accommodate that. If anyone physically needs a break, please note that. We're not on a tight schedule. We'd like to have this hearing conducted as a rational and deliberative mode as possible.

MR. CONNORS: Thank you.

THE REFEREE: Again, we're ready to proceed.
Is the Commission ready to call its first witness?

MR. DUGUAY: We are ready to display our first exhibit, please, so --



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THE REFEREE: Sure.

MR. DUGUAY: -- the Commission, at this time, would ask to play Exhibit 1. It's 911 Audio Recording made by Respondent, June 22, 2020 from 21 [REDACTED] Avenue.

Ms. Trapani?

MS. TRAPANI: Yeah.

[Audio was played]

MR. DUGUAY: Mr. Referee, the Commission would call Gina Mele at this time as our first witness.

THE REFEREE: Okay.

MS. MELE: Yes, I am. Thank you. Oh. Hi, good morning.

THE REFEREE: Ms. Mele --

MS. MELE: How are you?

THE REFEREE: Good. My name is William Easton. I'm an attorney from Rochester, and the Referee for this proceeding.

MS. MELE: Okay. Nice to meet you.

THE REFEREE: And these proceedings are being digitally recorded.

MS. MELE: Okay.

THE REFEREE: And the recording is going to be transcribed, so that it's important that we have an accurate record. So speak slowly and loudly as you can.

(Gina Ann Mele - Direct)

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MS. MELE: Okay.

THE REFEREE: You can keep your mask on; you can remove your mask as you feel comfortable.

MS. MELE: Okay. Thank you.

THE REFEREE: Please refrain from responding to a question until it's fully asked, and to allow objections to be noted back and forth.

MS. MELE: Okay.

THE REFEREE: And other than that, you're ready to proceed as a witness, and I'll administer the oath to you.

Do you swear or affirm under penalties of perjury that you will give -- the testimony you're about to give is the truth, the whole truth, and nothing but the truth?

MS. MELE: I do.

THE REFEREE: All right. We're ready to proceed.

THE WITNESS: Thank you.

MR. DUGUAY: Mr. Easton, with your permission, if it's all right with Ms. Mele --

THE WITNESS: Yes.

MR. DUGUAY: -- if you're more comfortable, I believe that you will not be required to wear a mask, and it may aid us in hearing your testimony.

THE WITNESS: Okay. That's fine.

(Gina Ann Mele - Direct)

1 THE REFEREE: It's completely up to her, so.

2 MR. DUGUAY: Is that all right?

3 THE WITNESS: That's fine with me. Thank

4 you.

5 MR. DUGUAY: If not, please let us know if

6 you become uncomfortable.

7 THE WITNESS: No, I'm -- that's perfectly fine.

8 MR. DUGUAY: Okay. Thank you, Ms. Mele.

9

10 G I N A A N N M E L E

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

12

13 DIRECT EXAMINATION

14 BY MR. DUGUAY:

15 Q. Ms. Mele, can you please state your complete name for our record,
16 please?

17 A. My name is Gina Ann Mele.

18 Q. And can you spell it for us?

19 A. G-I-N-A A-N-N M-E-L-E.

20 Q. Thank you. And where do you currently reside, Ms. Mele?

21 A. 16 [REDACTED] Avenue.

22 Q. And how long have you lived at that address?

23 A. Since the year of 2000.

24 Q. Okay. And do you live with anyone at that residence?

25 A. My husband, Joseph Mele.

39.



(Gina Ann Mele - Direct)

1 Q. Okay. You're a high school graduate?

2 A. Yes, I am.

3 Q. Any training or certifications beyond high school?

4 A. A little bit of college, and certified as a paraprofessional for Board of
5 Education.

6 Q. Okay. Are you currently employed, Ms. Mele?

7 A. Not currently.

8 Q. When was your last employment?

9 A. Approximately three years ago.

10 Q. And can you describe what that employment was? First of all, who were
11 you employed by?

12 A. Board of Education. I was a pre-K teacher assistant.

13 Q. Okay. If I could interrupt, Board of Education, is that the Buffalo Board
14 of Education?

15 A. I'm sorry, yes. Buffalo Board of Education.

16 Q. Okay. And your title that you had?

17 A. Teacher Assistant.

18 Q. And how long had you held that position?

19 A. Sixteen years.

20 Q. And you said you're no longer employed; is that correct?

21 A. Correct.

22 Q. Okay. And can you explain the basis for not working at this point?

23 A. Retired on disability.

24 Q. Okay. And what type of disability, if you could describe your injuries or
25 physical condition that caused the disability.

40.



(Gina Ann Mele - Direct)

1 A. It was a -- I had retired disability due to a car accident. Injuries involving
2 my back and my left knee.

3 Q. Okay. Approximately when did that occur?

4 A. Approximately --

5 Q. The injury. I'm sorry, the car accident.

6 A. Yes, about three years ago.

7 Q. Okay. And Ms. Mele, are you familiar with the Respondent, Judge Mark
8 Grisanti?

9 A. Yes, I am.

10 Q. And with the strange courtroom, I'd generally ask you to point the person
11 out, just to clarify. Could you point to Mr. Grisanti at this time?

12 A. He's right there.

13 Q. Okay. And how long have you been familiar with Judge Grisanti?

14 A. Since he moved on ██████ I think that was approximately -- a couple of
15 years after us, maybe 2004, 2005. I don't recall the exact year.

16 Q. Okay. That was your first acquaintance with Judge Grisanti?

17 A. Yes.

18 Q. Okay. What about -- are you familiar with Judge Grisanti's wife, Maria
19 Grisanti.

20 A. Yes, I am.

21 Q. And when do you come acquainted with Ms. Grisanti?

22 A. I knew her -- I knew -- I didn't know her personally, but I knew her
23 before she moved on the street, because I worked -- I was good friends
24 with her ex-husband, John Amoia.

25 Q. Ms. Mele, I want to direct your attention now to June 22 of the year 2020.

41.



(Gina Ann Mele - Direct)

1 If I could direct your attention to the evening of that particular day. Do
2 you recall having any interaction with Judge Grisanti on that date?

3 A. Yes, I do.

4 Q. Okay. And approximately what time do you recall the interaction
5 beginning?

6 A. It was approximately -- it was in the evening, and it was around -- it was
7 a -- after seven o'clock.

8 Q. So just tell me a little bit, before or after dinner for yourselves?

9 A. After dinner.

10 Q. Okay. And what initially was the interaction between you and Judge
11 Grisanti?

12 A. Words exchanged.

13 Q. Okay. What was the nature of the exchange? The subject matter might
14 be a better question.

15 A. My sister was in from New Jersey because my father was in ICU, and her
16 vehicle was parked in front of his -- well, was legally parked in front of
17 his house. And him and his wife seemed to be upset about the car being
18 parked where it was.

19 Q. Okay. A couple of different questions.

20 A. (Unintelligible).

21 Q. With regard to your sister's vehicle, you said it was a truck, correct?

22 A. Yes.

23 Q. Do you remember the type of truck, either make or color of the truck?

24 A. The color black. If I had to -- I mean, I would assume it was a Chevy,
25 but --

42.



(Gina Ann Mele - Direct)

1 Q. I don't need you to assume. I just asked --

2 A. I -- okay. I don't know. I don't know.

3 Q. Did you have an occasion to observe where the car was parked on the
4 evening that we're talking about on June 22, 2020?

5 A. It was parked in front of the Grisantis' house.

6 Q. Okay. Where was it parked relative to Judge Grisanti's driveway?

7 A. It was a couple feet away.

8 Q. And can you specify, when you say a couple feet, what part of the vehicle
9 or what --

10 A. The back bumper.

11 Q. Okay. So clear it up for me, paint a picture for me --

12 A. I'm sorry.

13 Q. -- if you would. So your sister's truck, correct?

14 A. Yeah, my sister's truck was -- there's a spot in front of Mark Grisanti's
15 house, and my sister's truck was parked -- I don't know, legally, and the
16 bumper end would have been -- the bumper end would have been closest
17 to -- what do you say, the approach of his -- I don't know.

18 Q. Okay.

19 A. Is that what -- I'm sorry.

20 Q. What I'm -- I want to just clarify for the record.

21 A. Yes.

22 Q. So the back bumper of the truck was how close to the driveway on June
23 22, 2020?

24 A. It was not in the driveway, it was a couple feet away. She was parked up
25 away from the driveway.

43.



(Gina Ann Mele - Direct)

- 1 Q. Okay. Had you also driven a vehicle on that day, June 22, 2020?
- 2 A. Yes.
- 3 Q. And what vehicle had you driven on that day?
- 4 A. At that time, I had a Traverse.
- 5 Q. Okay. Chevy Traverse?
- 6 A. A Chevy Traverse, yes.
- 7 Q. All right. And did you park the Chevy Traverse on [REDACTED] Avenue on
- 8 June 22, 2020?
- 9 A. Yes, because I came home from the hospital. So yes, I -- I'm the one who
- 10 parked it.
- 11 Q. Okay. And the hospital -- you said something about your father? Could
- 12 you explain what you were doing at the hospital?
- 13 A. My father was in ICU.
- 14 Q. Okay. And what time did you return to your home from the hospital?
- 15 A. Visiting hours ended at six, because that was during the COVID. I would
- 16 say probably quarter after six I parked it.
- 17 Q. Okay. And you personally parked the vehicle, is your testimony?
- 18 A. Yes.
- 19 Q. And with regard to where you parked the vehicle, could you describe the
- 20 placement on [REDACTED] Avenue that you parked your vehicle?
- 21 A. My vehicle was parked across from my house -- across from my house.
- 22 Q. And the position -- the front bumper of your Traverse?
- 23 A. The front bumper would have been facing Mark's driveway.
- 24 Q. And how close to Judge Grisanti's driveway was the front bumper of your
- 25 Chevy Traverse?

44.



(Gina Ann Mele - Direct)

1 A. I would say the same thing, a couple of feet away, legally parked.

2 Q. Okay. Did the police have a reason to appear at 21 [REDACTED] on June 22,
3 2020?

4 A. I'm sorry. Can you repeat that?

5 Q. Sure. And I'll try to slow down and be more clear. Thank you.

6 A. Sorry.

7 Q. Did the Buffalo Police appear at [REDACTED] Avenue on June 22, 2020?

8 A. Yes, they did.

9 Q. Okay. At any point did the police or any police officer issue a ticket for
10 the way that you had parked your Chevy Traverse on that day?

11 A. No.

12 Q. And Ms. Mele, with regard to your sister's truck, was your sister issued a
13 ticket on June 22, 2020 for a parking violation?

14 A. No.

15 Q. Okay. You told me earlier that just around dinnertime, sometime after
16 dinnertime that there was some type of interaction between you and Mark
17 Grisanti, correct? Judge Grisanti?

18 A. Yes.

19 Q. And you also indicated that Maria Grisanti, Judge Grisanti's wife, was
20 also involved?

21 A. Yes.

22 Q. Okay. Can you explain -- I asked about the nature, and you said it was
23 about the cars, which I asked you about, correct?

24 A. Um-hum.

25 Q. What, if anything, was said at the initial time of the interaction that you

45.



(Gina Ann Mele - Direct)

1 recall?

2 A. Well, it was -- Mark and Maria were very upset about my sister's truck.

3 They screamed to "Move the" -- I'm -- am I allowed to swear?

4 Q. I'm asking if you recall --

5 A. Oh.

6 Q. If you recall any words?

7 A. To "move the fucking truck". That they're sick of where we park. We
8 responded back that the truck was parked legally. They called me a fat
9 fuck. And words went back and forth.

10 Q. Okay. After words were exchanged, was there anything -- any type of
11 physical activity happened with any of the parties that you're describing?

12 A. Yes. Mark and Maria came over to our -- onto our property.

13 Q. Can you describe how that occurred? What did they come -- or in other
14 words, where were they initially?

15 A. They were in their driveway, and me and my husband were on our -- on
16 my porch. And they came across the street onto our property. I was still
17 on the porch, and my husband was -- I think I -- he was off the porch at
18 that point.

19 Q. Okay. At what point in the evening did you come onto your porch?

20 A. Exact time, I don't know. But I went on the porch first, because I saw
21 through my window that they were around my sister's truck. They
22 seemed to be upset. And Maria got right behind it and kicked the back of
23 the truck. So then that -- I went on the porch thinking that if I -- if they
24 saw me, they would just visibly just go inside the house. But that's not
25 what ended up happening.

46.



(Gina Ann Mele - Direct)

1 Q. You indicated earlier that your husband, Joseph Mele, also then, at some
2 point, came onto your porch?

3 A. Yes.

4 Q. Do you recall at what time that was?

5 A. When he heard the -- when he heard the screaming back and forth, that is
6 when he opened up the front door, because he heard all the swearing and
7 he heard them calling me a fat fuck and that's when he came to the front
8 porch to see what was happening.

9 Q. Okay. You described there was point, I believe, when you said Judge
10 Grisanti and Maria Grisanti crossed the street to your side of the street; is
11 that correct?

12 A. Yes.

13 Q. Could you explain what you remember about -- you told me they came
14 from their property. Where did they come to across the street?

15 A. They came across the street and they came up onto -- into our driveway.

16 Q. And could you explain what you mean by "into our driveway"?

17 A. Well, past the city line onto our property.

18 Q. Okay. So let's talk -- so there's a street. Are there curbs on [REDACTED]
19 Avenue?

20 A. Yes, there's curbs.

21 Q. So they went by -- did they go by the curb or --

22 A. They went by the curb. They went by the -- there's, like, the -- there's the
23 sidewalk. They passed the sidewalk onto our driveway, our property.

24 Q. Okay. And you'd invited them onto your property or not?

25 A. No, I did not.

47.



(Gina Ann Mele - Direct)

1 Q. Okay. And what, if anything, transpired once the Grisantis crossed the
2 street and were in your driveway?

3 A. Maria initially, she pushed my husband, and --

4 Q. Where were you when Maria Grisanti pushed your husband?

5 A. On the porch.

6 Q. Okay. What happened next, if anything, after Maria Grisanti pushed your
7 husband?

8 A. After she pushed him, she then hit him in the eye, and my instinct was
9 to -- I said, "Just don't put your hands on my fucking husband." [REDACTED]

10 [REDACTED], so I wanted to protect
11 my husband, so I then went off the porch.

12 Q. Okay. What happened after you left the porch, if anything?

13 A. There was just arguing back and forth, pushing and shoving. Maria bit
14 my husband's arm.

15 Q. How long did that transaction that you're describing last, approximately?
16 Or I should say incident. You said there was some type of physical
17 activity between yourself, your husband, Mr. Grisanti, Ms. Grisanti,
18 correct?

19 A. Yes.

20 Q. Did anybody else become involved at any point? Any other individuals
21 involved in the incident or confrontation?

22 A. Yes, my sister Theresa.

23 Q. And at what point did your sister Theresa become involved?

24 A. She came out -- when Maria was getting physical with me, my sister
25 came out, which would have been minutes later, I -- I'm sorry. As far as

48.



(Gina Ann Mele - Direct)

1 the time frame, it -- maybe it's -- I'm not sure how long the whole thing
2 lasted.

3 Q. Sure. Could you clarify what you meant by Ms. Grisanti getting physical
4 with you? What does that mean?

5 A. She had me by the hair, trying to hit me, grabbing me. My husband tried
6 to separate us, but then that is when Maria bit my husband's arm, and my
7 husband --

8 Q. Did you see where your husband's arm was at the time that Maria
9 Grisanti bit his arm?

10 A. It was -- he was trying to divide us, so it was in the middle. He -- it was
11 in the middle of the both of us.

12 Q. On that recording -- so let me describe again, I know that you put your
13 arm up, extending straight out, your palm was facing me, correct? Could
14 you demonstrate again what you saw with regard to the -- where your
15 husband's arm was?

16 A. His arm was in the middle of us, dividing us, and his palm would have
17 been facing me.

18 Q. Okay. And what -- where was the bite to Mr. Mele's arm from Maria
19 Grisanti?

20 A. The bite was on his right arm. I don't -- can I point, because I don't know
21 how to describe -- like, right in front, here, above.

22 Q. Okay.

23 A. I --

24 Q. I mean, I'm not sure if the Referee and Counsel can see.

25 A. It was about, like, right here.

49.



(Gina Ann Mele - Direct)

1 Q. For the record, it appears that Ms. Mele is indicating an area
2 approximately an inch or so, maybe two inches from her elbow.

3 THE REFEREE: On the right arm?

4 A. The -- yes, the right arm.

5 BY MR. DUGUAY:

6 Q. On the outside of the forearm is where you were pointing -- is that on the
7 outside?

8 A. The outside, yes.

9 Q. Okay.

10 MR. DUGUAY: If I could ask Ms. Trapani to
11 bring up Exhibit 6 from Commission's list? Okay.

12 (Commission Exhibit 6 was marked for identification)

13 BY MR. DUGUAY:

14 Q. Ms. Mele, I guess I went into court -- are you able to see what's been
15 marked previously as Commission Exhibit 6? There's three photos, for
16 the record, it's the photo on the left -- far-most left of the screen; do you
17 see that?

18 A. That's the one that has the six above it?

19 Q. Correct.

20 A. That's his bite mark.

21 Q. Okay. And is that an accurate -- a fair and accurate representation of
22 what your husband, Joe Mele's, arm looked like at or about the time on
23 June 6 [sic] 2020?

24 A. From what I could see from here, yes.

25 Q. Okay.

50.



(Gina Ann Mele - Direct)

1 MR. DUGUAY: And also, if I could just call up
2 Exhibit 9 as well. I believe it's a police photo.

3 (Commission Exhibit 9 was marked for identification)

4 BY MR. DUGUAY:

5 Q. Okay. And again, could you see what's depicted in that black and white
6 photo?

7 A. I can see the bite mark.

8 Q. Okay. Is it the bite mark you were referencing?

9 A. Yes.

10 Q. Okay. Thank you.

11 MR. DUGUAY: I'd move that both Exhibit 6
12 and Exhibit 9 be entered into evidence at this time.

13 MR. CONNORS: No objection.

14 THE REFEREE: Received.

15 (Commission Exhibits 6, 9 were admitted into evidence)

16 BY MR. DUGUAY:

17 Q. Ms. Mele, you testified earlier that your husband, Joe, had received a
18 strike to his face area; is that correct?

19 A. Yes.

20 Q. Okay. What did you see again, if you could describe what happened?

21 A. I saw Maria's -- my husband wears glasses, and I saw her hand go up and
22 hit him.

23 Q. You're indicating, I believe -- for the bench, if I may; I'm not sure if the
24 Referee saw -- could you indicate again what you just explained. You
25 were using your --

51.



(Gina Ann Mele - Direct)

1 A. I saw her hand go up and hit --

2 Q. Okay. So --

3 A. -- the eye area.

4 Q. Okay. So like a clenched fist actually hit --

5 A. Yes.

6 Q. -- your husband in the eye right now?

7 A. Um-hum.

8 Q. I'd ask that --

9 THE REFEREE: When you say you saw her
10 hand come up and gestured, I think, with your left hand?

11 THE WITNESS: The -- well, no, because it
12 was -- I think it was her -- it was her right.

13 THE REFEREE: Her right hand?

14 BY MR. DUGUAY:

15 Q. Okay. Do you recall --

16 A. Yes, because I was on the -- yes, it was -- yes.

17 MR. DUGUAY: If I could ask to display

18 Exhibit 7 on the screen, please?

19 (Commission Exhibit 7 was marked for identification)

20 BY MR. DUGUAY:

21 Q. Again, three colored photos, the middle photo is an Exhibit 7. Do you
22 see that, Ms. Mele?

23 A. Yes.

24 Q. Okay. Do you recognize who that is in that picture?

25 A. That's my husband, Joseph Mele.

52.



(Gina Ann Mele - Direct)

1 Q. Okay. And does that picture fairly and accurately represent the condition
2 of his face on June 22, 2020?

3 A. Yes.

4 Q. Okay. And it was after the incident you just described, correct?

5 A. Yes.

6 Q. Did it look like that previous to the encounter in the street that you
7 described with the Grisantis?

8 A. No.

9 MR. DUGUAY: Okay. I'd move to enter
10 Exhibit 7 at this time.

11 MR. CONNORS: I'm sorry? I'm sorry, I didn't
12 hear that?

13 MR. DUGUAY: I'm sorry. We'd move to enter
14 Exhibit 7 at this time.

15 MR. CONNORS: Oh. No objection.

16 THE REFEREE: Received.

17 (Commission Exhibit 7 was admitted into evidence)

18 BY MR. DUGUAY:

19 Q. And finally, Ms. Mele, I'm going to ask that we display Exhibit 8 for you
20 to view.

21 (Commission Exhibit 8 was marked for identification)

22 Q. Okay. Again, it's a slide of three photos. The first picture to the right,
23 Commission Exhibit 8, do you see that photo?

24 A. Yes, I do.

25 Q. Can you describe what that photo depicts?

(Gina Ann Mele - Direct)

1 A. That is my husband, Joseph Mele's, left eye.

2 Q. And is it --

3 A. It's black and blue there, and his eye was very red inside.

4 Q. Is that a fair and accurate representation of what your husband's eye
5 looked like subsequent to the encounter that you just described on June
6 22, 2020?

7 A. After the encounter?

8 Q. Correct.

9 A. Yes.

10 Q. Okay. It didn't look like that before?

11 A. It did not, no.

12 MR. DUGUAY: I'd move to enter Exhibit 8 at
13 this time.

14 MR. CONNORS: Just so the record reflects that
15 those are the same photos, but if they want to enter them
16 into evidence, I don't have an objection.

17 MR. DUGUAY: It's -- I believe it's a close-up.
18 It shows more clearly the condition of Mr. Mele's eye.

19 MR. POSTEL: I think we're -- can we look at
20 7? Let me see 8 again, please?

21 MR. DUGUAY: At this time, what we would
22 do, we would ask to admit Exhibit 8. We will decline
23 Exhibit 7 appearing as a piece of evidence for this hearing.

24 THE REFEREE: So 7 is withdrawn as
25 duplicative to 8?

54.



(Gina Ann Mele - Direct)

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MR. DUGUAY: Correct.

THE REFEREE: And just for my clarification,
there's a picture on the far lefthand side of a woman -- is
that you?

THE WITNESS: Yes, that is me.

THE REFEREE: All right.

MR. DUGUAY: Mr. Referee, actually, I'm
going to ask her about her injuries in a second --

THE REFEREE: Okay.

MR. DUGUAY: -- if you'd like.

THE REFEREE: All right. Received.

(Commission Exhibit 8 was admitted into evidence)

BY MR. DUGUAY:

Q. Okay. Ms. Mele, did you sustain any injuries as a result of the encounter
that you just described with the Grisantis?

A. Yes. I had -- my lip was fat, and some swelling on the side of my face.

MR. DUGUAY: If we may, I'm going to
interrupt you and ask Ms. Grisanti [sic], although it's part of
what you're looking at is three photos, but Exhibit 3? Oh,
excuse me, Exhibit 5. I have to keep my numbers straight.

(Commission Exhibit 5 was marked for identification)

BY MR. DUGUAY:

Q. All right. So Ms. Mele, looking at Exhibit 5, okay, do you recognize
what that picture is?

A. That's a picture of me.

(Gina Ann Mele - Direct)

1 Q. Okay. And do you recall when that was taken?

2 A. That was taken after the incident on June 22.

3 Q. Of 2020?

4 A. Of 2020, yes.

5 Q. Okay. You'd previously started describing to me injuries that you
6 sustained as a result of the encounter. Do you recall that?

7 A. Yes.

8 Q. Okay.

9 A. I had a fat lip or swollen lip, and that side of my face was a little swollen.
10 And I had black and blue on one of my arms.

11 Q. Okay. So with regard --

12 A. I'm sorry.

13 Q. So with regard to your face, is that a fair and accurate representation of
14 the condition of your face subsequent to the interaction with the Grisantis
15 on June 22, 2020?

16 A. Yes, it is.

17 MR. DUGUAY: All right. We'll move for it --
18 the admittance of Exhibit 5 at this time.

19 MR. CONNORS: I think it's the same one as
20 the other one, but -- so we have 8 in evidence, right?

21 THE REFEREE: We have 8 in evidence. I
22 guess she added a gloss as to the left photo, so I'd admit it.

23 MR. CONNORS: Okay.

24 MR. POSTEL: Just so we're clear, the exhibits
25 are not all three pictures. Despite what it looks like on

56.



1 here, Exhibit 5 is only the picture on the left. So 7 and 8
2 were the same in terms of 7 actually is the middle picture;
3 is that correct?

4 MS. TRAPANI: Yes.

5 MR. POSTEL: So we're showing all three, but
6 we should only be showing one, is that correct?

7 MR. DUGUAY: That's correct. It was not --
8 Ms. Trapani --

9 MR. POSTEL: Okay. But we're displaying all
10 three? All right. So 5 is only the picture on the left of Ms.
11 Mele. 7 is the picture of Mr. Mele in the middle, and 8 is
12 the picture of the eye on the right; is that correct?

13 MR. DUGUAY: We are only offering what's
14 marked as Exhibit 5.

15 MR. POSTEL: Okay. So everything -- it shows
16 three pictures, but the exhibit is not really three pictures; is
17 that correct?

18 THE REFEREE: That's my understanding now.

19 MR. POSTEL: Is that what it is for the --

20 MR. DUGUAY: Yeah. I wanted -- let me --

21 MR. POSTEL: So then let's --

22 MR. DUGUAY: Once -- yeah, that's a good
23 point: on our evidence list that we exchanged, we had them
24 individually marked. As you see from what we displayed,
25 there was only exhibit sticker upon each picture as we

1 asked to describe it. So when we're talking about offering
2 an exhibit, we're only offering marked exhibit as it shows
3 on screen. So the 5 with the sticker. Just so that's clear to
4 everybody.

5 MR. POSTEL: So we do want 7 in, because
6 that's a separate picture.

7 THE REFEREE: Right. Then, so 7 was not
8 duplicative. It was one of the pictures of Mr. Mele, and 8 is
9 the other one.

10 MR. DUGUAY: All right. May I have a
11 moment?

12 MR. POSTEL: It didn't -- it looked like -- this
13 looks like one exhibit. It's not one exhibit.

14 MR. DUGUAY: Okay. At this time, just to
15 clarify, we had moved for the entry of Exhibit 5, and that
16 would again, for clarification purposes only, I'll ask Ms.
17 Trapani to call it back up. I'm sorry. Do it only for -- to the
18 picture of Ms. Mele's face, which she just described. And
19 again, to be extremely clear about the further exhibits, what
20 I had asked for the entry of the exhibit was only relative to
21 the marked exhibit as it appeared on screen. It wasn't for
22 the whole page on screen. I thought I had clarified -- we
23 had cropped the pictures. I thought I had clarified enough,
24 but apparently not, that we were just moving to the entry of
25 the particular pictures you described with the exhibit sticker

(Gina Ann Mele - Direct)

1 that was on it at the time she described it.

2 THE REFEREE: It's clear.

3 MR. DUGUAY: Right.

4 BY MR. DUGUAY:

5 Q. So moving on, Ms. Mele, you had started telling me that you'd sustained
6 some type of injury to your arm; did I hear you correctly?

7 A. Yes.

8 Q. Can you describe what that was -- that injury?

9 A. I had a significant black and blue mark on my -- if I remember correctly,
10 my left arm.

11 Q. Okay.

12 MR. DUGUAY: I'm going to ask Ms. Grisanti
13 [sic] to bring up Exhibit 4.

14 (Commission Exhibit 4 was marked for identification)

15 MR. DOYLE: While that's happening, Mr.
16 Easton, I'm having great difficulty hearing the witness. I've
17 moved around a couple times.

18 THE WITNESS: Oh, I'm sorry.

19 MR. DOYLE: It's okay, but --

20 MR. CONNORS: It's not okay.

21 THE WITNESS: I'll move up a little bit.

22 THE REFEREE: Throw your voice out there.

23 THE WITNESS: Okay. All right. Thank you.

24 Is that better.

25 MR. POSTEL: Yes.

(Gina Ann Mele - Direct)

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THE WITNESS: Okay.

MR. DUGUAY: Okay, and again, I will note for the record that the exhibit shows three different pictures, but I'm only asking and referring to Exhibit 4, which is marked by a sticker with Exhibit 4 on it.

BY MR. DUGUAY:

Q. So Ms. Mele, looking only at the picture that's marked Exhibit 4, do you recognize what that is?

A. That would be the bruise on my arm.

Q. Okay. And does that fairly and accurately represent the condition of your arm subsequent to the interaction with the Grisantis on June 22, 2020?

A. Yes, it is.

MR. CONNORS: Excuse me. I do object to that because there's no differentiation between Mark or Maria. You cannot just say happened with respect to the Grisantis. She has to identify who, if in fact she can identify who it was.

THE REFEREE: Sustained.

BY MR. DUGUAY:

Q. Yeah. All right. Now, let's go to -- Ms. Mele, do you recall how that injury occurred? Specifically who caused it, if you know.

A. I don't.

Q. Okay. Ms. Mele, did you become aware of whether or not this interaction that you just described was ever captured in any type of a recording?

(Gina Ann Mele - Direct)

1 A. Yes, it was.

2 Q. Okay. And can you explain what recording it was captured on?

3 A. I have a security system.

4 Q. Okay.

5 MR. DUGUAY: We've previously marked, Mr.
6 Referee, and Counsel, as Exhibit 2, the Mele home security
7 video.

8 (Commission Exhibit 2 was marked for identification)

9 MR. DUGUAY: If I may, I'm going to ask Ms.
10 Trapani to start playing, but I will ask her to stop shortly
11 thereafter. And before we begin playing, Ms. Trapani,
12 we've also previous marked a transcript of that Mele home
13 security video as Exhibit 2-A.

14 (Commission Exhibit 2-A was marked for identification)

15 MR. DUGUAY: And with Counsel's
16 permission, I will approach Mr. Easton and provide him the
17 transcript.

18 MR. CONNORS: I think it should be in the set
19 of exhibits that Your Honor has.

20 MR. POSTEL: I don't think he has any of them.

21 THE REFEREE: I didn't get any. I just got --

22 MR. CONNORS: You didn't get it?

23 MR. POSTEL: No. He has no exhibits.

24 THE REFEREE: -- the transmittal letter, so.

25 MR. CONNORS: Oh, okay. Do we have a set

61.



(Gina Ann Mele - Direct)

1 for him?

2 MR. GATELY: We have a binder.

3 MR. CONNORS: Yeah, we have a binder, if
4 you want, if that makes it easier for you.

5 MR. POSTEL: We're fine.

6 THE REFEREE: Oh, thank you.

7 MR. POSTEL: Is that Respondent's and
8 Commission's?

9 MR. DOYLE: It's just Commission's right now.
10 We have a binder for Respondent's, which we can give you
11 as well.

12 THE REFEREE: Yeah, it's Commission's
13 Exhibits 1 through 29. I assume you've got a copy of it?

14 MR. POSTEL: That's fine.

15 MR. GATELY: There's no markings or
16 anything.

17 MR. POSTEL: Okay.

18 MR. GATELY: It's just the exhibits.

19 MR. POSTEL: Right.

20 MR. DUGUAY: Yeah. I'd just like to begin
21 again, but just confirm for our purposes for Exhibit 5, I'm
22 not sure if I heard you, did you agree to the admittance of
23 Exhibit 5, or not?

24 MR. CONNORS: Are you saying 5?

25 MR. DUGUAY: 5, that was Ms. Mele's face, if

62.



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you have the list.

MR. CONNORS: I have no objection.

MR. DUGUAY: Okay.

THE REFEREE: Received.

(Commission Exhibit 5 was admitted into evidence)

MR. CONNORS: So if I may, just so it's clear. I'm sorry to interrupt, but on Exhibit 5, she needs to identify how and by whom these alleged injuries occurred. I think with that one, she said the Grisantis as well.

THE REFEREE: Right. And I think she did clarify saying she did not know who --

MR. DUGUAY: That --

THE REFEREE: -- who inflicted those.

MR. DUGUAY: That was with the arm, I believe. But --

MR. CONNORS: That was Exhibit 4.

THE REFEREE: Oh, the -- 4, okay. With 5, all right.

MR. CONNORS: If it's the same answer, that's fine, too.

MR. DUGUAY: All right.

BY MR. DUGUAY:

Q. So Ms. Mele?

A. Yes.

Q. Okay. With regard to the injuries to your face that you testified about,

(Gina Ann Mele - Direct)

1 okay?

2 A. Yes.

3 Q. Do you recall how those injuries were caused?

4 A. On my face, that was Maria.

5 Q. Okay. At this time, I would like to direct your attention, Ms. Mele, to

6 Exhibit 2, which is now being displayed on screen. Okay. With just --

7 no movement at this point, do you recognize what that exhibit portrays or

8 depicts?

9 A. That is my sister Theresa's truck parked in front of Mark Grisanti's house,
10 and that's Maria Grisanti behind it.

11 Q. Okay. And could you describe the color, because it's -- from my vantage
12 point and for the record --

13 A. The color of the truck?

14 Q. The color of Ms. Grisanti's top?

15 A. Pink.

16 Q. Okay. And one moment, please?

17 MR. DUGUAY: Ms. Trapani, if you could play
18 a few seconds? I'll stop it once (unintelligible).

19 [Video was played.]

20 MR. DUGUAY: Okay, Ms. Trapani, if you
21 could stop the video, please?

22 BY MR. DUGUAY:

23 Q. Ms. Mele? Okay, did you hear some of the language or some sound on
24 the video?

25 A. Yes.

64.



(Gina Ann Mele - Direct)

1 Q. Okay. Do you recognize any of those voices at this point in time? Did
2 you recognize any of the voices?

3 A. Yes.

4 Q. Okay. And whose voices did you recognize on the video at this time?

5 A. I heard Mark's voice.

6 Q. That would be Judge Grisanti?

7 A. Yes. Judge Grisanti's voice. I heard Joseph Mele's voice, Maria
8 Grisanti's voice, and Gina Mele's voice.

9 Q. Okay.

10 A. Sorry.

11 Q. Thank you, Ms. Mele.

12 A. Sorry.

13 Q. Now, with regard to what's on the screen right now, so part of the display
14 of the video, the security video?

15 A. Yes.

16 Q. There's another individual. Can you describe who else is in this scene at
17 this point?

18 A. That is Mark Grisanti --

19 Q. Okay. And then --

20 A. -- with a white -- he has a white shirt on.

21 Q. Okay. And with regard to the vehicle to the left, can you identify what
22 vehicle that is?

23 A. That is my sister Theresa's truck.

24 Q. Was that the truck that you testified about earlier?

25 A. Yes, it is.

65.



(Gina Ann Mele - Direct)

1 Q. Okay.

2 MR. DUGUAY: And Ms. Trapani, if you could
3 continue to play for a period of time? I'm sorry.

4 [Video was played.]

5 MR. DUGUAY: And Ms. Trapani, if you'd like
6 to stop that, please, at this time.

7 BY MR. DUGUAY:

8 Q. So Ms. Mele, the individual standing to the right in this scene, across the
9 street, can you describe again who -- or identify who that is?

10 A. That is Mark Grisanti.

11 Q. Okay. Is this a fair and accurate depiction of what you saw from your
12 porch that you described on or about June 22, 2020?

13 A. Yes.

14 Q. All right.

15 MR. DUGUAY: I'd just move for the entry of
16 Exhibit 2 and the accompanying transcript, 2-A, at this
17 time.

18 MR. CONNORS: No objection.

19 THE REFEREE: Received.

20 (Commission Exhibits 2, 2-A were admitted into evidence)

21 MR. DUGUAY: At this time, I would just ask
22 for Ms. Trapani to play the remainder of the exhibit, please.

23 MR. DOYLE: Okay. I want to hear the voices.

24 MR. DUGUAY: Yeah, it's --

25 MR. DOYLE: Well, I can't.

(Gina Ann Mele - Direct)

1 MR. DUGUAY: -- turned up. I believe the
2 sound system is turned up as loud as it can.

3 MR. DOYLE: Okay.

4 MR. DUGUAY: We do have a transcript that's
5 admitted that might be of some assistance. Ms. Trapani --

6 MR. DOYLE: I just didn't know if it could go
7 louder. Thank you.

8 MR. DUGUAY: If I -- okay, it is at maximum
9 volume, unfortunately.

10 [Video was played.]

11 MR. DUGUAY: Ms. Trapani, if you could
12 please stop the video?

13 BY MR. DUGUAY:

14 Q. Ms. Mele, could you identify -- there's two other individuals now in the
15 scene that have not yet been identified by yourself -- if you'd identify
16 each of those individuals?

17 A. The striped tank top is my husband, Joseph Mele, and the tan top, black
18 pants is myself.

19 Q. Thank you, Ms. Mele.

20 MR. DUGUAY: Ms. Trapani, if you could
21 continue at this time?

22 [Video was played.]

23 MR. DUGUAY: Okay. Could you stop the
24 video, please, Ms. Trapani?

25 //

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(Gina Ann Mele - Direct)

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BY MR. DUGUAY:

Q. Ms. Mele, there is now an individual that appears to be in darker clothing to the right side of this particular frame. Do you see the person I'm referencing?

A. Yes, I do.

Q. Can you identify who that person is?

A. That is my sister, Theresa Dantonio.

Q. Thank you.

MR. DUGUAY: Thank you, Ms. Trapani.

We'll play again?

[Video was played.]

MR. DUGUAY: Ms. Trapani, if you could stop the video briefly?

BY MR. DUGUAY:

Q. Okay. Ms. Mele, if you'd direct your attention again to the exhibit, which is being displayed at this time?

A. Yes.

Q. There appears to be an individual in the blue shirt by the rear of your sister's truck. Do you see that --

A. Yes.

Q. -- particular person? Can you identify who that person is for the record?

A. I don't know him personally, but he is a neighbor from down the street.

[Video was played.]

MR. DUGUAY: If you would stop the tape, please, Ms. Trapani.

(Gina Ann Mele - Direct)

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THE WITNESS: Yes.

BY MR. DUGUAY:

Q. Were you able to hear any of the audio; there was some type of a reference to "my son" --

A. Yes.

Q. "Wait 'til my son hears."

A. Yes.

Q. Did you hear that particular phrase or those words?

A. Yes.

Q. Do you -- can you identify who was speaking?

A. That was Maria Grisanti.

Q. All right.

MR. DUGUAY: All right. Continue, Ms.

Trapani.

[Video was played.]

MR. DUGUAY: Ms. Trapani, if you could stop the video at this time?

BY MR. DUGUAY:

Q. Ms. Mele, again directing your attention to the exhibit, there's an individual now that appears not to be wearing a shirt. Do you recognize who that individual is?

A. That is Mark Grisanti.

Q. Okay. Thank you, Ms. Mele.

MR. DUGUAY: Ms. Trapani, if you'd continue?

(Gina Ann Mele - Direct)

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[Video was played.]

MR. DUGUAY: Ms. Trapani, if you could stop the exhibit. Ms. Trapani, can you take the exhibit off screen, if you would?

Mr. Easton, I have no further direct questions at this time.

THE REFEREE: Mr. Connors, you want to take a break and have cross after the break, or --

MR. CONNORS: Sure.

THE REFEREE: It's about five to 12. If the parties need to refresh themselves, get a quick bite to eat, and reconvene.

MR. CONNORS: I'm sorry?

THE REFEREE: What's your preference to reconvening? Is it --

MR. CONNORS: I can reconvene in five minutes, ten minutes, whatever you want.

THE REFEREE: Oh, you mean --

MR. POSTEL: I'm ready to go, too.

THE REFEREE: What's that?

MR. POSTEL: We're ready to go. We're continuing.

THE REFEREE: Okay. Why don't we take a ten-minute break, and then proceed?

MR. CONNORS: Okay. The only issue would

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be, what time did you plan on breaking for lunch?

THE REFEREE: Leave it up to the -- at a convenient point.

MR. POSTEL: After cross?

MR. CONNORS: Okay. I wouldn't be finished by then. So I do have -- the only conflict I have is at 1:30. I have to be at order to show cause across the street, but that's one-thirty to two, I'll be done. So if you can fix the lunch hour so it works during that time.

THE REFEREE: You know, why don't we take a quick five to ten-minute break --

MR. POSTEL: Five now and then break at 1:30?

THE REFEREE: Yes, that would work.

MR. CONNORS: A little bit earlier, but thank you.

MR. POSTEL: Yeah.

MS. TRAPANI: Off the record?

MR. POSTEL: Off the record, Mr. Easton?

THE REFEREE: Off record.

(Recess from 11:55 a.m. to 12:09 p.m.)

MS. TRAPANI: We're on the record.

THE REFEREE: Ms. Mele, let me remind you you're still under oath and all the instructions and directives I gave at the start of your testimony apply in equal force.

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Now, questioning will resume.

THE WITNESS: Okay. Thank you.

THE REFEREE: Thank you. Mr. Connors?

CROSS EXAMINATION

BY MR. CONNORS:

Q. Do you pronounce your name Mele or Mele?

A. Mele.

Q. Mele?

A. Yes.

Q. In June of 2020, Ms. Mele, you lived at 16 [REDACTED] Avenue, correct?

A. Yes.

Q. You live directly across the street from the Chwalinskis?

A. Yes, I do.

Q. And across the street from the Grisanti family, correct?

A. Yes, correct.

Q. In June of 2020, you had three daughters living with you at the house?

A. Two.

Q. All right. And your husband, Joe Mele lived with you as well?

A. Yes.

Q. In June of 2020, how many cars -- how many vehicles did you have?

A. We each -- four vehicles.

Q. And specifically, on June 22 of 2020, there was a fifth vehicle in your household because your sister had come from New Jersey, correct?

A. Yes.

MR. CONNORS: Could you pull up Exhibit 2,

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please?

MS. TRAPANI: Certainly.

BY MR. CONNORS:

Q. Now Exhibit 2 in evidence shows a date and time stamp of the bottom of the picture. Do you see that?

A. Yes.

Q. And it says 6/23/2020 or June 23, 2020, correct?

A. Yes.

Q. And that's not the correct date is it?

A. No, it is not.

Q. Then is the entry that is next to that, is that supposed to represent the time of day?

A. Yes.

Q. Okay. It says 7:14, correct?

A. Yes.

Q. Okay. So none of those entries were accurate on this particular exhibit, correct?

A. The date was not accurate.

Q. Well, the time wasn't accurate either. It wasn't 7:14 when this video started. It was closer to 8:30, correct?

A. I don't know.

Q. Well, are you saying that it was an accurate time or not?

A. I don't know.

Q. Now, this video recording was positioned in your home, correct?

A. Yes.

- 1 Q. Where exactly in your home was it positioned?
- 2 A. Well, this is only one of my four cameras.
- 3 Q. That's the one I'm asking about.
- 4 A. Yes. This one is positioned down my driveway.
- 5 Q. Now, in June of 2020, you actually had four cameras at your home,
- 6 correct?
- 7 A. Correct.
- 8 Q. Two in the dormers up on the second floor?
- 9 A. No.
- 10 Q. Where were they located?
- 11 A. There are two -- not on the second floor, they're on the first floor in either
- 12 angle of the house.
- 13 Q. Okay. Have you since then moved them to the dormers?
- 14 A. No.
- 15 Q. Okay. So there are no cameras in the windows on the second floor of
- 16 your home?
- 17 A. We have, since this incident, added a camera in our bedroom window, but
- 18 not on the outside dormer.
- 19 Q. Okay. So as of June 22, 2020, how many cameras were functioning at
- 20 your home?
- 21 A. Four.
- 22 Q. Okay. All right. And do you have recordings on all four of those?
- 23 A. No.
- 24 Q. Why not?
- 25 A. Well, because it erases itself and the recordings the Buffalo Police took

1 off -- came and took off the recording because me and my husband do not
2 know how to retrieve recordings off of the DVR. And so the Buffalo
3 Police came and took the recording.

4 Q. Well, is it your testimony that all of your cameras were working on June
5 22, 2020, or not?

6 A. Yes, they were all working.

7 Q. And all of them recorded the contact between the Grisanti family and
8 your family?

9 A. As far as I know, yes.

10 Q. And have all of those been preserved?

11 A. No.

12 Q. Okay. Now, you said some of them were taped over. Is that what you
13 told us?

14 A. From my understanding how the system works is it tapes so much and
15 then it starts retaping again. So the other camera's recordings are not
16 available.

17 Q. Why does this recording in Exhibit 2 say June 23rd if it doesn't show the
18 recording of June 23rd and instead it shows June 22nd?

19 A. When we originally got our security system, it was a Lorex Security
20 System. The Lorex DVR box burnt out. At the time, Lorex did not have
21 a compatible DVR to match back up with the cameras. We could not
22 afford a whole new system, so my brother purchased us a DVR of a
23 different name. Unknowingly to us, we didn't know that if it's not the
24 same name brand and not compatible, you then have issues. And with
25 the new DVR, I did not know how to program it, reset it, and so we just

- 1 let it record.
- 2 Q. So the timer that signifies the date and time is not something that you set?
- 3 A. No, it is not.
- 4 Q. That's something that was a holdover from the old system that you had?
- 5 A. I don't know.
- 6 Q. What type of an audio system do you have that was used for Exhibit 2?
- 7 A. Audio in one of the cameras.
- 8 Q. Well, is it true that with respect to this Exhibit 2, that the audio -- the
- 9 sound doesn't match the pictures?
- 10 A. Yes, it's choppy.

11 MR. CONNORS: Can you pull up Exhibit DD

12 if you have it? This is Respondent's Exhibit DD. If you

13 can expand it a little bit?

14 (Respondent's Exhibit DD was marked for identification)

15 BY MR. CONNORS:

- 16 Q. So Exhibit DD, does that fairly and accurately represent the [REDACTED]
- 17 Avenue homes with the names of the individuals on it?
- 18 A. At that time, yes.
- 19 Q. As of June 22, 2020, correct?
- 20 A. Correct.

21 MR. CONNORS: I'll offer that into evidence.

22 MR. DUGUAY: No objection.

23 THE REFEREE: Received. It's DD? David

24 David?

25 MR. CONNORS: Yeah.

1 (Respondent's Exhibit DD was admitted into evidence)

2 BY MR. CONNORS:

3 Q. Now, that exhibit reflects your home, which is 16 [REDACTED] Avenue,
4 correct?

5 A. Correct.

6 Q. [REDACTED] Avenue runs north and south?

7 A. Yes.

8 Q. Reflects your neighbors as the Continos on one side, correct? Is that
9 Jeanne and Joe Contino?

10 A. Yes.

11 Q. And on the other side, the Riccios? R-I-C-C-I-O?

12 A. Riccio?

13 Q. Um-hum.

14 A. Yes.

15 Q. Fran Riccio?

16 A. Yes.

17 Q. Now, across the street directly is the Chwalinskis. That's Jerry and Linda
18 Chwalinski?

19 A. Yes.

20 Q. And then right next to them are the Grisantis at 21?

21 A. Yes.

22 Q. Mark and Maria? And then we've marked at [REDACTED], Qadir family?

23 A. I don't know them.

24 Q. Okay. Now, we had some trouble hearing the voices on the exhibit when
25 the video was played earlier this morning, correct?

1 A. Yes.

2 Q. You were asked to identify some of the voices, and you were able to, but
3 you couldn't identify all of the conversation that took place, correct?

4 A. Well, it was pretty low. It was hard to hear it all.

5 Q. That's my point. You couldn't hear it all.

6 MR. DUGUAY: Objection. I don't believe she
7 asked to hear all of it. She was asked about a particular --
8 my recollection, she was asked about a particular moment
9 and a particular voice.

10 BY MR. CONNORS:

11 Q. What was played, you couldn't hear it all, correct?

12 A. Some things I could hear. They were louder than other parts of the audio.

13 Q. But you couldn't hear all of the audio that was played, correct?

14 A. Today, I did not hear all of it.

15 Q. Okay. But we have a transcript, don't we?

16 A. Yes.

17 Q. In fact, you've seen this transcript before, haven't you?

18 A. Yes.

19 Q. You were given a copy of that transcript?

20 A. Not given.

21 Q. Well, you had it available to you to go over with counsel from the
22 Commission, correct?

23 A. Yes.

24 Q. And you did go over the transcript, didn't you?

25 A. Yes.

1 Q. And you found the transcript to be a fair and accurate summary -- a fair
2 and accurate recitation of the comments that were made on June 23,
3 2020, correct?

4 A. Not all of it.

5 Q. Well, did you make any corrections to the transcript?

6 A. I wasn't asked to.

7 Q. Did you make any corrections to the transcript?

8 A. No.

9 Q. Okay. Now, if you would, could you pull up Exhibit 2-A, please. This is
10 Exhibit 2-A, which is in evidence and that shows you a transcript of the
11 Mele home security camera footage, correct?

12 A. That's what that says.

13 Q. Well, you've seen that before, haven't you? You recognize it?

14 A. Yes.

15 Q. Okay. Let's go to page 1, please. So page 1 identifies at the top, five
16 minutes and fifty-six seconds of conversation. Do you see that?

17 A. Yes.

18 Q. And that's taken from the camera footage of June 22, 2020, correct?

19 A. Yes.

20 Q. And if you scroll down, you see it identifies statements attributed to
21 Maria Grisanti, correct?

22 A. Yes.

23 Q. And it says, "unknown." Do you know who that is?

24 A. No.

25 Q. Okay. And --

1 A. I mean unknown is unknown.

2 Q. Well, my question is, do you know --

3 A. Unless you -- if you --

4 Q. -- who it is?

5 A. If you replay it, maybe.

6 Q. Okay. In any event, the unknown comments are unintelligible, correct?

7 A. That's what it says.

8 Q. But if we get down to the line 16.

9 MR. CONNORS: And scroll down to that,
10 please, Ms. Trapani.

11 BY MR. CONNORS:

12 Q. You see that line?

13 A. Yes.

14 Q. Now, that's just a few seconds into this conversation that's been captured
15 on the tape, correct?

16 A. Yes.

17 Q. And it's only the second thing you've had to say in the entire introduction
18 to this particular conversation between you and the Grisantis, correct?

19 A. From -- yes.

20 Q. And your contribution to this conversation, on page 1, line 16, to "fuck
21 you, Maria." That's the first thing you said, correct?

22 A. I assume so.

23 Q. Well, look at it and see if it's true.

24 A. That's what it says.

25 MR. DUGUAY: I would ask -- if I can interject,

1 I would ask to move and show the full page, so that she'll
2 be able to.

3 MR. CONNORS: We will. We'll get there.

4 BY MR. CONNORS:

5 Q. Do you deny that you said that?

6 A. I am not denying that, no.

7 Q. So just a few seconds into this thing, when someone is asking, "What's
8 the problem?" your response to Maria is, "Fuck you." Correct?

9 A. Yes.

10 Q. Then if you'd scroll down just to line 19. You see that?

11 A. Yes.

12 Q. That's your second comment to Maria Grisanti, correct?

13 A. Yes.

14 Q. I assume you're directing at Maria Grisanti, correct?

15 A. Yes.

16 Q. You called her a "fucking cunt," didn't you?

17 A. I did.

18 Q. Okay. And that is on the first page of this transcript, just a few seconds
19 into the exchange between you and the Grisanti family, correct?

20 A. I don't know the amount of time that it --

21 Q. Well, it's on line 19, correct?

22 A. Yes.

23 Q. And there's only a few exchanges before that, correct?

24 A. Seems that way, yes.

25 Q. And there's none that involve you other than the two comments and a,

1 "What's the problem?" Correct?
2 A. Yes.
3 Q. Now, if you go to the next page, please, page 2, line 13. You see that Ms.
4 Grisanti responds to you. You see that?
5 A. 11 or 13?
6 Q. Well, 12 is you. And you say, "You've nothing better to do." Correct?
7 A. Yes.
8 Q. And then there's an exchange with Ms. Grisanti, correct?
9 A. Yes.
10 Q. But the judge says something right after that.
11 MR. CONNORS: I don't think you're on page 2,
12 are you?
13 MR. DUGUAY: If I may interject, did you
14 want a full page, Mr. Connors?
15 MR. CONNORS: Yeah.
16 MR. DUGUAY: Would that help you?
17 MR. CONNORS: If she can see it. No, it's
18 better off -- you're better off enlarging it if you can.
19 BY MR. CONNORS:
20 Q. So page 2, line 20 --
21 MR. CONNORS: If you could just enlarge that
22 a little bit, please? I'm sorry.
23 MS. TRAPANI: Okay.
24 MR. CONNORS: That's good. Thank you.
25 //

- 1 BY MR. CONNORS:
- 2 Q. You say, "Linda the second." Correct? You see that?
- 3 A. I do see that, yes.
- 4 Q. All right. And have I quoted it correctly?
- 5 A. Yes.
- 6 Q. You're referring to Linda Chwalinski?
- 7 A. Yes.
- 8 Q. And who are you directing that at, Ms. Mele?
- 9 A. I don't remember.
- 10 Q. You have no recollection as to who you were saying that to?
- 11 A. No, I don't remember.
- 12 Q. You don't remember whether you were addressing Judge Grisanti as
- 13 "Linda the second"?
- 14 A. No, I don't remember.
- 15 Q. Well, it wouldn't make sense you would direct "Linda the second" to
- 16 Judge Grisanti, would it?
- 17 A. It could be -- it could be to either.
- 18 Q. Are you saying that in a derogatory fashion?
- 19 A. I'm saying I don't know who I directed it to.
- 20 Q. Okay. I'm asking you about the words, though. Are you saying, "Linda
- 21 the second" in a derogatory fashion?
- 22 A. Can you explain what that means?
- 23 Q. You don't know what the word derogatory means?
- 24 A. No. I'm asking for you to explain it. No, I don't.
- 25 Q. Okay. What is your meaning of "Linda the second"?

1 A. My meaning of it? A troublemaker.

2 Q. And so you're directing that at either Judge Grisanti or Ms. Grisanti, but
3 you don't know which one?

4 A. No, I don't know. I don't know.

5 MR. CONNORS: If you go to page 3, please,
6 line 11.

7 BY MR. CONNORS:

8 Q. Now, line 11 is attributed to your husband. He's Joseph Mele, correct?

9 A. Yes.

10 Q. And he's saying, "Come on, Mark." Do you remember him saying that?

11 A. I don't recall.

12 Q. You don't deny it though, that the transcript is accurate, do you?

13 A. No.

14 Q. And he is actually inviting Mr. Grisanti to fight, correct?

15 A. I don't know.

16 Q. Well, he's saying, "Come on, Mark." You were there, weren't you?

17 A. I was there.

18 Q. All right. And your husband is saying to Judge Grisanti, "Come on,
19 Mark." Correct?

20 A. Yes, he said that.

21 Q. But then you say, "He's a chicken shit." You see that?

22 A. I do see that.

23 Q. And by that, you mean Mark's afraid to fight your husband?

24 A. I don't know.

25 Q. You don't know what you mean when you say he's a --

1 A. There were a lot of words exchanged that day.

2 Q. Excuse me. I'm asking about very few words.

3 A. Okay.

4 Q. You don't know what you mean when you say, "He's a chicken shit"?

5 A. No, not exactly. I don't know what I meant.

6 Q. Well, what's your best estimate as to what you meant right there when
7 you --

8 MR. DUGUAY: Objection. Form of the
9 question.

10 BY MR. CONNORS:

11 Q. When your husband says, "Come on Mark" and you say, "He's a chicken
12 shit"?

13 THE REFEREE: Overruled.

14 A. I don't know.

15 BY MR. CONNORS:

16 Q. Then your husband says, "Come on, motherfucker." Do you see that?
17 Line 14.

18 A. Yes.

19 Q. And you say, "He's a chicken shit" again, correct?

20 A. Yes.

21 Q. Are you not saying to Mark Grisanti that he's afraid to fight your
22 husband?

23 A. I don't know.

24 Q. You don't know what you're saying in that transcript?

25 A. I don't know what I meant by it, I guess.

- 1 Q. Well, it's a fact that not only were you saying that, you were making
2 chicken noises in the background. Do you recall that?
- 3 A. No.
- 4 Q. Well, we have a tape of it. Have you listened to the whole tape?
- 5 A. I have.
- 6 Q. How many times have you listened to the tape?
- 7 A. A couple.
- 8 Q. And you don't recall hearing yourself in the background on page 2, at or
9 about line 14, making chicken noises in the background?
- 10 A. No, I don't.
- 11 Q. But you don't dispute that there was a tape of that day, correct?
- 12 A. There is a tape of that day.
- 13 Q. Then your husband says, "Come on, you cocksucker." Do you see that at
14 line 16?
- 15 A. Yes, I do.
- 16 Q. And you were there. You heard him say that?
- 17 A. I did.
- 18 Q. And that was an invitation to Judge Grisanti to fight, correct?
- 19 A. I don't know.
- 20 Q. What did you interpret that to mean when you were there and now that
21 you see it on the transcript?
- 22 A. I don't know.
- 23 Q. So when your husband says, "come on," calls him a "cocksucker," and
24 you say he's a "chicken shit," you don't know what that means. Is that
25 your testimony?

1 A. Yes.

2 Q. Well, let's go to page 4 then, line 14. Your husband says, line 14 and 16,
3 "I'll fucking knock you out." You read that?

4 A. Yes.

5 Q. You heard your husband say that on June 22, 2020?

6 A. I don't remember if I exactly heard that.

7 Q. Well, looking at it now, does that refresh your recollection as to the fact
8 that your husband said, "I'll fucking knock you out"?

9 A. He may have said it.

10 Q. And what did you understand that to mean when your husband said that
11 to Judge Grisanti?

12 A. I can't speak for him. I don't know.

13 Q. Well, you were there. You were involved in the whole matter, correct?

14 A. Yes.

15 Q. You have no opinion as to what your husband meant when he said, "I'll
16 fucking knock you out"?

17 A. I can't presume what he meant by that.

18 Q. Well, you know it meant that he said that he was going to hit Judge
19 Grisanti, correct?

20 A. I'm sorry. Can you repeat that?

21 Q. You know it meant that he was going to hit Judge Grisanti; to knock him
22 out, correct?

23 A. I don't know if that's what he meant by what -- that.

24 Q. On the bottom of the page, on line 25, you say, it starts at 23, "Don't you
25 ever fucking touch my fucking --" Do you see that?

1 A. Yes.

2 Q. Do you remember saying that?

3 A. Yes.

4 Q. Okay. Who are you referencing that to?

5 A. Maria.

6 Q. Not to the judge, but to Maria, correct?

7 A. To Maria.

8 Q. Then on page 5, line 11 -- I'm sorry, line 10. It says, "Ms. Mele," and
9 there you say, "You motherfucker." Do you see that?

10 A. Yes.

11 Q. Who are you addressing that to?

12 A. I don't remember.

13 Q. Well, it wasn't your husband, was it?

14 A. No.

15 Q. So it had to be either Mark Grisanti or Maria Grisanti, correct?

16 A. Correct.

17 Q. Do you remember why you were calling one of the Grisantis a
18 "motherfucker" at that time?

19 A. Because of the whole incident. Because of my husband getting bit --

20 Q. Well --

21 A. -- violently.

22 Q. -- let's look down to line 12. Now, there you're saying, "Come on, you
23 bitch." I take it you're addressing Maria Grisanti, correct?

24 A. Yes.

25 Q. And again, you say, "Come on" two lines later, line 18. You see that?

- 1 MR. CONNORS: Scroll up a little bit, please.
- 2 BY MR. CONNORS:
- 3 Q. All right?
- 4 A. Yes.
- 5 Q. So you're saying to Maria Grisanti at that time, "Come on, you bitch.
- 6 Come on." Correct?
- 7 A. Yes.
- 8 Q. All right. So are you inviting her to fight with you?
- 9 A. No. Those were words at the heat of a moment. I was being -- my hair
- 10 was being pulled. I was being hit.
- 11 Q. Well, you didn't say, "ouch" or "let go of my hair." You said, "Come on,
- 12 you bitch. Come on." Correct?
- 13 A. Yes.
- 14 Q. Okay. So what did you mean when you said, "Come on, you bitch"?
- 15 A. I don't know exactly.
- 16 Q. Now, if you'd go down to line 21, please. That's you again at line 21, Ms.
- 17 Mele, right?
- 18 A. Yes.
- 19 Q. You're saying, "Choke her. Choke her." Correct?
- 20 A. Yes.
- 21 Q. "Give her a chokehold, Theresa." Correct?
- 22 A. Yes.
- 23 Q. Theresa's your sister, correct?
- 24 A. She is.
- 25 Q. And then in line 24, two lines later, you say, "Fucking choke her."

1 Correct?
2 A. Yes.
3 Q. So you're telling your sister to choke Maria Grisanti, correct?
4 A. To restrain her.
5 Q. You don't say "Restrain her." Do you?
6 A. Well, my --
7 Q. Excuse me. Do you say, "Restrain her"?
8 A. No.
9 Q. You don't say, "Restrain her, please, Theresa." Do you?
10 A. No, I don't.
11 Q. You say, "Choke her." Correct?
12 A. Correct.
13 Q. You know what choke means, don't you? You know what that means,
14 don't you?
15 A. Yes.
16 Q. You not only say, "choke her," you say, "fucking choke her." Correct?
17 A. Yes.
18 Q. So that's your sister who you're encouraging to choke Maria Grisanti,
19 correct?
20 A. To restrain her.
21 Q. You don't say that though, do you?
22 A. No.
23 MR. CONNORS: If you go to page 10, please,
24 Kate?
25 //

1 BY MR. CONNORS:

2 Q. So page 10, line 11, that's once again you, Ms. Mele, correct?

3 A. Yes.

4 Q. And there you're saying, "Fuck you." Correct?

5 A. Yes.

6 Q. Is that directed at the judge or at Maria?

7 A. Maria.

8 MR. CONNORS: If you can scroll up just a
9 little bit, please? Line 20.

10 BY MR. CONNORS:

11 Q. Line 20 is you, again, correct? You're calling somebody a "piece of shit."

12 Do you see that?

13 A. Yes.

14 Q. Was that directed at the judge or at Maria?

15 A. I don't know.

16 Q. So is it your testimony that it could be directed either at the judge or
17 Maria? You're just not sure?

18 A. I'm not sure who.

19 Q. Well, how about line 16? You're calling somebody a "scumbag, lowlife."

20 Do you know who that is?

21 A. No.

22 Q. Is it your testimony, once again, that it could be Maria, or it could be the
23 judge?

24 A. Yes.

25 Q. Now, if you go to page 12, line 20? Now you see line 20 on page 12 of

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Exhibit 2-A?

A. Yes.

Q. It identifies you once again, and there, you're calling somebody a "motherfucker." Correct?

A. Yes.

Q. Who's that directed to?

A. I'm not sure.

Q. Well, you do it again two lines down on line 24. You say, "you" -- excuse me, line 22 is, "You motherfucker" again, and then line 24 is, "You motherfucking." Do you see that?

A. Yes.

Q. All of those are things that you said on June 22, 2020?

A. Yes.

Q. And then it goes over into the next page. Again, line 1, you say, "motherfucker" again, correct?

A. Yes.

Q. And then line 4, you call somebody a "motherfucker" again. You see that?

A. Yes.

Q. Who are you directing those words to?

A. That was Mark Grisanti, because he went to hit me.

Q. Well, you say it five times, correct? Right? In that exchange between those two pages, you use it five times. Are you saying all five of them --

A. Yes, but in reading --

Q. -- let me finish.

- 1 A. Okay. I'm sorry.
- 2 Q. Are you saying all five of those were directed to Judge Grisanti?
- 3 A. Yes, because when I'm looking at that, my husband says, "Don't fucking
- 4 touch her," and Mark was grabbing and pushing me, and he went to
- 5 punch me.
- 6 Q. Um-hum. So all of those curses were directed to Mark Grisanti, correct?
- 7 A. I would assume during that time, yes.
- 8 Q. No, no. I don't want you to assume. I want you to tell me what you
- 9 recall specifically.
- 10 A. Yes, those were directed towards Mark.
- 11 Q. Line 19, please. So on page 16, line 19, please. So now, on line 18, you
- 12 see Ms. Chwalinski identified there. Do you see that?
- 13 A. Yes.
- 14 Q. And that would be Linda Chwalinski?
- 15 A. Yes.
- 16 Q. The person that you identified as living directly across from you on
- 17 [REDACTED] Avenue?
- 18 A. Correct.
- 19 Q. And there, you say to -- well, you tell me. It looks as though you're
- 20 referring to Linda by calling her, "You Polish dumb -- you're a Polack
- 21 dumb fuck." Is that --
- 22 A. Yes.
- 23 Q. -- directed to Linda Chwalinski?
- 24 A. Yes.
- 25 Q. By you?

1 A. Yes.

2 Q. Now, do you remember what she said before that exchange?

3 A. No, I don't.

4 Q. Let's scroll up a little bit to see if we can help refresh your recollection.

5 MR. CONNORS: That's good.

6 BY MR. CONNORS:

7 Q. So Ms. Chwalinski responds to a comment you make at line 14 by
8 saying, "Well, you were on this side when (unintelligible) too, asshole."

9 Do you see that?

10 A. Yes, I do.

11 Q. And then you tell her to go in the house, correct?

12 A. Yes.

13 Q. And your husband says, "Fuck you, Linda." Correct?

14 A. Yes.

15 Q. And that's when you call Linda a "Polish dumb fuck."

16 A. Yes.

17 Q. So that was your, really, first exchange with Linda Chwalinski when she
18 was on the scene on [REDACTED] Avenue, correct?

19 A. I don't remember.

20 Q. Well, there's no other exchanges between you and her in the transcript,
21 are there?

22 A. Not in the transcript, but there's things missing from the audio. From the
23 recording.

24 Q. Okay. So there's things missing from the audio recorder on your camera?

25 A. Yes, because the audio was choppy.

- 1 Q. Okay. There's a difference between something being missing or
2 something being choppy.
- 3 A. Oh, I'm sorry. Choppy.
- 4 Q. By choppy, you mean that some of the words were unintelligible?
- 5 A. Yes.
- 6 Q. But there's no other conversation between you and Linda Chwalinski,
7 other than the one we're referring to on page 16, correct?
- 8 A. Not that I see.
- 9 Q. So two sentences into the conversation, you're calling her a "dumb
10 Polack" and "Polack dumb fuck." Correct?
- 11 A. Yes.
- 12 Q. If you go to page 19, line 14. So once again, you're on the transcript
13 there in line 14, and there, you're calling someone a "fucking piece of shit
14 dumb bitch." Do you see that?
- 15 A. Yes, I do.
- 16 Q. And that's something you said on the 22nd of June 2020?
- 17 A. Yes.
- 18 Q. You directed that to Maria Grisanti?
- 19 A. Yes.
- 20 Q. So we've gone through the transcript of your security camera footage on
21 June 22nd, correct?
- 22 A. Yes.
- 23 Q. We haven't gone through every entry in it, but almost all of your entries,
24 we have gone through, correct?
- 25 A. Yes.

- 1 Q. Would it be fair to say that within that six-minute period, you said, "fuck
2 you" several times to Maria?
- 3 A. Yes.
- 4 Q. You called her a "fucking cunt." Correct?
- 5 A. Yes.
- 6 Q. Called her a "motherfucker" several times.
- 7 A. Yes.
- 8 Q. Called her a "bitch."
- 9 A. Yes.
- 10 Q. And told your sister to choke her. To "fucking choke her."
- 11 A. Yes.
- 12 Q. You called her a "scumbag lowlife." Correct?
- 13 A. Unsure who that was directed to.
- 14 Q. And a "piece of shit." A "fucking piece of shit." Correct?
- 15 A. Unsure who that was directed to.
- 16 Q. You told Mark that he was a "chicken shit" and your husband called him
17 a "cocksucker." Correct?
- 18 A. Yes.
- 19 Q. And you called Linda a "Polack dumb fuck."
- 20 A. Yes.
- 21 Q. And that was all within the span of six minutes, as reflected on that
22 particular transcript, correct?
- 23 A. I'm not sure of the time.
- 24 Q. Well, we'll go back to the first page, and we'll look --
- 25 A. But --

- 1 Q. -- and see.
- 2 A. Yes, I guess.
- 3 Q. Don't guess. We'll go back and look. Page 1 --
- 4 A. Oh, I see it. Yes.
- 5 Q. Less than six minutes, in fact, correct?
- 6 A. Yes. Um-hum.
- 7 Q. Now, the cars that you owned on June 22, 2020, including the vehicle
- 8 that your sister drove, did you ever park any of those in your own
- 9 driveway on [REDACTED]
- 10 A. On that day?
- 11 Q. Yes.
- 12 A. No.
- 13 Q. They were all parked out in some sequence on the [REDACTED] Avenue street,
- 14 correct?
- 15 A. No, my daughter, Marisa, was at work.
- 16 Q. But at some point, she had to come home and park her car. Did she park
- 17 on the street or in your driveway?
- 18 A. She wasn't able to park in the driveway because all the police vehicles
- 19 were there at that point.
- 20 Q. But it's a practice of you to park all of the vehicles that you own on the
- 21 street, correct?
- 22 A. No.
- 23 Q. Now, we've looked at this security camera footage, and we've looked at
- 24 the transcript already, correct? We've looked at a portion of the footage.
- 25 A. Yes.

- 1 Q. But we have the beginning of the footage where it showed Mark and
2 Maria, correct?
- 3 A. Yes.
- 4 Q. Is it your testimony that Maria spit on the truck?
- 5 A. Yes.
- 6 Q. Is it your testimony that Mark spit on the truck?
- 7 A. No.
- 8 Q. Is it your testimony that Maria kicked the truck?
- 9 A. Yes.
- 10 Q. Okay. And where on the video that we've looked at, that's in the
11 evidence, does it show Maria spitting on the truck?
- 12 A. Where does -- there is a -- I don't know how to say this. There was some
13 footage that started earlier where you can see Maria around the car and
14 lifting her foot and things. I did not see that on this here.
- 15 Q. There's no evidence in this particular footage that we've shown, which is
16 Exhibit 2, that shows Maria spitting on the truck, does it?
- 17 A. I don't know if you would be able to see that clearly.
- 18 Q. Okay. There's no evidence of her spitting on the truck on the security
19 camera footage Exhibit 2, correct?
- 20 A. I don't know if you can see that clearly, of her actually spitting.
- 21 Q. There's no evidence that you can point to, in this security camera footage,
22 that shows her kicking the truck, is there?
- 23 A. Not from what we viewed here.
- 24 Q. Well, you had all the other views, didn't you?
- 25 A. I'm sorry, repeat that?

- 1 Q. You had all the other views of your camera footage prior to the security
2 camera footage that's Exhibit 2, correct?
- 3 A. I have what the police took.
- 4 Q. So is it your testimony that there's some evidence that the police have that
5 shows her spitting on the truck or kicking the truck?
- 6 A. There is a video that shows more of this, of when Mark and Maria came
7 home, how they linger around the truck, how Maria was behind the truck.
- 8 Q. There's no video that we have in evidence or that is in existence that
9 shows her, where you can see her spitting on the truck, is there?
- 10 A. I don't know if you would be able to actually see her spitting.
- 11 Q. Okay. So the answer to my question is, no, as far as you know, there is
12 no such video?
- 13 A. I visually saw it.
- 14 Q. Okay. And as far as you know, there's no such video that shows her
15 kicking the truck, correct?
- 16 A. No, there's video of -- showing her raising her foot.
- 17 Q. Kicking the truck, is my question. Do you see that on any video?
- 18 A. There's video of her, yes.
- 19 Q. Where is it?
- 20 A. I -- it should be a part of the video. I don't know.
- 21 Q. Now, that evening, you gave a statement to the police, correct?
- 22 A. I did.
- 23 Q. And in that statement to the police that you gave, you were asked to
24 swear to the truth of the statement you gave to the police, correct?
- 25 A. I don't recall directly from my statement. I don't -- it was at my kitchen

1 table.

2 Q. Were you allowed to read the statement before you gave it, correct?

3 A. Yes. We read it together.

4 MR. CONNORS: May I approach?

5 THE REFEREE: Sure.

6 BY MR. CONNORS:

7 Q. I'm going to show you what's been marked for identification only as the
8 Respondent's Exhibit MM.

9 (Respondent's Exhibit MM was marked for identification)

10 BY MR. CONNORS:

11 Q. Take a look at that, front page. See if it helps you refresh your
12 recollection as to the fact that you gave a statement to the police that
13 evening of June 22, 2020.

14 A. Yes.

15 Q. So let's go to the last page.

16 MR. CONNORS: And can you pick me up,
17 okay, Kate?

18 THE WITNESS: Oh, I'm sorry.

19 BY MR. CONNORS:

20 Q. Let's go to the last page, please.

21 A. Yes.

22 Q. There in this statement is your signature line, correct?

23 A. Yes.

24 Q. And in fact, it was witnessed by a detective?

25 A. Yes.

1 Q. And you said and agreed with the fact that you've read the above
2 statement and it's true and correct to the best of your knowledge, correct?

3 A. Yes.

4 Q. And in fact, you understood that if you made a false statement, it was
5 punishable by a class A misdemeanor, correct?

6 A. I guess so.

7 Q. Well, read it. It's right there.

8 A. Yes, I see that.

9 Q. Okay.

10 A. Um-hum.

11 Q. So that if you were to give a false statement on this document, it could be
12 punishable by a criminal misdemeanor, correct?

13 A. Yes.

14 Q. Now, in this particular statement, on the front page, you were asked some
15 questions to tell the police officers in your own words about the incident.
16 Do you see that on page 1?

17 A. Yes.

18 Q. Now, down on line 32, do you see that?

19 THE WITNESS: Excuse me. Do you mind if I
20 get my readers out? Thank you.

21 BY MR. CONNORS:

22 Q. Tell me when you're at page 32 -- excuse me, line 32.

23 A. Okay.

24 Q. Are you there?

25 A. I am.

1 Q. And there, in that sworn statement, you said, "Mark said, 'I am a judge.

2 If you don't move it, I will get it towed.'" Do you see that?

3 A. Yes.

4 Q. So you swore to him saying that, correct?

5 A. Yes.

6 Q. Can you tell me where on the video or the audio that we looked at Exhibit

7 2 that Mark said, "I am a judge"?

8 A. I did not hear it on the video.

9 Q. Because it wasn't there, correct?

10 A. It wasn't on the video, no.

11 Q. He, in fact, never said, "I am a judge" at all that evening, correct?

12 A. No, he did say that.

13 Q. Okay. Well, we have audio and video right from the moment he returns

14 from going out to dinner and shopping and we identified it as Exhibit 2,

15 correct?

16 A. Yes.

17 Q. And you've agreed with me now that there's nowhere on that audio or

18 video that Mike [sic] said, "I'm a judge" -- Mark said, "I'm a judge."

19 Correct?

20 A. Not on the video, but it was said.

21 Q. Well, have you seen any other video or audio that supports what you just

22 told us about that?

23 A. No.

24 Q. You know that the District Attorney said that he could've prosecuted you

25 for a false statement. You remember that don't you?

1 A. I do remember that, yes.

2 Q. And you were -- you wrote a letter complaining about that statement that
3 he made, correct?

4 A. I did, yes.

5 Q. But you said in your letter that you acknowledge that he could've
6 prosecuted you for making a false statement that Judge Grisanti threw
7 around the fact that he was a judge?

8 A. That's what he said.

9 Q. Because he never did that, did he?

10 A. No, he said it.

11 Q. Did he say it before the police arrived or after the police arrived?

12 A. He said it before the police arrived and he said it once after the police
13 arrived.

14 Q. So then the police would be able to corroborate the fact that he said it. Is
15 that what you're telling us?

16 A. They should.

17 Q. Or it should be on one of the other videos or audios that we have, correct?

18 A. I assume so, yes.

19 Q. So you knew on June 22, 2020 that Judge Grisanti was a judge, didn't
20 you?

21 A. Yes.

22 Q. Why would he say it to you before the police arrived to identify himself
23 as a judge?

24 A. He says it a lot.

25 Q. Yeah. And unfortunately, we have no audio or video that supports that

- 1 that you can produce, do we?
- 2 A. No.
- 3 Q. So now, you spoke to a lot of media, didn't you, that evening and the next
- 4 day?
- 5 A. I spoke to -- oh, sorry. I'm sorry. I spoke to Channel 7.
- 6 Q. Charlie Specht at Channel 7?
- 7 A. Yes.
- 8 Q. Okay. You spoke to Law360, correct?
- 9 A. Yes.
- 10 Q. That would be Frank Runyeon, R-U-N-Y-E-O-N, correct?
- 11 A. Yes.
- 12 Q. And in fact, you told Charlie Specht, and he reported it on television, that
- 13 Mark was shouting, "I'm a judge." Do you remember telling that to
- 14 Charlie Specht?
- 15 A. Yes.
- 16 Q. Did you provide the reporter, Specht, with any video or audio evidence
- 17 that Mark said that?
- 18 A. Charlie Specht took it -- he retrieved it off my DVR on his own.
- 19 Q. Did you provide him with any video or audio that Mark said that?
- 20 A. Charlie Specht retrieved it off my DVR on his own.
- 21 Q. So he has a video or an audio in which that was said?
- 22 A. Oh, I don't know. No.
- 23 Q. No. You know he doesn't.
- 24 A. No.
- 25 Q. You know he doesn't have a video or an audio.

1 A. No.

2 MR. DUGUAY: Objection. Form of the
3 question. He's badgering the witness.

4 THE REFEREE: It's cross. Proceed.

5 BY MR. CONNORS:

6 Q. You know that Reporter Specht doesn't have an audio or video that
7 says -- that Mark Grisanti said, "I'm a judge" that evening, correct?

8 MR. DUGUAY: Asked and answered.

9 MR. CONNORS: I was interrupted, I think.

10 THE REFEREE: Overruled.

11 THE WITNESS: Oh, I'm sorry.

12 THE REFEREE: You can answer the question.

13 THE WITNESS: Oh, thank you. I'm sorry.

14 A. Yes.

15 BY MR. CONNORS:

16 Q. Now, I asked you about that reporter, Frank Runyeon from Law360 and
17 you spoke to him, didn't you?

18 A. I did.

19 Q. You spoke to him several times?

20 A. I did.

21 Q. Okay. And in some of those conversations, you again repeated that Judge
22 Grisanti said, "I'm a judge." Do you remember that?

23 A. I do.

24 Q. Did you provide him with any video or audio evidence to support that
25 claim?

1 A. No.

2 Q. Because you didn't have any, correct? Correct?

3 A. It was not on the video.

4 Q. You wrote the New York State Commission on Judicial Conduct on June
5 29, 2020. Do you recall that?

6 A. Yes.

7 Q. Do you have a copy of that particular document?

8 A. Not with me.

9 Q. Do you have one in your possession at home?

10 A. I do.

11 Q. Do you have a recollection of what it is that you wrote to the New York
12 State Commission on Judicial Conduct?

13 A. I don't know exactly. That was too long ago.

14 Q. Well, would you like to see a copy to see if it would help to refresh your
15 recollection?

16 A. Yes. Thank you.

17 Q. Now, I'm showing you what's been marked by identification as Exhibit
18 NN.

19 (Respondent's Exhibit NN was marked for identification)

20 BY MR. CONNORS:

21 Q. Do you see it?

22 A. Yes, I do. At the top.

23 Q. And that, in fact, is the letter that you sent to the New York State
24 Commission on Judicial Conduct on June 29, 2020, correct?

25 A. Yes.

- 1 Q. And you knew why you were writing to the Commission on Judicial
2 Conduct, did you not?
- 3 A. Yes.
- 4 Q. Well, you wrote them to make a complaint about Judge Grisanti, correct?
- 5 A. Yes.
- 6 Q. Now, in the second paragraph, five lines down, you write, "As soon as
7 Mark and Maria Grisanti saw me, they begin yelling obscenities about the
8 truck." Do you see that?
- 9 A. Yes.
- 10 Q. And we've gone through the transcript of that encounter, correct? That's
11 Exhibit 2-A.
- 12 A. Yes.
- 13 Q. And as I pointed out to you in that transcript, the first exchange between
14 you and the Grisantis was you saying, "fuck you" to Maria and calling
15 her a "fucking cunt." Correct?
- 16 A. No. No.
- 17 Q. Let me ask you -- well, my question is, is that what the transcript revealed
18 as the first encounter between you and Maria Grisanti?
- 19 A. That is what the transcript reveals --
- 20 Q. Okay.
- 21 A. -- but my security system --
- 22 Q. It's a simple question. That's what the --
- 23 A. -- did not. Okay. All right. Thank you.
- 24 Q. -- that's all I wanted to know for now. You can go back later, all right?
- 25 A. Okay. All right.

1 Q. All right?

2 A. Thank you.

3 Q. So it reveals that the first exchange between you and the Grisantis was
4 you saying, "fuck you" to Maria and calling her a "fucking cunt."

5 Correct?

6 A. According to the transcript.

7 Q. Okay. Did you write that in the complaint to the State Commission on
8 Judicial Conduct to tell them what you said and what obscenities you
9 were yelling?

10 A. No.

11 Q. Now, again on the last paragraph where it says, "The Buffalo Police
12 Department," okay? Now, here you're saying to the State Commission,
13 the commission that regulates the conduct of judges, right? You knew
14 what their task is, correct?

15 A. Yes.

16 Q. You knew what the Commission for Judicial Conduct was. You wrote to
17 them to complain about Mark.

18 A. Yes.

19 Q. You wanted to get him in trouble, correct?

20 A. I wanted to make them aware of the incident, yes.

21 Q. And you filed an actual complaint, correct?

22 A. Yes.

23 Q. Now, here you say the Buffalo Police Department arrived on the scene.
24 You see that on the lower half of -- the lower paragraph in your first page
25 of Exhibit NN. You see that?

1 A. Yes.

2 Q. Now, here you're saying that when the Buffalo Police arrived on the
3 scene, Mark immediately shouted, "I'm a judge. Do you know who I
4 am?" You see that?

5 A. Yes.

6 Q. So now, is it your testimony that he said it to the police officers when
7 they arrived on the scene, or he said it to you when he saw your truck
8 parked near his driveway?

9 A. To my recollection, he said it both times.

10 Q. Okay. So, we have the entire encounter between you and Mark and
11 Maria on the scene near your car, near your sister's car, correct?

12 A. Um-hum.

13 Q. You have to say yes or no.

14 A. Yes.

15 Q. And then we have the entire encounter of the police when they arrived on
16 the scene, correct?

17 A. Yes.

18 Q. Now, have you looked at the police body camera that has been preserved
19 for this case?

20 A. Yes.

21 Q. And have you looked at the entire video footage of your security camera
22 on June 22nd. You were shown some of it, not the whole thing, correct?
23 Have you looked at the whole thing?

24 A. Yes, I have.

25 Q. On either of those video or audio reproductions of the events of June 22,

- 1 2020, does it reflect Mark Grisanti saying, "I'm a judge"?
- 2 A. No.
- 3 Q. Then you say a little bit later on that first page, you specifically talk about
- 4 a time when Maria was put into the back of a police vehicle. You see
- 5 that?
- 6 A. On the first page?
- 7 Q. Yes. Bottom of the page.
- 8 A. Yes.
- 9 Q. And now you say, "At that point, Mark became even more aggressive."
- 10 A. He did.
- 11 Q. Yes, Mark. That's who I'm referring to.
- 12 A. Yes.
- 13 Q. "I am a judge. I'll have your job." Do you recall that?
- 14 A. Yes.
- 15 Q. You made that complaint to the State Commission on Judicial Conduct
- 16 against Mark Grisanti, correct?
- 17 A. Yes.
- 18 Q. We have that entire exchange on video and audio, and you said you have
- 19 taken it, and looked at it, correct?
- 20 A. Yes.
- 21 Q. Nowhere on the video or that audio, when Maria's in the back of the car,
- 22 is there any statement by Mark where he says, "I am a judge," is there?
- 23 A. I don't know.
- 24 Q. Well, you've looked at it, haven't you?
- 25 A. I looked at it. I didn't study it.

1 Q. Do you know that Mark Grisanti's not even charged by the State
2 Commission on Judicial Conduct for saying that he was a judge on June
3 22, 2020?

4 A. I'm not aware.

5 Q. You haven't looked at the Formal Written Complaints?

6 A. I'm sorry. Can you repeat that?

7 Q. I said, you haven't looked at the Formal Written Complaints or Charges
8 against Mark?

9 A. No.

10 Q. So you don't know whether or not the Commission, no matter what you
11 said in this letter to them, declined to charge him with saying he was a
12 judge on June 22, 2020 and using his office?

13 A. I don't know.

14 Q. So you complained to the Commission that he did, but they didn't charge
15 it, or you don't know?

16 A. I don't know if they charged him or not.

17 Q. You complained to the District Attorney. District Attorney Flynn. He
18 said you made a false statement, correct?

19 A. As far as I'm aware, yes.

20 Q. Well, you know. It's not as far as you're aware. You complained about
21 that to other authorities, about the District Attorney, correct?

22 A. Yes. He said it in an article.

23 MR. GATELY: You good on time?

24 MR. CONNORS: Oh, I'm sorry. Oh, geez.

25 God, I better get out of here. Is it okay if I go to that and

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come back?

THE REFEREE: Oh, sure. Are you finished,

or --

MR. CONNORS: Oh, no, no. No. No. No.

No.

THE REFEREE: Okay.

MR. POSTEL: Can I just wonder how many

more --

THE WITNESS: Oh, God.

MR. POSTEL: -- interruptions and

adjournments we're going to expect?

MR. CONNORS: This is it.

MR. POSTEL: During the course of the next

three weeks?

MR. CONNORS: It's lunch. You have to go to

lunch anyway.

THE REFEREE: So 1:30. So maybe come

back at -- is 2:15?

MR. POSTEL: Perfect.

MR. CONNORS: I'll get back as fast as I can.

MR. POSTEL: 2:15. One hour.

MS. TRAPANI: Are we off the record?

THE REFEREE: Off record.

(Recess from 1:13 p.m. to 2:26 p.m.)

MS. TRAPANI: We are on the record.

(Gina Ann Mele - Cross)

1 THE REFEREE: All right. About 2:25, we will
2 resume testimony. I would note for the record that Mr.
3 Connors was not late. I was late.

4 Ms. Mele, we'll resume testimony. I'll remind
5 you you're still under oath, and the directives and warnings
6 I gave at the start of your testimony apply in full force.

7 THE WITNESS: Okay. Thank you.

8 THE REFEREE: And you can proceed.

9 THE WITNESS: Thank you.

10 RESUMED CROSS EXAMINATION

11 BY MR. CONNORS:

12 Q. Ms. Mele, when we broke, I was asking you some questions about some
13 of the statements that you made after the June 22, 2020 incident; do you
14 recall?

15 A. I'm sorry. Can you repeat that?

16 Q. When we broke, I was asking you some questions about statement that
17 you made after the June 22, 2020 incident.

18 A. Yes.

19 Q. And I went through several of the statements that you made, and one of
20 them dealt with a statement that you made to the State Commission on
21 Judicial Conduct; do you remember those questions?

22 A. Yes.

23 Q. But in addition, you filed a State Commission on Judicial Conduct email
24 on July 7, 2020, making a complaint against Judge Grisanti; do you
25 remember that?

(Gina Ann Mele - Cross)

1 A. Yes.

2 Q. And do you remember the allegations that you made in that particular
3 complaint?

4 A. No.

5 Q. I'm going to show you what's been marked for identification as Exhibit
6 OO, "O-O". Take a look at it, and tell me when you finish reviewing it.

7 (Respondent's Exhibit OO was marked for identification)

8 A. Okay.

9 BY MR. CONNORS:

10 Q. You finished?

11 A. Yes.

12 Q. So directing your attention to page 3.

13 A. Yes.

14 Q. First of all, before we go there, this is an email complaint from you dated
15 July 7, 2020, at 10:12 in the morning?

16 A. Okay.

17 Q. Well, agree -- do you agree with me?

18 A. From what I see on here. I don't have my records with me.

19 Q. But you have no reason to doubt what I'm showing you, do you?

20 A. No.

21 Q. And your -- is your email [REDACTED]@verizon.net?

22 A. Yes it is.

23 Q. Okay.

24 A. Um-hum.

25 Q. So on the page 3, where it talks about the request by the Commission for

114.



(Gina Ann Mele - Cross)

- 1 you to allege misconduct with detailed information; do you see that?
- 2 A. I'm sorry, where -- "Judiciary requires" -- oh. Oh, yes. At the top. Um-
- 3 hum.
- 4 Q. And in that second full paragraph, you said, in the email on July 7th, that
- 5 Mark Grisanti used his judgeship as a threat, shouting, and then they
- 6 quote you, "Do you know who I am? I'm going to get this truck ticketed.
- 7 Better yet, I'm a judge, it is going to be towed." And he also yelled at the
- 8 police, "I'm a judge, do you know who the F I am?" Is that something
- 9 you wrote on July 7th to the State Commission on Judicial Conduct?
- 10 A. I assume so, yes.
- 11 Q. Well, you wrote that even though, as we've established before, as we sit
- 12 here today in this particular case, you have no audio or video recording of
- 13 those particular statements, do you?
- 14 A. No. They're not reflected on the video.
- 15 Q. They're not reflected on the audio either.
- 16 A. Correct.
- 17 Q. Isn't it fair to say that the whole point of you having a camera system is to
- 18 record events that occur in front of your home on ██████ Avenue?
- 19 A. Yes.
- 20 Q. And that's the purpose why you have that type of a security camera,
- 21 correct?
- 22 A. To protect my home, yes.
- 23 Q. Sure. You want to protect it from any vandalism if it occurs?
- 24 A. Correct.
- 25 Q. Or any attacks on your property that, conceivably, could cause a problem

115.



(Gina Ann Mele - Cross)

1 for you or your family, correct?

2 A. Of course. Um-hum.

3 Q. You have a lot of disputes with the neighbors on [REDACTED] Avenue, over the
4 years, correct?

5 A. Yes.

6 Q. And you want --

7 A. Thank you.

8 Q. -- and you want to -- and you want to record the video and audio of those
9 disputes so that you'll have something preserved to support your point of
10 view, correct?

11 A. I was directed by the Buffalo Police to do that. Yes.

12 Q. Okay. And so when something unusual happens, I mean, you have actual
13 evidence to support your point of view, correct?

14 A. Yes.

15 Q. Now, in this particular case involving Judge Grisanti, you made
16 complaints to the District Attorney, correct?

17 A. Yes.

18 Q. To the Attorney General?

19 A. Yes.

20 Q. To Governor Cuomo?

21 A. Yes.

22 Q. To the State Commission?

23 A. Yes.

24 Q. And to a lot of the media, correct?

25 A. Only Channel 7, I was --

(Gina Ann Mele - Cross)

1 Q. And Law360?

2 A. Yes.

3 Q. Okay. So certainly with a matter that's this important, that caused so
4 much attention for you -- yet you never made any attempt to preserve the
5 other cameras.

6 A. I explained that I did not know how to use that unit properly. And when
7 the police came, they told me not to touch the cameras, and they were
8 going to retrieve it themselves. And that is what happened.

9 Q. So my question is though, you yourself, with all of these events that
10 occurred on the 22nd of June, you made no effort to preserve the video or
11 audio recordings of what you claim happened, did you?

12 A. I trusted the police had all four cameras.

13 Q. And we now know, from looking at all four cameras, that there's no
14 evidence that supports your position that Mark Grisanti at any time said,
15 "I'm a judge," or used his judgeship. Nothing on the evidence in the
16 video or audio, correct?

17 A. You did not -- there was not four cameras. You only had one camera.

18 Q. Well, you have the other cameras don't you?

19 A. Yes.

20 Q. They were provided to us by the Commission. You have those videos
21 and audios, correct?

22 A. I don't think all four cameras were submitted. No.

23 Q. Are there any that you have that support your claim that the judge
24 mentioned his name at any point?

25 A. Not on what you have.

117.



(Gina Ann Mele - Cross)

1 Q. Not on what you have either, correct?

2 A. I don't have -- I only have one camera.

3 Q. Throughout this entire investigation, you were in regular contact with the
4 Buffalo Police, correct?

5 A. For what time period are you speaking?

6 Q. Right up into -- from the time it started, and then until the time it ended,
7 you were regularly in contact with first of all, Det. Moretti, correct?

8 A. Det. Moretti, yes. We spoke a few times.

9 Q. You had his email address also?

10 A. Yes, he supplied me with it.

11 Q. Okay. You were in contact with members of the State Commission on
12 Judicial Conduct, correct?

13 A. I wrote the letter, yes.

14 Q. You emailed Vanessa Morgan [sic] a number of occasions, correct?

15 A. Yes.

16 Q. And then you wrote the other letters that we've identified as well, correct?

17 A. Yes.

18 Q. Do you remember making a claim to the State Commission on Judicial
19 Conduct that Mark was using his position as a judge to influence GEICO
20 in connection with an insurance claim?

21 A. Yes.

22 Q. You made that claim directly to GEICO, correct?

23 A. GEICO representative told me that.

24 Q. Okay. And you made that claim to the State Commission on Judicial
25 Conduct?

118.



(Gina Ann Mele - Cross)

1 A. Yes.

2 Q. And did you know that the adjuster at GEICO was questioned by the
3 State Commission on Judicial Conduct?

4 A. No, I don't.

5 Q. Did you ever learn that the adjuster, Renato Manaloto, said that he never
6 remembers a call from any person identifying himself as a senator or a
7 judge?

8 MR. DUGUAY: Objection. Hearsay.

9 MR. CONNORS: She knows.

10 THE REFEREE: Overruled.

11 A. Can you repeat the question?

12 BY MR. CONNORS:

13 Q. My question is -- simply is, after you made that complaint, do you know
14 whether the adjuster was interviewed and said he never received any call,
15 as far as he knows, from a senator or a judge?

16 A. I wasn't made aware of that. No.

17 Q. And one of the reporters you were in contact with was Frank G.
18 Runyeon, R-U-N-Y-E-O-N, at Law360; remember that?

19 A. Yes.

20 Q. And there were a number of articles that reporter Runyeon wrote,
21 correct?

22 A. Yes.

23 Q. And do you remember an article that was written in which you made
24 some complaints, and District Attorney John Flynn of Erie County
25 responded; remember that?

119.



(Gina Ann Mele - Cross)

1 A. Not particularly, no.

2 MR. CONNORS: Can we mark this, please?

3 BY MR. CONNORS:

4 Q. I'm marking for identification Respondent's Exhibit PP, which I want
5 you to take a look at.

6 (Respondent's Exhibit PP was marked for identification)

7 BY MR. CONNORS:

8 Q. You can look at any part of it, but I want to direct your attention to one
9 part on page 2. The paragraph that I'm pointing out to you --

10 MR. DUGUAY: If I may. Mr. Connors, can
11 you please identify the date of the article?

12 MR. CONNORS: I'm sorry. July 8, 2020.

13 MR. DUGUAY: Yes.

14 BY MR. CONNORS:

15 Q. Have you read that?

16 A. Yes.

17 Q. Okay. Were you made aware that the District Attorney had done an
18 investigation about this matter?

19 A. Can you repeat that?

20 Q. Were you made aware that the District Attorney, John Flynn, had done an
21 investigation?

22 A. No.

23 Q. Were you made aware from Reporter Runyeon, who you were in constant
24 contact with, that Flynn believed that you started it through the verbal
25 altercation; remember that?

120.



(Gina Ann Mele - Cross)

1 MR. DUGUAY: Objection. Just form of the
2 question. Constant contact has not been established.

3 THE REFEREE: Sustained.

4 BY MR. CONNORS:

5 Q. Do you know whether or not the investigation of District Attorney Flynn
6 revealed that it was your husband who threw the first punch?

7 A. No.

8 Q. Or that he was the verbal initiator of the fight.

9 A. No.

10 Q. But you do know, from telling us earlier, that you're upset about District
11 Attorney Flynn, who said that he could've prosecuted you for a false
12 statement, correct?

13 A. I don't -- I don't --

14 Q. What did you tell us earlier, is the question?

15 A. He did -- I remember reading it at some point. Yes.

16 THE REFEREE: Mr. Connors, is PP a letter, or
17 is that --

18 MR. CONNORS: Which one?

19 THE REFEREE: PP, is it the dated July 8th -- is
20 it a letter --

21 MR. CONNORS: It's the Law360 article.

22 THE REFEREE: Okay.

23 MR. DUGUAY: Is it being offered for evidence
24 at this time, Mr. Connors? Do you offer that Exhibit PP as
25 evidence?

121.



(Gina Ann Mele - Cross)

1 MR. CONNORS: I didn't. I just used it to
2 refresh her recollection.

3 BY MR. CONNORS:

4 Q. Do you know who Joseph Fahey, the Chief of Police in the D-District is?

5 A. No, I do not know him.

6 Q. Do you remember a situation in which Charlie Specht was with you at
7 your home when you recorded the Chief of the Police District -- at B-
8 District [sic]?

9 A. No.

10 Q. Did you, in fact, ever do that when you -- had a reporter at your side, and
11 you called up Joseph Fahey, the Chief of Police in the D-District and
12 recorded his phone call?

13 A. I never recorded a phone call.

14 Q. Where you there when the reporter did it?

15 A. A phone call was never recorded.

16 Q. What was recorded?

17 A. Nothing.

18 Q. That's your testimony?

19 A. Yes. Nothing was recorded.

20 Q. You gave an interview to the Buffalo Evening News in June of 2020,
21 correct?

22 A. I did not give them an interview, the Buffalo News.

23 MR. DUGUAY: Mr. Connors, if I could just
24 briefly?

25 BY MR. CONNORS:

122.



(Gina Ann Mele - Cross)

1 Q. So this is your testimony that you did not give an interview to reporters
2 Maki Becker and Jane Kwiatkowski?

3 A. I did not. They called me and I -- when I returned their call, they never
4 called me back. And then an article was written.

5 Q. The article actually quoted you, didn't it?

6 A. I don't recall the article.

7 Q. Take a look. Respondent's Exhibit QQ.

8 (Respondent's Exhibit QQ was marked for identification)

9 Q. You can read those areas that I pointed out. So it has a quotation marks
10 from you, and the interview with Maki Becker, correct?

11 A. I don't recall this.

12 Q. That's not my question. The question was, are there quotation marks
13 surrounding comments from you to reporter Maki Becker?

14 A. I see quotation marks, yes.

15 Q. Are you saying you didn't say these words to Maki Becker?

16 A. I don't recall that.

17 Q. Well, taking a look at it, does it refresh your recollection as to having that
18 interview and making those statements?

19 A. I don't recall that.

20 Q. Did you tell reporter Maki Becker that, "Maria kicked the back of my
21 sister's truck"?

22 A. I do not recall that conversation.

23 Q. You wrote a letter to Governor Cuomo, did you not?

24 A. I did.

25 Q. In June, the end of June 2020?

123.



(Gina Ann Mele - Cross)

1 A. I don't know the exact date.

2 Q. Do you recall writing a letter to Governor Cuomo in which you indicated
3 that Judge Grisanti said, "Do you know who I am? I'm a judge and I'll
4 have your job." Do you remember writing that?

5 A. If I see it. I don't recall all the letters I wrote. This is quite a long time
6 ago. Excuse me. I'm sorry.

7 MR. CONNORS: You can read whatever you
8 want, but it's at the bottom of the page.

9 MR. POSTEL: Is there an exhibit number?

10 MR. CONNORS: Yeah.

11 MR. POSTEL: Which --

12 MR. CONNORS: It's at the bottom.

13 MR. DUGUAY: Mr. Connors, just the exhibit
14 number on there? Sorry.

15 MR. CONNORS: Just read it.

16 THE WITNESS: Oh. RR.

17 (Respondent's Exhibit RR was marked for identification)

18 MR. DUGUAY: Thank you.

19 THE WITNESS: I didn't know they were
20 asking me. I thought they were asking you. I apologize.

21 MR. POSTEL: We were.

22 BY MR. CONNORS:

23 Q. But did you in fact tell Governor Cuomo that Mark asserted his
24 judgeship, the fact that he was a judge?

25 A. Yes, I wrote this. Um-hum.

124.



(Gina Ann Mele - Cross)

1 Q. Did you also tell the Governor that you witnessed Maria Grisanti kick the
2 back of your sister's truck?

3 A. Yes, I did.

4 Q. And once again, do you have any video or audio evidence that supports
5 those claims?

6 A. There is video of her kicking the truck, yes.

7 Q. Do you have that?

8 A. Yes. That's not on me -- I mean, it should be on your video. I thought
9 that the police took everything? I have it on my computer, and the police
10 are the one who downloaded it onto my computer.

11 Q. Well, we looked at Exhibit 2-A -- 2 already, correct?

12 A. Yes. I can't explain that then. I'm sorry.

13 Q. You can't explain why it's not on that video.

14 A. Correct.

15 Q. Did you ever have a response from the Governor's office when you made
16 this complaint?

17 A. I don't remember. I don't remember.

18 Q. Well, do you remember whether or not -- you claim you were advised to
19 go and obtain protective orders from the officers; do you recall that?

20 A. Yes.

21 Q. You never got a protective order issued to you by a judge in connection
22 with this matter, did you?

23 A. No, because they said they put it in the DA's hands.

24 Q. The question was, you never received any protective order from any
25 judge at all about the June 22nd '20th [sic] incident, did you?

125.



(Gina Ann Mele - Cross)

1 A. No, I did not.

2 Q. Now, Respondent's Exhibit RR we just showed you, correct? You may
3 hold it.

4 A. Yes.

5 Q. If you look down at the bottom of that exhibit page, where it starts with,
6 "The Buffalo Police Department," do you see that?

7 A. Yes.

8 Q. And that's the document that you authored, correct?

9 A. Yes.

10 Q. And your name and phone number are on the second page?

11 A. Correct.

12 Q. And you do recall actually writing that letter to Governor Cuomo,
13 correct?

14 A. Yes, I wrote this. Um-hum.

15 Q. Did you tell Governor Cuomo that, "The Buffalo Police Department
16 arrived on the scene to which Mark immediately started shouting, I'm a
17 judge, and do you know who I am?" Did you write that to the Governor
18 of the State of New York?

19 A. Yes, that's written here. Um-hum.

20 Q. Okay. And you've seen the exhibit in evidence, the video and audio,
21 with respect to Police Officers arriving on the scene?

22 A. I did see it. Um-hum.

23 Q. And there is no video or audio evidence that says what you told Governor
24 Cuomo about Mark Grisanti, correct?

25 MR. DUGUAY: Objection. Form of the

126.



(Gina Ann Mele - Cross)

1 question.

2 MR. POSTEL: Asked and answered.

3 MR. DUGUAY: Been asked and answered a
4 variety of times (unintelligible).

5 THE REFEREE: It's been asked and answered.

6 THE WITNESS: I'm sorry, did you -- I --

7 THE REFEREE: It's -- you may proceed. The
8 objection was sustained. So your next question.

9 THE WITNESS: Okay. Thank you.

10 BY MR. CONNORS:

11 Q. You were present when there was a -- some physical interaction between
12 the judge and your husband, correct?

13 A. Yes.

14 Q. And you saw that your husband fell and tripped on the curb, correct?

15 A. I -- I didn't see it actually happen. I just saw when he was down.

16 Q. Well, did you tell the State Commission in an August 31 interview that
17 you -- that Mr. Mele, quote, "Fell and tripped and on their curb and went
18 right down"?

19 A. My husband did fall. It wasn't from --

20 Q. Listen to my question.

21 A. Okay.

22 Q. I'm only asking you, did you tell the State Commission on Judicial
23 Conduct on August 31, 2020, that Mr. Mele -- at some point, Mr. Mele
24 "Fell and tripped on their curb and went right down." Did you tell them
25 that?

127.



(Gina Ann Mele - Cross)

1 A. I don't recall saying that.

2 MR. DUGUAY: Mr. Connors, is that being
3 marked as SS?

4 MR. GATELY: Yes.

5 MR. CONNORS: It is, it is. SS.

6 (Respondent's Exhibit SS was marked for identification)

7 BY MR. CONNORS:

8 Q. Directing your attention to page 6 --

9 A. Um-hum.

10 Q. -- the paragraph which is the third full paragraph. Read that to yourself,
11 and see if it refreshes your recollection as to what you told the
12 Commission on August 31.

13 A. Okay.

14 Q. Does it refresh your recollection?

15 A. Yes. But --

16 Q. Let me just --

17 A. Okay.

18 Q. -- ask the question, okay?

19 A. Go ahead.

20 Q. So you did in fact tell him that your husband fell and tripped over the
21 Grisantis' curb, correct?

22 A. Yes.

23 Q. Okay.

24 A. Per my husband telling me afterwards.

25 Q. (Unintelligible), listen, you can add it (unintelligible).

128.



(Gina Ann Mele - Cross)

1 A. Okay. I'm sorry.

2 Q. Okay?

3 A. I'm sorry.

4 Q. My question is --

5 A. Okay.

6 Q. -- did you tell him at some point, your husband fell and tripped on their
7 curb and went right down, correct?

8 A. After the incident, yes.

9 Q. Are you saying you told him after the incident, or he fell after the
10 incident?

11 A. No, he fell during the incident. But at the incident, it wasn't visual to me
12 what happened, until my husband told me what happened.

13 Q. Okay.

14 A. I'm not -- I'm not sure how to answer you, I guess. I'm confused. I'm
15 sorry.

16 Q. In any event, your understanding is that your husband did fall and trip
17 over their curb, correct?

18 A. Yes.

19 Q. He wears glasses, correct?

20 A. He does wear glasses.

21 Q. He was wearing them that day, June 22, 2020?

22 A. Yes.

23 Q. Now if you turn to page 7, top paragraph, last line. And again, telling the
24 Commission that at some point in the discussion, Judge Grisanti
25 identified himself as a judge, correct?

129.



(Gina Ann Mele - Cross)

1 A. 7, last line? Oh. On the top. Thank you. Yes.

2 Q. When you made these allegations to the State Commission on Judicial
3 Conduct, you knew at that time that that would get the judge in trouble,
4 correct?

5 A. No.

6 Q. You know a judge is not supposed to, as you use the word, "flaunt" or
7 "tout" the fact that he's a judge, correct?

8 A. No, I -- no.

9 Q. You didn't know that?

10 A. Not -- I'm not -- I basically reported his behavior.

11 Q. But my point is that you referred repeatedly to the claim that he was
12 using his office as a judge -- we've talked to that ten times already, right?

13 A. Yes. Yes, we have. Um-hum.

14 Q. And you made that claim --

15 A. Um-hum.

16 Q. -- because you thought that would get him in trouble with the
17 Commission, correct?

18 A. No.

19 Q. You thought that would help him with the Commission?

20 A. I wanted to bring up to their attention his behavior.

21 Q. Because you thought that if they looked at it, they might discipline him,
22 correct?

23 A. Well, of course, consequences to behavior.

24 Q. If you look at page 9, please, on your report to the State Commission on
25 Judicial Conduct, dated August 31, 2020. Start at the bottom of the page,

130.



(Gina Ann Mele - Cross)

1 the very last sentence. Just tell me when you're there.

2 A. The bottom paragraph?

3 Q. Last sentence.

4 A. Okay.

5 Q. And read over onto the next page.

6 A. Okay.

7 Q. Did you tell the Commission that you would send them video footage,
8 additional documentation, notes, and emails?

9 A. Yes.

10 Q. Did you send them anything else?

11 A. I -- I sent them any evidence that I had.

12 Q. Did you ever send them any evidence that the judge used his name in any
13 time during this event?

14 A. No.

15 Q. When you told the Commission that story about Judge Grisanti
16 contacting GEICO claim officials -- do you remember telling them that
17 story?

18 A. Yes.

19 Q. Okay. Did you tell that to the Commission so that you thought you might
20 get the judge in trouble?

21 A. I was telling them some history behind.

22 Q. But the purpose of your call was to tell them because you thought the
23 judge did something wrong, correct?

24 A. Of course.

25 Q. Did you yourself ever speak to the adjuster?

131.



(Gina Ann Mele - Cross)

1 A. Yes, I did.

2 Q. His name is Renato Manaloto, M-A-N-A-L-O-T-O?

3 A. I don't remember his exact name of the adjuster.

4 Q. When you were interviewed by the State Commission on Judicial
5 Conduct, specifically on July 31, 2020, did you tell them something about
6 Mark and Maria being very close to the truck?

7 A. Yes.

8 Q. And that their body language was weird?

9 A. Yes.

10 Q. Did you tell them that you thought they may be keying the truck?

11 A. I did say that.

12 Q. Turned out that it never happened, did it?

13 A. No.

14 Q. How many times have you been caught shoplifting in the City of
15 Buffalo?

16 A. Four.

17 Q. How many times have you --

18 MS. TRAPANI: I'm so sorry, Mr. Connors.

19 There's a lot of reverb. Can you stand here? Thank you.

20 BY MR. CONNORS:

21 Q. How many times have you been caught shoplifting in the Town of
22 Cheektowaga?

23 A. Oh.

24 MR. DUGUAY: I object. If we could just ask
25 to clarify the question or --

132.



(Gina Ann Mele - Cross)

1 A. I'm not sure, I --

2 THE REFEREE: Wait.

3 A. I answered wrong, then.

4 THE REFEREE: The objection is?

5 MR. DUGUAY: The objection is to form of the
6 question. So if we could just back up. It was unclear. You
7 committed shoplifting in the Town of --

8 MR. CONNORS: City of Buffalo first, and she
9 said four.

10 THE WITNESS: I meant I'm -- I answered that
11 wrong.

12 THE REFEREE: Okay. Rephrase your answer,
13 then.

14 A. I don't really remember particulars of which town. It happened, like,
15 over 12 years ago.

16 MR. DUGUAY: And again, if I could just ask
17 for further clarification. Pick up, is that charged? Is that
18 arrest? Is it conviction? If you'd ask with some specificity?

19 MR. CONNORS: Well --

20 THE REFEREE: I think the act of the actual
21 subsidy of shoplifting is an act itself, which is a wrongful
22 conduct.

23 MR. DUGUAY: But the question was not act,
24 the question was not attempted shoplifting.

25 MR. CONNORS: No, no. And please, let's

133.



1 just -- the question, I think, has not been sustained --
2 overruled.

3 THE REFEREE: Right.

4 MR. DUGUAY: But I can make an objection to
5 failure to have a good-faith basis for that.

6 MR. CONNORS: But if you're going to argue,
7 we should get her out of here, if that's the case.

8 THE REFEREE: All right. You may step
9 outside just briefly.

10 THE WITNESS: Sure. Thank you.

11 MR. DUGUAY: Thank you very much.

12 THE REFEREE: Right.

13 MR. DUGUAY: Again, we're getting to an area
14 of alleged prior bad acts. There has been evidence provided
15 to Mr. Connors which I believe he is now questioning
16 about. My concern comes over to the form of his questions,
17 and perhaps the basis upon which he's asking. We're not
18 going to time periods. We're not going to -- the question
19 implied, I did object -- he mentions City of Buffalo. He
20 was provided with the information and is not -- it's not
21 accurate with regards to the question and no other response.
22 He's essentially asking for her to inculcate herself with a
23 nonspecific question that he has sufficient information to
24 ask more properly.

25 MR. CONNORS: I'm just asking about prior

1 bad acts. It's wrongful conduct.

2 THE REFEREE: Right. My understanding of
3 the question was -- Mr. Connors asked if she had
4 committed shoplifting in the City of Buffalo on four
5 occasions.

6 MR. DUGUAY: Committed, right. Committed.
7 And again, the information he has is they were attempted
8 crimes. They were not completed crimes. They still have
9 to charge.

10 THE REFEREE: Well, that may be the
11 conviction itself --

12 MR. CONNORS: Exactly.

13 THE REFEREE: -- but he's got a good faith
14 basis to ask, did she actually commit the misconduct that
15 he's alleging. And she can say she did; she can say she
16 didn't. He may be bound by the answer. But I think the
17 question is the actual act. And that is misconduct, and I'd
18 overrule the objection.

19 MR. DUGUAY: I have nothing further.

20 THE REFEREE: Thank you.

21 MR. DUGUAY: Well, you know what --
22 maybe we should have -- sorry, gentlemen. Maybe this is
23 an appropriate time to talk about the relevance of some of
24 the information. I'm not sure if there's an attempt to --
25 which charges you may or may not want to use as part of

1 the record. I would argue that there's a relevance problem
2 to a lot of what Mr. Connors is asking.

3 The substantive material is remote. It's not
4 probative at this time. It's more prejudice than probative
5 value on it. I mean, it's over a dozen years ago was the
6 most recent he's asking about. It goes back -- the ones he
7 asked -- close to thirty years -- twenty-five, twenty-seven
8 years. The convictions were for attempted petty larceny.

9 THE REFEREE: Yeah. In Federal Court, I
10 might entertain that objection. Here, it's -- there's no time
11 limit, and she's going to answer this question. She's
12 indicated she wants to, like, put some more facts into it.
13 But the actual acts of misconduct, I think, are relevant.
14 They go to credibility, and credibility is at issue, especially
15 with some of the charges.

16 MR. DUGUAY: Again, I was just --
17 remoteness with regard to the probative value on it being
18 (unintelligible).

19 THE REFEREE: I can see the argument on, it's
20 unfair prejudice outweighs it's probative value. I find that it
21 doesn't, and that it's a proper inquiry of cross-examination.

22 MR. CONNORS: Thank you, Your Honor. She
23 said she doesn't recall, so I was going to pull up KK. We
24 had it emailed, I think. Just to show it to her and refresh
25 your recollection.

(Gina Ann Mele - Cross)

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MR. DUGUAY: Thank you.

THE REFEREE: Okay.

MR. CONNORS: Should I go get her?

THE REFEREE: Yeah.

MR. CONNORS: Do you want me to get her?

MR. DUGUAY: Ms. Mangan, I think, is
outside now.

MR. DOYLE: I think she's -- yeah. She's in the
in-between room.

MR. CONNORS: I figured that.

THE REFEREE: Are we on, Kate? Proceed.

BY MR. CONNORS:

Q. So my question to you was, before we broke, how many times did you
get caught shoplifting in the City of Buffalo? And you answered, "Four,"
but then you said you didn't remember; do you recall that?

A. Yes. I'm unsure how many in Buffalo.

MR. CONNORS: Can you pull up KK, please?

(Respondent's Exhibit KK was marked for identification)

MR. CONNORS: Let's go up a little bit.

BY MR. CONNORS:

Q. Okay. That's you, right? Gina A. Dantonio?

A. Yes.

Q. That's your correct date of birth?

A. Yes.

Q. And do you recall those mugshots when they were taken?

137.



(Gina Ann Mele - Cross)

1 A. Yes.

2 Q. Now, you said your best recollection is you were caught stealing four
3 times in the City of Buffalo, correct?

4 A. I think -- I meant total.

5 Q. Okay. Well, my question was, you were caught how many times in
6 Cheektowaga, then?

7 A. If I -- If I can remember correctly, once.

8 Q. How many times in Amherst -- town of?

9 A. If I can remember correctly, once.

10 Q. You were caught stealing at Wegmans, correct?

11 A. Yes.

12 Q. You were caught stealing in Marshall's Department Store, correct?

13 A. Yes.

14 Q. Were there a number of other times where you stole from establishments
15 when you were not caught?

16 A. No.

17 Q. Are you sure about that?

18 A. Yes.

19 MR. CONNORS: Do you have an extra copy of
20 this?

21 MR. DUGUAY: Did you have an exhibit
22 number, please?

23 MR. CONNORS: I'm not going to use it yet,
24 but TT, I would think.

25 (Respondent's Exhibit TT was marked for identification)

138.



(Gina Ann Mele - Cross)

1 BY MR. CONNORS:

2 Q. Did you ever tell Police Officers when you were apprehended that,
3 "When I was younger, I used to steal all the time; it looked so easy"?

4 A. I don't recall that.

5 Q. Let me show what's been marked for identification as Respondent's
6 Exhibit TT. See that? And that's your name, Gina Mele, up at the top.
7 You take a look whatever you want, but if you read the statement
8 attributed to the -- do you see if it refreshes your recollection. And tell
9 me when you're finished.

10 A. Okay.

11 Q. Does it refresh your recollection? That you told the officers in this
12 situation that, "When I was younger I used to steal all the time; it looked
13 so easy," remember that?

14 A. I'm reading it. I don't really recall it.

15 Q. You deny you said that?

16 A. No, I'm not going to deny it.

17 Q. You know who Linda Chwalinski is?

18 A. I do.

19 MR. CONNORS: Could you pull up DD for us,
20 please?

21 BY MR. CONNORS:

22 Q. So Linda Chwalinski lives in the house at -- right across the street from
23 you on [REDACTED] and it's 15 [REDACTED] Avenue, correct?

24 A. Yes.

25 Q. And of course, you know Linda and her wife -- and his -- her husband

139.



(Gina Ann Mele - Cross)

1 Jerry, correct?

2 A. Yes.

3 Q. Was an order of protection ever entered against you by Linda Chwalinski,
4 requiring you to stay away from her?

5 A. Yes. And I had one on her.

6 Q. And that you had to stay away from her home, her school, and her
7 business, correct?

8 A. Temporary, yes.

9 Q. And her place of employment, correct?

10 A. She's not employed.

11 Q. Did it not order you to stay away from her place of employment as well?

12 A. I don't know what it exactly said, but she's not employed.

13 Q. Let me show you what's been marked for identification as Exhibit AA.

14 You can read any part of it you want, but I'm just showing you that box
15 that's checked that says, place of employment.

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

17 A. Okay.

18 Q. So you were ordered to stay away from her place of employment,
19 whether she worked or not.

20 A. Okay. Yes.

21 Q. And it was signed by Debra Givens, who is a Buffalo City Court Judge?

22 A. Yes.

23 Q. And you acknowledge receiving that on August 11, 2014?

24 A. Yes.

25 Q. Was that order of protection granted because you threatened to, "Beat the

140.



(Gina Ann Mele - Cross)

1 fuck out of her" --

2 MR. DUGUAY: Objection.

3 THE REFEREE: Sustained.

4 BY MR. CONNORS:

5 Q. Did you ever threaten to kill Linda Chwalinski?

6 A. No.

7 Q. I'm going to show you some photos of one of the views that I'd like to ask
8 you to help me identify, if you will, please. First I'm going to show you
9 Exhibit UU.

10 (Respondent's Exhibit UU was marked for identification)

11 Q. Take a look at that and see if you -- can you identify the photo that --
12 excuse me, the car that's in that photo?

13 A. Now that would be my Trailblazer.

14 Q. Okay. And it's parked on [REDACTED] Avenue?

15 A. Yes.

16 Q. And it's parked in the vicinity of who's driveway?

17 A. It's not in anybody's driveway.

18 Q. But where is it parked?

19 A. It is parked in a legal parking spot on [REDACTED] Avenue.

20 Q. Who's driveway is shown in that picture?

21 A. Chwalinski.

22 Q. Linda Chwalinski's driveway?

23 A. Yes.

24 Q. Take a look at this, VV. Tell me if you can identify that vehicle?

25 (Respondent's Exhibit VV was marked for identification)

141.



(Gina Ann Mele - Cross)

1 A. I don't know this vehicle.

2 Q. Take a look -- okay.

3 A. I don't know who -- I've never owned a white vehicle. I know who
4 vehicle -- who's is this?

5 Q. You don't know who owns the vehicle in VV or in WW?

6 (Respondent's Exhibit WW was marked for identification)

7 A. No. How long ago is this?

8 Q. Excuse me, just answer the question.

9 A. Oh. I'm sorry.

10 Q. XX exhibit, tell me if you know who's vehicle that is?

11 (Respondent's Exhibit XX was marked for identification)

12 A. That used to be my husband's.

13 Q. And is it the same vehicle that's YY, it's the red truck?

14 (Respondent's Exhibit YY was marked for identification)

15 A. It used to be my husband's.

16 Q. That's the one that's parked in the vicinity of the Grisanti driveway?

17 A. No. This is Linda Chwalinski's driveway.

18 Q. Let me see that? Correct.

19 MR. CONNORS: Could you pull up -- oh, you
20 have it up, thank you -- DD.

21 BY MR. CONNORS:

22 Q. Exhibit DD is in evidence, shows the names of some of your neighbors,
23 correct?

24 A. Yes.

25 Q. And we've identified some of them already, correct?

142.



(Gina Ann Mele - Cross)

1 A. Yes.

2 Q. And the Continos lived immediately next door to you, correct?

3 A. I'm sorry. Say that again?

4 Q. The Continos live immediately next door to you?

5 A. Not presently.

6 Q. I know that. But in this photo?

7 A. I don't want -- when was the photo taken?

8 Q. Okay. I'm just asking you where it's marked Contino, is that where the
9 Continos lived?

10 A. Yes.

11 Q. All right. And the Riccios -- or Riccios?

12 A. Depending on when the photo was taken, yes.

13 Q. Okay. Now, you don't get along with the Continos, correct?

14 A. No.

15 Q. You don't get along with the Riccios, correct?

16 A. No.

17 Q. Across the street are the Chwalinskis, correct?

18 A. Yes.

19 Q. We know you don't get along with her because you called her a "dumb
20 Polack fuck," correct?

21 A. Yes.

22 Q. And then, of course, you don't get along with the Grisantis either?

23 A. No.

24 Q. Now, you did say to us earlier that when the encounter on June 23, 2020
25 occurred, that you -- according to what you said, you saw Maria try to

143.



(Gina Ann Mele - Cross)

- 1 touch your husband, or try to hit your husband, correct?
- 2 A. There was no encounter on the 23rd.
- 3 Q. 22nd. 23rd is what it says on your -- on your video, though, right?
- 4 A. Correct. But we established that the date was wrong.
- 5 Q. Okay. So you said that you saw Maria try to touch your husband,
- 6 correct?
- 7 A. Not try, she did.
- 8 Q. And you were upset by that, weren't you?
- 9 A. Yes.
- 10 Q. In fact, in the transcript that we went over, you yelled several times,
- 11 "Don't touch my fucking husband," correct?
- 12 A. Yes.
- 13 Q. Okay. Because it's something that bothered you, when your spouse was
- 14 in the possibility of some type of danger, correct?
- 15 A. Yes.
- 16 Q. You were upset and concerned for you husband Joe, right?
- 17 A. Yes.
- 18 Q. And you reacted out of that concern and alarm that you had that he was in
- 19 danger?
- 20 A. I reacted -- yes. Out of protection for my husband, yes.
- 21 Q. And you reacted in anger, correct?
- 22 A. I was upset.
- 23 Q. You used harsh vulgar language as well, correct?
- 24 A. Yes.
- 25 Q. And you did that because you were a concerned spouse worried about

144.



(Gina Ann Mele - Redirect)

1 some danger that might occur to your husband, correct?

2 A. Yes.

3 MR. CONNORS: I think that's all I have, Your
4 Honor.

5 THE REFEREE: Mr. Duguay, redirect?

6 MR. DUGUAY: Sure. Thank you.

7 REDIRECT EXAMINATION

8 BY MR. DUGUAY:

9 Q. Ms. Mele, I want --

10 THE REFEREE: Anyone need a break before
11 we go to redirect or --

12 THE WITNESS: I'm --

13 THE REFEREE: -- are you good?

14 MR. DOYLE: I could use the bathroom.

15 THE REFEREE: All right. Why don't we take
16 a brief break.

17 (Recess from 3:23 p.m. to 3:30 p.m.)

18 THE REFEREE: Ms. Mele, we took a brief
19 recess. We're ready to recommence. Mr. Duguay will ask
20 you questions on redirect examination. You're still under
21 oath, all the directives and warnings still apply.

22 THE WITNESS: Okay. Thank you.

23 MR. DUGUAY: Thank you, Mr. Easton.

24 RESUMED REDIRECT EXAMINATION

25 BY MR. DUGUAY:

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(Gina Ann Mele - Redirect)

1 Q. Ms. Mele, are you a member of the Unified Courts System for the State
2 of New York? Were you a judge in New York? Are you a judge? Are
3 you a judge in New York City?

4 A. No, I am not.

5 Q. Do the Rules Governing Judicial Conduct apply to you?

6 A. No, they do not.

7 Q. Okay. Are you aware that the purpose of the Commission on Judicial
8 Conduct is to accept complaints of misconduct by New York State
9 Judges?

10 A. Yes.

11 Q. Did you witness misconduct by Judge Grisanti on June 22, 2020?

12 A. Yes, I did.

13 MR. CONNORS: I object. Excuse me.

14 Objection to form of the question.

15 THE REFEREE: Sustained.

16 BY MR. DUGUAY:

17 Q. Did you witness what you believed to be judicial misconduct, by Judge
18 Grisanti on June --

19 MR. CONNORS: That's not -- objection to --

20 A. Yes.

21 MR. CONNORS: -- that's not relevant. Excuse
22 me.

23 THE REFEREE: Sustained.

24 BY MR. DUGUAY:

25 Q. As a citizen of New York State, do you believe it was your right to

146.



(Gina Ann Mele - Redirect)

1 communicate with the Commission on Judicial Conduct as to any
2 complaints against a Judge?

3 MR. CONNORS: I'm going to object to that
4 also.

5 A. Yes.

6 MR. CONNORS: Excuse me.

7 THE REFEREE: Is this objection?

8 MR. CONNORS: Yes.

9 THE REFEREE: I'll overrule that objection.

10 A. Should -- yes.

11 THE REFEREE: You may answer that.

12 MR. DUGUAY: Thank you. I'd like to mark an
13 exhibit. The exhibit, Mr. Connors, it's from the
14 Commission Schedule B, and discovery date of March 30,
15 2022, page 2. I believe it's the 12th item on the list.

16 MR. CONNORS: What exhibit number?

17 MR. DUGUAY: Sure. It's Schedule B, to the
18 Commission discovery letter dated March 30th, 2022.

19 MR. CONNORS: Okay. I -- it's not an exhibit,
20 though?

21 MR. DUGUAY: Not -- I'm asking to have it
22 marked at this time as an exhibit. And we'll ask that to be
23 marked as 30, at this time.

24 (Commission Exhibit 30 was marked for identification)

25 MR. CONNORS: I'd just like to take a look at it

147.



1 before.

2 MR. DUGUAY: It is a video, so I don't know if
3 you want to excuse the witness.

4 MR. CONNORS: Yeah.

5 THE WITNESS: Am I staying? Leaving?

6 MR. DUGUAY: We'll ask Mr. Easton. There's
7 been a request that Mr. Connors have an opportunity to
8 review this marked exhibit prior to the witness seeing it.
9 Because of the courtroom, could the witness to be
10 dismissed at this time?

11 THE REFEREE: Okay. It's a video? Is that --

12 MR. DUGUAY: It's a video.

13 THE REFEREE: Yes. Ms. Mele, you may step
14 down again.

15 THE WITNESS: Okay. Excuse me.

16 MR. DUGUAY: Let the record reflect that Ms.
17 Mele has left the courtroom. We'll ask to play Exhibit 30 at
18 this time.

19 Mr. Connors, are you ready?

20 MR. CONNORS: Yes. Thank you.

21 [Video was played]

22 MR. DUGUAY: May I ask Ms. Trapani if
23 she pulled up the appropriate video.

24 MR. DOYLE: What number is this
25 (unintelligible)?

1 MR. DUGUAY: It's discovery. It's not marked,
2 but it's the 12th item on Schedule B.

3 MR. DOYLE: 12th item on Schedule B?

4 MR. DUGUAY: 12th item on Schedule B,
5 yeah. So I can give you the number on it if you'd like it. I
6 think it's 7:13:43.

7 MR. DOYLE: 7:13?

8 MR. DUGUAY: The end part -- 43, the last
9 three seconds. If you get to two minute, forty-two seconds,
10 section of that video. Is that all? It's completed, right?

11 MR. CONNORS: Is it what?

12 MR. DUGUAY: It's completed at this time.

13 MR. POSTEL: Okay.

14 MR. DUGUAY: Can we return Ms. Mele to the
15 stand at this time?

16 THE REFEREE: Is there an objection? Are
17 you putting this in?

18 MR. POSTEL: Yes.

19 THE REFEREE: Moving to admit it?

20 MR. DUGUAY: We intend to.

21 THE REFEREE: All right. Received.

22 (Commission Exhibit 30 was admitted into evidence)

23 THE REFEREE: It's 30, right?

24 MR. DUGUAY: Correct.

25 THE REFEREE: It's additional video?

(Gina Ann Mele - Redirect)

1 MR. DUGUAY: I'm sorry. Yes, Mr. Easton. It
2 is Exhibit 30, marked and entered.

3 THE REFEREE: All right. We'll receive it.

4 Ms. Mele, you're still under oath. Mr. Duguay,
5 you may proceed.

6 THE WITNESS: Thank you.

7 MR. DUGUAY: Thank you, Mr. Easton.

8 RESUMED REDIRECT EXAMINATION

9 BY MR. DUGUAY:

10 Q. Ms. Mele, I'd like to direct your attention to the screen. We have an
11 exhibit that has been marked as Exhibit 30 to show for you. I'm going to
12 ask you to look at the video and I'm going to just ask you a quick
13 question.

14 A. Okay.

15 MR. DUGUAY: I'm going to ask Ms. Trapani
16 to play about half of the video.

17 [Video was played]

18 BY MR. DUGUAY:

19 Q. Ms. Mele, is that the video that you were testifying about earlier, with
20 regard to activities around the car?

21 A. That's what I was referring to, correct.

22 Q. Ms. Mele, Mr. Connors had asked you about an order of protection that
23 was entered in favor of a neighbor, Linda Chwalinski; do you recall that?

24 A. Yes.

25 Q. Was that order anything -- was it ever made a final order, or not? Can

150.



(Gina Ann Mele - Redirect)

1 you just --

2 A. No.

3 Q. Were you ever prosecuted for any conduct against any of your neighbors
4 on ██████ Avenue?

5 A. No.

6 Q. And what about your husband? Was your husband ever prosecuted for
7 any activity against any neighbors on ██████ Avenue?

8 A. No.

9 Q. Mr. Connors also asked you some questions regarding your legal history;
10 do you recall that?

11 A. Yes.

12 Q. Okay. Is it true to state that the most recent event that you testified to
13 was over 12 years ago?

14 A. Yes.

15 Q. And ranging back to over 25 years ago, correct?

16 A. Correct, yes.

17 Q. No shoplifting incidents since then; is that correct?

18 A. No.

19 Q. Mr. Connors also showed you a number of exhibits. They included
20 statements that you made to the Commission, letters that you wrote --

21 A. Yes.

22 Q. -- interviews that you gave, correct?

23 A. Yes.

24 Q. Do you remember each and every one of those examples that Mr.
25 Connors brought to your attention and had you read?

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(Gina Ann Mele - Recross)

1 A. Pretty much, yes. Yes.

2 Q. For each and every one of those documents, or referenced exhibit, did
3 you ever knowingly provide false information? In other words, in any of
4 those --

5 A. No, I wrote --

6 Q. -- any of those documents he brought up --

7 A. I'm sorry.

8 Q. -- did you ever write down anything, or grant an interview and provide
9 information that you felt was not accurate to you?

10 A. I wrote everything that I believed to be true.

11 Q. Okay. And you still believe that to be true as you sit here today?

12 A. Yes.

13 Q. Okay.

14 MR. DUGUAY: I have no further redirect at
15 this time.

16 THE REFEREE: Any cross for you, Mr.
17 Connors?

18 MR. CONNORS: Just a very bit.

19 REXCROSS EXAMINATION

20 BY MR. CONNORS:

21 Q. You say this Exhibit 30 that's in front of you -- I think your response was
22 that that was one of the videos that you referred to when I was cross-
23 examining you; is that your testimony?

24 A. Yes. I was trying to explain that this --

25 Q. No, could you just --

152.



(Gina Ann Mele -Recross)

1 A. -- wasn't on the other video.

2 Q. -- my question is, is that --

3 A. Oh. I'm sorry.

4 Q. -- is that the video that you were referring to when you said to me there
5 are other videos that have other evidence; is that it?

6 A. No. This was about when you asked about her kicking the truck.

7 Q. Okay. Is this your evidence that you believe supports the claim that
8 Maria kicked your truck?

9 A. Yes.

10 Q. Okay. Do you have anything else, other than this?

11 A. That they were near the car and had a problem with the car.

12 Q. Do you have any other evidence, other than Exhibit 30 --

13 A. Oh.

14 Q. -- to support your position that Maria was kicking your truck?

15 A. No.

16 Q. Do you have any evidence that -- do you still maintain that she spit on
17 your truck?

18 A. Yes.

19 Q. Do you have any evidence, any videos at all that support that?

20 A. I'm not sure if you would see it from this far.

21 Q. So you have no evidence then?

22 A. Besides myself.

23 Q. Now, was the audio on for this Exhibit 30?

24 MR. DUGUAY: There was audio with this.

25 MR. CONNORS: I'm asking her.

153.



(Gina Ann Mele -Recross)

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MR. DUGUAY: Oh. I'm sorry.

A. Yes. The audio is always on.

BY MR. CONNORS:

Q. Okay. So there is audio for this particular Exhibit 30 that was just played for you?

A. I didn't hear audio, but my camera does have audio running all the time.

Q. Okay. Well, do you know if this Exhibit 30 has audio that accompanies the exhibit?

A. I would have to say I don't know.

MR. CONNORS: Can we play it to see if there's audio?

MR. DUGUAY: I would ask Ms. Trapani to work the speakers so you can get any volume, more volume, on it?

THE REFEREE: We'll see if we can get it better than the first time.

MR. CONNORS: Can we go back a little further please?

THE WITNESS: Excuse me.
[Video was played]

MR. CONNORS: Could you stop it there, please, Ms. Trapani?

BY MR. CONNORS:

Q. So we've stopped it now, Ms. Mele, at 7:13:18; do you see that?

A. Yes.

(Gina Ann Mele -Recross)

1 Q. Are you watching this video from inside your house?

2 A. No.

3 Q. So you're not sitting there watching it live, are you?

4 A. My cameras are -- no. I was in the living room. My cameras aren't
5 located on the first floor.

6 Q. You're not sitting in your living room or anywhere where you're watching
7 this live video, correct?

8 A. No.

9 Q. So you didn't see when Mr. -- when Judge Grisanti walked up to the front
10 of the truck, correct?

11 A. I did see, visually, with my eyes.

12 Q. I asked you just a minute ago if you were watching these events live, and
13 you said no.

14 A. You said, "Did you watch this, live, on video?" On video and my eyes
15 are two different things.

16 Q. Okay.

17 A. So I'm trying to explain properly.

18 Q. So you're saying to us that you remember specifically watching this
19 occur -- forget the video, watching it occur with your eyes?

20 A. Yes.

21 Q. Where were you located?

22 A. I was in my living room, on my couch.

23 Q. So your living room, your couch, is on the far wall in your living room,
24 correct, to look out your window?

25 A. No.

155.



(Gina Ann Mele -Recross)

1 Q. Where is it located?

2 A. My couch faces -- my couch faces out towards the windows.

3 Q. From the other wall.

4 A. No, there's not a wall behind the couch. My couch is moved -- I don't
5 know how to explain my living room. I have a sectional. The sectional
6 goes along the wall, and then a long, open space, which faces directly
7 looking out the windows, clear view of that area.

8 MR. CONNORS: So let's play a little more,
9 please. See if we can hear some audio.

10 [Video was played]

11 BY MR. CONNORS:

12 Q. Who else was in the room with you watching this live on June 22, 2020?

13 A. My -- my sister and Joe. We were all in the living room. But I was the
14 only one watching because I was the only one on the couch facing out
15 that way.

16 Q. Where were they sitting?

17 A. Joe was in the corner by the stairs, and my sister was on the couch up
18 against the wall, but a tree -- but she wouldn't have been able to see that.

19 Q. So you -- so none of them, as far as you know, saw anything with respect
20 to Maria's movements toward the truck?

21 A. No.

22 Q. Okay. Now, when you say you believe you saw her kick the truck, is that
23 your testimony?

24 A. I saw her kick the truck, yes.

25 Q. Okay. And you saw that, yet you said nothing, did nothing, just sat on

156.



(Gina Ann Mele -Recross)

1 your couch; is that your testimony?

2 A. That's when I got up to go on the porch and sit.

3 Q. Yeah. But you didn't say anything that's recorded for us to hear; you
4 didn't say anything to Joe, or anything to your sister, correct?

5 A. No. When I entered the porch I did not say anything to my husband or
6 sister. I wanted the situation to end.

7 Q. All right. Did you see the dog in this picture?

8 A. When -- oh, yes. The dog -- not right here, but yes. Prior to the other
9 side.

10 Q. Do you know if they were walking the dog at all in this video?

11 A. I would assume so, yes.

12 Q. Now, you were asked some questions about whether you or your husband
13 were ever prosecuted for conduct involving any of the neighbors;
14 remember that question?

15 A. Yes.

16 Q. Do you remember an incident at Party City?

17 A. Yes.

18 Q. And were you prosecuted for that incident?

19 A. With the neighbors?

20 Q. I'm just asking you what --

21 A. You just -- you asked me a double question.

22 Q. Were you prosecuted --

23 A. Which question are you asking me about? Neighbors, or about my
24 arrests?

25 Q. Were you prosecuted for anything that occurred at Party City?

157.



(Gina Ann Mele -Recross)

1 A. I believe so.

2 Q. You believe? You don't know?

3 A. Well, I believe so. I went to Treatment Court and did therapy for it, so
4 I'm not sure -- I don't really know the law as well as you, so I'm not sure.

5 Q. Which Treatment Court did you go to?

6 A. I don't remember the judge's name.

7 Q. Well, what did you go to Treatment Court for?

8 A. Why did I go to Treatment -- well, they put me in that court because I lost
9 my mother at a very young age --

10 Q. Why did you go to Treatment Court?

11 A. -- and through counseling they connected that that was -- that was the
12 behavior.

13 Q. Anger management behavior?

14 A. Not anger management, no.

15 Q. What type of behavior?

16 A. Impulse to shoplift.

17 MR. CONNORS: Thank you. That's all I have.

18 MR. DUGUAY: No further redirect. Thank
19 you.

20 THE REFEREE: All right. Well, you're
21 discharged now.

22 THE WITNESS: Okay.

23 THE REFEREE: You may leave.

24 THE WITNESS: Thank you. Have a good day,
25 Your Honor.

158.



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MR. POSTEL: Thank you, Gina.

THE WITNESS: Thank you. Take care.

THE REFEREE: Is anyone aware -- or probably Judge may be aware of this -- do we have a kick out date, or time for Family Court?

MR. POSTEL: 4:30.

MR. CONNORS: It's 4:30.

THE REFEREE: -- 4:00, 4:30? Okay.

JUDGE GRISANTI: We usually go 4:30, quarter to 5:00.

THE REFEREE: All right.

MR. DUGUAY: And based upon the schedule, the Commission will not be calling Joe Mele, but we will try start Ofc. Gehr at this time. I'm going to get through some of the direct examination.

MR. CONNORS: Right now?

MR. POSTEL: Right now.

MR. DOYLE: You're saying you're not calling Mele at all, or you're not going to call him today?

MR. POSTEL: No, no. All we're saying is that we're calling Ryan Gehr right now. That's all we're saying.

MS. TRAPANI: Counsel, we're still on the record.

MR. CONNORS: Oh. Thank you.

MS. TRAPANI: Would you like me to pause

(Officer Ryan Gehr - Direct)

1 the recording, Your Honor?

2 THE REFEREE: Sure.

3 (Recess from 3:55 p.m. to 3:59)

4 MS. TRAPANI: We're on the record.

5 THE REFEREE: We're on the record.

6 MR. DUGUAY: Mr. Easton, the Commission
7 calls Ryan Gehr as our next witness.

8 THE REFEREE: Ofc. Gehr, my name is
9 William Easton. I'm an attorney in Rochester and Referee
10 for this proceeding. It's being digitally recorded, so if you
11 could just keep your voice up, and speak as loudly as you
12 can and into the mic so it can pick up.

13 OFC. GEHR: Okay.

14 THE REFEREE: Other than that, I'll put you
15 under oath.

16 Do you swear to affirm -- do you swear or
17 affirm, under penalties of perjury, that the testimony you're
18 about to give is the truth, the whole truth, and nothing but
19 the truth?

20 MR. GEHR: Yes, sir.

21

22 OFFICER RYAN GEHR

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

24

25 THE REFEREE: All right. You may proceed.

160.



(Officer Ryan Gehr - Direct)

1 MR. DUGUAY: Thank you, Mr. Easton.

2 //

3 DIRECT EXAMINATION

4 BY MR. DUGUAY:

5 Q. Good afternoon, Ofc. Gehr.

6 A. Hi. How are you doing?

7 Q. Very good, thank you. Ofc. Gehr, can you please state and spell your
8 complete name for our record?

9 A. Yeah. It's Ryan, R-Y-A-N, and Gehr, G-E-H-R.

10 Q. Ofc. Gehr, are you currently employed?

11 A. Yes, sir.

12 Q. And who are you employed by?

13 A. Buffalo Police Department.

14 Q. How long have you been employed by the Buffalo Police Department?

15 A. About five and a half years.

16 Q. Okay. Your title?

17 A. Police Officer.

18 Q. And what are your general duties?

19 A. Responding to calls for service through 911.

20 Q. Ofc. Gehr, I want to direct your attention to June 22, 2020. Were you
21 working as a Buffalo Police Department Officer on that date?

22 A. Yes, sir.

23 Q. And I'd like to direct your attention to the afternoon. Were you working
24 in the afternoon?

25 A. I believe I was working the night shift at that point.

161.



(Officer Ryan Gehr - Direct)

1 Q. Okay. What were the times of the night shift that you were working on
2 June 22, 2020?

3 A. That would be 8:00 p.m. until 6:00 a.m. the following day.

4 Q. Did you receive any call, or calls, shortly after beginning your workday
5 on June 22, 2020?

6 A. Yes, sir.

7 Q. Okay. And where was that call from, if you know?

8 A. As far as?

9 Q. Was it dispatch, or?

10 A. Yes.

11 Q. Okay. And do you remember the nature of that call?

12 A. I believe it was a call for a fight.

13 Q. And what location were you called to?

14 A. The 20 block of [REDACTED] Avenue.

15 Q. That's in Buffalo, New York, correct?

16 A. Yes, sir.

17 Q. And can you give me a little specificity on the location? Where is [REDACTED]
18 located relative to where your precinct is?

19 A. If you -- so from the precinct, if you travel east on Hertel, north on
20 Delaware, east on St. Lawrence or Kenmore, you'll come right to it.

21 Q. Thank you. Approximately what time did you arrive at 21 [REDACTED]
22 Avenue on June 22nd?

23 A. I don't recall an exact time, but it would probably have been close to 9:00
24 p.m. To get an exact time, I'd need to look at some kind of notes.

25 Q. Okay. Were you working with any other officers on that day -- partnered

162.



(Officer Ryan Gehr - Direct)

1 with any officers?

2 A. Yes.

3 Q. Who were you partnered with?

4 A. Ofc. Larry Muhammad.

5 Q. Partners, does that mean you drive in the same car, or different cars?

6 A. At that point, due to the vehicle situation in the city, we were partnered
7 up in the same car.

8 Q. Okay. And when you arrived at 21 [REDACTED] Avenue, did you make any
9 initial observations?

10 A. Yes. There were several persons in the street, in one another's faces,
11 shouting.

12 Q. Okay. So how many individuals do you recall when you first arrived on
13 scene?

14 A. There were five.

15 Q. And can you just provide a brief description of any type of details. So
16 five individuals?

17 A. Yes. There were two males, three females -- kind of blanking on
18 specifics -- and they're all white. They were on the west side of the street
19 at the time.

20 Q. When you say "they," could you specify where the individuals were,
21 location wise? Together, apart, next?

22 A. Kind of all clustered together, and then sort of moving apart as we pulled
23 up.

24 Q. Were you wearing your body worn camera June 22, 2020?

25 A. Yes, sir.

163.



(Officer Ryan Gehr - Voir Dire)

1 MR. DUGUAY: I'd like to bring up Exhibit 11,
2 if I may?

3 (Commission Exhibit 11 was marked for identification)

4 MR. DUGUAY: I'm going to ask Ms. Trapani
5 to play. I'll stop you in just a second.

6 [Video was played]

7 MR. DUGUAY: Ms. Trapani, if you want to
8 stop the recording.

9 BY MR. DUGUAY:

10 Q. Ofc. Ryan, do you recognize this video?

11 A. Yes.

12 Q. What do you recognize it to be?

13 A. That's my body cam footage from the aforementioned call.

14 MR. DUGUAY: I move the entry of Exhibit 11
15 at this time.

16 MR. CONNORS: Just a few questions if I may?

17 THE REFEREE: Sure.

18 VOIR DIRE EXAMINATION

19 BY MR. CONNORS:

20 Q. Officer, I noticed on this body cam video that it has a date 6/23/2020.

21 You testified earlier that it was 6/22/2020. Do you know why that date is
22 mistaken, if it is mistaken?

23 A. I do not. My guess would be either it's the date that it was uploaded,
24 since it would've put it in the next day, or it's a mistake on the part of the
25 Axon company.

164.



(Officer Ryan Gehr - Voir Dire)

1 Q. So when you finished with the body camera and go back to the precinct,
2 you dock it, you load it, and then it downloads; is that the way it works?

3 A. Yes.

4 Q. And when does it get dated? On the basis of the download?

5 A. I don't know that information.

6 Q. Because -- is it possible that you were there after midnight, back at the
7 station when you downloaded?

8 A. Oh. Definitely possible. The shift ends at 6:00 a.m. the following day.

9 Q. Okay. So that would have been -- that would explain 6/23/2020, instead
10 of 6/22/2020, correct?

11 A. That's a guess. I don't know why it would say that.

12 MR. CONNORS: Thank you.

13 THE WITNESS: Sure.

14 MR. DUGUAY: Okay. Move for its entry at
15 this time.

16 MR. CONNORS: No, no objection. Yeah.

17 MR. DUGUAY: And also, I'd like to move into
18 evidence, Exhibit 11-A, which is a corresponding transcript
19 to the video.

20 (Commission Exhibit 11-A was marked for identification)

21 MR. CONNORS: I have no objection.

22 MR. DUGUAY: I'm going to approach Mr.
23 Easton with the transcript at this time.

24 THE REFEREE: 11 and 11-A are received.

25 (Commission Exhibits 11, 11-A were admitted into

165.



(Officer Ryan Gehr - Direct)

1 evidence)

2 MR. DUGUAY: This is -- ready to proceed?

3 THE REFEREE: Proceed.

4 DIRECT EXAMINATION

5 BY MR. DUGUAY:

6 Q. Ofc. Ryan [sic], did you come to know the identity of the individual that's
7 depicted currently on screen?

8 A. Yes.

9 Q. And who did you learn that individual to be?

10 A. Maria Grisanti.

11 Q. Now, when you arrived on the scene, were there any other Buffalo Police
12 Officers present?

13 A. Aside from myself and my partner, no.

14 Q. And how long a period of time, if any Police Officers arrived, did they
15 arrive?

16 A. I don't know the exact time frame. But at some point, there was another
17 officer who arrived, and then I believe not long afterwards, a lieutenant as
18 well.

19 Q. So as you arrived on scene -- I guess I can ask you, at this point, what
20 official functions were you empowered to perform at the scene?

21 A. At this point, the main goal was de-escalation, trying to separate the
22 parties, get them away from one another, not escalating to the point of
23 aggression.

24 Q. Thank you. Was there any time that you issued any verbal warnings to
25 any of the parties present at [REDACTED] Avenue?

166.



(Officer Ryan Gehr - Direct)

1 A. I believe it was mostly, "Get everybody apart," something to the effect of,
2 "Everybody needs to quiet down, everybody needs to separate."

3 Q. Did there come a time when any individual was taken into custody on 21
4 [REDACTED] Avenue, on 6/22/2020?

5 A. Yes.

6 Q. And who was taken into custody?

7 A. Maria Grisanti, followed by Mark Grisanti.

8 Q. Can you explain the circumstances of Maria Grisanti being taken into
9 custody?

10 A. During the attempted de-escalation, she continued from across the street
11 to escalate the situation and was detained, and then later arrested.

12 Q. Was she actually handcuffed at any point in time?

13 A. Yes.

14 Q. Can you explain the process by which she was handcuffed?

15 A. There was an attempt at handcuffing. She did pull away, and kind of had
16 one arm free and was gesturing, became a little bit difficult. And so she
17 was taken to the ground and then handcuffed from there.

18 Q. Does the Buffalo Police Department have a use of force policy?

19 A. Yes.

20 Q. Are you familiar with that policy?

21 A. Mostly.

22 Q. Were you familiar with the policy on June 22, 2020?

23 A. Yes.

24 Q. Did you act in accordance with that policy in handcuffing Maria Grisanti?

25 A. Yes.

167.



(Officer Ryan Gehr - Direct)

1 MR. DUGUAY: I would ask Ms. Trapani to
2 continue playing the video up until the point of the
3 handcuffing of Ms. Grisanti.

4 [Video was played]

5 MR. DUGUAY: Ms. Trapani, could you please
6 stop the video?

7 BY MR. DUGUAY:

8 Q. Ofc. Gehr, did you recognize the individual that had the T-shirt hanging
9 down and was bare-chested on your body cam video?

10 A. Recognize now, or recognized at the time?

11 Q. Came to learn the identity of the person, recognize who that person is
12 now?

13 A. Yes.

14 Q. Okay. And who was that person?

15 A. Mark Grisanti.

16 Q. Thank you. Okay. And do you see that person in the courtroom at this
17 time?

18 A. Around the thing, yes.

19 Q. Okay. And directing -- could you just describe where that person is
20 seated?

21 A. Farthest over, waving.

22 MR. CONNORS: We'll stipulate to the
23 identification, Your Honor.

24 THE REFEREE: So ID'd.

25 BY MR. DUGUAY:

(Officer Ryan Gehr - Direct)

1 Q. Thank you, Ofc. Gehr.

2 MR. DUGUAY: Could you continue playing
3 the video?

4 [Video was played]

5 MR. DUGUAY: Stop the video, please?

6 BY MR. DUGUAY:

7 Q. Ofc. Gehr, did you employ any forcible handcuffing techniques upon Ms.
8 Grisanti, according to what you just said?

9 A. Attempted to, unsuccessfully. As you can see, she's still uncuffed in the
10 video.

11 Q. Did you ever use any pain compliance holds --

12 A. No.

13 Q. -- in handcuffing her? How about using any chemical agents on her
14 person?

15 A. No, sir.

16 Q. Any type of distraction, or blows, or --

17 A. No.

18 Q. -- strikes?

19 MR. DUGUAY: Can we continue?

20 [Video was played]

21 MR. DUGUAY: Ms. Trapani, could you stop
22 the video, please? And if you could just back up prior to
23 his -- Ofc. Gehr crossing the street and beginning to put the
24 handcuffs on.

25 MS. TRAPANI: Here?

(Officer Ryan Gehr - Direct)

1 MR. DUGUAY: That's fine. I'm sorry, if you
2 can play from that spot (unintelligible).

3 [Video was played]

4 MR. DUGUAY: Ms. Trapani, stop the video,
5 please?

6 BY MR. DUGUAY:

7 Q. Were those your words when you said, "Stop pushing me motherfucker,"
8 or something to those --

9 A. Yes.

10 Q. And who were you referencing at that point?

11 A. Mark Grisanti.

12 Q. And why did you utter those words?

13 A. Because I felt a blow on my shoulders, and it allowed her to stand up,
14 didn't allow me to complete the handcuffing.

15 Q. You were in the process of handcuffing Ms. Grisanti at the time that you
16 were pushed by Mark Grisanti?

17 A. Attempting to, yes.

18 Q. Okay. And I believe you told me earlier, you were empowered to
19 actually take Ms. Grisanti into custody, as part of your official function
20 on that day?

21 A. For detention at this point, but yes later then.

22 MR. DUGUAY: Ms. Trapani, could you
23 continue playing for us?

24 [Video was played]

25 MR. DUGUAY: Ms. Trapani, could you stop

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(Officer Ryan Gehr - Direct)

1 the video, please?

2 BY MR. DUGUAY:

3 Q. Ofc. Gehr, did you hear statements made by Judge Grisanti as you
4 handcuffed --

5 A. Yes.

6 Q. Did you consider them to be threats at that time?

7 MR. CONNORS: Excuse me? I'm sorry -- did
8 he consider them to be threats?

9 MR. DUGUAY: I'm sorry.

10 BY MR. DUGUAY:

11 Q. First of all, did you consider those things to be threats?

12 MR. CONNORS: I'd object to form of that
13 question.

14 THE REFEREE: Sustained.

15 MR. DUGUAY: If you could continue the
16 video, please?

17 [Video was played]

18 MR. DUGUAY: Ms. Trapani, if you could stop
19 the video, please.

20 BY MR. DUGUAY:

21 Q. Ofc. Gehr, did you issue any parking tickets at your appearance of 21
22 [REDACTED] Avenue on June 22, 2020?

23 A. No, I did not.

24 Q. Okay.

25 MR. DUGUAY: Continue the video, please?

171.



(Officer Ryan Gehr - Direct)

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[Video was played]

MR. DUGUAY: Please stop. Ms. Trapani,
please stop the video. I want to go back just a little bit.

BY MR. DUGUAY:

Q. Was Judge Grisanti in custody at this point?

A. No.

Q. Was there a second person taken into custody, though?

A. At some point, later on in the video, yes.

Q. Okay.

MR. DUGUAY: Let's continue to roll.

[Video was played]

MR. DUGUAY: Can we stop the video, Ms.
Trapani?

BY MR. DUGUAY:

Q. Ofc. Gehr do -- can you identify the two other officers in this video?

A. Yes. To the left is Ofc. Rich Hy, to the right is Ofc. Larry Muhammad.

Q. Thank you. And when did Ofc. Hy arrive on the scene, to the best of
your recollection?

A. I believe -- whatever the time stamp is for the current point into the call.
I believe this is him arriving on scene.

Q. Thank you, Ofc. Gehr.

MR. DUGUAY: If you could continue, please,
Ms. Trapani?

[Video was played]

BY MR. DUGUAY:

(Officer Ryan Gehr - Direct)

1 Q. Ofc. Gehr?

2 A. Yes?

3 Q. Does any other Buffalo Police Department personnel arrive at 21 [REDACTED]
4 Avenue pursuant to this incident on June 22, 2020?

5 A. Yes.

6 Q. Do you recall who appeared, which other personnel?

7 A. I know Lt. Karen Turello, at one point, arrived on scene; Det. Bill Moretti
8 showed up on scene; and there was a captain, I don't recall the name of.

9 Q. Okay. Now, in your experience, with this type of a call, would that have
10 been a typical Buffalo Police Department response, those number of
11 officers?

12 A. For what the call was, the number of patrol officers, probably normal.
13 Lieutenant possibly. Lt. Turello is fairly active. For a captain to show up
14 is not necessarily normal, no.

15 Q. Ofc. Gehr, any further interaction with Judge Grisanti on June 22, 2020?

16 A. Just walking to the car.

17 Q. Okay. What about any transport? Do you know if Judge Grisanti was
18 transported from the scene of --

19 A. Yes, but I believe it was in a different vehicle. My vehicle, I believe, was
20 the one with Maria Grisanti in it.

21 Q. Ofc. Gehr, after placing Ms. Grisanti in the back of the police vehicle,
22 okay, what did you believe your official functions were from that point
23 forward?

24 A. It sort of changed as the story unfolded. Initially, as I said, it was to
25 detain. But when I went and spoke with the Mele family, and they were

173.



(Officer Ryan Gehr - Direct)

1 willing complainants, we had viable charges. At that point, it was
2 changed to an arrest situation.

3 Q. With regard to the investigation itself --

4 A. Yes.

5 Q. -- can you explain what function you performed, if any, relative to an
6 investigation of what transpired at [REDACTED] Avenue earlier that evening?

7 A. So as I was speaking to the male half of the other group, when he
8 explained that he was bitten and he had all the blood on his arm and shirt,
9 at that point, that would be grounds for an assault charge. The evidence
10 that was on their driveway would be grounds for a trespassing charge.

11 Q. You spoke of -- what evidence was in the driveway that you're
12 referencing?

13 A. I believe it was a shirt, and I forget what else was there. But it was --
14 items belonging to the Grisantis were on the other property, indicating
15 that they had gone onto the property.

16 Q. So just to clarify. So property of the Grisantis, which you just identified,
17 was found on the physical property of the other neighbors, the Meles?

18 A. Yes. They pointed out where it had been.

19 MR. DUGUAY: I'll note for the record, it
20 appears to be about the time we need to leave the
21 courtroom. I still have a few questions left, but I
22 understand it will be necessary to bring Ofc. Gehr back
23 tomorrow for cross-examination. Probably only have 15
24 minutes, or --

25 THE REFEREE: All right.

174.



(Matter of Mark J. Grisanti - Colloquy)

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MR. DUGUAY: -- 20 minutes maybe.

THE REFEREE: We'll break for the day and
resume tomorrow at 10:00.

MR. CONNORS: 10:00? 10:00 a.m.?

THE REFEREE: Yes.

MR. DUGUAY: Thank you, Mr. Easton.

THE REFEREE: Thank you.

MR. POSTEL: See you in the morning.

(Proceedings ended at 4:28 p.m.)

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EXHIBITS

COMMISSION

	Description	Ident.	In Evid.
1	911 Audio Recording, 21 [REDACTED] Avenue	6	7
1-A	Transcript of 911 Audio Recording, 21 [REDACTED] Avenue (5 pp)	6	7
2	Mele Home Security Video (1)	61	66
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4	Photo - Gina Ann Mele, Left Arm - 2	59	
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11	BPD Officer Ryan Gehr, Body Worn Camera Video	164	165
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RESPONDENT

	Description	Ident.	In Evid.
AA	Temporary Order of Protection in favor of Linda Chwalinski against Gina Mele, dated August 11, 2014 (1 p)	140	
DD	Demonstrative Map of [REDACTED] Avenue (1 p)	76	77
KK	RAP sheet for Gina A. Mele (9 pages)	137	
MM	Written Statement by Gina Mele to Buffalo Police Department dated June 22, 2020 (5 pp)	100	
NN	First Page of Letter of Complaint from Gina Mele to the NYS Commission on Judicial Conduct dated June 29, 2020 (1 p)	106	
OO	Email from Gina Mele to the NYS Commission on Judicial Conduct dated July 7, 2020 (4 pp)	114	
PP	Law360 article, <i>DA Slams Judge's 'Childish' Street Fight But Forgoes Charges</i> , by Frank G. Runyeon, July 8, 2020 (2 pp)	120	
QQ	The Buffalo News article, <i>DA eyeing incident over parked car involving State Supreme Court judge</i> , by Maki Becker and Jane Kwiatkowski, June 26, 2020 (2 pp)	123	
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SS	Gina Mele Interview Memo written by Commission Staff, dated August 31, 2020 (12 pp)	128
TT	Verbal Statement by Gina Mele to Buffalo Police Department dated January 15, 2010 (1 p) [also contains the remaining pages of Letter of Complaint from Gina Mele to Commission (2 pp)] (3 pp - total)	138
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CERTIFICATION

I, Jennifer Pereira, do hereby certify that the foregoing is a true and accurate transcript of the audio recording described herein to the best of my knowledge and belief.

Dated: June 26, 2022



Jennifer Pereira



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

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In the Matter of an Investigation :
Pursuant to Section 44, subdivision 4, :
of the Judiciary Law in Relation to :

MARK J. GRISANTI, :

a Justice of the Court of Claims, :
Acting Supreme Court Justice, :
Erie County. :
----- -X

Erie County Family Court, Part 3
One Niagara Street, 7th Floor
Buffalo, New York 14202

June 14, 2022
10:10 a.m.

B e f o r e:

WILLIAM T. EASTON, ESQ.
Referee

P r e s e n t:

For the Commission
JOHN J. POSTEL, Deputy Administrator

DAVID M. DUGUAY, Senior Attorney

For the Respondent
TERRENCE M. CONNORS, Esq.

VINCENT E. DOYLE, III, Esq.

TYLER GATELY, Esq.

A l s o P r e s e n t:

HON. MARK J. GRISANTI, Respondent

KATHRYN TRAPANI, Executive Assistant to the Deputy Administrator

VANESSA MANGAN, Senior Investigator



(Officer Ryan Gehr - Direct)

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MS. TRAPANI: We're on record.

THE REFEREE: Yes. This is Day 2 of the proceeding involving Mark J. Grisanti. It's ten o'clock -- approximately 10:05. Resuming. No one is in the courtroom other than the attorneys, employees of the Commission, myself, and the witness.

Ofc. Gehr, you're still under oath.

THE WITNESS: Yes, sir.

THE REFEREE: The directives and instructions that I gave yesterday are in full force and we're ready to proceed?

THE WITNESS: Yes, sir.

THE REFEREE: Okay.

MR. DUGUAY: Thank you, Mr. Easton.

DIRECT EXAMINATION

BY MR. DUGUAY:

Q. Good morning, Ofc. Gehr.

A. Hi. How are you doing?

Q. Pretty good. Thank you. You testified yesterday that two people were taken into custody. Is that correct?

A. Correct.

Q. All right.

MR. DUGUAY: I'd like to ask Ms. Trapani to pull up Exhibit 11, take toward the end, if you would please? I'm going to ask Ms. Trapani to play this.

(Officer Ryan Gehr - Direct)

1 BY MR. DUGUAY:

2 Q. Ofc. Gehr, I want you to pay attention and listen and then we stop and
3 ask you a few questions, all right?

4 A. Okay.

5 MR. DUGUAY: Ms. Trapani, if you'd play it,
6 please?

7 [Video was played]

8 MR. DUGUAY: Ms. Trapani, can you stop the
9 video, please?

10 BY MR. DUGUAY:

11 Q. So Ofc. Gehr, were you able to hear in the courtroom the words that were
12 stated by Judge Grisanti?

13 A. Yes.

14 Q. Okay. And did you hear Judge Grisanti mention the name Byron
15 Brown?

16 A. Yes.

17 Q. Okay. Did you understand who Byron Brown was at the time?

18 A. Yes.

19 Q. Okay. And who was Byron Brown, to your knowledge at that time?

20 A. The mayor.

21 Q. Okay. And at this point in the investigation, were you aware of whether
22 or not Byron Brown was involved in any way?

23 A. My understanding was that he was not.

24 Q. Okay.

25 MR. DUGUAY: If you want to continue the

(Officer Ryan Gehr - Direct)

1 audio, please?

2 [Video was played]

3 MR. DUGUAY: Ms. Trapani, can you please
4 stop the video?

5 BY MR. DUGUAY:

6 Q. Ofc. Gehr, at this point of your interaction, what was the purpose or the
7 function that you were performing at this moment that I just stopped the
8 exhibit?

9 A. Primarily just further investigation.

10 Q. Okay. Had you spoken with anybody else? Did you do any prior
11 investigation up to this point?

12 A. I believe I had spoken with the Mele family before this.

13 Q. Okay. So this is part of your investigatory -- if I'm pronouncing that
14 right -- function at this point that you're performing?

15 A. Yes.

16 MR. DUGUAY: Ms. Trapani, if you can
17 continue.

18 [Video was played]

19 BY MR. DUGUAY:

20 Q. Now, Ofc. Gehr, this was the point you said that Judge Grisanti was taken
21 into custody, correct?

22 A. Correct?

23 Q. And can you explain what we just saw as far as, in your experience and
24 training, how Mr. Grisanti -- Judge Grisanti was taken into custody at this
25 point?

(Officer Ryan Gehr - Direct)

1 A. Fairly standard. I put his hands behind his back, was handcuffed, and
2 then escorted to a vehicle.

3 Q. Okay. And with now, again, can you identify the other officer that's
4 present here?

5 A. To the left is Ofc. Hy. To the right, kind of in the background is Ofc.
6 Muhammad [sic].

7 Q. Okay. And you were there, you had heard Judge Grisanti, which we saw
8 actually in the exhibit, mention something about tackling you or having
9 some type of interference with you, correct?

10 A. Correct.

11 Q. Okay.

12 MR. CONNORS: I'm going to object to the
13 form of the question.

14 MR. DUGUAY: Sure. I'm just characterizing
15 the exhibit, right? So --

16 THE REFEREE: I'll allow it as a preliminary
17 question.

18 MR. DUGUAY: Yeah, I'm just getting to the
19 point.

20 BY MR. DUGUAY:

21 Q. Based upon what had transpired right before this, what were some of the
22 factors that Judge Grisanti was taken into custody at this point?

23 A. So per what the Meles had stated, it sounded as though Maria Grisanti
24 was more the aggressor, but at that point, we had the interference; we had
25 the possible trespassing charge as well, and that was effectively what we

(Officer Ryan Gehr - Direct)

1 were looking at.

2 Q. Okay. So if you could characterize -- you used the word interference.

3 What do you mean by that? Could you explain that?

4 A. Effectively any kind of act that prevents a police officer from carrying
5 out a lawful duty.

6 Q. What -- is there a specific that you're referencing?

7 A. Trying to detain Maria Grisanti and then being physically prevented from
8 doing so.

9 Q. By whom?

10 A. By Mark Grisanti, in this case.

11 Q. And how?

12 A. Via moving. If you saw earlier in the camera footage, there was an
13 attempt to detain and then I was moved and then she was able to get an
14 arm away.

15 Q. All right. Ofc. Gehr, do you know how long Mark -- well, where was
16 Mark Grisanti taken subsequent to being placed in handcuffs, if you
17 know?

18 A. I believe in the rear of the patrol vehicle that's just off screen.

19 Q. And how long did he remain in that vehicle?

20 A. I'm not a hundred percent sure. It was a fairly lengthy investigation. I
21 don't know. At some point, both parties were taken to the station house
22 for statements.

23 Q. Was there a --

24 A. I don't know the time frame of that, though.

25 Q. Okay. Was there any period of time that Judge Grisanti did remain on

(Officer Ryan Gehr - Direct)

1 scene in the back of the police vehicle?

2 A. I'm sure there was. Once he was in the rear of the patrol vehicle, I kind
3 of attended other things, so I wasn't really keeping track.

4 Q. Okay. You said afterwards, he was transported from the scene in the
5 back of a police vehicle; is that correct? Was that your testimony, I
6 guess?

7 A. Yes.

8 Q. Okay. And do you know where he was taken to?

9 A. 669 Hertel Avenue.

10 Q. And what's at 669 Hertel Avenue?

11 A. The Delta District Station House.

12 Q. Okay.

13 MR. DUGUAY: I have no further questions at
14 this time on direct. May I just have one moment to fill up
15 my water cup if that's possible?

16 MR. POSTEL: Sure. Do you want water?

17 THE WITNESS: I'm all set. Thank you.

18 MR. POSTEL: Want gum?

19 THE WITNESS: No. I'm good.

20 MR. DUGUAY: I'm going ask Ms. Trapani,
21 take the exhibit off the screen. Sorry about that.

22 THE REFEREE: Ready for cross?

23 MR. CONNORS: I am, Your Honor.

24 //

25 //

(Officer Ryan Gehr - Cross)

1 CROSS EXAMINATION

2 BY MR. CONNORS:

3 Q. Good morning, Ofc. Gehr.

4 A. Oh, sorry. How are you?

5 Q. Thank you. If you could move up, I could --

6 A. Yeah. Don't have a lot of space.

7 Q. -- stay at the microphone and still talk to you, though I may get up to
8 show you some documents.

9 A. Sure.

10 Q. That evening you were on duty in D-District?

11 A. Yes, sir.

12 Q. How long had you been at D-District as of June 22, 2020?

13 A. Somewhere in the neighborhood of two and a half to three years.

14 Q. Well, you were part of the Behavioral Health Team before that, correct?

15 A. No. That was afterwards.

16 Q. Okay. So did you go from the academy right to D-District?

17 A. Yes. I had my field training in South Buffalo and then immediately went
18 to D-District.

19 Q. So the field training was in A-District?

20 A. Correct.

21 Q. How long did you say there in A-District?

22 A. It was a matter of weeks. Whatever the standard time is. I believe it's
23 eighteen weeks, but I could be wrong.

24 Q. Okay. And so do you know when it was that you actually went to D-
25 District on assignment?

(Officer Ryan Gehr - Cross)

1 A. No. I don't know the exact date.

2 Q. Okay. When were you sworn in?

3 A. I was sworn in November 4th of 2016.

4 Q. 2016? Did you go to the academy after that?

5 A. Yes, sir.

6 Q. How long were you at the academy?

7 A. Approximately six months.

8 Q. All right. And then after the academy, you did your training at A-
9 District?

10 A. Yes, sir.

11 Q. So that's roughly a year before you got to D-District?

12 A. That sounds about right.

13 Q. Okay. Now, you were a patrol officer at the time?

14 A. Yes, sir.

15 Q. Okay. And there was a 911 call that came out on June 22, 2020, correct?

16 A. Yes, sir.

17 Q. And you responded to that 911 call?

18 A. Yes.

19 Q. Were you D540?

20 A. Yes.

21 Q. Okay. That would be your call numbers for your car?

22 A. For the unit, yes.

23 Q. For the unit? Yeah. And you and Ofc. Muhammad [sic] rode together?

24 A. Yes, sir.

25 Q. Do you remember what time you actually got to the scene on [REDACTED]

(Officer Ryan Gehr - Cross)

1 Avenue?

2 A. I don't recall the specific time, but I would estimate somewhere around
3 9:00 p.m.

4 Q. Okay. If I were to show you the 911 call on the summary report, would
5 that assist you in refreshing your recollection as to what time you arrived
6 at the scene on June 22, 2020?

7 A. Yeah.

8 MR. CONNORS: May I approach, Your
9 Honor?

10 THE REFEREE: Sure.

11 BY MR. CONNORS:

12 Q. So what I'll do is I'll let you read that, and we'll share this microphone a
13 little bit so we can stay on the record.

14 A. Okay.

15 Q. Take a look at that, whichever you wish to look at and see if that
16 refreshes your recollection as to exactly when --

17 MR. DUGUAY: Let me just object preliminary.
18 Is that marked? Do we have a number? And --

19 MR. CONNORS: Yes. It is ZZ, I said.

20 MR. DUGUAY: Okay. And --

21 MR. CONNORS: I'm sorry?

22 MR. DUGUAY: ZZ in your exhibit?

23 MR. CONNORS: We just marked it ZZ.

24 Respondent's ZZ.

25 (Respondent's Exhibit ZZ was marked for identification)

(Officer Ryan Gehr - Cross)

1 BY MR. CONNORS:

2 Q. Okay?

3 A. Okay.

4 Q. So take a look at that and see if it refreshes your recollection as to what
5 time you would have arrived.

6 A. Yeah. Seeing this, it looks like it would have been about 8:45 p.m.

7 Q. Okay. Not to be technical, but it's actually, you're enroute 8:43, arriving
8 you believe sometime around 8:45?

9 A. Yes.

10 Q. Now, there was -- that's unit 540, correct?

11 A. Correct.

12 Q. There was a unit 542 that was dispatched a little bit later. Do you know
13 whose unit that was?

14 A. So that would either be Larry Muhammad or Rich Hy. I'm not a hundred
15 percent sure who was what that day. I know that my callsign has been
16 540 pretty much as long as I was in Delta. So I know for a fact that
17 would be mine.

18 Q. I thought that you and Ofc. Muhammad [sic] were riding together.

19 A. Correct.

20 Q. I'll leave that there in case you need it at all.

21 A. Sure. Thank you.

22 Q. What time did you start at work on June 22, 2020?

23 A. 8:00 p.m.

24 Q. And you were working a ten-hour shift or a twelve-hour shift?

25 A. A ten-hour.

(Officer Ryan Gehr - Cross)

1 Q. Ten-hour shift? Okay. Do you remember what you did that day prior to
2 the time that you reported for duty?

3 A. I don't -- I could have a guess, but that would be all. It would be a guess.

4 Q. Well, only your best recollection is what we want.

5 A. Okay. So based on my normal routine, more often than likely I would
6 have woken up around 3:00 to 4:00 p.m. Eaten something, gone to the
7 gym. Come home, shower, gotten ready for work, and headed into work.

8 Q. Do you remember if there were any events that day that occurred that
9 would have upset you prior to the time that you arrived on [REDACTED]
10 Avenue at 8:45?

11 A. Nothing comes to mind and if there were, normally when I was right --
12 like Ofc. Muhammad [sic] and I became friends. We'd spend forty hours
13 a week in a car together. So if there was something, usually we would
14 vent about it in the car. So it was a fairly positive experience more often
15 than not.

16 Q. Do you remember on the tape that was shown to you and other tapes that
17 were in evidence that you made a statement, "I was mad coming in
18 today?"

19 A. I don't recall making it, but it's possible.

20 Q. Okay. And do you know what would be the subject of your being mad as
21 you came into work that day?

22 A. Given the time, probably something female-related.

23 THE REFEREE: I didn't hear that. Was it
24 something --

25 THE WITNESS: Something related to a female.

(Officer Ryan Gehr - Cross)

1 Most likely.

2 THE REFEREE: All right.

3 BY MR. CONNORS:

4 Q. So in any event, when you arrived on [REDACTED] Avenue about 8:45, was
5 that the first time you'd ever been on that block?

6 A. On duty, yes.

7 Q. You may have been on the block in North Buffalo from some off-duty
8 reasons, some other reason?

9 A. Sure.

10 Q. But you didn't have any knowledge of a history of trouble on that
11 particular street, did you?

12 A. No.

13 Q. So when you arrived there, you were coming in there answering what you
14 believed was the first call to 16 or 21 [REDACTED] Avenue?

15 A. Yes.

16 Q. Now, did you learn later when the lieutenant was on the scene that there
17 had been a history of problems on that street?

18 A. Through speaking to both parties and speaking later, yes, I learned this
19 has kind of been an ongoing thing.

20 Q. And did you learn that, in fact, they had gone back to the days when Lt.
21 Turello was actually a police officer?

22 A. Much further down the line, yes.

23 Q. Yeah. Okay. But you didn't get that history until after the events had
24 transpired and you had done your initial interviews?

25 A. Correct.

(Officer Ryan Gehr - Cross)

1 Q. It was only later on while you were on the scene that you learned that
2 history?

3 A. Correct.

4 Q. Now, you had a body camera on, correct?

5 A. Yes, sir.

6 Q. And did you turn it on right -- when you were still in your vehicle?

7 A. Yes, sir.

8 Q. Had you been trained in connection with the body camera previously?

9 A. Yes.

10 Q. Who provided that training?

11 A. The Department. I don't remember the specific instructor.

12 Q. Was it at the academy or was it at the precinct?

13 A. It was at headquarters. They have a training room

14 Q. Okay. And you did in fact turn it on immediately as you approached
15 ██████ Avenue, correct?

16 A. Correct.

17 Q. And there has been a transcript created of the dialogue that occurred
18 between yourself and others on ██████ Avenue?

19 A. I believe so.

20 Q. You've seen the transcript, have you not?

21 A. No.

22 Q. No one has shown it to you?

23 A. I haven't seen a physical copy of the transcript, no. I understand that
24 there was one made, but --

25 Q. Okay. It's Exhibit 11-A that's in evidence here. I'll let you share a copy.

(Officer Ryan Gehr - Cross)

- 1 I want to ask you some questions about it.
- 2 A. Thank you.
- 3 Q. So how long ago was it that you were shown a copy of this transcript?
- 4 A. A matter of seconds.
- 5 Q. Did you say seconds?
- 6 A. You -- this --
- 7 Q. This the first time you've ever seen the transcript?
- 8 A. I believe so, yes. Yeah, I've never seen this before.
- 9 Q. Okay. All right. Well, I want to start with the top of page 1 just to ask
- 10 you a few questions about that. You see references to Mr. Mele on line
- 11 4?
- 12 A. Yes.
- 13 Q. Okay. And you did have some conversation with Mr. and Mrs. Mele as
- 14 you arrived on the scene, correct?
- 15 A. Correct.
- 16 Q. And if I'm correct from the video, you pulled your car up and where did
- 17 you park your car? On which side of [REDACTED]
- 18 A. It would have been the west side of the street.
- 19 Q. Okay. And that would be the side of the street where the Meles live?
- 20 A. It was -- yes. It was the side that the parties were all at.
- 21 Q. Okay. So you pulled up there. You then walked over and approached the
- 22 group that was there, correct?
- 23 A. Yes, sir.
- 24 Q. And you began some conversation with them?
- 25 A. Yes.

(Officer Ryan Gehr - Cross)

1 Q. But according to the transcript, and you can take a look at it and see if I'm
2 right, the conversation began with you and Mr. Mele.

3 A. Which line are you referencing?

4 Q. Line 4.

5 A. Oh, line 4. Okay.

6 Q. Okay. And the transcript says -- it's in evidence. It says -- Mele says,
7 "We got it all on video." Do you recall that conversation?

8 A. That was when I was first arriving on scene, so there was a lot of
9 background noise. So I probably didn't register immediately what was
10 being said, but yeah.

11 Q. Well, we know you're there because --

12 A. Yeah.

13 Q. -- line 2, you're saying, "Okay."

14 A. Yeah.

15 Q. Okay? And my question is just Meles telling you that they have
16 everything on video for you, correct?

17 A. Um-hum. Correct.

18 Q. You have to answer. And you understood that to mean that they had
19 what transpired before you arrived on video, correct?

20 A. Yes.

21 Q. And having something on video is an aid to your investigation?

22 A. Correct.

23 Q. And he said it not only once, but he said it twice. If you look at line 10,
24 there he says, "We got it all on camera." Correct?

25 A. Yeah.

(Officer Ryan Gehr - Cross)

1 Q. Now, did you know at the time he was referring to the cameras that he
2 had stationed in his home on [REDACTED] Avenue?

3 A. No. I wouldn't have known what he was referencing.

4 Q. Okay. But the fact that it was on camera was something that registered
5 with you and something eventually you're going to be able to take a look
6 at the video?

7 A. Correct.

8 Q. But you couldn't look at it then at that point, right?

9 A. Correct.

10 Q. It wasn't available for your inspection at that particular moment?

11 A. Correct. There was a lot going on at the moment.

12 Q. Yes. And so what happened though is, if you see from this transcript, or
13 from your recollection, you engaged in some conversation with the
14 Meles, correct?

15 A. Correct.

16 Q. They were in the apron of their driveway?

17 A. Yes.

18 Q. And you walked to them, and you asked them initially to explain to you
19 what had happened?

20 A. Yes.

21 Q. And it was Mr. Mele, Mrs. Mele, and someone you later learned to be the
22 sister of Mrs. Mele?

23 A. Yes.

24 Q. Okay. And at that point, had you separated the Meles and the Grisantis?

25 A. We had attempted to, yes.

(Officer Ryan Gehr - Cross)

1 Q. Well, you did. You successfully did. You not just attempted to. You
2 had one on one side of the street and one in the other, correct?

3 A. Yes.

4 Q. So you were successful in getting them separated?

5 A. Correct.

6 Q. Okay. And did you know who it was that made the 911 call to report the
7 incident?

8 A. Not at that time, no. Seems there were several calls.

9 Q. Well, there was only two. There was one initially.

10 A. Okay.

11 Q. And did you not know that it was the Grisantis actually who made the
12 phone call to 911?

13 A. No, I did not.

14 Q. Okay. And the later call comes in. It was made by Linda Chwalinski.
15 Did you know that?

16 A. No.

17 Q. Okay. So in any event, you listened to the story that was told to you first
18 by Joe Mele, by Gina Mele, and by Theresa Dantonio, correct?

19 A. Correct.

20 Q. And at that point, you hadn't heard anything from Judge Grisanti or Maria
21 Grisanti, correct?

22 A. Correct.

23 Q. Was Ofc. Larry Muhammad stationed across the street from where you
24 were talking to the Meles?

25 A. I mean, he wasn't stationed, but normally, like, when the parties are split

(Officer Ryan Gehr - Cross)

1 up, it's just kind of, you go where you go.

2 Q. Yeah. He went with the Grisantis and stood over there and you went
3 with the Mele's and talked to them?

4 A. Correct.

5 Q. Okay. But there was still some yelling going on between the parties,
6 correct?

7 A. Yes.

8 Q. Maria Grisanti was on her property in her driveway, but she was yelling
9 across the street, correct?

10 A. Correct.

11 Q. She was excited?

12 A. Yeah.

13 Q. She was emotional?

14 A. Yes.

15 Q. And she was yelling things back at the Meles in your presence that you
16 could hear?

17 A. Yes.

18 Q. Maria Grisanti was doing the yelling at that point. The judge wasn't
19 doing yelling at that point, correct?

20 A. Correct.

21 Q. He was standing in the vicinity near Mrs. Grisanti, but she was doing the
22 yelling, correct?

23 A. Yes.

24 Q. You couldn't see exactly what Judge Grisanti was doing, could you?

25 A. No.

(Officer Ryan Gehr - Cross)

1 Q. Because you were focused on the Meles?

2 A. Correct.

3 Q. So you don't know if he was making any efforts to quiet her down, to
4 calm her down, or to restrain her?

5 A. That's correct.

6 Q. Okay. So could you go to page 14 for me, please?

7 A. Sure.

8 Q. And just tell me when you're there.

9 A. All right.

10 Q. I want to ask you some questions about lines 8, 9, 10, 11, 12, 13, okay?

11 A. Okay.

12 Q. But before I do that, you at some point had listened to the narrative
13 provided to you by the Meles and the sister of Gina, correct?

14 A. Yes, sir.

15 Q. And then at some point you said that you wanted to get everyone's side of
16 the story.

17 A. Yes.

18 Q. So you anticipated the next thing that you would do would be to leave the
19 Mele's home to walk across the street to speak to the Grisantis, correct?

20 A. Yes, sir.

21 Q. But before you said that, you told the Meles that you had a guess as to
22 what the Grisantis were going to tell you, correct?

23 A. Correct.

24 Q. And I think your exact words were, "So as far as this goes, I kind of have
25 a guess as to what they're going to tell me." Have I read that accurate?

(Officer Ryan Gehr - Cross)

1 A. Yes.

2 Q. And do you recall saying something to that effect in words or substance?

3 A. Yes.

4 Q. All right. So based upon what your conversation with the Meles in
5 anticipating of talking to the Grisantis, you kind of had something in your
6 mind as to what you were going to hear from the Grisantis?

7 A. Yeah, of course.

8 Q. All right. And when you said, "I have a guess as to what they're going to
9 tell me," did you mean to communicate to the Meles that they're probably
10 going to tell me an entirely different side to the story?

11 A. Yeah.

12 Q. Right? But you were at that point entertaining something in your mind as
13 to what the Grisantis were going to tell you, correct?

14 A. Yes.

15 Q. But you didn't know what they were going to tell you?

16 A. That's correct.

17 Q. There was no way you would've been able to figure it out, correct?

18 A. Yeah, of course.

19 Q. And guess work is really not the best type of police work, correct?

20 A. No, not at all.

21 Q. No. You want to try to make your judgments and conclusions based
22 upon facts that you can see and hear?

23 A. Yes, sir.

24 Q. And based upon firsthand information that you're able to obtain from
25 witnesses?

(Officer Ryan Gehr - Cross)

1 A. Correct.

2 Q. Okay. So at that point, did you leave them and go over to talk to the
3 Grisanti family?

4 A. Just Mark Grisanti at the moment, yes.

5 Q. Okay. So you first went to talk to Mark, correct?

6 A. Yes.

7 Q. And when you walked across the street to talk to Mark, he gave you some
8 information about the nature of the dispute, correct?

9 A. Correct.

10 Q. He told you about the issues with respect to what he maintained was
11 blocking his driveway in some respect, right?

12 A. Correct.

13 Q. And he told you a little bit about the history of the disputes with the Mele
14 family and his family?

15 A. Yes.

16 Q. And he told you a little about the history of disputes with the Mele family
17 and the entire neighborhood, correct?

18 A. That's correct.

19 MR. CONNORS: Could we play the video
20 please and just get to the point where you can see the truck.

21 MS. TRAPANI: Sure.

22 THE REFEREE: This is 11?

23 MR. CONNORS: Yes, it's Exhibit 11. I can tell
24 you to stop when it comes up. Let me see. Back up a little.
25 Okay. Right there's good. Okay.

(Officer Ryan Gehr - Cross)

1 BY MR. CONNORS:

2 Q. So I'm at a point now in this --

3 MR. CONNORS: Right before. There you go.

4 MS. TRAPANI: Right.

5 MR. CONNORS: Stop. Could you just back up
6 to where the truck is and there's no people in the picture?

7 MR. POSTEL: Do you want her to play it or
8 still it?

9 MR. CONNORS: Still it. Right there.

10 BY MR. CONNORS:

11 Q. Okay. So we're looking at Exhibit 11 now and we're at 47 -- it looks like
12 47:17 of 172.

13 A. Okay.

14 Q. See? And that's the time. But clearly in this video, you see the truck,
15 correct.

16 A. Correct.

17 Q. Now, [REDACTED] runs north and south, right?

18 A. Yes.

19 Q. And so Maria's walking in a southerly direction, correct?

20 A. Correct.

21 Q. So if you come from the southerly direction and you're driving your car,
22 this would be the -- this would be what you would see, correct?

23 A. Yes. No, driving from north, you'd see this.

24 Q. No. No. You're coming this way, you're heading south.

25 A. Correct.

(Officer Ryan Gehr - Cross)

1 Q. Okay. This is the picture of the vehicle you would see, correct?

2 A. Yes.

3 Q. So if you're coming to make a turn just past that vehicle, you can't even
4 see the driveway you're going to turn into, can you?

5 A. From that angle, no.

6 Q. Yeah, the angle blocks the entrance to the driveway, correct?

7 A. From that angle, yes.

8 Q. Yeah. And the height of the vehicle, the truck, it's a high truck and it
9 blocks more of the view from that angle than it does from the other angle,
10 correct?

11 A. Yeah.

12 Q. The truck itself is not parked against the curb. It's about two feet away
13 from the curb, correct?

14 A. I can't tell from this angle, but if that's where it's at.

15 Q. And being two feet away from the curb, it would be even more in the --

16 MR. DUGUAY: Objection. The foundation of
17 the question.

18 THE REFEREE: Well, the question isn't
19 finished yet, but --

20 BY MR. CONNORS:

21 Q. Yes. I was just saying if the vehicle's parked two feet away from the
22 curb, that would even block more of the driveway coming from this
23 angle?

24 A. Sure.

25 Q. Okay. And when you looked at the vehicle, do you remember how much

(Officer Ryan Gehr - Cross)

1 room there was in front of the truck to pull ahead?

2 A. I don't recall that, no.

3 Q. But we'll see later in this video and on the photos that if there's room
4 ahead of that vehicle to pull it forward two feet, three feet, that would
5 eliminate the blocking of that driveway as you're coming southerly down
6 [REDACTED] Avenue, correct?

7 A. Sure, from a respectable standpoint, yeah.

8 Q. Yeah. Do you remember talking to a witness by the name of Linda
9 Chwalinski that evening when you were there?

10 A. I spoke with witnesses. I don't know them by name.

11 Q. Okay. All right. Do you remember getting any other versions of what
12 transpired before you arrived from any witnesses other than the Meles
13 and the Grisantis?

14 A. Yes.

15 Q. Okay. How many witnesses did you speak to?

16 A. I believe it spoke to two but there was a third kind of in the background
17 while I was speaking to the --

18 Q. Was that --

19 A. -- it was a female in a yellow shirt.

20 Q. Yes. I'm sorry.

21 A. Okay.

22 Q. Was that done after you had placed Ms. Grisanti in handcuffs or before
23 you had placed her in handcuffs?

24 A. After.

25 Q. After. So that would mean it was done after Judge Grisanti was placed in

(Officer Ryan Gehr - Cross)

1 handcuffs as well?

2 A. Correct.

3 Q. Now, you mentioned a conversation that you related to us in which Judge
4 Grisanti mentioned the name Byron Brown. Do you recall that?

5 A. Yes.

6 Q. And you knew at that time that Byron Brown was the mayor of the city of
7 Buffalo, correct?

8 A. Correct.

9 Q. Do you remember the exact and complete content of the statement that
10 Judge Grisanti made with respect to Byron Brown?

11 A. I don't recall the word for word, but something to the effect of being
12 friends with him.

13 Q. Okay. So if you look at page 22 --

14 A. Okay.

15 Q. -- of the transcript. Go to line 13 and just tell me when you're there.

16 A. I'm right there.

17 Q. So line 12 you say, "Okay." So we know that you're engaged in this
18 conversation, correct?

19 A. Correct.

20 Q. And Judge Grisanti says, "Okay. And listen, I'm good friends with Byron
21 Brown." Correct?

22 A. Correct.

23 Q. But then he goes on to explain it by saying, "He's like, it's always
24 something Mark. Just freaking ignore them." Have I read that correctly?

25 A. Yes.

(Officer Ryan Gehr - Cross)

1 Q. And do you remember that context of that conversation after the name
2 Byron Brown was mentioned?

3 A. Yes.

4 Q. So the content of that conversation in which he mentioned the name
5 Byron Brown, he also told you that the mayor is aware of this problem on

6

██████████

7 A. Correct.

8 Q. And the mayor's giving him some assistance and help in saying, "Just try
9 to ignore them." Correct?

10 A. Correct.

11 Q. And then Judge Grisanti responds, "I did ignore them. I called and said
12 it's blocking half the driveway," and that was the end of the conversation,
13 correct?

14 A. Yes.

15 Q. But that was the only mention of Mayor Byron Brown to you by Judge
16 Grisanti, correct?

17 A. Probably.

18 Q. Okay. You were interviewed by the State Commission in connection
19 with this case.

20 A. Yes.

21 Q. Specifically on February 2 -- I'm sorry, on January 6, 2021.

22 A. I don't remember the exact date, but that sounds about right.

23 Q. Okay. And you actually had a lawyer present with you, correct?

24 A. I believe it was a conference call, so yes.

25 Q. But there was a lawyer in the line as well?

(Officer Ryan Gehr - Cross)

1 A. Yes.

2 Q. And representing you in connection with this interview?

3 A. Yes.

4 Q. You mentioned that you served in both B-District and the Behavioral
5 Health Team. What is the Behavioral Health Team?

6 A. It was a unit designed more for, like, crisis intervention with people with
7 mental illness.

8 Q. And how long did you serve on that team?

9 A. Just a few months.

10 Q. Where were you located physically?

11 A. It was based in the headquarters on Franklin, I believe.

12 Q. So you worked out of headquarters as the need arose?

13 A. Yes, sir.

14 Q. You had some training with respect to that?

15 A. Yes.

16 Q. I take it that training was in addition to the training you had at CPS and at
17 headquarters previously?

18 A. Correct.

19 Q. But the training for Behavioral Health Team also dealt with the topic of
20 de-escalation, correct?

21 A. Correct.

22 Q. And so you would be given techniques to deescalate a situation at the
23 academy, correct?

24 A. Correct.

25 Q. You'd be given them at headquarters; training that's done there at

(Officer Ryan Gehr - Cross)

1 headquarters, correct?

2 A. Correct.

3 Q. And you'd been given that type of training subsequent to when you were
4 serving on the Behavioral Health Team, correct?

5 A. Correct.

6 Q. Now, if we can go back to the scene of ██████ Avenue just for a moment
7 because I want to ask you some questions about the interaction that you
8 had with Maria Grisanti and Judge Grisanti, okay?

9 A. Okay.

10 Q. You mentioned that there was some physical contact between you and
11 Judge Grisanti. Recall that?

12 A. Yes.

13 Q. And isn't it true, sir, that you told the Commission in your interview that
14 you did not even notice it initially when there was physical contact
15 between the two of you?

16 A. I don't recall exactly what I said at that point, but probably something
17 along those lines, yeah.

18 Q. If I showed you a copy of that interview, would that help you to refresh
19 your recollection?

20 A. Sure.

21 Q. And incidentally, were you ever given a copy of that interview after it
22 was conducted?

23 A. I was showed a copy at one point, but I was never given a copy, no.

24 Q. So when you were shown it, you were shown it for a purpose of
25 reviewing it?

(Officer Ryan Gehr - Cross)

1 A. Yes.

2 Q. And you reviewed it?

3 A. Yes.

4 Q. And didn't make any changes?

5 A. No.

6 Q. And that's the interview where you were represented by counsel, correct?

7 A. I believe so, yes.

8 Q. So I've marked for identification AAA as our exhibit.

9 (Respondent's Exhibit AAA was marked for identification)

10 A. Sure.

11 BY MR. CONNORS:

12 Q. Move these out of your way.

13 A. Okay.

14 Q. Just going to put that in front of you.

15 A. Okay.

16 Q. You take a look at it. Whatever you need to do to refresh your
17 recollection now and tell me when you're ready. I want to ask you some
18 questions about specifically page 2.

19 A. Okay.

20 Q. You got the wrong one. Let me give you the right one.

21 A. Okay.

22 Q. I'm going to show you what's been marked as BBB exhibit. That other
23 one was February 3rd. This is February 2nd.

24 (Respondent's Exhibit BBB was marked for identification)

25 A. Okay.

(Officer Ryan Gehr - Cross)

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BY MR. CONNORS:

Q. Just for purposes of clarification. And I can show you this. Just ask you to read this to yourself.

A. Okay.

Q. And see if that helps to refresh your recollection. And just tell me when you're done.

A. Okay.

Q. Now, having read that, does it refresh your recollection that you did tell the Commission that you did not initially notice Judge Grisanti making physical contact with you?

A. Correct.

Q. Do you remember also at some point talking to Det. Moretti about the events of June 22, 2020?

A. Yes.

Q. Now, Det. Moretti came on the scene later, correct?

A. Yes.

Q. And he was the -- as I recall, the only detective on the scene?

A. That's my understanding, yes.

Q. And he was assisting with taking statements and things of that nature?

A. Yes. And I believe the video as well.

Q. Okay. Collecting the video and securing the evidence?

A. That's my understanding at least, yes.

Q. Do you recall telling Det. Moretti that Mark Grisanti grabbed/touched you on the shoulder?

A. Yes.

(Officer Ryan Gehr - Cross)

1 Q. Okay. In addition, did you discuss with the Commission when you were
2 interviewed whether if Judge Grisanti was, I think the words were used,
3 Joe Schmoe, was nobody in particular, that based upon your interaction
4 with him, you would not have arrested him for assaulting an officer?

5 A. It would depend on the context, but I believe that wasn't what was said.

6 Q. Would you like me to show this to you?

7 A. Yeah, if you wouldn't mind.

8 Q. Sure. I'm going to Exhibit BBB again. And just for a moment, if I can
9 set the stage, sometime after this incident, you and Ofc. Muhammad [sic]
10 got together and discussed what occurred, correct?

11 A. Most definitely at some point.

12 Q. Yeah. It's your partner, and you want to rehash what it is that you recall
13 specifically happening after the fact?

14 A. Right.

15 Q. Things have calmed down. Easier to do a retrospective at that point?

16 A. Understood, yeah.

17 Q. Okay? And did you tell the Commission that you probably -- both you
18 and Muhammad probably would not have charged the judge regardless of
19 his judicial position?

20 A. Correct.

21 Q. So there was no favoritism shown to Justice Grisanti on that evening,
22 correct?

23 A. Correct.

24 Q. He never once mentioned in your presence that he was a judge, did he?

25 A. I don't recall. There were a lot of things mentioned. I don't know

(Officer Ryan Gehr - Cross)

1 specifically what was at me and what was at other officers.

2 Q. Well, you didn't learn actually that he was a judge for about two hours
3 until Lt. Turello had a meeting right in front of [REDACTED] Avenue, 16 and
4 21, when she's the one who mentioned to people at the scene that he was
5 a judge?

6 A. Okay. Yes.

7 Q. Do you recall that?

8 A. Yes.

9 Q. And that would be the first time you even learned he was a judge?

10 A. Correct.

11 Q. Now, I want to ask you some questions about your encounter with Maria
12 Grisanti, and I'll put this transcript 11-A there, so --

13 A. Sure. Thank you.

14 Q. -- for your review. Sure. If you need it. So I think as we said before,
15 you were talking to the Meles on one side of the street. Maria was on the
16 other side, excited, emotional, and yelling and screaming, correct?

17 A. Correct.

18 Q. Okay. And you called over to her and told her to stop yelling, correct?

19 A. Correct.

20 Q. And if "she didn't stop yelling, it's going to a problem," you said, I
21 believe, correct?

22 A. Correct.

23 Q. And she said she didn't care, correct?

24 A. Yes.

25 Q. But that was the only exchange really that you had directly with Maria

(Officer Ryan Gehr - Cross)

1 Grisanti. "If you don't stop yelling, it's going to be a problem." She said,
2 "I don't care." That was it?

3 A. Yes.

4 Q. And the only thing you said was, "Cool" at that point. Do you remember
5 that?

6 A. Yes.

7 Q. All right. And Ms. Grisanti, as you walked towards her said, "You're not
8 going to arrest me." Do you remember that?

9 A. Yes.

10 Q. And you said, "I sure fucking am." Correct?

11 A. Yes, sir.

12 Q. Okay. But right at that same time, Ofc. Muhammad [sic] was standing
13 closer to Maria Grisanti than you were, correct?

14 A. Yes.

15 Q. And he told you, "She's good. She's good. She's good." Three times,
16 correct?

17 A. If he said that, it didn't register.

18 Q. Do you want me to show it to you?

19 A. No, I believe that he said it.

20 Q. Okay. And you heard him say that --

21 THE REFEREE: What page of 11-A are we on?

22 MR. CONNORS: 6.

23 THE REFEREE: Thank you.

24 BY MR. CONNORS:

25 Q. And she -- you heard Ofc. Muhammad [sic] say that, "She's good"?

(Officer Ryan Gehr - Cross)

1 A. I could have heard him, but it didn't register.

2 Q. Well, when your follow officer says, "She's good," the implication is
3 she's under control. I got it covered. I got your back, correct?

4 A. Correct.

5 Q. Okay. But you didn't stop. You still continued to arrest her, correct?

6 A. Yes.

7 Q. Now, yesterday we talked a little bit about de-escalation techniques.
8 Remember that?

9 A. Yes.

10 Q. And the de-escalation techniques are contained within a document called
11 the Manual of Procedures, correct?

12 A. Correct.

13 Q. And you're given a Manual of Procedures?

14 A. Yes.

15 Q. Every officer is given one?

16 A. Yes.

17 Q. And trained on it at the academy?

18 A. To a greater or lesser extent, yes.

19 Q. Well, you also trained on it at headquarters when they do their post-
20 academy training, correct?

21 A. Yes.

22 Q. And they trained you with respect to a complete chapter in the Manual of
23 Procedures entitled Use of Force.

24 A. Correct.

25 Q. And you go through all the various aspects of Article 35 of the penal law

(Officer Ryan Gehr - Cross)

1 and the use of force by officers, correct?

2 A. Yes.

3 Q. But they talk about de-escalation techniques, and you're taught those by
4 the instructors, correct?

5 A. Correct.

6 Q. And was yours Mark Turturo (phonetic)?

7 A. He was there. I don't know if he was the specific instructor.

8 Q. Do you remember who the specific instructor was?

9 A. I don't recall exactly. Mark Turturo was defensive tactics, so it makes
10 sense that he would have done de-escalation.

11 Q. So it would either be Pat Mann or Lt. Jim O'Neill (phonetic) . Either of
12 those?

13 A. None of those sound correct --

14 Q. Okay.

15 A. -- so probably Mark Turturo, yes.

16 Q. And would it be fair to say that de-escalation techniques are designed to
17 eliminate the need for use of force completely?

18 A. Ideally, yes.

19 Q. The objective is to deescalate the situation, so you don't have to move to
20 the next level in the continuum, correct?

21 A. Yes. That's the goal.

22 Q. And that's to resolve a situation or an event that's occurring in your
23 presence?

24 A. Yes.

25 Q. And de-escalation techniques, they include talking to a person, correct?

(Officer Ryan Gehr - Cross)

1 A. Yes.

2 Q. And I realize it was hectic that day, but the only thing you said to Maria
3 Grisanti before you took her down and handcuffed her was, "Cool. I
4 fucking can arrest you." Remember?

5 A. Yes.

6 Q. Okay. But the techniques tell you you're supposed to talk to the person to
7 try to calm them down at first, correct?

8 A. Correct.

9 Q. And they even tell you what type of tone of voice you're supposed to use,
10 right?

11 A. Yes.

12 Q. And the language that is not aggressive on the part of the officer or
13 confrontational, right?

14 A. Correct.

15 Q. That's right in the manual.

16 A. Um-hum.

17 Q. You have to answer yes or no.

18 A. Oh, yes. Sorry.

19 Q. And even before you get to the next level on the continuum, to create a
20 space or a barrier between the member of the force and the person,
21 correct?

22 A. Yes, sir.

23 Q. You use distance to try to deescalate?

24 A. Yes.

25 Q. Also, the techniques you're taught is to wait the person out. In other

(Officer Ryan Gehr - Cross)

1 words, to have them calm down and just wait and take some time so that
2 everyone calms down, correct?

3 A. Correct.

4 Q. And then in your de-escalation techniques, you are to permit a person to
5 make statements and ask questions, correct?

6 A. Correct.

7 Q. That slows down the pace of the incident.

8 A. Yes.

9 Q. But above all, the guiding principles for de-escalation in the manual and
10 as you're taught are number 1 is patience, correct?

11 A. Yes, sir.

12 Q. Number 2 is flexibility?

13 A. Yes.

14 Q. And then number 3 is to resolve it peacefully?

15 A. Yes.

16 Q. Is it also true, sir, that a policy of the Buffalo Police Department, as
17 contained within your Manual of Procedures and as you are taught, is that
18 officers are to be courteous and considerate to the public?

19 A. Yes.

20 Q. They shall not use harsh, profane, or insolent language.

21 A. Yes, sir.

22 Q. That's one of the policies that you're asked to follow?

23 A. Yes.

24 Q. And you're expected to exercise the utmost patience and discretion even
25 under the most trying circumstances?

(Officer Ryan Gehr - Cross)

1 A. Yes.

2 Q. But things were hectic a little bit that evening, correct?

3 A. Correct.

4 Q. Even chaotic, correct?

5 A. Yes.

6 Q. All right. But you placed the handcuffs on Maria and took her to the
7 ground after only saying two sentences to her. "If you don't stop yelling,
8 this is a problem" and then "Okay. Cool."

9 A. Yes, sir.

10 Q. You told us earlier that you might have been in a bad mood coming in
11 because of potential of some -- are you married?

12 A. No, sir.

13 Q. No. Okay. Probably increases the potential for -- but you did have an
14 exchange with Judge Grisanti at the end when he was criticizing you for
15 taking Maria to the ground, correct?

16 A. Correct.

17 Q. When you took her to the ground, did you use any techniques?

18 A. No.

19 Q. Did you use a sweep technique at all?

20 A. Possibly some variant of it.

21 Q. Okay. But you didn't file any Blue Sheets, did you?

22 A. I believe I did.

23 Q. I didn't -- we didn't see in any of the documents that you filed any use of
24 force forms.

25 A. Okay. It's my understanding that one was completed, but I'll have to look

(Officer Ryan Gehr - Cross)

1 into that.

2 Q. Yeah. You did file a P13-75, which described the incident, correct?

3 A. Yes, sir.

4 Q. And but there's no mention of the use of force on that particular
5 document?

6 A. Correct.

7 Q. Primarily use of force are on Blue Sheets with Blue Teams?

8 A. Yes, sir.

9 Q. But when you were having a discussion with Judge Grisanti and he said,
10 "Constructive criticism," you said, "I understand." Do you remember
11 that?

12 A. Yes.

13 Q. So at that point, you communicated to the judge that you understood why
14 it was that he might have been upset seeing his wife taken to the ground
15 with a sweep tactic, or some other tactic, and handcuffed?

16 A. Correct.

17 Q. I mean, it happened right in front of him.

18 A. Correct.

19 Q. You knew he [sic] was his wife?

20 A. Yes.

21 Q. And not that there had been -- not that there's anything -- well, strike that.
22 In June of 2020, there had been a series of incidents that had been
23 publicized where officers had been criticized for excessive force, correct?

24 A. Correct.

25 Q. And there were a number of them happened that year and the year before

(Officer Ryan Gehr - Cross)

1 that and the year before that, correct?

2 A. Correct.

3 Q. And I'm not saying who was right or wrong, but that was in the general
4 public's view. They could -- if you were a citizen, you knew about those?

5 A. Of course, yes.

6 Q. Do you remember learning from any of the witnesses that Mrs. Grisanti
7 was being choked by the neighbors prior to the time that you put
8 handcuffs on her?

9 A. Yes.

10 Q. Okay. And it's fair to say that that's something that would be upsetting to
11 a husband if you were to observe something like that?

12 MR. DUGUAY: Objection.

13 THE REFEREE: Sustained.

14 BY MR. CONNORS:

15 Q. Now, the judge did mention to you that he had some children of his were
16 on the police force, correct?

17 A. Correct.

18 Q. And did you recognize the names immediately when he mentioned that to
19 you?

20 A. I didn't recognize any of them, no.

21 Q. But the fact that someone who is being arrested or interrogated by police
22 officers on the scene, in your experience, it's not unusual if they mention
23 people they know on the force, correct?

24 A. No, it happens fair routinely.

25 Q. It would be a common event. Someone even stopped as simple as a

(Officer Ryan Gehr - Cross)

1 traffic ticket to say, "I know this officer. I know that officer"?

2 A. Correct.

3 Q. And that's something that even in, and I say this respectfully, even in
4 your short period of time on the force, you would've experienced that as
5 well?

6 A. Repeatedly, yes.

7 Q. Repeatedly. Now, there came a time towards the end of this encounter,
8 on your body camera, where you were talking directly to the judge,
9 correct?

10 A. Yes.

11 Q. And he was responding to your questions?

12 A. Yes, sir.

13 Q. He was, in your mind, at that point being cooperative, correct?

14 A. For the most part, yeah.

15 Q. Yeah. And providing you with information that was relevant to the arrest
16 and to the events on June 22nd?

17 A. Yes.

18 Q. Okay. Do you recall that when Judge Grisanti mentioned that his
19 children were on the police force that it was at a point in time where he
20 was having a telephone conversation?

21 A. I didn't know who he was talking to on the phone, no, but I believe it was
22 shortly after that it was mentioned.

23 Q. Did you -- you didn't give him the phone?

24 A. No.

25 Q. Do you know who it was that gave him the phone to speak?

(Officer Ryan Gehr - Cross)

1 A. No.

2 Q. Do you know if it was Lt. Turello?

3 A. I didn't -- I mean, I had seen him talking on the phone. I assumed it was
4 his phone.

5 Q. But at that point, he did mention that he was trying to reach family
6 members to let them know what's going on on [REDACTED] Avenue?

7 A. Yes.

8 Q. And that was okay with you?

9 A. Sure. Yeah.

10 Q. He didn't present any problem from a law enforcement standpoint?

11 A. I mean, no, ideally we wait until someone was in cell block to make a
12 phone call, but since he was being cooperative.

13 Q. You didn't stop it and --

14 A. No.

15 Q. But there was another officer on the scene as well, Ofc. Hy, correct?

16 A. Correct.

17 Q. So he came later after a lot of the events had already occurred, correct?

18 A. Yes.

19 Q. And he's in that video that's part of your body camera that we looked at, I
20 think it's Exhibit 11, correct?

21 A. Yes.

22 Q. And Ofc. Hy was not the arresting officer, correct?

23 A. No.

24 Q. And wasn't a lead officer at the scene, correct?

25 A. No.

(Officer Ryan Gehr - Cross)

1 Q. So was he there just for support?

2 A. Yes. I believe the call came out with three to five people fighting in the
3 street, and so with only two officers present, backup is usually fairly
4 standard.

5 Q. Okay.

6 MR. CONNORS: Could we play that
7 interaction with Ofc. Hy? That's it.

8 [Video was played]

9 MR. CONNORS: Could you stop that?

10 BY MR. CONNORS:

11 Q. So there was some conversation there about his children being police
12 officers at that point, correct?

13 A. Correct.

14 Q. But that conversation was, "I know what you're going through right
15 now." Correct?

16 A. Correct.

17 Q. And there was some issues that the police Department in the City of
18 Buffalo were "going through at that point," correct?

19 A. Yeah.

20 Q. Some adverse publicity?

21 A. Yes, sir.

22 Q. Some allegations of brutality?

23 A. Yes, sir.

24 Q. And he's saying, "I know. I understand what you're going through
25 because I have children who are in the force."

(Officer Ryan Gehr - Cross)

1 A. Yes.

2 MR. CONNORS: Finish that up, please?

3 [Video was played]

4 BY MR. CONNORS:

5 Q. So you were having a conversation with the judge at that time, and he
6 was explaining some things to you, correct?

7 A. Correct.

8 Q. You were standing there, correct?

9 A. Correct.

10 Q. You didn't feel any threat or any problems at all, did you?

11 A. I mean, there was a bit of escalation towards the end.

12 Q. Well, he was explaining to you what he thought was constructive
13 criticism with regard to the takedown of his wife, correct?

14 A. Sure.

15 Q. And then Ofc. Hy comes in on the scene. He's not the lead officer,
16 correct?

17 A. Correct.

18 Q. He's there, supposedly, for support?

19 A. Yes.

20 Q. And then he comes in and you see the exchange that we just have shown
21 on Exhibit 11, correct?

22 A. Yes, sir.

23 Q. He doesn't apply any de-escalation techniques at all, does he?

24 A. No, but I had been attempting de-escalation.

25 Q. Let me just finish. He doesn't, does he?

(Officer Ryan Gehr - Cross)

1 A. No, he doesn't, no.

2 Q. No. In fact, he escalates the situation, doesn't he?

3 MR. DUGUAY: Objection.

4 A. He places him under arrest.

5 MR. DUGUAY: Objection. Operation of the
6 mind of Ofc. Hy.

7 MR. CONNORS: Well --

8 THE REFEREE: Overruled.

9 MR. CONNORS: All right.

10 BY MR. CONNORS:

11 Q. He tells the judge to "shut the fuck up," right?

12 A. Correct.

13 Q. So, he violates the policies in the MOP, doesn't he?

14 A. I suppose.

15 Q. No, you don't suppose. It's definitely a violation. You're not supposed to
16 use -- you're supposed to be courteous to citizens and not use harsh
17 profane language, correct?

18 A. Correct.

19 Q. He doesn't do either. He's not courteous and he's using harsh and profane
20 language.

21 A. Okay. Yes.

22 Q. He calls him an old geezer, doesn't he?

23 A. Correct.

24 Q. And he turns around and puts handcuffs on him at that point, correct?

25 A. Yes, sir.

(Officer Ryan Gehr - Cross)

1 Q. You hadn't planned to put handcuffs on him, did you?

2 A. Well, I had mentioned to Ofc. Muhammad [sic] and Hy as I walked back
3 across the street to speak with them, that I believed more likely than not
4 the Grisantis were going to go into custody.

5 Q. Sir, at that point, before Hy intervened, you didn't plan to put handcuffs
6 on him, did you?

7 A. I wasn't sure. I was still talking to him.

8 Q. You didn't have your handcuffs out, did you?

9 A. My handcuffs were on Maria Grisanti.

10 Q. And Ofc. Muhammad [sic] was right there, correct?

11 A. He had approached afterwards.

12 Q. Yeah. So -- and even looking back on this and talking about it, whether it
13 was a Joe Schmoe or a judge, you weren't going to arrest him for
14 assaulting a police officer, were you?

15 A. Probably not, no.

16 Q. Do you remember in your interview with the Commission on January 6,
17 2021, saying to them that, "The judge at this point, before he was
18 handcuffed, seemed composed at that point." Do you remember saying
19 that?

20 A. Yes.

21 Q. And you still maintain that that's accurate statement, don't you?

22 A. Like you said about the de-escalation techniques, I was kind of giving
23 him some space. Letting him talk.

24 Q. And he seemed composed?

25 A. Yes.

(Officer Ryan Gehr - Cross)

1 Q. And that's what you told the Commission on January 6th, correct?

2 A. Yes.

3 Q. And at the scene, Judge Grisanti apologized to you for any contact
4 between you and him, correct?

5 A. Correct.

6 Q. Before you walked across the street from the Mele's home to the
7 Grisanti's area, the only information you had was your discussion with
8 them and you hadn't seen the video, correct?

9 A. Correct.

10 Q. And was it later when you saw, not only the video, but you also listened
11 to the audio as well?

12 A. I remember watching the video. I don't recall if there was audio or not.

13 Q. Okay. And we know you filled out a P13-75 and a 168 Arrest Card,
14 correct?

15 A. Yes, sir.

16 Q. But you don't have a recollection as to whether you filed any Blue Sheets
17 or not?

18 A. I'm fairly certain that I did. Like, I remember it being a conversation that,
19 like, do this, and so I would've done it.

20 Q. Well, the conversation that you had was actually -- it was one with Lt.
21 Turello and one with Det. Moretti, I believe, in that -- tell me if I'm
22 correct. The essence of the conversation is at the -- towards the end of
23 this encounter, you were concerned that you might have some exposure
24 for an excessive force charge, correct?

25 A. Possibly, yeah.

(Officer Ryan Gehr - Cross)

1 Q. Yeah. I mean, that was something that you were concerned, and you
2 discussed it with them and discussed, "Maybe I should file criminal
3 charges just to protect myself." Correct?

4 A. As far as resisting arrest, is that the context of the conversation?

5 Q. Well, when the Commission asked you about that, your understanding of
6 the incident was that if you chose to pursue a charge against the judge,
7 you could be reviewed for excessive use of force. Do you remember
8 telling them that?

9 A. I don't believe that came from a point of concern on my end. I believe I
10 was told that that was what would happen.

11 Q. And at that point in the interview, you refused to answer any more
12 questions on the advice of counsel, correct?

13 A. Correct.

14 Q. So at some point later, you may not know this or not, but if you know, Lt.
15 Karen Turello was interviewed by the Commission?

16 A. I would've assumed she would've been, but I wasn't informed.

17 Q. Do you recall whether or not you expressed concern to Lt. Turello over
18 whether the Grisantis might come after you because of excessive force
19 and that you might need to charge somebody to justify her detention?
20 Did you tell that to Lt. Turello?

21 A. I don't recall that it came from a point of concern on my end because,
22 where I was coming from, my belief is that the use of force was justified.
23 My understanding was that if I pursued the charges, there would be a full
24 investigation into excessive force.

25 Q. I'm just going to show you Exhibit CCC.

(Officer Ryan Gehr - Cross)

1 (Respondent's Exhibit CCC was marked for identification)

2 BY MR. CONNORS:

3 A. Sure.

4 MR. DUGUAY: If you could identify that
5 please, Mr. --

6 MR. CONNORS: Yes, I'm going to do that in a
7 second.

8 BY MR. CONNORS:

9 Q. This purports to be an interview of Lt. Karen Turello. I just want you to
10 read this portion on the issue as to whether you recall expressing
11 concern --

12 A. Sure.

13 Q. -- to her. And just tell me when you're finished.

14 A. Okay.

15 Q. Okay? And is it accurate to say that you did express some concern to the
16 Lieutenant about whether or not there would be a question of your use of
17 excessive force?

18 A. I guess my pause about the --

19 Q. Did you express the concern?

20 A. No. It was -- a question was expressed to me, which caused me -- raised
21 concerns, but I didn't reach out to her with an express of concern. I can't
22 answer for why the Lieutenant stated that the way that she did, but my
23 recollection of events was that it was brought up to me that this is
24 something that was likely to happen if charges were pursued, at which
25 point, I asked the question. If that's her way of stating that was a concern,

(Officer Ryan Gehr - Cross)

1 then that's just her wording.

2 Q. But in any event, both you and Ofc. Muhammad [sic] evaluated the
3 situation and decided whether it was the judge or a Joe Schmoe, you
4 weren't going to file charges?

5 A. Correct.

6 MR. CONNORS: May I take a moment, Your
7 Honor?

8 THE REFEREE: Sure.

9 BY MR. CONNORS:

10 Q. Officer, I just have very few more questions. I want to go back just
11 quickly to Exhibit 11-A and page 14. And if you -- do you have it over
12 there?

13 A. I do not.

14 MS. TRAPANI: Would you like me to put it
15 up?

16 MR. CONNORS: Oh, yeah. That would be
17 great. Thank you. Page 14. And you can scroll down to
18 line 20.

19 MS. TRAPANI: 20? Yeah.

20 BY MR. CONNORS:

21 Q. So this is your exchange with Gina Mele. It's on page 14 of Exhibit 11-

22 A. You see that on the screen?

23 A. Yes, sir.

24 Q. And it's Ms. Mele who brings up the fact that the judge's daughter and
25 son-in-law are officers, correct?

(Officer Ryan Gehr - Cross)

1 A. Correct.

2 Q. So that would be the first time that that topic was introduced on June 22,
3 2020, and it was interdicted by Mrs. Mele, correct?

4 A. I believe so. There was some shouting across the street, but I don't recall
5 the exact content of it.

6 Q. But in terms of the transcript that you have, that's just the first reference
7 to it, correct?

8 A. I'll take your word for it.

9 Q. Okay. Now, if you go over to page 15, line 11, it's at line 12. So now
10 you've learned that the Grisantis may have some relatives on the police
11 force, correct?

12 A. Yes, sir.

13 Q. And your response to them is, "That doesn't matter to me at all."
14 Correct?

15 A. Yes, sir.

16 Q. And that's the way you felt that evening on June 22, 2020?

17 A. The way I feel all the time. I mean, unfortunately --

18 Q. And the way you feel today. It doesn't matter to you who mentions the
19 name of a police officer, you're going to do what you think is the right
20 thing to do?

21 A. Yes, sir.

22 Q. So the fact that if someone says I have a son or a daughter on the force,
23 that's not going to influence you in any way whatsoever, is it?

24 A. That's correct.

25 Q. Okay. Thank you.

(Officer Ryan Gehr - Redirect)

1 MR. CONNORS: That's all I have.

2 THE REFEREE: Mr. Duguay, do you want
3 redirect?

4 MR. DUGUAY: I do. Thank you.

5 THE REFEREE: Do you want a break, or do
6 you want to proceed?

7 MR. DUGUAY: A break would be appropriate
8 at this point.

9 THE REFEREE: All right. Why don't we take
10 a five-minute break?

11 (Recess from 11:29 a.m. to 11:37 a.m.)

12 MS. TRAPANI: We're on record.

13 REDIRECT EXAMINATION

14 BY MR. DUGUAY:

15 Q. Ofc. Gehr?

16 A. Yes, sir.

17 Q. So would you describe when you arrived on the scene it was a chaotic
18 situation? Is that an accurate description?

19 A. Yeah. That's correct.

20 MR. DUGUAY: Ms. Trapani, if you could start
21 Exhibit 11 at the beginning?

22 MS. TRAPANI: Certainly.

23 [Video was played]

24 MR. DUGUAY: If you could stop the video
25 Ms. Trapani?

(Officer Ryan Gehr - Redirect)

1 BY MR. DUGUAY:

2 Q. So that's Maria Grisanti when you first pulled up, correct?

3 A. Correct.

4 Q. Okay. And you observed her language at the time and her demeanor?

5 A. Yes, sir.

6 Q. And you observed her approaching the other party, the possible
7 combatants previously to the nature of the call that you had received?

8 A. Yes, sir.

9 Q. Mr. Connors had asked you about de-escalation techniques. You would
10 agree that you should deescalate by verbally addressing an individual,
11 correct? That would be the initial level that you would start at?

12 A. Yeah, that's correct.

13 Q. Okay. And you did verbally --

14 MR. CONNORS: Excuse me.

15 BY MR. DUGUAY:

16 Q. -- try to deescalate the situation when Mr. --

17 MR. CONNORS: Excuse me. These are
18 leading questions. I let it go for a little bit, but --

19 MR. DUGUAY: All right.

20 BY MR. DUGUAY:

21 Q. Did you try to deescalate verbally the situation with Maria Grisanti on
22 June 22, 2020?

23 A. Yes. The goal was to put some distance in between the combatant sides.

24 Q. Okay. If I can direct your attention to the Exhibit 11-A. It's the transcript
25 that Mr. Connors had been showing you?

(Officer Ryan Gehr - Redirect)

1 A. Yes, sir.

2 Q. Page 2. Okay. So page 2 would represent early to your arrival, correct?

3 Shortly after you got on the scene?

4 A. Correct.

5 Q. You made your observations of Ms. Grisanti and other individuals?

6 A. Yes.

7 Q. Line 17, you stated, "Step back." Correct?

8 A. Yes, sir.

9 Q. Who are you addressing?

10 A. Maria Grisanti.

11 Q. Why did you state those words?

12 A. Based on what I was observing, it seemed that the situation was
13 beginning to escalate again.

14 Q. Okay. And shortly thereafter, did you give another verbal direction to
15 anybody in particular?

16 A. I believe I stated to "step back" again at some point. I don't recall the
17 exact --

18 Q. So line 23, your words, "You're going to step back." Correct?

19 A. Yes.

20 Q. You still talking to -- who are you talking to at that point?

21 A. Still talking to Maria Grisanti, yes.

22 MR. DUGUAY: If we could play the video up
23 to that point, Kate?

24 [Video was played]

25 MR. DUGUAY: If you could stop at this point?

(Officer Ryan Gehr - Redirect)

1 Thank you, Ms. Trapani.

2 BY MR. DUGUAY:

3 Q. Who are you referencing when you said, "I'm not listening to a bunch of
4 yelling." What were your words speaking to?

5 A. Basically to everybody. Just again, trying to calm everything down. I --

6 Q. Did you observe the Meles screaming at that point, or yelling?

7 A. No, but it seemed like everything was kind of escalating and I wanted to
8 prevent that.

9 Q. Okay. And then you go on, and I'll direct your attention to transcript
10 page 4, line 1, you state, "We'll talk calmly over here." Correct?

11 A. Yes, sir.

12 Q. Okay. And was that part of the de-escalation attempt on your part?

13 A. Yes.

14 MR. DUGUAY: If you want -- Ms. Trapani, if
15 you continue playing the video at this time, please?

16 [Video was played]

17 MR. DUGUAY: Please stop the tape, please.

18 BY MR. DUGUAY:

19 Q. Ofc. Gehr, now did you hear any voice in the background as you were
20 talking to the Meles --

21 A. Yes.

22 Q. -- about this time? And who's voice did you hear at that point?

23 A. Maria Grisanti.

24 Q. Okay.

25 MR. DUGUAY: Okay. If you can continue

(Officer Ryan Gehr - Redirect)

1 playing that transcript -- the video?

2 [Video was played]

3 MR. DUGUAY: Please stop there.

4 BY MR. DUGUAY:

5 Q. All right. Again, who are you speaking to? Page 6, line 1 and 2,

6 "Ma'am, if you don't stop yelling, this is going to be a problem for you"?

7 A. Maria Grisanti.

8 Q. Okay. Did she comply with your verbal direction?

9 A. No.

10 Q. It was subsequent to that point when Maria Grisanti was taken into

11 custody. Is that correct?

12 A. Yes.

13 Q. Okay.

14 MR. DUGUAY: Ms. Trapani, can you continue

15 playing Exhibit 11, please?

16 [Video was played]

17 MR. DUGUAY: Would you stop the video,

18 please?

19 BY MR. DUGUAY:

20 Q. Is that your voice stating, "Don't push me, motherfucker," or words to

21 that affect?

22 A. Yes, sir.

23 Q. Okay. Who are you speaking to?

24 A. To Mark Grisanti.

25 Q. Why did you utter those words?

(Officer Ryan Gehr - Redirect)

1 A. Because he had made contact with me at that point.

2 Q. So you were aware the time that there was physical contact made by
3 Mark Grisanti?

4 MR. CONNORS: That's a leading question,
5 excuse me.

6 MR. DUGUAY: Yeah.

7 MR. CONNORS: Objection.

8 THE REFEREE: I'll sustain to leading.

9 MR. DUGUAY: Sure.

10 BY MR. DUGUAY:

11 Q. Is it fair to say that you reacted to events that were around you verbally?

12 A. Yes.

13 Q. Okay. And your verbal response, why did you choose those words?

14 A. I don't know. Because I was pushed and verbalizing it.

15 Q. Okay. Mr. Connors had asked you previously about whether or not you
16 thought about -- that was possible charge for assaulting a police officer.

17 Do you recall those questions?

18 A. Yes.

19 Q. Okay. And you said there was a decision made not to file charges for
20 assault of a police officer, correct?

21 A. Correct.

22 Q. Okay. You told me previously there was some interference by Mark
23 Grisanti?

24 A. Yes.

25 Q. During this portion that we're just describing?

(Officer Ryan Gehr - Redirect)

1 A. Correct.

2 Q. Okay. As part of your training and experience, are you familiar with
3 some aspects of the law?

4 A. Yes.

5 Q. Elements of certain charges of the law?

6 A. Yes.

7 Q. Are you familiar with obstructing governmental administration?

8 A. Yes, sir.

9 Q. Okay. Would that have been a charge, in your background, experience,
10 and history, that would have been applicable to Judge Grisanti's conduct
11 on █████ Avenue --

12 MR. CONNORS: Object. Excuse me. Are you
13 finished, I'm sorry?

14 MR. DUGUAY: Yeah.

15 MR. CONNORS: Object to the form.

16 THE REFEREE: Sustained.

17 BY MR. DUGUAY:

18 Q. Ofc. Gehr, what was your emotional state when you showed up for work
19 on June 22, 2020?

20 A. I don't recall that far back.

21 Q. Okay. Mr. Connors had asked you questions about whether or not you
22 were angry at that time. Those were his words. Were you angry when
23 you showed up at work?

24 A. I'm never usually that angry showing up to work. Like I said, Ofc.
25 Muhammad [sic] and I are fairly close, so it is usually a pleasant

(Officer Ryan Gehr - Redirect)

1 experience to hang out, like, in the car between calls.

2 Q. Okay. And what was the nature of the call that you were responding to?

3 A. It was for a fight.

4 Q. Okay. Was there any other information provided, other than it's some
5 type of a physical encounter? The initial call?

6 A. It would have been in the call. More likely than not, someone, either
7 dispatch would have aired it, or my partner would have read it while we
8 were on the way over to say that it escalated from a parking dispute.

9 Q. Were you aware that there was something that prior to your arrival on the
10 scene? That there was a parking dispute potentially to be investigated?

11 A. Most likely I would have been aware of that, but I don't recall a hundred
12 percent.

13 Q. Okay. But you were aware of that when you were on the scene at some
14 point, correct?

15 A. Oh, yeah, I was made aware of it.

16 Q. Okay. Ofc. Gehr, you testified that you had spoken to some of your
17 supervisors regarding this incident after it had occurred?

18 A. Yes, sir.

19 Q. And that would include Lt. Turello?

20 A. Yes.

21 Q. Any other individuals that you can recall?

22 A. Not that I can recall. I don't believe -- I know for a fact that I would have
23 spoken to Lt. Turello since she was the responding lieutenant. I don't
24 recall speaking to anybody else. She was our primary lieutenant on
25 midnights at that time.

(Officer Ryan Gehr - Redirect)

1 Q. And do you have any recall of whether or not she directed you, you said
2 to file some type of a form, correct?

3 A. Yes. I believe she told me to file a Blue Team.

4 Q. Okay. And you would have filed -- you would have followed the
5 directive of a superior officer. That's your practice?

6 A. Yes, for Lt. Turello, absolutely. If she had said something I would have
7 done it as soon as possible.

8 Q. Okay. Where do you file the particular form? Mr. Connors referred to
9 the Blue Form, the Use of Force form, correct?

10 A. Yeah. On any of the departmental computers, either on the mobile
11 computers in the car, I believe most of them have the capacity for it.
12 Some of them don't quite work or, if not, in the station house.

13 Q. What, if any, control do you have over those records once they're filed
14 electronically?

15 A. Just about none. I can fill them out, and I can make edits once a superior
16 officer has looked at them.

17 Q. Now, with regard to filing charges, what's your experience and
18 understanding about who actually files penal law offense charges as a
19 result of any domestic incident or any incident?

20 A. It would depend on the nature of the incident and who responds to it, but
21 generally speaking, unless a detective shows up, then the primary officer
22 would be the one to suggest the charges, which then -- once it moves into
23 court, that kind of goes beyond the scope of my understanding.

24 Q. Okay. And you testified yesterday that a detective actually did show up,
25 correct?

(Officer Ryan Gehr - Redirect)

1 A. Yes, sir.

2 Q. And your lieutenant showed up, correct?

3 A. Yes, sir.

4 Q. And even the captain showed up, is your testimony?

5 A. Yes.

6 Q. And as far as the chain of command, where do you rank with all those
7 individuals?

8 A. Pretty much at the very bottom.

9 Q. Who would be making the decision, based upon your experience and the
10 practices that you're familiar with in the Buffalo Police Department about
11 filing charges with regard to this incident at 21 [REDACTED] Avenue?

12 A. My understanding would be that at the point where a detective shows up,
13 I believe they're assigned the cases. Since everybody was present, I'm not
14 sure how that changes things. I haven't had a situation like that before or
15 since.

16 Q. Is it your testimony that this -- I withdraw the question. Mr. Connors had
17 asked you about, in essence, I'm just going to rephrase, but it was not
18 uncommon for individuals to mention names of police officials or --

19 A. Yeah, that's correct. It's not uncommon.

20 Q. Okay. And you said, I believe your testimony was that, yeah, you had
21 been aware of that in a number of situations based upon your experience,
22 correct?

23 A. Yes.

24 Q. And also, based upon your experience, what your -- why do people
25 mention names of other law enforcement officials?

(Officer Ryan Gehr - Redirect)

1 MR. CONNORS: Object to the form of the
2 question.

3 THE REFEREE: Repeat the question.

4 MR. DUGUAY: I'll try my best.

5 THE REFEREE: Rephrase it, I guess.

6 MR. DUGUAY: It's lost again.

7 BY MR. DUGUAY:

8 Q. In your experience, why do people mention other law enforcement
9 officers at the scene of an incident?

10 THE REFEREE: Sustained.

11 BY MR. DUGUAY:

12 Q. Ofc. Gehr, I want to direct your attention, you said you initially had been
13 speaking with the Meles when you arrived, correct?

14 A. Correct.

15 Q. Okay. And Mr. Connors had asked you whether or not you had formed
16 an opinion prior to going over to speak with the Grisantis, or any of the
17 Grisanti individuals, correct?

18 A. That's correct.

19 Q. And do you recall your testimony yesterday about not only speaking to
20 the Grisantis, but observing some type of physical evidence prior to
21 crossing the street?

22 A. Yes.

23 Q. And what was that physical evidence that you saw?

24 A. I believe it was clothing in the driveway of the Mele household.

25 Q. Okay. What did that indicate to you?

(Officer Ryan Gehr - Redirect)

1 A. Since the Meles at least stated, "This isn't ours" and that it was clothing
2 that belonged to the Grisanti family, it would indicate that the Grisanti
3 family had crossed the street into their resident -- or household area.

4 Q. Ofc. Gehr, if I could your attention to page 7 of Exhibit 11-A, please?

5 A. Okay.

6 Q. In particular, I want to point your attention to line 22. Can you see that,
7 Officer?

8 A. Yes, sir.

9 Q. Okay. Mark Grisanti states, "You arrest my fucking wife, you're going to
10 be sorry." Correct? That's what you heard?

11 A. Correct.

12 Q. And then that's at the point that Judge Grisanti, at line 25, goes into, "My
13 son and daughter are" and then the next page, line 2, "both police
14 officers."

15 A. Yes, sir.

16 Q. So in that context, in the use of police enforcement officer relatives, in
17 your experience, what was transpiring at that point?

18 MR. CONNORS: Object to the form of the
19 question.

20 THE REFEREE: Sustained.

21 BY MR. DUGUAY:

22 Q. So Ofc. Gehr, I now want to direct your attention to the transcript, page
23 14, line 20.

24 A. Okay.

25 Q. On page 14, lines 20 through 22, Ms. Mele states right away, "This is

(Officer Ryan Gehr - Redirect)

1 what they do. They throw around that their daughter's a cop. The son-in-
2 law's a cop. This and that." That's Ms. Mele speaking, correct?

3 A. Yes, sir.

4 Q. And Mr. Connors had asked you previously if that was the first time that
5 anybody had brought up a connection with any law enforcement relatives
6 or names of law enforcement people pursuant to this matter, correct?

7 A. Correct.

8 Q. And that's not accurate is it because on page 8 [sic] that we just spoke
9 about, the prior page, Judge Grisanti himself had actually brought that up,
10 correct?

11 A. Yes.

12 MR. DUGUAY: Ms. Trapani, can I ask you to
13 bring up Exhibit 11 and just prior to Judge Grisanti being
14 taken into custody. So perhaps some of the discussion prior
15 to it. Not that far. Yeah, that's fine. Can I ask you to play
16 Exhibit 11 now?

17 [Video was played]

18 MR. DUGUAY: Ms. Trapani, please stop the
19 exhibit.

20 BY MR. DUGUAY:

21 Q. So Ofc. Gehr, you had answered Mr. Connors questions about the judge,
22 at some point, being more composed or cooperative I believe was the
23 term that was used at the time. Do you recall that?

24 A. Yes, sir.

25 Q. And would this be approximately the time period you would have been

(Officer Ryan Gehr - Redirect)

1 speaking about?

2 A. Yes.

3 Q. All right.

4 MR. DUGUAY: Ms. Trapani, if you can
5 continue?

6 [Video was played]

7 MR. DUGUAY: Ms. Trapani, please stop the
8 video, please.

9 BY MR. DUGUAY:

10 Q. Now, Ofc. Hy's present during this communication. You're aware of that,
11 correct?

12 A. Yes.

13 Q. I asked you yesterday about when Ofc. Hy had appeared on the scene,
14 correct?

15 A. Correct.

16 Q. Did he appear on the scene prior to the time Judge Grisanti had been
17 involved in the arrest of Maria Grisanti?

18 A. No. I believe it was afterwards.

19 Q. I'm sorry. I misspoke. So the question -- I'll rephrase that. So was Ofc.
20 Hy present when Maria Grisanti was taken into custody?

21 A. No.

22 Q. Okay. Now, prior to this, we can go back, but did you hear the judge
23 indicate something about tackling you?

24 A. Yes.

25 Q. Okay. And Ofc. Hy is present there. He wasn't present before when the

(Officer Ryan Gehr - Redirect)

1 arrest was being made, correct?

2 A. Correct.

3 MR. DUGUAY: Continue please?

4 [Video was played]

5 MR. DUGUAY: Ms. Trapani, if I could ask you
6 to stop, please?

7 BY MR. DUGUAY:

8 Q. You indicated before that when you spoke to the Commission, you talked
9 about the cooperative nature of Judge Grisanti at some point. He calmed
10 down and was more cooperative, correct?

11 A. Correct.

12 Q. Okay. Was there a change in demeanor at any point when he stopped
13 before from being cooperative to even the point we're at right now?

14 MR. CONNORS: This is a leading question.

15 THE REFEREE: It is leading.

16 BY MR. DUGUAY:

17 Q. Yeah, can you describe -- what, if any, change in demeanor did you
18 notice of the judge as he was explaining the situation that we're
19 watching?

20 A. A little more agitated. A little more hyped up. I believe it's right after
21 this, I kind of give myself some distance. You see, like, I used the excuse
22 to point out the vehicle to take a step back.

23 Q. And Mr. Connors had asked you before about de-escalation techniques,
24 correct?

25 A. Correct.

(Officer Ryan Gehr - Recross)

1 Q. What, if in any way, does that factor into your conduct engaging with the
2 judge?

3 A. Mostly at this point, seeing that the escalation was starting, I was just
4 kind of allowing the conversation to go on. Kind of letting him state his
5 piece. Getting some distance.

6 MR. DUGUAY: I have no further redirect at
7 this time.

8 THE REFEREE: Recross?

9 MR. CONNORS: Just briefly. If you could
10 play just the very beginning of the tape and -- Exhibit 11.
11 [Video was played]

12 MR. CONNORS: Okay. Stop there, please.

13 RE CROSS EXAMINATION

14 BY MR. CONNORS:

15 Q. So look at page 2 in your transcript. That's Exhibit 11-A.

16 A. Okay.

17 Q. You'll see down at the bottom, you said to Maria Grisanti, "You're going
18 to step back"?

19 A. Yes.

20 Q. And her compliance was perfect, wasn't it?

21 A. More or less.

22 Q. It was perfect. She walked right over to her side of the street, didn't she?

23 A. I mean, Ofc. Muhammad [sic] had to get involved as well.

24 Q. No. No. Muhammad's with the judge. She's by herself walking over
25 to --

(Officer Ryan Gehr - Recross)

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MR. DUGUAY: Objection.

BY MR. CONNORS:

Q. She's by herself, walking towards her part of the street, correct?

A. I mean, Ofc. Muhammad [sic] has to physically, kind of usher her across the street.

MR. CONNORS: Continue this just for a bit to see what Muhammad does.

[Video was played]

MR. CONNORS: Okay. Stop.

BY MR. CONNORS:

Q. Okay. So Officer, Muhammad's not even near her. He stays next to Judge Grisanti, doesn't he? Doesn't he?

A. Right. It was right before. I mean, you see him kind of ushering her across.

Q. Well, so then she followed the instructions perfectly, whether they came from you or they came from him, correct?

A. Okay. Then yes.

Q. Okay. When you use only de-escalation techniques, you don't have to file a Blue Sheet, do you?

A. Correct. Well, do you mean, like, verbal?

Q. Yeah.

A. Okay. Yeah. Understood.

Q. Yeah. And you said that there was clothing on the Mele's side of the street when you saw their -- identified by the Mele's as belonging to the Grisanti's, correct?

(Officer Ryan Gehr - Recross)

1 A. Correct.

2 Q. That's not evidence of a crime, is it, to have clothing on the side of
3 someone's street, is it?

4 A. Not in itself, no.

5 Q. No. It wouldn't give you probable cause to believe you can make an
6 arrest, would it?

7 A. No.

8 Q. It's circumstantial evidence of a lot of different things, correct?

9 A. Sure.

10 Q. Okay.

11 MR. CONNORS: No. We're good. Thank you,
12 Officer.

13 THE WITNESS: Yeah. Thank you.

14 THE REFEREE: Anything further, Mr.
15 Duguay?

16 MR. DUGUAY: One moment, please Mr. -- no
17 further redirect. Thank you.

18 THE REFEREE: Officer, you may step down.
19 Thank you.

20 THE WITNESS: Oh, sure. Thank you.

21 THE REFEREE: Who's your next witness?

22 MR. DUGUAY: Ofc. Muhammad [sic] and
23 then Mr. Lazroe if we get to him this afternoon.

24 THE REFEREE: Can we proceed with direct of
25 Ofc. Muhammad [sic], if you're ready?

(Officer Ryan Gehr - Recross)

1 MR. DUGUAY: I didn't know if you wanted to
2 talk about any type of a schedule prior to going forward?

3 THE REFEREE: This could be on record.

4 MR. POSTEL: I think we'll be able to get
5 through Muhammad and then go to lunch.

6 THE REFEREE: Okay. We'll proceed with
7 Muhammad.

8 MR. POSTEL: That's a break. You owe me a
9 break.

10 THE REFEREE: You need a break, Kate?

11 MS. TRAPANI: No, I'm fine. Would you like
12 me to remove the exhibits from the witness box?

13 THE REFEREE: No, I think, probably keep
14 them there. It's 11-A that's up there, right?

15 MR. POSTEL: 11-A that Mr. Connors left up
16 there.

17 MR. CONNORS: What did I do?

18 MR. POSTEL: You left your -- an exhibit up
19 there.

20 MR. DUGUAY: Ofc. Muhammad [sic], on this
21 side.

22 LT. MUHAMMAD: Probably said side; I used
23 to think it was this side, so.

24 THE REFEREE: You can sit down.

25 LT. MUHAMMAD: Thank you.

(Lieutenant Larry Muhammed - Direct)

1 THE REFEREE: Officer, I'm William Easton.
2 I'm an attorney in Rochester, and I've been appointed by the
3 Commission to be a Referee, a finder of fact for this
4 proceeding.

5 LT. MUHAMMAD: Yes, sir.

6 THE REFEREE: And I'll be taking testimony
7 and issuing a report of fact and law at the end of it.

8 LT. MUHAMMAD: Yes, sir.

9 THE REFEREE: The proceedings are being
10 digitally recorded, use of the mic. So the mic is really a
11 device, not to project your voice, but to capture it, so it's
12 counterintuitive, but speak into the mic at all times and you
13 can have your mask on or off at your choice.

14 LT. MUHAMMAD: I prefer off then.

15 THE REFEREE: It's what you're comfortable
16 with.

17 LT. MUHAMMAD: Thank you.

18 THE REFEREE: All right. So other than that,
19 are we ready to proceed?

20 I'll administer the oath. Do you swear or affirm
21 under penalties of perjury that you'll give the testimony
22 here is the truth, the whole truth, and nothing but the truth?

23 LT. MUHAMMAD: I do.

24 THE REFEREE: All right. We're ready to
25 proceed.

(Lieutenant Larry Muhammed - Direct)

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MR. DUGUAY: Thank you, Mr. Easton.

L T. L A R R Y M U H A M M A D

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

DIRECT EXAMINATION

BY MR. DUGUAY:

Q. Good morning, Ofc. Muhammad [sic].

A. Good morning.

Q. Sir, are you currently employed?

A. Yes, sir.

Q. And who are you employed by?

A. City of Buffalo.

Q. How long have you been employed by the City of Buffalo.

A. A little over nine years.

Q. Okay. And where, or what department in the city are you employed?

A. Buffalo Police Department.

Q. And your title?

A. Lieutenant.

Q. Okay. Has that changed in any recent time?

A. Yes. About six or seven months.

Q. Okay. Congratulations on that.

A. Thank you.

Q. Sir, were you working on June 22, 2020?

A. Yes.

(Lieutenant Larry Muhammed - Direct)

1 Q. And what shift were you working?

2 A. Shift MP5. It's eight o'clock at night to six o'clock in the morning.

3 Q. Okay. Are you working with a partner?

4 A. Yes.

5 Q. And who was your partner that evening?

6 A. Ryan Gehr.

7 Q. Did there come a point when you responded to a call early in your shift?

8 A. Yes.

9 Q. Approximately what time was that?

10 A. I think it was pretty much right out the gate, so somewhere between
11 eight, nine.

12 Q. Okay. And what was the nature of the call?

13 A. Neighbor dispute, if I'm not mistaken.

14 Q. Okay. Do you remember what time you arrived on scene?

15 A. Not exactly.

16 Q. Okay. And where was it that you had responded to?

17 A. [REDACTED]

18 Q. [REDACTED] Avenue, City of Buffalo?

19 A. Yes.

20 Q. Yes. Were you wearing a body camera at the time?

21 A. Yes.

22 MR. DUGUAY: Ms. Trapani, I'd like to bring
23 up Exhibit 12, please. If you could play that?

24 (Commission Exhibit 12 was marked for identification)

25 //

(Lieutenant Larry Muhammed - Direct)

1 BY MR. DUGUAY:

2 Q. I'm going to direct your attention to the screen if you would, Lt.

3 Muhammad -- or Det. Muhammad. Soon.

4 A. Soon.

5 [Video was played]

6 MR. DUGUAY: Ms. Trapani, can you stop the
7 video, please?

8 BY MR. DUGUAY:

9 Q. Det. Muhammad, do you recognize what this video is?

10 A. Yes. This is my body worn camera.

11 Q. And is that -- which date is -- do you know which date that's from?

12 A. 6/23.

13 Q. Okay. Now, with regard to the -- you're looking at the screen. Do you
14 recall the date that you responded to the scene that just played?

15 A. I believe it was 6/23.

16 Q. Is that your belief now, based upon what you review on the screen?

17 A. Based upon what I'm reading on the screen, yes.

18 Q. And with regard to the use of body cameras, when are they -- how do
19 they record the date. Do you understand how they record the dates on
20 them or not?

21 A. I do not.

22 Q. Okay. Without playing this -- you said you were wearing a body camera
23 on June 22, 2020, correct?

24 A. Yes.

25 Q. Did you wear it for the duration of your shift?

(Lieutenant Larry Muhammed - Direct)

1 A. I did.

2 Q. And did there come a point in time when you docked the body cam
3 video?

4 A. Yes.

5 Q. Okay. And you recognize this video, you said, as being your own body
6 cam video?

7 A. Yes, I do.

8 MR. DUGUAY: I just move for the entry of
9 Exhibit 12 at this time.

10 THE REFEREE: Any objection?

11 MR. CONNORS: No.

12 THE REFEREE: Received.

13 (Commission Exhibit 12 was admitted into evidence)

14 BY MR. DUGUAY:

15 Q. Also I am going to show you a copy of Exhibit 12-A.

16 (Commission Exhibit 12-A was marked for identification)

17 MR. DUGUAY: I move for entry of 12-A. It's
18 the transcript of the -- the first transcript of Ofc.
19 Muhammad [sic] from June 22, 2020. I'm just going leave
20 it --

21 THE REFEREE: Objection?

22 MR. CONNORS: No objection.

23 MR. DUGUAY: -- at this time. I'll also note for
24 Exhibit 12-A at this time, 12-B is the second discovery
25 transcript from Ofc. Muhammad [sic].

(Lieutenant Larry Muhammed - Direct)

1 (Commission Exhibit 12-B was marked for identification)

2 MR. CONNORS: No objection.

3 MR. DUGUAY: And I'll just hand this to Mr.
4 Easton.

5 THE REFEREE: Thank you. No objection to
6 12-B, right?

7 MR. CONNORS: No objection.

8 THE REFEREE: Received.

9 (Commission Exhibits 12-A, 12-B were admitted into
10 evidence)

11 BY MR. DUGUAY:

12 Q. Ofc. Muhammad [sic], what was your initial observation when you
13 appeared at 21 [REDACTED] Avenue on June 22, 2020?

14 A. It's a group of people right in the midst of a seemingly large argument.

15 Q. And you said you were partnered that day with Ofc. Gehr, correct?

16 A. Yes.

17 Q. Any other officers on the scene when you arrived?

18 A. Not when I arrived.

19 Q. Okay. What were the functions that you were performing when you
20 arrived on the scene?

21 A. I believe we immediately tried to separate the two groups to try to
22 ascertain a story.

23 Q. And what in particular role did you play with regard to the individuals at
24 21 [REDACTED] Avenue?

25 A. I started a conversation with Mr. and Mrs. Grisanti.

(Lieutenant Larry Muhammed - Direct)

1 Q. Okay. What was the purpose of your communication with the Grisanti?

2 A. To investigate why we were called.

3 Q. And was your partner also performing duties?

4 A. Yes.

5 Q. What duties was he performing?

6 A. He began investigating with the Meles.

7 Q. Okay.

8 MR. DUGUAY: I'm going to ask that Exhibit
9 12 be played. You can play it right from the point that we
10 had stopped previously.

11 [Video was played]

12 MR. DUGUAY: Ms. Trapani, can you stop the
13 transcript.

14 BY MR. DUGUAY:

15 Q. Okay. So do you hear your voice on?

16 A. Yes.

17 Q. And do you remember the statements that you made?

18 A. Yes.

19 Q. Who were those statements made to?

20 A. Judge Grisanti.

21 Q. What was the purpose of making those statements?

22 A. He had just pushed my partner, and I wanted to calm him down. We
23 were just having a conversation and I wanted to try to bring, you know,
24 his -- obviously, he was kind of -- became aggressive. I wanted to bring
25 him back down. Just level him off a little bit.

(Lieutenant Larry Muhammed - Direct)

1 Q. What, if anything, other conduct did he engage in other than the verbal
2 statements that you made, if any?

3 A. I physically held him. Wrapped my arms around him at one point.

4 MR. DUGUAY: Ms. Trapani, if you could --

5 MR. DOYLE: Your Honor, can I note, I'm
6 sorry. The witness is a little soft spoken, and I know I --

7 THE WITNESS: My apologies.

8 MR. DOYLE: -- I'm over in the corner. If you
9 could just ask the witness and Mr. Duguay for that matter to
10 speak up a little bit.

11 THE REFEREE: Okay. Remember, it's not a
12 projection a device. It's just a recording device.

13 THE WITNESS: I --

14 THE REFEREE: You got to throw the voice out
15 there.

16 THE WITNESS: Understood. My apologies.

17 MS. TRAPANI: Okay?

18 THE REFEREE: Ready.

19 [Video was played]

20 MR. DUGUAY: Ms. Trapani, could you stop
21 the exhibit, please?

22 BY MR. DUGUAY:

23 Q. All right. You made a certain statement to Judge Grisanti in the scene
24 that we just saw, correct?

25 A. Correct.

(Lieutenant Larry Muhammed - Direct)

1 Q. Could you explain why you chose the words you did in speaking to Judge
2 Grisanti?

3 A. I didn't -- I didn't think it was appropriate. My partner was still placing
4 her in the vehicle, and I didn't think it was appropriate to try to influence
5 the situation. So it was just kind of watch your words kind of a
6 statement.

7 Q. What, if anything, did the judge's demeanor have in the way of
8 influencing your statements or your conduct at this point?

9 A. At this point, it's just his -- he was upset, you know, just visibly. I might
10 describe as angry, obviously, at the situation. But at this point, his, you
11 know, demeanor didn't influence what we were doing. We still went
12 through the putting her in the back of the vehicle.

13 Q. Did you recall whether or not Judge Grisanti made any statements with
14 regard to the detention of his wife, Maria Grisanti that evening?

15 A. Yes. I believe he said, "If you don't take her out of cuffs, there's going to
16 be a problem."

17 Q. Okay. And what, if any, reaction did you have to those statements?

18 A. I didn't have a visible reaction, or anything verbal. It was just -- yeah, I
19 didn't have a verbal, you know, reaction to that at the time.

20 MR. DUGUAY: Ms. Trapani, if you could
21 continue to play?

22 [Video was played]

23 MR. DUGUAY: Mr. Trapani, if I could ask you
24 to stop Exhibit 12 and advance Exhibit 12 to when Ofc.
25 Muhammad [sic] walks over to Judge Grisanti on the

(Lieutenant Larry Muhammed - Direct)

1 telephone.

2 [Video was played]

3 MR. DUGUAY: Ms. Trapani, stop the exhibit,
4 please.

5 BY MR. DUGUAY:

6 Q. Did you hear Judge Grisanti state the name Gramaglia?

7 A. Yes.

8 Q. And what, if anything, did that mean to you at the time?

9 A. Gramaglia was the then-Deputy Commissioner of the Buffalo Police. At
10 the time, it just meant that he -- I guess I'm trying -- I don't know if I'm
11 going through fire -- stop me if I'm wrong. I'm trying to make an
12 interpretation of that, you know, he knew people in the Department and
13 wanted the situation to go well.

14 Q. Can you explain what you mean by "wanted to go well"?

15 A. I would imagine, I mean, to his preference.

16 MR. CONNORS: Objection.

17 THE REFEREE: Sustained.

18 MR. DUGUAY: Ms. Trapani, can you continue
19 to play the video?

20 [Video was played]

21 MR. DUGUAY: Ms. Trapani, (unintelligible) if
22 you can just continue.

23 BY MR. DUGUAY:

24 Q. Det. Muhammad [sic], did you have any other communication with Judge
25 Grisanti on this particular evening?

(Lieutenant Larry Muhammed - Direct)

1 A. I'm sorry. I don't know what you mean. Like beyond this?

2 Q. Yeah. Did you have an encounter with him talking to him about the
3 event?

4 A. Yeah. This -- after -- forward in this video, he describes his version of
5 the story of what transpired with the Meles, and I believe I continue
6 talking to him later on -- well, I guess it wasn't conversational. At one
7 point, I facilitated a phone call, but that wasn't conversational.

8 Q. Okay. With regard to the telephone call, can you explain approximately
9 when that occurred time wise after your arrival?

10 A. I don't know how many minutes or hours after this that was, but my Lt.
11 Turello asked me to hand him her cell phone and allow him a phone call.
12 He was in the back of a patrol vehicle at the time.

13 Q. Okay. Do you know approximately what time Judge Grisanti had been
14 placed in that patrol vehicle?

15 A. He's placed in a patrol vehicle moments after this scene on camera.

16 Q. Approximately how long was he in the patrol vehicle?

17 A. More than an hour. We were on scene processing for a while, but I'm not
18 exactly sure how much time.

19 Q. Okay. You described there came a point in time where your lieutenant
20 directed you to perform a function connected with Judge Grisanti?

21 A. Yes. To facilitate that cell phone call.

22 Q. Okay. So who's phone were you designated to use for the call?

23 A. It was her cell phone.

24 Q. Okay. In your experience, have you had other situations where you
25 would take an officer's cell phone to a person detained in the back of a

(Lieutenant Larry Muhammed - Direct)

1 police car for a conversation?

2 A. I've never had that happen before or after this event.

3 Q. Do you know who was on the telephone?

4 A. It was a Buffalo Police detective. The name escapes me right now.

5 Q. Okay. And do you recall approximately how long that telephone call
6 lasted?

7 A. Only a few minutes.

8 Q. Okay. What about the nature of that telephone call? Any recollection?

9 A. The judge was explaining to the detective the -- you know, in a short
10 synopsis, the events that transpired with the Meles and up to his
11 detention.

12 Q. Okay. Did you have any further interaction with Judge Grisanti on that
13 particular evening?

14 A. Yes. When we took Judge Grisanti to the station, I was within close
15 proximity to him for the night until I drove him and his wife close to
16 home.

17 Q. Okay. Did you understand the purpose for which Judge Grisanti was at
18 the station?

19 A. Statement. For a statement.

20 Q. When you say station, was it D-District Station?

21 A. Correct.

22 Q. Address?

23 A. 669 Hertel.

24 MR. DUGUAY: We move at this time for the
25 entry of Exhibit 13, which is the interview video.

(Lieutenant Larry Muhammed - Direct)

1 (Commission Exhibit 13 was marked for identification)

2 MR. CONNORS: No objections.

3 THE REFEREE: All right. Received.

4 (Commission Exhibit 13 was admitted into evidence).

5 MR. DUGUAY: And also 13-A, I'm sorry.

6 Transcript of that particular video interview, police

7 department, Moretti with Respondent Judge Grisanti.

8 (Commission Exhibit 13-A was marked for identification)

9 MR. CONNORS: What number is it?

10 MR. DUGUAY: It's Exhibit 13-A, I'm sorry.

11 The transcript of the Moretti interview.

12 MR. DOYLE: 13 and 15 [sic].

13 MR. POSTEL: Not the Moretti interview.

14 MR. DUGUAY: Excuse me.

15 MR. POSTEL: The transcript of the Costantino
16 dialogue between Respondent and Costantino.

17 MR. DUGUAY: That's --

18 MR. CONNORS: That's 12-A --

19 MR. DUGUAY: So 13-A would be the
20 transcript of Respondent interview with Buffalo Police Lt.
21 Moretti -- now lieutenant, was former detective at the time.
22 So I'm moving for 13, which is the actual interview video
23 and 13-A, which is a transcript of the interview,
24 Respondent's interview with Moretti.

25 MR. CONNORS: No objections.

(Lieutenant Larry Muhammed - Cross)

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THE REFEREE: Received.

(Commission Exhibit 13-A was admitted into evidence)

MR. DUGUAY: No further direct.

THE REFEREE: Mr. Gately, cross?

CROSS EXAMINATION

BY MR. GATELY:

Q. So when you first arrived at the scene of the incident on [REDACTED] Ave. on June 22, 2020, you saw multiple parties arguing, correct?

A. Correct.

Q. And the parties were pretty riled up, correct?

A. Correct.

Q. And the scene was pretty chaotic, correct?

A. Correct.

Q. So you had a partner on the scene, right?

A. Correct.

Q. And that was Ofc. Gehr?

A. Correct.

Q. And so you two split up on both sides of the street, correct?

A. Correct.

Q. And you took the Grisantis to their side, correct?

A. Correct.

Q. And he took the Meles to their side, correct?

A. Correct.

Q. And you said earlier that part of the plan was to kind of uncover the facts, right?

(Lieutenant Larry Muhammed - Cross)

1 A. Correct.

2 Q. But was there another part to deescalate the situation too?

3 A. Correct.

4 Q. Okay. So you were talking with Judge Grisanti, and he was explaining
5 what was happening, right?

6 A. Also correct.

7 Q. And he was -- and so when he was explaining the altercation to you, he
8 was not yelling at you, correct?

9 A. No.

10 Q. And he was not swearing at you?

11 A. No.

12 Q. But his wife, Maria, began yelling shortly after you arrived, right?

13 A. She was yelling since I arrived.

14 Q. So when she [sic] arrived, she was yelling, and she continued to yell?

15 A. Correct.

16 Q. Okay. But she did walk back to her driveway at some point, right?

17 A. She did.

18 Q. And you did not need to escort her there?

19 A. I did not.

20 Q. She --

21 A. Well, yes -- well, may I explain? I was asking everyone to come across
22 the street. She was still saying a few words and then I think I kind of
23 just, with my arms open kind of to block access, you know, everyone
24 back to that side of the street.

25 Q. And then she went back on her own accord?

(Lieutenant Larry Muhammed - Cross)

1 A. And then -- yes, but without physical contact, I just told everyone to get
2 across the street.

3 Q. Okay. And when she was yelling, Judge Grisanti nudged her back
4 towards her own property, right?

5 A. I believe I remember that, yes.

6 Q. And he also told her to stop --

7 A. Correct.

8 Q. -- at a certain point, correct? And she continued to yell towards the other
9 side of the street, right?

10 A. That's correct.

11 Q. And at that point, Ofc. Gehr ran across the street, correct?

12 A. Correct.

13 Q. And as Ofc. Gehr was running across the street towards Maria Grisanti,
14 you attempted to communicate your observations of Maria to Ofc. Gehr?

15 A. I don't recall that. I don't recall trying to communicate with Ofc. Gehr as
16 he walked across the street.

17 MR. GATELY: Can you pull up Exhibit 12-A,
18 page 3?

19 BY MR. GATELY:

20 Q. Can you read lines 19, 21, and 23?

21 A. Sure. 19 and 23?

22 Q. 19, 21, and 23.

23 A. Ofc. Muhammad [sic], "She's good." Ofc. Muhammad [sic], "She's
24 good." Ofc. Muhammad [sic], "She's good."

25 Q. So do you remember saying that to Ofc. Gehr? Trying to tell Ofc. Gehr

(Lieutenant Larry Muhammed - Cross)

1 that?

2 A. Correct.

3 Q. And that was you communicating your observations of Maria to him?

4 A. Correct.

5 Q. But when you said that, he had already ran past you and he didn't, you
6 know, listen to what you observed?

7 A. Not sure if he ever heard me.

8 MR. GATELY: Do you want to play the video?

9 It's, I believe, 12. And you can play it maybe from, like, 30
10 seconds in. Okay. Yeah, right there is fine.

11 [Video was played]

12 MR. GATELY: You can stop it.

13 BY MR. GATELY:

14 Q. So when you said, "She's good. She's good. She's good." He was
15 already a little bit past you, right?

16 A. Yeah, he's coming quick, yeah.

17 Q. But you were trying to say that, you know, you had the situation under
18 control?

19 A. Not completely. May I explain?

20 Q. So you were trying to say that she was good --

21 MR. DUGUAY: Objection.

22 THE REFEREE: Oh --

23 MR. DUGUAY: Let the witness answer the
24 question.

25 THE REFEREE: Let him explain the answer.

(Lieutenant Larry Muhammed - Cross)

1 MR. GATELY: Okay.

2 THE WITNESS: That I would get her under
3 control. That he had a half to handle, and I considered my
4 half Mr. and Mrs. Grisanti, and that she was yelling and, I
5 guess, if I had a full conversation, it would be to allow me
6 to get -- to bring her under the control.

7 BY MR. GATELY:

8 Q. So you would've liked to have just had the full conversation?

9 A. Myself, yeah. So he could handle his half and I could handle my half.
10 Half of my half --

11 Q. Yeah.

12 A. -- was a little riled up. So I was kind of requesting, hey, let me handle
13 my half, so you can worry about your half.

14 Q. Yeah.

15 A. But -- yeah.

16 Q. So you would have liked a little bit more time to talk to her probably?

17 A. Correct.

18 Q. Yeah.

19 MR. GATELY: And you can play -- you can go
20 back 10 seconds, if you could? Thank you. And play the
21 video from here.

22 [Video was played]

23 MR. GATELY: And you can stop it right here.

24 BY MR. GATELY:

25 Q. So at this point, Ofc. Gehr's back is to you, right?

(Lieutenant Larry Muhammed - Cross)

1 A. Correct.

2 Q. And it's probably difficult for you to see what was transpiring at this
3 point with his back to you?

4 A. I would say the camera's giving good perspective of what I'm seeing,
5 yeah.

6 Q. So that's an accurate representation of what you saw at the time?

7 A. It's not perfect, but yeah.

8 Q. Yeah. But with his back to you, you can't see through him, right?

9 A. Correct.

10 Q. So it's difficult to see what they're doing in between, you know; you can't
11 really tell?

12 A. Difficult, correct?

13 Q. Yeah. And you would also say that Judge Grisanti has the same exact
14 view and the same angle as you did, right?

15 A. Correct.

16 Q. Because you guys are in line with your camera?

17 A. Correct.

18 Q. So he would not be able to see what was transpiring between them either
19 then, correct?

20 A. If I'm answering for him, yeah, it's correct.

21 Q. Yeah. So when Maria Grisanti was placed in handcuffs, Judge Grisanti
22 made remarks wanting his wife, Maria, out of handcuffs, correct?

23 A. Correct.

24 Q. Based on your nine, almost ten years of experience, is it common for
25 people who watched a loved one get placed in cuffs, you know, make

(Lieutenant Larry Muhammed - Cross)

1 similar pleas to get them out on cuffs?

2 A. Not common.

3 Q. Okay.

4 MR. GATELY: May I approach the witness?

5 THE REFEREE: Sure.

6 MR. GATELY: I'd like to mark Exhibit DDD

7 and show it to Ofc. Muhammad [sic]. It is the State

8 Commission on Judicial Conduct. His interview with the

9 Commission.

10 (Respondent's Exhibit DDD was marked for identification)

11 MR. DUGUAY: Dated December 24, 2020. Is
12 that correct?

13 MR. GATELY: December 24, 2020 and the
14 interview took place on December 7th.

15 MR. DUGUAY: Thank you.

16 BY MR. GATELY:

17 Q. And if you could look at -- you can read the whole thing if you'd like, but
18 I would specifically direct your attention to page 2, paragraph 3.

19 A. Okay.

20 Q. And do you recall saying that it's common for someone to make those
21 type of pleas?

22 A. I'm sorry. I'm reading the whole thing. I was -- common idle threat. So I
23 guess, may I explain? So if the quote is right, I said "a common idle
24 threat" but not it happens commonly. Idle threats are common, but not
25 the request to release a loved one from custody is not something common

(Lieutenant Larry Muhammed - Cross)

1 and I would describe common as something that happens more frequently
2 than not.

3 Q. Okay.

4 A. But I am --

5 Q. So it's more frequently than not that it's common that it is an idle threat
6 rather than it is common that someone wants a loved one out of cuffs?

7 A. Idle threats are common, yes. But the request to release someone from
8 custody is not common. It's not that it has never happened, but it
9 definitely happens less than -- doesn't happen as much as it does happen.

10 Q. Okay. But it does happen, correct?

11 A. It does happen, correct.

12 Q. And people ask, you know, "Hey, can you take my loved one out of
13 cuffs," right?

14 A. Absolutely.

15 Q. It happens semi-regularly?

16 A. Sure.

17 MR. DUGUAY: Asked and answered.

18 Objection.

19 THE REFEREE: Overruled.

20 BY MR. GATELY:

21 Q. And of the people that would make requests to get a loved one out of
22 handcuffs, it can be any average citizen, right?

23 A. Correct.

24 Q. With any type of job?

25 A. Correct.

(Lieutenant Larry Muhammed - Cross)

1 Q. And from your experience, people, you know, that do say that, you know,
2 would say anything to get a loved one out of cuffs, if they --

3 MR. DUGUAY: Objection. Form of the
4 question.

5 THE REFEREE: Sustained.

6 MR. GATELY: Yeah.

7 BY MR. GATELY:

8 Q. But when Judge Grisanti made remarks about getting his wife out of
9 handcuffs, he never mentioned that he was a judge, correct?

10 A. Not at that time, no.

11 Q. Did he ever?

12 A. Not to myself, no.

13 Q. He never mentioned to you that he was a judge?

14 A. Not that I recall.

15 MR. GATELY: Your Honor, I'd like to
16 approach the witness.

17 THE REFEREE: Sure.

18 MR. GATELY: I'd like to mark the transcript of
19 Ofc. Muhammad's [sic] interview with the Commission on
20 December 7, 2020.

21 MR. DUGUAY: I'm sorry. Transcript? Are
22 you talking about the -- if I can see them? Sorry.

23 MR. GATELY: It's the handwritten notes of his
24 interview.

25 THE REFEREE: And it's EEE?

(Lieutenant Larry Muhammed - Cross)

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MR. GATELY: Yes, Your Honor.

THE REFEREE: Any objection?

MR. DUGUAY: To having it marked?

THE REFEREE: Yeah.

MR. GATELY: Yeah.

MR. DUGUAY: Not to having it marked.

THE REFEREE: Thank you.

(Respondent's Exhibit EEE was marked for identification)

BY MR. GATELY:

Q. Do you recall saying that when you were interviewed?

MR. DUGUAY: Objection.

THE REFEREE: Sustained.

BY MR. GATELY:

Q. You can review the entire sheet of paper, but I'd like to direct your attention to this specifically.

A. (Unintelligible).

Q. Do you recall writing that?

MR. DUGUAY: Objection. There's not a question there.

THE REFEREE: Sustained.

BY MR. GATELY:

Q. Did you ever recall learning that he was a judge?

A. No. I do not recall learning that he was a judge. I do not recall when I learned that he was a judge.

Q. But it was not during the incident, correct?

(Lieutenant Larry Muhammed - Cross)

1 A. No. I'm sorry -- someone stop me if I'm --

2 MR. DUGUAY: Object. Just to the form of the
3 question, during the incident? Can we have a more precise
4 question?

5 BY MR. GATELY:

6 Q. Before Judge Grisanti was placed in cuffs, you did not know that he was a
7 judge, correct?

8 A. That is correct.

9 Q. And you had your body camera on the full time, correct?

10 A. That is correct.

11 Q. And he never told you that anywhere on the body camera footage,
12 correct?

13 A. That is correct. Thank you.

14 Q. And as you indicated earlier, you remember Judge Grisanti being
15 frustrated by the situation when he made remarks about getting his wife
16 out of cuffs, right?

17 A. Correct.

18 Q. He was frustrated? Okay. And you took the remarks Judge Grisanti
19 made about getting his wife out of handcuffs to be idle and empty pleas,
20 correct?

21 MR. DUGUAY: Objection. Form of the
22 question.

23 THE REFEREE: Overruled.

24 MR. GATELY: Overruled, you said?

25 THE REFEREE: Overruled. You may answer

(Lieutenant Larry Muhammed - Cross)

1 the question.

2 BY MR. GATELY:

3 Q. So you took what he said, the remarks he made about getting his wife out
4 of cuffs to be empty, idle pleas, correct?

5 A. Yes. May I explain?

6 Q. Yes.

7 A. I don't -- I'm not easily threatened. So they were -- they're empty threats
8 to me personally. My work course doesn't change based off of much
9 from outside sources.

10 Q. Right. But there are threats that could get you to react a certain way,
11 correct?

12 A. Not many. I couldn't imagine one off the top of my head.

13 Q. Right. But this certainly wasn't one of them that would?

14 A. Correct. I'm not easily threatened.

15 Q. Yeah. So after Judge Grisanti made physical contact with Ofc. Gehr, you
16 grabbed Judge Grisanti by the arms, correct?

17 A. I think immediately after. I think I might have hugged him. Held him
18 there.

19 Q. Okay.

20 A. And then there was a point where, I think it was holding just his arms.

21 Q. Okay. So afterwards --

22 A. Correct.

23 Q. -- you put him in a bear hug and then you kind of grab him by the arms,
24 right?

25 A. Correct.

(Lieutenant Larry Muhammed - Cross)

1 Q. And you didn't place him in handcuffs, correct?

2 A. I did not.

3 Q. And you did not arrest him at that point, correct?

4 A. Not at that point, no.

5 Q. And while you were holding his arms, Judge Grisanti was not trying to
6 break free of your hold, correct?

7 A. No.

8 Q. And instead, he backed up a little bit, correct?

9 A. After releasing his arms.

10 Q. After you released his arms, he took a few steps back and you kind of
11 took a few steps to follow him?

12 A. Correct.

13 Q. And then he indicated that he wanted to make a phone call, correct?

14 A. Correct.

15 Q. The first time Judge Grisanti mentioned that he had family members who
16 were police officers was a few seconds after his wife was placed in
17 handcuffs, correct?

18 A. The first time the judge mentioned he -- correct.

19 Q. Correct.

20 MR. GATELY: And if you could pull up

21 Exhibit 12-A? You can go to page 5.

22 BY MR. GATELY:

23 Q. So he never mentioned that he had family that was police officers, right
24 when you showed up, right?

25 A. He did not, no.

(Lieutenant Larry Muhammed - Cross)

1 Q. But after his wife was put in cuffs, he said, "I want to make a call. My
2 daughter and son-in-law are both police officers." Correct?

3 A. Correct.

4 Q. And the police officers that he mentioned were his daughter and son-in-
5 law, who are the children of the woman placed in handcuffs, correct?

6 MR. DUGUAY: Objection.

7 THE REFEREE: Overruled. Sustained -- sorry.

8 BY MR. GATELY:

9 Q. So after he made that initial request to call his daughter and son-in-law,
10 he made an additional request, correct? Just a few minutes later?

11 A. I'm reading.

12 Q. It wouldn't be on this part of the transcript. But he made -- he asked if he
13 could call his daughter and son-in-law later on, correct?

14 A. Correct.

15 Q. And you had -- and you told Judge Grisanti that he could call his
16 daughter, correct?

17 A. Correct.

18 Q. And you had no problem with that, correct?

19 A. That's what I said. I told him I didn't have a problem. I wasn't giving
20 him permission, but I just told him I didn't have a problem with him
21 making the call.

22 Q. So you didn't give him permission, then?

23 A. No. I said, "I don't have a problem with that."

24 Q. Okay. But implicitly, that is permission, wouldn't you say?

25 MR. DUGUAY: Objection.

(Lieutenant Larry Muhammed - Cross)

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THE REFEREE: Sustained.

BY MR. GATELY:

Q. And you have family members who aren't law enforcement officers, correct?

A. Who are not?

Q. Who are not law enforcement?

A. Correct.

Q. Yeah. And you would probably want to be one of the first to know if they were in handcuffs.

MR. DUGUAY: Objection. Form of the question all ready.

THE REFEREE: Sustained.

MR. GATELY: Can you please pull up Exhibit 12 and begin it at the 20-minute mark and 44 seconds?
[Video was played]

MR. GATELY: You can pause it.

BY MR. GATELY:

Q. So do you recall talking with Ofc. Hy that it was annoying that the way that the Meles parked?

A. That was my statement.

Q. Yeah. And you agreed with Ofc. Hy that it was probably done to "fuck with the Grisantis." Correct?

A. That was my statement.

Q. And do you remember Judge Grisanti sitting in the back of the cop car on June 22, 2020?

(Lieutenant Larry Muhammed - Cross)

1 A. Yes.

2 Q. And do you recall Judge Grisanti talking on the phone when he was in the
3 back of a police vehicle?

4 A. Yes.

5 Q. And you guys were mostly going by the book in handling the entire
6 situation, correct?

7 A. I would say so, yes.

8 Q. And Judge Grisanti said that he was wrong during that phone call,
9 correct?

10 MR. DUGUAY: Objection.

11 THE REFEREE: Overruled.

12 BY MR. GATELY:

13 Q. Did you hear Judge Grisanti say that he was wrong in that phone call?

14 A. I do recall that.

15 MR. GATELY: And could you please pull up

16 Exhibit 12-B. Page 2, line 12.

17 BY MR. GATELY:

18 Q. So you recall Judge Grisanti saying that he was wrong?

19 A. Correct.

20 Q. And this was shortly after the incident?

21 A. Shortly.

22 Q. Yeah.

23 MR. GATELY: And could you please pull up
24 lines 3 and 4?

25 //

(Lieutenant Larry Muhammed - Cross)

1 BY MR. GATELY:

2 Q. And do you recall hearing Judge Grisanti say that he respects law
3 enforcement officers?

4 A. Yes.

5 MR. GATELY: Can you please pull up page 6?

6 BY MR. GATELY:

7 Q. If you read lines 7 and 8, do you recall Judge Grisanti saying that he
8 shouldn't have pushed the officer?

9 A. I recall, correct.

10 Q. And Judge Grisanti was not physically combative with you whatsoever
11 on June 22, 2020?

12 A. That is correct.

13 Q. And Judge Grisanti was not aggressive towards you at any point on June
14 22, 2020?

15 A. Not towards me.

16 Q. And Judge Grisanti was respectful towards you during the incident on
17 June 22, 2020?

18 A. Correct.

19 Q. So Ofc. Muhammad [sic], with your background, you knew that, or you
20 were aware that there were previous disputes on [REDACTED] Ave.?

21 A. Vaguely, yes.

22 Q. But you were aware that there was some type of issues on the street that
23 required the presence of a lieutenant, correct?

24 A. Upon responding, no. I was made vaguely aware -- it was -- it had
25 mentioned years ago, to my knowledge that I was kind of trying to put

(Lieutenant Larry Muhammed - Redirect)

1 two and two together and I thought that maybe this was the address I
2 remember. So not at the -- in the heat of the moment. I think it was -- I
3 think they were both placed in the vehicles at that point, so it's not how I
4 went into the situation with that information.

5 MR. GATELY: I'm all set.

6 THE REFEREE: Redirect, Mr. Duguay?

7 MR. DUGUAY: Yes. Briefly. Thank you, Mr.
8 Easton. Ms. Trapani, if you could -- when you're done
9 writing? If you could go to Exhibit 12 and go to the point
10 in the video near the beginning when Ofc. Gehr is
11 beginning to cross the street.

12 REDIRECT EXAMINATION

13 BY MR. DUGUAY:

14 Q. So Det. Muhammad [sic], Counsel had asked you a question
15 characterizing Ofc. Gehr as running across the street. Do you remember
16 that question?

17 A. I do.

18 Q. And you agreed that he was running across the street? What's your
19 belief? What's your testimony?

20 A. I wouldn't describe it as running, but --

21 Q. How would you describe the way that Ofc. Gehr crossed the street prior
22 to arresting, or placing, Maria Grisanti in handcuffs?

23 A. He walked across the street. It was brisk, but it was -- I would personally
24 describe it as a walk.

25 Q. Okay.

(Lieutenant Larry Muhammed - Redirect)

1 MR. DUGUAY: If we could play the video
2 until the --

3 [Video was played]

4 MR. DUGUAY: You can stop the video,
5 please?

6 BY MR. DUGUAY:

7 Q. Okay. Do you remember Counsel had left a still picture image of
8 approximately this time of just before Maria Grisanti was placed in
9 handcuffs? Do you remember?

10 A. Correct.

11 Q. And he'd asked you whether or not your vision was obstructed. Do you
12 remember that?

13 A. I do.

14 Q. And you testified it wasn't at still -- the second of the screen that you saw,
15 correct?

16 A. Correct. At that very moment.

17 Q. How long -- and how long a period of time were you directly behind
18 Judge Grisanti?

19 A. Just maybe one second or two.

20 Q. Okay. Could you see above and around him?

21 A. I could, yes.

22 Q. What, if any, obstructions were in front of Judge Grisanti looking at his
23 wife being -- attempted to being handcuffed by Ofc. Gehr?

24 A. At this point, I don't believe any.

25 MR. DUGUAY: If you could continue playing

(Lieutenant Larry Muhammed - Redirect)

1 the video, please?

2 [Video was played]

3 MR. DUGUAY: If you could stop the video,
4 please?

5 BY MR. DUGUAY:

6 Q. Okay. Is that the judge Grisanti -- you testified that the judge was acting
7 respectfully for law enforcement that night, correct?

8 A. Correct.

9 Q. Was that through the entire night that you believe he was acting
10 respectfully?

11 A. No. Not the entire night, no.

12 Q. Was the judge acting respectfully during this moment?

13 A. No.

14 Q. Okay.

15 MR. DUGUAY: Ms. Trapani, if you could just
16 go back shortly. There's a frame I missed. And just prior
17 to -- just after the. Yeah, this spot here.

18 MS. TRAPANI: I think I have to put it on play
19 so I can see the time. I apologize.

20 BY MR. DUGUAY:

21 Q. I'm going to ask you to watch the video.

22 MR. DUGUAY: Okay. Stop please.

23 MS. TRAPANI: Yeah. I apologize. It has to be
24 on for me to see the time playing and it has to be paused for
25 it to be stopped and when I let it go.

(Lieutenant Larry Muhammed - Redirect)

1 MR. DUGUAY: Well, modern technology.

2 BY MR. DUGUAY:

3 Q. I do want to ask you to focus -- you said that this was approximately what
4 you were seeing that evening, correct? That's your body cam video?

5 A. Yes.

6 Q. Okay. And that you would also have some peripheral vision, potentially
7 beyond what the camera would record. Would that be accurate?

8 A. Absolutely.

9 Q. And I want to direct your attention -- I'm going to back up, but if you can
10 try to focus on the bottom of the screen with regard to Ofc. Gehr and any
11 technique he may or may not be employing to gain control of Maria
12 Grisanti, all right?

13 MR. DUGUAY: So if we could just pick up
14 briefly. So if you could just pick up briefly, if you would,
15 Ms. Trapani, and play through.

16 [Video was played]

17 MR. DUGUAY: Okay. Stop the video at this
18 point.

19 BY MR. DUGUAY:

20 Q. Are you able to number one either see in the actual video itself, or as you
21 indicated before, have a recollection of whether or not there was any
22 technique that Ofc. Gehr was employing in trying to handcuff Maria
23 Grisanti?

24 A. I can't see. Maybe because I'm at an off angle. The shading's really bad,
25 but I believe he was in the process of a cuffing technique.

(Lieutenant Larry Muhammed - Redirect)

1 Q. Okay. And what technique would that be?

2 A. I mean a standard. Put hands behind your back. He was -- he grabbed
3 the arm to gain control.

4 Q. Anything that you can recall with regard to his feet or any footwork that
5 he employed?

6 A. I do not recall, and I cannot see the video clear enough.

7 Q. Okay. With Ofc. Gehr's actions that night, with any officer in the scene,
8 is an officer empowered to act within his own discretion or not?

9 A. Correct.

10 Q. And you were empowered to act within your discretion that night?

11 A. Yes.

12 Q. Ofc. Gehr was as well?

13 MR. GATELY: Objection. Leading.

14 THE REFEREE: Overruled.

15 BY MR. DUGUAY:

16 Q. Okay. Was Ofc. Gehr acting -- in your opinion, was Ofc. Gehr acting
17 within his discretion in arresting and detaining Maria Grisanti at that
18 point in time?

19 A. Yes.

20 MR. DUGUAY: Ms. Trapani, if you could
21 advance to the point where Judge Grisanti's at the truck
22 pointing? And just play it at this point for me.

23 [Video was played]

24 MR. DUGUAY: If I could ask you to stop the
25 video. Take it back slowly before that and I'll tell you when

(Lieutenant Larry Muhammed - Redirect)

1 I need you to play it again. Thank you.

2 BY MR. DUGUAY:

3 Q. So Lt. Muhammad, at this point in time that we've actually stopped the
4 video. Okay, was Judge Grisanti being respectful at that time?

5 A. I wouldn't describe this moment as respectful, no.

6 Q. Okay. So that's already two moments that you testified that the judge was
7 not being respectful. Were there more moments than these two?

8 A. Are there more moments? I'm sorry, was that the question?

9 Q. Yeah.

10 A. Yeah. There's probably other moments. This isn't what I would classify
11 as respectful. He's making a demand to remove her from the back of the
12 car, but I don't also necessarily see it as he was being disrespectful.

13 When I say, like, no vulgar language, you know, kind of thing, so --

14 THE REFEREE: What kind of language did
15 you --

16 THE WITNESS: I was saying he wasn't using
17 vulgar language --

18 THE REFEREE: Okay.

19 THE WITNESS: -- or you know, saying
20 anything, offensive words, so that's why I wouldn't just, you
21 know. It wasn't being respectful, but also not being
22 disrespectful in this moment.

23 THE REFEREE: Thank you.

24 MR. DUGUAY: If I could bring up Exhibit
25 12-A, please? Page 5.

(Lieutenant Larry Muhammed - Redirect)

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BY MR. DUGUAY:

Q. If I could direct your attention down to line 24? Line 24. Justice -- can you see that, Lt. Muhammad?

A. Yes, I can.

Q. Judge Grisanti says, "Oh, my God, are you fucking kidding me, dude?" Correct?

A. Correct.

Q. It's vulgar language. Would that be your determination?

A. That is exactly my determination, yes.

Q. Is vulgar language respectful?

A. No, sir.

Q. Were there other -- is it disrespectful?

A. It is disrespectful.

Q. Were there other instances when Judge Grisanti used vulgar language on this particular evening?

A. Yes. I can see line 13 there. Some vulgar language.

Q. It is your recollection there were other instances beyond that that you recall?

A. Anything that -- I'm sorry. What was the question?

Q. Any other language that you recall that was vulgar and disrespectful?

A. Not off the top of my head, no.

Q. Okay.

MR. DUGUAY: If I could just have one minute, please, Mr. Easton.

THE REFEREE: Sure.

(Lieutenant Larry Muhammed - Recross)

1 MR. DUGUAY: I have no further questions on
2 redirect. Thank you.

3 THE REFEREE: Cross?

4 MR. GATELY: I have a couple brief questions.
5 So if you could play Exhibit 12 from the beginning again?
6 Or maybe, like 30 seconds in? I'd say that's good.

7 [Video was played]

8 MR. GATELY: Could you pause it?

9 REXCROSS EXAMINATION

10 BY MR. GATELY:

11 Q. Are you facing forward at this point? Your view is towards the Grisanti
12 residence, correct?

13 A. Correct.

14 MR. GATELY: Could you keep playing it?

15 [Video was played]

16 MR. GATELY: Could you pause it?

17 BY MR. GATELY:

18 Q. Are you still looking towards the Grisanti residence?

19 A. More than likely. I mean, the body cam doesn't follow my physical head,
20 but I'm more than likely, I'm facing forward.

21 Q. Right. So if you were to turn your head, do you think that the body might
22 move slightly to either side, depending on which way you turn?

23 A. Depending on how far I turn, but I mean it --

24 Q. Yeah.

25 A. -- it's on my vest, which is a little bit independent from my body. So

(Lieutenant Larry Muhammed - Recross)

1 every motion, it wouldn't capture the angle changing. But more than
2 likely, I'm facing and looking forward.

3 Q. Okay.

4 MR. GATELY: Can you keep playing now?

5 [Video was played]

6 MR. GATELY: Can you pause it?

7 BY MR. GATELY:

8 Q. Do you remember looking at Maria Grisanti at this point?

9 A. I do not. I do not remember looking at her.

10 Q. Well, would you say that since your body camera is pointed at the
11 Grisanti house, it's more likely than not that you were looking at Maria
12 Grisanti?

13 A. I was probably looking at Judge Grisanti and she may have been in my
14 peripheral.

15 Q. And Judge Grisanti was to your left, correct?

16 A. Correct.

17 MR. GATELY: Can you keep playing it?

18 [Video was played]

19 MR. GATELY: Can you pause it?

20 BY MR. GATELY:

21 Q. Which direction did Ofc. Gehr come from? The right or the left?

22 A. Right.

23 Q. And just prior to that, you said that you were looking towards the left at
24 Judge Grisanti?

25 A. If my head was a little skewed, looking at him, she's here, he's there. In

(Lieutenant Larry Muhammed - Recross)

1 that sense.

2 Q. Okay. Because earlier you said that he was walking across the street --

3 MR. DUGUAY: Objection. Characterization of
4 his testimony.

5 THE REFEREE: What's that?

6 MR. DUGUAY: Form of the question. And he
7 characterized testimony previously. It's inaccurate.

8 THE REFEREE: Overruled.

9 BY MR. GATELY:

10 Q. Earlier when you described Ofc. Gehr's actions as walking across the
11 street, did you see him firsthand walking across the street?

12 A. In the actual pavement of the street? Is that what you're asking?

13 Q. I'm asking if watched him walk from the Mele's house to the Grisanti's
14 house and engage with Maria Grisanti?

15 A. Not in his full strides from the Grisanti's to the Mele's -- from the Mele's
16 to the Grisanti's, no.

17 Q. So you would -- it's likely that you saw Ofc. Gehr approach Maria
18 Grisanti when the body cam picked up the footage, correct?

19 A. I have a wider peripheral than the body cam and, like I mentioned, my
20 head is normally a bit on a swivel. So I may catch a lot more than the
21 body cam, but I -- it's hard to say exactly. I'm not sure what you're
22 asking, but like exactly what point of the pavement that I picked up his
23 motions. I do remember him in my 180. I think I might have even
24 motioned towards him to kind of tap him to grab his attention. So I was
25 aware of him approaching me before he crossed my 180.

(Lieutenant Larry Muhammed - Recross)

1 Q. Right.

2 A. So you know, I'm trying to give you an answer as best I can. I apologize.

3 MR. GATELY: And could you please pull up
4 page 5, line 24 of Exhibit 12 again -- or 12-A? Line 24,
5 please. On page 5, sorry.

6 BY MR. GATELY:

7 Q. Can you please read line 24? "Oh my god, are you fucking kidding me,
8 dude?"

9 A. Would you like me to read it?

10 Q. So is that -- did Judge Grisanti direct that at you?

11 A. I don't know.

12 Q. All right.

13 MR. GATELY: That's all I have, Your Honor.

14 THE REFEREE: Redirect?

15 MR. DUGUAY: Nothing further.

16 THE REFEREE: Officer, you're discharged.

17 Thank you.

18 THE WITNESS: Thank you.

19 MR. DUGUAY: Lieutenant, I made that
20 mistake. I apologize.

21 THE REFEREE: Former officer.

22 THE WITNESS: No. That's fine. I'm fairly
23 used to this. It's hard not to lose.

24 MS. TRAPANI: Mr. Easton, shall I go off the
25 record?

(Lieutenant Larry Muhammed - Recross)

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MR. DUGUAY: Captain. We're going to say captain.

THE REFEREE: Yes.

MR. DUGUAY: (Unintelligible)

THE WITNESS: I like that.

(Recess from 1:09 p.m. to 2:18 p.m.)

MS. TRAPANI: Okay. We're on the record.

THE REFEREE: This is 2:15 on June 14th. We'll resume hearing. No one is present in the courtroom other than Commission employees and litigants. Ready to proceed?

MR. DUGUAY: Yeah. Mr. Easton, the Commission will be calling as our next witness Matthew Lazroe. Prior to calling him into the courtroom, we'd like to move admit the cases agreed to previously. Going to move for their entry, but I'll list them if that's all right?

MR. DOYLE: Yeah. We have no objection to the admission of the court records that were previously marked as exhibits. Which I think is 16 through 22.

MR. DUGUAY: 16 to 22 and then we also, in this one, we added 29, which is *Buffalo Seminary v Stephanie Satterwhite*.

(Commission Exhibits 16, 17, 18, 19, 20, 21, 22, 29 were marked for identification)

MR. DOYLE: No objection.

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MR. DUGUAY: Object to that? Thank you.

THE REFEREE: All right. So you have Exhibit 16, 17, 18, 19, 20, 21, 22, and then 29 are admitted with no objection.
(Commission Exhibits 16, 17, 18, 19, 20, 21, 22, 29 were admitted into evidence)

MR. DUGUAY: Thank you. At this time we'd ask that Matthew Lazroe be called to the stand.

THE REFEREE: Come on up.

MR. POSTEL: It fools everybody.

THE REFEREE: Mr. Lazroe, I'm William Easton, and I'm an attorney from Rochester, and I've been appointed by the Commission on Judicial Conduct to sit as a referee factfinder for this proceeding. So one thing is, you'll notice there's a mic in front of you. It's not there for projection of your voice; it's really a recorder. So please try to speak up into the mic, don't worry about projecting -- it's not used to project your voice; it's used to capture your voice, so speak loudly so the rest of us can hear you as it's captured?

MR. LAZROE: I.

THE REFEREE: All right? I'll administer the oath. Do you swear or affirm under penalties of perjury that you'll tell the truth, the whole truth, and nothing but the truth at this proceeding?

(Matthew Allen Lazroe - Direct)

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MR. LAZROE: I do.
THE REFEREE: You can proceed.
MR. DUGUAY: Thank you, Mr. Easton.

MATTHEW ALLEN LAZROE

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

DIRECT EXAMINATION

BY MR. DUGUAY:

Q. Good afternoon, Mr. Lazroe.
A. Hello.
Q. Can you state and spell your complete name for our record, please?
A. Yes. Matthew Allen Lazroe. M-A-T-T-H-E-W A-L-L-E-N
L-A-Z-R-O-E.
Q. Thank you. Are you currently employed?
A. I'm self-employed, yes.
Q. And how are you employed?
A. I'm a lawyer.
Q. And do you have a particular business or practice?
A. I have my own law office. Law Office of Matthew A. Lazroe, which is at
43 Court Street.
Q. Okay. And how long have you had that practice?
A. Since 2006 when I was admitted on my birthday, [REDACTED]/06.
Q. Easy date to remember, no? When did you become a member of the New
York State Bar?



(Matthew Allen Lazroe - Direct)

1 A. Shortly thereafter or that day. It was the day I was admitted.

2 Q. Okay. 2006, you said?

3 A. Yes.

4 Q. Okay. And what area or areas of practice are you engaged in?

5 A. I'm a general practice attorney. I mean, today alone I did some family
6 court, some real estate, evictions. I focus a lot on foreclosure defense and
7 bankruptcy as well as I do minor criminal things, like traffic tickets, but I
8 advertise as a general practice private attorney.

9 Q. Okay. Now, with regard to your business, you said you're a solo
10 practitioner?

11 A. Yes.

12 Q. Not part of any partnership?

13 A. No.

14 Q. Have you ever been a part of any partnership?

15 A. No.

16 Q. Okay. Now, you're familiar with Mark Grisanti?

17 A. I am.

18 Q. Judge Grisanti? Okay. And when did you first become acquainted with
19 Judge Grisanti?

20 A. I mean, it was several years ago another attorney, Peter Pecoraro, I was
21 partners with him, and I might have met him informally while with Mr.
22 Pecoraro. It had to have been over ten years ago.

23 Q. Okay. Now, Mr. Pecoraro --

24 MS. TRAPANI: Excuse me. I'm sorry, Mr.

25 Duguay. Mr. Lazroe, could you please step forward toward

(Matthew Allen Lazroe - Direct)

1 the microphones?

2 THE WITNESS: Sure. Yes.

3 MS. TRAPANI: Thank you.

4 MR. DUGUAY: Ms. Trapani, you're reminding
5 me I had an identical problem with getting my microphone
6 in as well.

7 BY MR. DUGUAY:

8 Q. So you were starting, I believe to speak a little bit about Mr. Pecoraro?

9 A. Yes.

10 Q. Okay. Did you have any type of acquaintance or familiarity with Mr.
11 Pecoraro?

12 A. I mean he was considered like my godfather. He was friends with my
13 dad, Jeffrey Lazroe, who was an attorney for a long time.

14 Q. All right.

15 A. So he was like family friends.

16 Q. Okay. Did there come a time when you engaged in some time of
17 agreement or contract with Mark Grisanti?

18 A. Yes.

19 Q. And do you remember approximately when that was?

20 A. May of 2015, I believe.

21 Q. Okay.

22 MR. DUGUAY: Ms. Trapani, if we could call
23 up Exhibit 14, please?

24 (Commission Exhibit 14 was marked for identification)

25 MS. TRAPANI: Certainly.

(Matthew Allen Lazroe - Direct)

1 MR. DUGUAY: And I'm going to ask Ms.
2 Trapani just to briefly page through it, maybe reduce it?

3 BY MR. DUGUAY:

4 Q. And as you're watching the exhibit on the screen, Mr. Lazroe, I'm just
5 going to ask you to pay attention. I'll ask you a question in a moment.

6 MR. DUGUAY: Do you want to page a little
7 quicker? There's five pages.

8 BY MR. DUGUAY:

9 Q. Have you had the ability to at least scan that particular exhibit?

10 A. Yes.

11 Q. Do you recognize what that exhibit is?

12 A. Yeah, I'm familiar with that's the agreement between me, Mr. Pecoraro,
13 and Mr. Grisanti.

14 MR. DUGUAY: Okay. I'm going to ask that it
15 be admitted at this time as evidence.

16 MR. DOYLE: No objection, Judge.

17 THE REFEREE: Received.

18 (Commission Exhibit 14 was admitted into evidence)

19 BY MR. DUGUAY:

20 Q. Mr. Lazroe, do you remember when that agreement was effectuated or
21 signed?

22 A. I believe it was May 15th or 17th of 2015.

23 Q. Okay. And what do you recall as being the agreement itself? What was
24 it for? If you could explain some of the particulars?

25 A. Me and Mr. Pecoraro decided to purchase the goodwill and files and

(Matthew Allen Lazroe - Direct)

1 phone number of Mr. Grisanti after he was admitted as a judge. So we
2 were -- me and him were jointly going to take over his practice.

3 Q. And was there a provision made with regard to earnings that had not yet
4 been received by the practice?

5 A. The only thing was that I know Mr. Grisanti had referred out some
6 personal injury cases to other attorneys and he was going to retain all of
7 the funds, if anything came out of those cases, but there was never any
8 agreement for any other funds other than the 50,000 purchase price to be
9 paid to me.

10 Q. Okay. So first referencing the funds that you were talking about,
11 previously earned funds we'll call them. I believe is your term by Justice
12 Grisanti. Did those ever come to your practice? Either to you or Mr.
13 Pecoraro?

14 A. No. I never received any other funds.

15 Q. All right. And how about the financial terms of the agreement. Do you
16 recall?

17 A. It was \$50,000. I paid 10,000 up front and then I paid 365 which was
18 half of my monthly share towards the balance.

19 Q. Okay. And how long did you continue those payments or approximate
20 payments?

21 A. I believe it was June of 2019.

22 Q. Okay. What about Mr. Pecoraro? What did Mr. Pecoraro pay on the
23 agreement?

24 A. I mean, I just sent my check every month for 365. I really didn't have any
25 knowledge of Mr. Pecoraro, how he paid Mr. Grisanti, or if he was

(Matthew Allen Lazroe - Direct)

1 current or not.

2 Q. Okay. Do you recall precisely the amounts of the payments and when
3 they were paid with regard to your fulfilment of this contract?

4 A. Every month. I mean, I did submit a breakdown of all the payments that
5 I made. It might have one or two months where I paid, like \$5.00 less, or
6 I missed a month and then doubled up the next month, but I pretty much
7 stayed current with the 365 every month.

8 MR. DUGUAY: I'm going to ask Ms. Trapani
9 to bring up Exhibit 15, please? If you want to page through
10 it? I think it's a two-page exhibit.

11 (Commission Exhibit 15 was marked for identification)

12 BY MR. DUGUAY:

13 Q. Mr. Lazroe, do you recognize what's been displayed to you as Exhibit 15?

14 A. Yes.

15 Q. And what do you recognize it to be?

16 A. This is a breakdown that I created after going through my banking
17 records and detailing the dates and the amounts that I paid towards the
18 contract.

19 Q. And could you tell me when you made that particular payment schedule,
20 approximately?

21 A. I'd say I received a letter from your Commission asking me to detail the
22 payments, and then I did it right after that.

23 Q. Okay. And what was the process you followed in coming to the numbers
24 that were displayed on the schedule?

25 A. I went through each of my bank statements for every month and year and

(Matthew Allen Lazroe - Direct)

1 picked out the check and wrote it down.

2 Q. Mr. Lazroe, did you at any time become involved in cases over which
3 Justice Grisanti presided, subsequent to the signing of the agreement that
4 you just testified about?

5 A. Yes.

6 Q. Are you familiar with the case of *Bayview Loan Servicing, LLC v Mary*
7 *Lee Fornes, et al.*?

8 A. I am.

9 Q. Okay. And can you tell me what type of case that was?

10 A. That was a foreclosure case. I represented the defendant, who was losing
11 her property for not paying her mortgage.

12 Q. Do you remember when you became involved, approximately, in that
13 case?

14 A. I don't recall the date, no.

15 Q. Okay. At any time during that case, did Judge Grisanti disclose his
16 financial relationship with you to the parties involved?

17 A. No, he did not, and mainly because how a foreclosure case works is after
18 two --

19 Q. I'm just going to cut you off. It's not responsive. I'll ask another question
20 (unintelligible) if that's all right.

21 THE REFEREE: Sure.

22 MR. DUGUAY: Okay.

23 THE REFEREE: Mr. Lazroe, can you just,
24 again, it's the mic problem, project your voice out. I think
25 they're having trouble hearing you.

(Matthew Allen Lazroe - Direct)

1 MR. DOYLE: Yeah, especially with the air
2 conditioning going on, it's a little difficult on this side of the
3 room. Thank you, Judge.

4 MR. POSTEL: Almost as if you're in court.

5 MR. DUGUAY: Before Ms. Trapani takes
6 down Exhibit 15, I'm sorry, just move for its entry at this
7 time, thanks.

8 MR. DOYLE: No objection.

9 THE REFEREE: Received.

10 (Commission Exhibit 15 was admitted into evidence)

11 BY MR. DUGUAY:

12 Q. Mr. Lazroe, are you familiar with the case of *Buffalo Seminary v*
13 *Stephanie Satterwhite*?

14 A. Yes.

15 Q. What type of case was that, if you recall?

16 A. That was a collection case where I represented Buffalo Seminary trying
17 to collect funds for a parent that did not pay their tuition costs for their
18 child at the school.

19 Q. Okay. Did that action originate with you or was there other attorneys
20 prior to you?

21 A. It did not. Mr. Pecoraro started that action.

22 Q. Mr. Pecoraro being the Mr. Pecoraro that signed an agreement with the
23 judge?

24 A. Correct.

25 Q. Okay. And how did you become involved?

(Matthew Allen Lazroe - Direct)

1 A. I believe Mr. Pecoraro was sick at that time. He ended up dying of brain
2 cancer that he was struggling for for several years, and he asked that I
3 continue with the case.

4 Q. Okay. What was the resolution of that case, if you recall?

5 A. I do recall the defendant ended up signing a confession of judgment for
6 the money and then I submitted a motion for default to approve that -- the
7 judgment against the defendant.

8 Q. Okay. Do you recall if Judge Grisanti made any award or any
9 judgment -- signed any judgment in that case?

10 A. He did. He granted the judgment.

11 Q. Okay. For your client?

12 A. Correct.

13 Q. Okay. During the pendency, when you were involved in *Buffalo*
14 *Seminary v Satterwhite*, did Judge Grisanti ever disclose his financial
15 relationship with you to the other parties?

16 A. No. There was no appearance by the defendant to do that.

17 Q. I'm going to direct your attention to the case of -- I want to get the full
18 name if I may? The *Matter of M* [REDACTED] *F* [REDACTED]? Does that name ring a
19 bell?

20 A. Yes.

21 Q. And I'm looking at my paper here but let me get the proper name for you
22 just for the record purposes. I believe it's *Matter of Application of*
23 *M* [REDACTED] *F* [REDACTED], the appointment of guardian of the person and property
24 of *E* [REDACTED] *D* [REDACTED] also known as *B* [REDACTED] *D* [REDACTED]. Are you familiar with that
25 Matter?

(Matthew Allen Lazroe - Direct)

1 A. I am.

2 Q. Okay. What type of case was that? I think I just said, but --

3 A. That was a guardianship case where one of Ms. D■■■■'s daughters claimed
4 she was incapacitated and wanted to become guardian of her estate.

5 Q. Okay. Did you become involved in that case at some point?

6 A. Yes.

7 Q. And what was your involvement?

8 A. I was assigned to be a court referee.

9 Q. Was there an order signed appointing you as a referee?

10 A. Yeah. I received an email from the Part 36 Court saying that I was
11 appointed to be the referee in the case.

12 Q. Okay. Was that referee or court evaluator?

13 A. I'm sorry. Court evaluator.

14 Q. Well, which is it? Do you know?

15 A. Court evaluator.

16 Q. Okay. Can you explain what that job entails?

17 A. It's my job to take a look at the alleged incapacitated person and write a
18 report to the judge of my findings and evaluations to give a
19 recommendation if she is incapacitated or not.

20 Q. Did you perform services as a court evaluator in the *Matter of F■■■■*?

21 A. Yeah, I did. I ended up meeting Ms. D■■■■ at the nursing home and spent
22 a couple hours with her trying to determine what condition she was in
23 and get a history of the case, also look over all the medical records,
24 communicate with family members, talk to both attorneys, and present a
25 natural standpoint to try to determine what's in the best interest of the

(Matthew Allen Lazroe - Direct)

1 alleged incapacitated person.

2 Q. Okay. Did there come a period of time when you received any type of
3 order compensating you for your services?

4 A. I did.

5 Q. Who signed the order, if you know?

6 A. Judge Grisanti.

7 Q. Do you recall the amount, or approximate amount of the order?

8 A. I believe it was around \$2,100.

9 Q. Okay. Now, at any point during your involvement as court evaluator in
10 *Matter of F* [REDACTED], did Judge Grisanti disclose his financial relationship
11 with you to any of the parties?

12 A. No, I don't recall.

13 Q. Mr. Lazroe, do you recognize the matter of *Trifera, LLC v Morrison and*
14 *Unknown Heirs*?

15 A. Yes, I do.

16 Q. Okay. And what type of case was that?

17 A. That was another foreclosure action.

18 Q. Okay. Do you remember how you become involved in that matter?

19 A. I received an email from the Part 36 appointing me to be the guardian ad
20 litem to the defendant.

21 Q. Okay. And what does that entail? What type of work?

22 A. In a foreclosure action if the borrower or homeowner is deceased, then an
23 attorney gets appointed for the estate to kind of act in the stead of the
24 dead person and review the paperwork and contact relatives to see if we
25 can work something out to save the property.

(Matthew Allen Lazroe - Direct)

1 Q. Was there an order entered in that action compensating you for your
2 work?

3 A. Yes. I believe it was \$250 or \$350.

4 Q. Do you know who signed the order or not?

5 A. Judge Grisanti.

6 Q. And again, did Judge Grisanti at any time during the pendency of that
7 case disclose his financial relationship with you to any of the parties?

8 A. No.

9 Q. Are you familiar with the matter of *Federal National Mortgage*
10 *Association*, or I guess, *Fannie Mae v Anderson, et al.*?

11 A. I recall, yes.

12 Q. Were you involved in that matter.

13 A. Similar, yes. Yes, I was.

14 Q. Yeah. And what type of case was that?

15 A. Exact same situation as the last one. Mr. Anderson was deceased, and I
16 was appointed to be guardian ad litem for the estate of the foreclosure.

17 Q. Okay. At the conclusion of your services, were you compensated?

18 A. I believe in the same amount, 250 or 350.

19 Q. Again, did Judge Grisanti disclose his financial relationship to any of the
20 parties at all during that matter?

21 A. No. Not that I recall.

22 Q. Mr. Lazroe, what about the matter of *Greater Woodlawn v Federal*
23 *Credit Union [sic]*, I guess, *versus Charles Pachucki, et al.*, if I'm
24 pronouncing that correctly?

25 A. I recall that case, yes.

(Matthew Allen Lazroe - Direct)

1 Q. And what type of case was that?

2 A. That was a foreclosure action.

3 Q. Okay. And what involvement did you have, if any?

4 A. In that case, I was appointed as a referee to conduct the foreclosure sale.

5 Q. And what services did you engage in pursuant to your appointment?

6 A. Normally the bank prepares all the documents, such as the Judgment of
7 Foreclosure and Referee's Report and Terms of Sale. It's my job to
8 review that, make sure everything is correct, make sure the numbers are
9 correct in the foreclosure, and then a foreclosure sale date is set, and I
10 appear at the sale date. I read the terms of the sale and I hold an auction
11 for the property.

12 Q. Who signed the order appointing you as referee?

13 A. Judge Grisanti.

14 Q. Did the order include any provisions for your compensation?

15 A. Yes, it did.

16 Q. And did you receive compensation as a result of the signing of that order?

17 A. I believe it was \$500.

18 Q. With regard to that particular case, *Woodlawn v Pachucki*, did Judge
19 Grisanti ever disclose his financial relationship with you to any of the
20 parties itself?

21 A. No, he did not. I believe there was another judge assigned to that case. I
22 think Judge Colaiacovo took over that case at the end.

23 Q. Okay. But with regard to the order, is it your testimony still that Judge
24 Grisanti signed the order appointing you?

25 A. I don't recall. It might have been the second judge.

(Matthew Allen Lazroe - Direct)

1 Q. Okay. *Matter of the Application of W* [REDACTED] *. L* [REDACTED], do you recognize
2 that case?

3 A. I recall, yes.

4 Q. Yeah? What type of case was that?

5 A. That was another guardianship case.

6 Q. Okay. And what role, if any, did you play in that case?

7 A. I was appointed as court evaluator for the alleged incapacitated person,
8 AIP.

9 Q. And again, what services did you perform during that case, if you recall?

10 A. Similar to the previous case. I met with family members, called, spoke to
11 the two attorneys on the case, spoke to family members. In this case, I
12 met with Mr. L [REDACTED], who was at ECMC Hospital under medical care. It
13 was alleged that while he was arrested down in Florida, he got conked on
14 the head, and ever since then, he was never the same person. He didn't
15 know where he was or who he was. I took two visits there to just confirm
16 his condition and I spent time meeting with the nurses and the doctors,
17 and I remember there was a guard posted right out front of his door
18 because that was, kind of like the mental health wing, and I met with the
19 guard and kind of asked him, you know, what's the guy's situation and
20 condition. And then I wrote a report and appeared and gave my findings
21 before both parties and the judge.

22 Q. And pursuant to your appointment, do you recall how you were
23 appointed?

24 A. Again, I received an email from Part 36 Program saying I was appointed
25 by Judge Grisanti to be the court evaluator.

(Matthew Allen Lazroe - Direct)

1 Q. Okay. And you said that -- you described a fair amount of work that you
2 performed on that case, correct?

3 A. Yes.

4 Q. Pretty memorable to you as well, right?

5 A. Yes.

6 Q. Okay. You were compensated for your services, correct? As a court
7 evaluator?

8 A. Yes.

9 Q. Do you recall the amount you were compensated in the amount of?

10 A. I believe it was, like 5,000 or 5,100.

11 Q. Okay. And it was by order of the court?

12 A. I submit a billing sheet of all the time I put in and then it's approved by --

13 Q. The presiding judge?

14 A. -- the other attorneys and the judges, yeah.

15 Q. Okay.

16 A. And they have the ability to object if they want to.

17 Q. No objections?

18 A. No objections.

19 Q. Okay. Did Judge Grisanti disclose his financial relationship with you to
20 any of the parties of that matter?

21 A. No, I don't recall.

22 Q. And one more matter I want to ask you about Mr. Lazroe. *Rasheena*
23 *Jones v Jerry Gradl Motors, Incorporated?*

24 A. I recall that case.

25 Q. Okay. What type of case was it?

(Matthew Allen Lazroe - Direct)

- 1 A. That was a lemon law case. I represented a client who purchased an
2 automobile that broke down shortly thereafter.
- 3 Q. Okay. How long did the case last?
- 4 A. That lasted a long time. And it was switched around from many different
5 judges and different counties even, so --
- 6 Q. Does there come a point in time when Judge Grisanti presided over that
7 matter?
- 8 A. Yes.
- 9 Q. And do you recall the approximate time period over which he presided?
- 10 A. It was in the middle of the case. I don't recall the exact dates.
- 11 Q. Okay. During the pendency of that matter, did Judge Grisanti at any time
12 disclose his financial relationship with you to the parties who were
13 assigned to the case?
- 14 A. No, he did not. I don't recall.
- 15 Q. I just want to direct your attention back to the *Matter of F* [REDACTED]. Do you
16 recall whether or not you appeared at a hearing in that matter at all?
- 17 A. That was where I was appointed the guardian -- on the court evaluator?
- 18 Q. Correct.
- 19 A. Yes. I did appear before the judge to give my findings on -- after my
20 evaluation of the case.
- 21 Q. And that was Judge Grisanti, correct?
- 22 A. Yes.
- 23 Q. When you said judge? What about the *Matter of L* [REDACTED], another guardian
24 case, I believe?
- 25 A. Yes.

(Matthew Allen Lazroe - Cross)

1 Q. Did you make any appearances?

2 A. I believe I made -- I think there were two appearances on that one. One
3 at the beginning and then one where I give my evaluation.

4 Q. Before the judge again?

5 A. Yes, Judge Grisanti.

6 MR. DUGUAY: I have no further direct
7 questions at this time.

8 THE REFEREE: Cross examination?

9 MR. DOYLE: Yes, thank you.

10 CROSS EXAMINATION

11 BY MR. DOYLE:

12 Q. So Mr. Lazroe, I have some questions for you. I first want to ask you
13 about you were asked some questions about your interactions and
14 knowledge of Judge Grisanti, can you tell us, in terms of your
15 relationship with Judge Grisanti, are the two of you personal friends?

16 A. No, we were not.

17 Q. Okay. Have you ever been personal friends with Judge Grisanti?

18 A. No. I have not.

19 Q. Okay. Have you ever personally socialized with Judge Grisanti or his
20 wife, Maria Grisanti?

21 A. No.

22 Q. Okay. You're aware that before Judge Grisanti was appointed as a judge
23 that he was a public servant/politician?

24 A. I'm aware of that, yes.

25 Q. Okay. Did you ever donate to any campaign by Judge Grisanti either as a

(Matthew Allen Lazroe - Cross)

1 politician or as a judge?

2 A. I did not.

3 Q. Okay. You said that you and Mr. -- well, first of all, you had a prior
4 relationship with an attorney by the name of Peter Pecoraro, correct?

5 A. Yes.

6 Q. He was a long-time friend of yours and your family's?

7 A. Yeah, mainly my father, who was an attorney. They were friends for a
8 long time.

9 Q. Okay. And did you have an understanding that Mr. Pecoraro shared
10 office space with Judge Grisanti before he became a judge when he was a
11 practicing lawyer?

12 A. Yes.

13 Q. Okay. And when Judge Grisanti was appointed and going to become a
14 judge, that's when you entered into an arrangement with him and Mr.
15 Pecoraro to purchase Judge Grisanti's law practice?

16 A. That's correct.

17 Q. And the financial transaction was to purchase the assets of -- and we keep
18 saying Judge Grisanti, but let me say lawyer Grisanti to purchase the
19 assets of his law practice, correct?

20 A. Yes.

21 Q. You mentioned the phone number, the goodwill, the client files, correct?

22 A. Yes.

23 Q. All right. So the financial arrangement was to make payments over time,
24 correct?

25 A. Correct.

(Matthew Allen Lazroe - Cross)

1 Q. But the payments all related to purchasing the assets of the law firm of
2 Mark Grisanti, correct?

3 A. Yes.

4 Q. The financial payments had nothing to do with Judge Grisanti's activities
5 as a judge, did they?

6 A. Nothing at all, no.

7 Q. Okay. And the --

8 MR. DOYLE: Would you be able to put Exhibit
9 14 back up?

10 BY MR. DOYLE:

11 Q. And the agreement, which is up as Exhibit 14, that was a -- what I'll call
12 an agreement that involved three parties. Yourself, Mr. Pecoraro, and
13 Mr. Grisanti, correct?

14 A. Yes.

15 Q. All right. And the agreement itself isn't dated, but if we could go to the
16 third page where the signatures start to appear, just a little bit lower down
17 we can see the notary box. It appears to have been signed and notarized
18 on May 18, 2015. Is that correct?

19 A. Yes.

20 Q. All right. And that's when the financial transaction was actually entered
21 into is when the three of you signed the agreement, correct?

22 A. That's correct.

23 Q. But it did call for payments over time. Monthly payments, correct?

24 A. Yes.

25 Q. In addition to that down payment that you mentioned?

(Matthew Allen Lazroe - Cross)

1 A. That's correct.

2 Q. All right. Now, I'm going to ask you a couple question -- strike that.

3 MR. DOYLE: If you could go to the next
4 exhibit, Exhibit 15, Ms. Trapani? Thank you.

5 BY MR. DOYLE:

6 Q. And just to clarify, this payment, either spreadsheet offer schedule, this I
7 think is two pages long. Is that right?

8 A. Yes.

9 Q. Okay.

10 MR. DOYLE: And can you go to the second
11 page Ms. Trapani?

12 BY MR. DOYLE:

13 Q. So and this is a document that you prepared yourself?

14 A. Yes.

15 Q. And you prepared it at the request or because you received a request for
16 information from the Judicial Commission?

17 A. That's correct.

18 Q. And you prepared this by looking at your own, I assume, banking
19 records?

20 A. Yes. I went through each month of every year from that transaction and
21 found the check and wrote that down with the date.

22 Q. And almost each month shows a payment of \$365. As you said there
23 were some months where it may be different by \$5.00 or \$10.00, correct?

24 A. Correct.

25 Q. All right. The last payment that's reflected here is June 19 of -- it says

(Matthew Allen Lazroe - Cross)

1 June 19th and then there's a date of June 11, 2019? Could you explain
2 that? Is that --

3 A. That might have been the date of my check.

4 Q. Okay.

5 A. And then --

6 Q. So the date of your last check to Mr. Grisanti -- or Judge Grisanti would
7 have been June 11, 2019?

8 A. Correct.

9 Q. All right.

10 A. And it might have been cashed on June 19th.

11 Q. Okay. Well, that may be the year, June dash 19 might be --

12 A. I'm sorry. Yeah, that's the year and then that's the date of the check, yeah.

13 Q. I just wanted to get the date of the last check and that looks like it's June
14 11th of 2019, correct?

15 A. Correct.

16 Q. And this schedule, Exhibit 15, reflects your payments to Judge Grisanti,
17 correct?

18 A. Just my payments, yes.

19 Q. All right. And as to -- you mentioned at a certain point in time Mr.
20 Pecoraro become ill?

21 A. Correct.

22 Q. He became ill after you entered into the financial transaction and signed
23 the agreement with Judge Grisanti?

24 A. Yes.

25 Q. And he died in 2018. Is that right?

(Matthew Allen Lazroe - Cross)

1 A. Yes.

2 Q. Okay. You don't know what payments Mr. Pecoraro made to Judge
3 Grisanti, if any, after he became sick?

4 A. No. I don't recall it.

5 Q. And you don't know if any payments were made by Mr. Pecoraro's estate
6 after his death to Judge Grisanti?

7 A. No.

8 Q. Did Judge Grisanti ever come to you and say anything along the lines of
9 "I'm not getting payments from Mr. Pecoraro anymore, so you have to
10 make up his half"?

11 A. No.

12 Q. You paid him approximately half of the overall transaction?

13 A. Yes.

14 Q. And that's all you paid. I see that the total is 27,530. Was the total called
15 for in the contract 50,000?

16 A. Yes.

17 Q. So you paid a little bit more than half by \$2,000 or so, correct?

18 A. Yes.

19 Q. All right.

20 MR. DOYLE: You can take that down, thanks.

21 BY MR. DOYLE:

22 Q. So I want to ask you some questions now about your practice. So first of
23 all, you did mention that you currently do practice, among other areas, in
24 the area of foreclosure defense.

25 A. I do.

(Matthew Allen Lazroe - Cross)

1 Q. And did you before 2015?

2 A. Yes.

3 Q. All right. Was that in fact one of your -- I don't think we're supposed to
4 use the specialties, but was that one of your primary or significant areas
5 of practice, foreclosure defense?

6 A. It was. At one time I did speak at a CLE as a -- on a panel --

7 Q. Okay.

8 A. Foreclosure panel at a CLE.

9 Q. And by CLE, I assume everyone in the Commission will know this, but
10 that means a Continuing Legal Education?

11 A. Yes.

12 Q. So you were asked by some group to speak at a Continuing Legal
13 Education seminar to educate other lawyers about foreclosure defense
14 matters?

15 A. That's correct.

16 Q. Okay. And in addition to that, do you or have you in the past ever
17 advertised your services as a foreclosure defense attorney?

18 A. I have.

19 Q. Okay.

20 A. On radio and internet.

21 Q. Okay. And did you do that before 2000 -- let's say before 2017?

22 A. Yes.

23 Q. All right. And in addition to that, did you ever contact or make your
24 information available to potential clients in foreclosure matters through
25 some means?

(Matthew Allen Lazroe - Cross)

1 A. Yes. I would send direct letters to people in foreclosure as well as online
2 and radio advertising during Bills games.

3 Q. Okay. So apart from the radio advertising and things, when you said you
4 sent direct letters, how would you get people's names to get direct letters?

5 A. Whenever a *lis pendens* is filed at the clerk's office --

6 Q. Okay.

7 A. That would -- I would send them a letter asking if they needed help.

8 Q. Okay. So before 2017, foreclosure defense was a regular part of your
9 practice, correct?

10 A. A major part, yes.

11 Q. Okay. Back in 2017, was there something known as the Foreclosure
12 Settlement Part?

13 A. There was.

14 Q. All right. Would you be able to explain to us the sort of process of what
15 happened when a foreclosure action was filed in New York, particularly
16 in Erie County and what the Foreclosure Settlement Part was?

17 A. Sure. I mean, around 2009 was when the last big foreclosure boom hit
18 where there were several foreclosures all around the country and that was
19 when the Government bailed out the banks to keep the economy afloat.
20 One of the new laws that was passed was at the beginning of every
21 foreclosure case, even before it's assigned to a judge, it gets assigned to
22 the foreclosure conference part, which at first was overseen by judge's
23 clerks on a rotating basis. We would go in. We'd get a different clerk
24 every time, and then over time they would have one clerk that took over.
25 For a while it was Ms. Boccio. Now, Ms. Myken (phonetic) is -- I don't

(Matthew Allen Lazroe - Cross)

1 want to say the head but is the main moderator -- or mediator for the
2 Foreclosure Part.

3 And during that Foreclosure Part the bank was supposed to submit all the
4 figures to try to get it resolved and then I would gather up all the financial
5 information for the borrower and make an offer to try to resolve the
6 foreclosure without people losing their houses. And it was a good way
7 for the -- to slow down the system to prevent people from losing their
8 homes.

9 Routinely, I would work out modifications of people's mortgages and
10 after a modification was worked out, the bank would then submit a
11 motion to withdraw the foreclosure case. If for some reason, the
12 borrower was unable to make payments, if they were unemployed or if
13 the bank was just giving me a hard time and didn't want to negotiate
14 anything, then it would go to the next level, and then a judge would be
15 appointed and then we would continue with litigation.

16 Q. Okay. So that's very helpful and gives us some understanding to go into
17 some of these particular cases. But let me ask you this, so you mentioned
18 that when a foreclosure action was assigned, and we're talking about Erie
19 County in and around 2017. When a foreclosure action was initially
20 filed, it would be sent to the Foreclosure Settlement Part before it was
21 assigned to a judge?

22 A. Correct.

23 Q. All right. And in that Part, you mentioned that the -- I think you used the
24 term judge's clerks. Do you mean the law clerks that worked for some of
25 the judges?

(Matthew Allen Lazroe - Cross)

1 A. Yes.

2 Q. All right. And you went to these settlement conferences from time to
3 time?

4 A. Every week.

5 Q. Okay.

6 A. I was, like, almost the only private attorney ever there. It was either
7 bank's attorneys or legal aid or something like that.

8 Q. All right. So you would interact with the judge's clerks that were down at
9 that time working on these Settlement Parts?

10 A. Yes.

11 Q. All right. Among the clerks, was one of them a law clerk by the name of
12 Doug Curella, C-U-R-E-L-L-A?

13 A. I recall from time to time he would rotate through.

14 Q. Okay. And Mr. Curella was at one point Judge Grisanti's law clerk. Is
15 that correct?

16 A. Yes.

17 Q. All right. The clerk that was down back at the time working on these
18 cases in the Settlement Part, would that be the clerk to whom the case --
19 the clerk of the judge to whom the case would eventually be assigned?

20 A. Not necessarily, no.

21 Q. Okay. And then you mentioned, and just to clarify, after the time when
22 the judge's clerks were sort of rotating through that, there was someone
23 who was assigned more permanently, and you first mentioned the name
24 Diana Boccio?

25 A. Yes.

(Matthew Allen Lazroe - Cross)

1 Q. All right. And she's someone who's worked in the court system in Erie
2 County for some number of years?

3 A. Yes. She's been in the court system for a while.

4 Q. Right. And she was sort of in charge of running the Foreclosure
5 Settlement Part for a while?

6 A. Yes.

7 Q. Okay. And over the years and particularly before 2018, you had
8 represented multiple parties in foreclosure actions in the Settlement Part?

9 A. Yes.

10 Q. And when and if it got referred to go to an individual judge?

11 A. Yes.

12 Q. All right. In addition to -- strike that. Now before we get to talk about
13 some individual cases, you also mentioned the fact that in some of these
14 cases we will talk about you were appointed as court evaluator?

15 A. Yes.

16 Q. And we're talking again in a -- strike that, I'm sorry. That's a
17 guardianship proceeding, correct?

18 A. Correct.

19 Q. All right. So before we leave foreclosures, your appointment in some of
20 these cases in foreclosure matters was as guardian ad litem/military
21 lawyer?

22 A. Yes.

23 Q. Could you explain that a little bit more for us what that appointment in a
24 foreclosure action entails?

25 A. Sure. When one of the borrowers is deceased then an attorney gets

(Matthew Allen Lazroe - Cross)

1 appointed to represent the estate.

2 Q. Okay.

3 A. And on the cases that I'm appointed, I would contact family members.

4 Try to try to hunt down someone that might have an interest in the
5 property to see if they wanted to save it. And I recall on cases previously
6 mentioned that I spent a lot of time calling people up and relatives, and
7 actually finding relatives that didn't even know the property was in
8 foreclosure and explaining to them the situation and seeing if they wanted
9 me to appear on behalf of the estate to contest the foreclosure or try to
10 work something out.

11 Q. And we'll see the phrase "military lawyer" in there. What is that aspect?

12 A. That didn't apply to the cases that I was assigned to. I would imagine that
13 if a borrower was deployed overseas through the military that I would be
14 appointed to represent them --

15 Q. Okay.

16 A. -- while they're on duty.

17 Q. And there are some special provisions in federal and state law that apply
18 if a defendant in a foreclosure action is deployed in the military, correct?

19 A. Yes.

20 Q. All right. But that didn't actually come to be in any of the cases we're
21 going to talk about?

22 A. Correct.

23 Q. All right. How does one -- to be appointed in a foreclosure matter as a
24 guardian ad litem, let's talk just about that, does one have to be eligible?

25 A. Yes. As part of a Part 36 assignment, I was required to do a Continuing

(Matthew Allen Lazroe - Cross)

1 Legal Education training, which I completed. Submit an application to
2 the Part 36 Part where I was then approved and then on the website it lists
3 all the areas that I'm interested in. I have to upload a resume and judges
4 then can appoint me to whatever positions are available through the Part
5 36 assignments.

6 Q. Okay. And when you mentioned that you had to apply and then be
7 approved and put on a list, that's all by the court system, by the Office of
8 Court Administration?

9 A. Yes.

10 Q. And Part 36 refers to the Part 36 of the court rules that deal with these
11 types of eligibility for these types of appointments?

12 A. That's correct.

13 Q. Okay. And in 2017 and 2018, were you approved on a panel or list to
14 receive appointments as guardian ad litem in foreclosure actions?

15 A. Yes.

16 Q. All right. Same question for role as a court evaluator in guardianship
17 proceedings. Is that a Part 36 appointment as well?

18 A. Yeah, there was several areas of law that I was eligible to be appointed
19 to.

20 Q. Okay. To be appointed as a court evaluator, is that a separate CLE
21 training?

22 A. I believe there were -- yes. There were two separate CLEs for
23 foreclosures and for guardian ad litem.

24 Q. All right.

25 A. Two separate courses I completed.

(Matthew Allen Lazroe - Cross)

1 Q. And then you have to do an application again?

2 A. Yes.

3 Q. And be approved?

4 A. Correct.

5 Q. And put on a list?

6 A. Yes.

7 Q. And all that happened in terms of court evaluator?

8 A. Yes.

9 Q. All right. So in 2017, '18, and '19 you were approved by the Office of
10 Court Administration to receive appointments as either court evaluator in
11 guardianship proceedings or guardian ad litem in foreclosure actions?

12 A. Yes, and I'm still active today.

13 Q. Okay. Are there any other Part 36 appointments that you're eligible for if
14 you know?

15 A. I don't recall.

16 Q. Okay.

17 A. Those are the main ones that I applied for.

18 Q. All right. So I want to ask you some questions about the particular cases
19 that were mentioned.

20 MR. DOYLE: Ms. Trapani, can you pull up

21 Exhibit 16?

22 BY MR. DOYLE:

23 Q. We're pulling up on the screen, Mr. Lazroe, what's been marked right
24 now it's just for identification is Commission Exhibit 16, which are some
25 court records regarding the *Bayview Loan v Fornes* case. I don't

(Matthew Allen Lazroe - Cross)

1 remember whether you were asked questions referring to it as *Fornes* or
2 *Bayview*, but do you recall being asked about that?

3 A. Yes.

4 Q. And have you seen these court records before today?

5 A. Yes, I have.

6 Q. Okay. And I think, if I'm not wrong, you were asked when you first got
7 involved in this case and you weren't sure. Would you be able to turn
8 to -- well, let me ask you -- if you could turn to the third page. I guess it's
9 the fourth page. We're looking at the fourth page on Exhibit 16. Do you
10 recognize this as what's known as an RJI or Request for Judicial
11 Intervention?

12 A. I do.

13 Q. All right. And in foreclosure actions, is this type of document normally
14 filed at some point?

15 A. Yes.

16 Q. And in terms of the overall process you had told us about foreclosures in
17 Erie County, can you tell us what -- in your experience, what does a filing
18 of an RJI do regarding the handling of a foreclosure action?

19 A. At the beginning of the case, an RJI is filed to get it sent to the
20 Foreclosure Part and then we proceed with the mediation there. And then
21 when that Part is disposed of, it gets assigned to a judge.

22 Q. All right. When an RJI is filed -- you've filed RJIs in cases in the past,
23 correct?

24 A. Yes.

25 Q. And you've seen RJIs filed in foreclosure actions?

(Matthew Allen Lazroe - Cross)

1 A. Yes.

2 Q. All right. When an RJI is filed, if one party is aware of the attorney who
3 represents the other party, do they put that person down on the RJI? Are
4 they supposed to list the counsel for the other party?

5 A. They're supposed to, yes.

6 Q. Okay.

7 MR. DOYLE: Can you turn to the second page?

8 Second page of this, yeah. Sorry. Go down a little bit.

9 Your Honor, actually, at this time I would offer
10 Exhibit 16, which is the *Bayview v Fornes* court records.

11 MR. DUGUAY: I think we've entered. I think
12 you allowed me to enter each and every case prior.

13 MR. DOYLE: Oh, that's right. Okay. Yeah,
14 that's right.

15 THE REFEREE: It's in already.

16 MR. DOYLE: Thank you. Successful. Thank
17 you.

18 MR. POSTEL: That was a good trick though.
19 That was a good trick.

20 BY MR. DOYLE:

21 Q. All right. So looking at the -- the pages aren't numbered, but this is the
22 second page of the RJI. In the spot for Bayview it lists the attorneys and
23 it's a firm by the name of Rosicki, Rosicki, and Associates. Do you see
24 that?

25 A. Yes.

(Matthew Allen Lazroe - Cross)

1 Q. And they're a well-known firm that represents lenders in foreclosure
2 actions?

3 A. Yes.

4 Q. All right. And then the next party listed is Ms. Fornes, correct?

5 A. Yes.

6 Q. And in the spot for her attorney it lists Ms. Fornes again, correct?

7 A. Yes.

8 Q. All right. If you know, is this an indication that you were not involved
9 representing Ms. Fornes at this time when the RJI was filed?

10 A. That would be correct because I would not have filed an answer and
11 notice of appearance.

12 Q. Okay.

13 MR. DOYLE: Ms. Trapani, if you could turn to
14 page -- if you look, it's Foreclosure Conference Intake
15 Form. They're dated here at the top. This is for January 19,
16 2018? About four to five pages after this.

17 MS. TRAPANI: This?

18 MR. DOYLE: Yes, exactly. If we could
19 decrease the size a little bit so we can see a little bit more of
20 the form? Okay.

21 BY MR. DOYLE:

22 Q. So Mr. Lazroe, we've turned to a particular form within Exhibit 16. It's
23 the -- it's entitled a Residential Foreclosure Conference Intake Form and
24 after the caption of the case, the first line says, "A foreclosure conference
25 was held on January 19, 2018." All right. So I just want to stop there.

(Matthew Allen Lazroe - Cross)

1 I've identified the page we're looking at. Do you recognize this type of
2 form?

3 A. Yes.

4 Q. And is this type of form filled out whenever there was a settlement
5 conference in this Foreclosure Settlement Part that we've talked about?

6 A. Yes.

7 Q. All right. This particular form, which reflects a conference in January 19,
8 2018 does list your name as attorney for the defendant, correct?

9 A. Correct.

10 Q. All right.

11 MR. DOYLE: And then if we go towards the
12 bottom of this form, Ms. Trapani?

13 BY MR. DOYLE:

14 Q. Looking down at the bottom -- the very bottom of it, there are three either
15 names or signatures. I think they're signatures at the bottom, correct?

16 A. Yes. That's my signature on the right.

17 Q. Your signature's all the way to the right above defendant?

18 A. Yes.

19 Q. And above the confidential law clerk, do you recognize that as Diana
20 Boccio's signature?

21 A. It looks like hers, yes.

22 Q. Okay. And as best as you recall in January of 2018, was she handling the
23 settlement conferences?

24 A. Yes.

25 Q. All right. Would you just read for the record -- I'm not going to do this

(Matthew Allen Lazroe - Cross)

1 on every form, but just read to the record what the description -- the
2 handwritten, sort of description of what happened at the conferences?

3 A. Yeah. "Defendant resides and wishes to retain. Application received. 30
4 days to submit. 30 days to review. Figures provided."

5 Q. All right. Just if you can, can you interpret that for us? What happened
6 at the conference?

7 A. Sure. I mean that's lingo that we use a lot in Foreclosure Part. I mean,
8 the only way that a defendant is allowed to participate in the Foreclosure
9 Part is if they do reside in the property. So the first question they ask is if
10 the borrower lives there, which they said they did. She wanted to keep
11 the property. At these Foreclosure Parts the banks give me an
12 application, which is usually anywhere from five to ten pages long. It
13 was, like a general financial application that talks about their income and
14 expenses and what they want to do with the property, and a hardship
15 letter, and several bank forms that I have to complete. So it says
16 application -- I received the application from the bank. 30 days to submit
17 and complete that application and then usually I gather all the documents
18 and -- such as bank statements, taxes, and pay stubs, or other income
19 information. Complete the application and submit it to the bank within
20 30 days and then the bank has 30 days to review that and then when they
21 say "figures provided" that's just how -- what the balance of the
22 mortgage, the reinstatement and payoff amount, what the interest rate is,
23 what date they fell behind.

24 Q. Okay.

25 A. And usually there's another form that the bank has to provide with all

(Matthew Allen Lazroe - Cross)

1 those figures.

2 Q. Okay.

3 A. That's what that lingo means.

4 Q. All right. There's some other conferences, but I'm not going to go
5 through each of them. I just want to go to the last conference. It's
6 actually the page before.

7 MR. DOYLE: Ms. Trapani, go up one page.

8 BY MR. DOYLE:

9 Q. And does this reflect a conference held on August 27, 2018? The first
10 line under the caption?

11 A. Yes.

12 Q. All right. And again, your name is written there as representing the
13 defendant?

14 A. Correct.

15 Q. And --

16 MR. DOYLE: Go down to the bottom. That's
17 fine there.

18 BY MR. DOYLE:

19 Q. Again, Ms. Boccio, correct?

20 A. Yes.

21 Q. At the -- held the conference?

22 A. Yes.

23 Q. Here it says, "Defendant did not make last two payments on trial plan.
24 Request for release granted." What is a request for a release?

25 A. So in this case, Ms. Fornes was offered a trial payment. Usually the bank

(Matthew Allen Lazroe - Cross)

1 would say you have to make three or six payments in a row and that
2 shows your ability to continue to make the mortgage payments and then
3 after that, they would approve her for a final modification. So in this
4 case, she made -- she did not make the last two payments of the trial plan
5 and attorney for the bank said, "Well, she defaulted on the trial plan, so
6 we would like to remove it from the Conference Part and continue the
7 litigation " I recall on this case that Ms. Fornes did end up making those
8 last two payments and then she was approved and we -- I helped her save
9 her house.

10 Q. We'll get to that in a second, but the "release granted" means what?

11 A. It gets kicked out of the Conference Part and then assigned to a judge to
12 proceed with litigation.

13 Q. Okay. And specifically, there's a box checked that's just under what we
14 were reading. It says, "Case is not settled and P," which means Plaintiff?

15 A. Yes.

16 Q. "May proceed with the action." That's the decision of who?

17 A. The mediator. The law clerk that was assigned on that day.

18 Q. In this case it was Boccio?

19 A. It looks like the same signature, yes.

20 Q. Okay. So up until this point, has Judge Grisanti had any involvement that
21 you know of in this case?

22 A. No.

23 Q. All right.

24 A. No involvement.

25 Q. If we go two pages before that, we see a document called Scheduling

(Matthew Allen Lazroe - Cross)

1 Order. And this is signed by Judge Grisanti, if we look at the bottom?

2 It's signed by Judge Grisanti?

3 A. It appears so, yes.

4 Q. All right. And it's dated to the left of his signature, September 7, 2018?

5 A. Yes.

6 Q. All right. Up at the top, after the caption, it lists attorney for plaintiff,

7 Megan Suttell, S-U-T-T-E-L-L, correct?

8 A. I see that, yes.

9 Q. Are you listed anywhere as attorney for the defendant?

10 A. I do not see that I am.

11 Q. Okay. After a case was released from the Settlement Conference Part and

12 sent for assignment to a judge, was it routine practice that a scheduling

13 order would be issued?

14 A. Not by every judge.

15 Q. Okay.

16 A. I mean, I don't either recall this one. Normally, if it gets worked out, then

17 there's no scheduling order.

18 Q. Okay.

19 A. Not every judge does that, no.

20 Q. All right. Do you recall having any contact with Judge Grisanti about the

21 scheduling order being issued in this case?

22 A. I had no contact, no.

23 Q. All right. To wrap up this case.

24 MR. DOYLE: I think the last two pages are in

25 this order. Sorry. It says, "Order to Discontinue."

(Matthew Allen Lazroe - Cross)

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MS. TRAPANI: Okay. Can't read.

MR. DOYLE: It's the last two pages, I think.

BY MR. DOYLE:

Q. We're still in Exhibit 16 and the last two pages, Mr. Lazroe, are an Order to Discontinue Action and Cancel Notice of Pendency. Do you see that?

A. Yes.

Q. And then if we go to the body of the order. It begins by saying, "Upon reading and filing the notice of motion with the date, the affirmation of Susan West." And then the next paragraph begins, "Now on motion of Rosicki, Rosicki, and Associates, ordered that the above action be is hereby discontinued." Correct?

A. Yes.

Q. Well, what's happened here? What is this order?

A. That's the order canceling the foreclosure.

Q. Okay. On the motion of the defendant, the lender?

A. Correct.

Q. All right. Which would be to the benefit of your client?

A. Yes.

Q. But on the application of the opposing party?

A. Yes.

Q. All right. Take a look, if you want, on this order. Are you mentioned anywhere in the order?

A. No.

Q. Okay.

A. Not that I see here.

(Matthew Allen Lazroe - Cross)

1 Q. As far as you know, did you ever personally appear in front of Judge
2 Grisanti on this case?

3 A. Not on this case, no.

4 Q. Do you recall having any type of contact with Judge Grisanti on this case
5 at all?

6 A. No contact.

7 Q. All right. From looking back at these documents and knowing what
8 happened, is it your belief you received any type of favorable treatment
9 from Judge Grisanti on this case?

10 A. No. No favorable treatment.

11 Q. Okay.

12 MR. DOYLE: If we can turn to Exhibit 29,
13 please?

14 MS. TRAPANI: Okay.

15 BY MR. DOYLE:

16 Q. This is the *Buffalo Seminary* case. You mentioned that you -- this is a
17 debt collection case?

18 A. Correct.

19 Q. And you were representing an entity here in Buffalo known as Buffalo
20 Seminary which is a girls' high school?

21 A. Yes. Private girls' school.

22 Q. And this is to collect a debt relating to tuition for a student, correct?

23 A. Yeah. The defendant didn't pay the bill.

24 Q. Okay. So I just want to get a couple terms straight. You mentioned that
25 there was a document that was known as a Confession of Judgment in

(Matthew Allen Lazroe - Cross)

1 this case?

2 A. Yes.

3 MR. DOYLE: Towards the end. It's about
4 the -- yeah. You can stop there. We'll -- that's fine.

5 MS. TRAPANI: That's okay.

6 MR. DOYLE: Yep.

7 BY MR. DOYLE:

8 Q. So within this court file there is an application or motion for a default
9 judgment, correct?

10 A. Yes.

11 Q. All right. And to just get the terminology down. A default judgment
12 means you've brought a lawsuit to collect this debt and the debtor or
13 defendant hasn't answered the complaint.

14 A. That's correct.

15 Q. All right. Entitling you to move for a default judgment, correct?

16 A. Yes.

17 Q. In addition to that, in this case, there was a Confession of Judgment?

18 A. Yes.

19 Q. And what is a Confession of Judgment?

20 A. It's the defendant admitting to the amount of money that's due.

21 Q. All right. By signing a Confession of Judgment?

22 A. Yes.

23 Q. And is this the document, the Confession of Judgment?

24 A. Yes.

25 Q. Okay. So there was a debt which the debtor admitted, confessed in

(Matthew Allen Lazroe - Cross)

- 1 writing to a judgment, and then a -- correct?
- 2 A. Yes.
- 3 Q. And then a lawsuit was brought, correct?
- 4 A. I'm not sure on the date. She might have signed it after the action was
- 5 brought.
- 6 Q. Okay. Well, let's take a look. Hold on a second.
- 7 A. I might be wrong on that one.
- 8 Q. All right. In any event, when the application is made for default
- 9 judgment there is a Confession of Judgment in addition?
- 10 A. On this case, yes.
- 11 Q. Yes? So there's a Confession of Judgment of the debt, correct?
- 12 A. Yes.
- 13 Q. There's a -- whether it happened before or not, that there's then a loss or
- 14 there is a lawsuit to collect a debt, correct?
- 15 A. Yes.
- 16 Q. Which the debtor defaults in answering, correct?
- 17 A. Yes.
- 18 Q. All right. And now you've made a motion for a default judgment,
- 19 correct?
- 20 A. Yes.
- 21 Q. Was there ever any opposition to that?
- 22 A. No.
- 23 Q. Okay. And in addition in the motion papers, there is a handwritten letter
- 24 from the debtor admitting that she owes the debt. Is that correct?
- 25 A. Yes.

(Matthew Allen Lazroe - Cross)

1 Q. Okay.

2 MR. DOYLE: If you could turn to the -- I think
3 it's the second to last page. It says "Order." The page
4 before. Yeah. Exactly.

5 BY MR. DOYLE:

6 Q. So we're turning to the second to last page of Exhibit 29. This is the
7 order that is signed by Judge Grisanti, correct?

8 A. Yes.

9 Q. And the body of the order says --

10 MR. DOYLE: Going down a little bit.

11 BY MR. DOYLE:

12 Q. "Upon the affidavit of Matthew A. Lazroe and the attachments thereto,
13 and the Court having reviewed such documentation, now on motion of
14 attorney for plaintiff, it is ordered." And it's an order that a judgment is
15 being entered, correct?

16 A. Yes.

17 Q. All right. Is there any reflection in here that you ever made a personal
18 appearance in front of Judge Grisanti regarding this application?

19 A. No.

20 Q. It appears to have been decided on the papers?

21 A. Yes.

22 Q. Did you ever discuss this case in any way with Judge Grisanti?

23 A. No.

24 Q. As you look back, is it your opinion you received any type of favorable
25 treatment from Judge Grisanti in this case as a result of your prior 2015

(Matthew Allen Lazroe - Cross)

1 transaction buying his law practice?

2 A. Not at all. Defendant admitted to it.

3 MR. DOYLE: If we could look at Exhibit 22,

4 Ms. Trapani?

5 MS. TRAPANI: If you could just give me just a
6 moment.

7 MR. DOYLE: Take your time.

8 BY MR. DOYLE:

9 Q. This is the *Jones* case you mentioned. This is a lemon law case, correct?

10 A. Correct. Yes.

11 Q. So is it a dispute over -- your client bought a car and is trying to get either
12 the purchase price or the value of repairs from the person who sold her --
13 the entity that sold her the car?

14 A. Yeah. It was a BMW that they bought from Jerry Gradl Motors that
15 broke down 20 miles or so after the warranty was up.

16 Q. Okay. Just looking at this page here, the front page of Exhibit 22, it has a
17 2017 index number, so you filed it in 2017?

18 A. Yes.

19 MR. DOYLE: And if you go down a few lines I
20 believe?

21 BY MR. DOYLE:

22 Q. Well, on this there's no disposition date listed, correct?

23 A. Correct.

24 Q. The justice's name here is Judge Sedita, Frank Sedita, correct?

25 A. Yes.

(Matthew Allen Lazroe - Cross)

1 Q. All right. Eventually the case wound its way to Judge Sedita?

2 A. Yes.

3 Q. You told us there were several judges over the years?

4 A. Correct.

5 Q. Okay. One of those judges at one point at least was Judge Furlong,
6 correct?

7 A. Yes.

8 Q. And this is a case that was up in Niagara Falls?

9 A. Yes.

10 Q. The court actually is listed on the top of the page there as Niagara
11 Supreme Court. So Niagara County as opposed to Erie?

12 A. That's correct.

13 Q. And did there come a time, if you know and tell us if you don't know, in
14 2019, 2020 when Judge Furlong was sick? Do you know that?

15 A. I believe so, yeah.

16 Q. Okay. And were you aware that some of his cases were transferred by
17 the Administration from Judge Furlong to other judges to supervise?

18 A. I believe this one was. I didn't know he had other cases transferred.

19 Q. Okay. We'll come to that later, but it was your understanding that this
20 case, which Judge Furlong had been supervising was transferred at a
21 certain point to Judge Grisanti?

22 A. Yes.

23 Q. And do you know how long Judge Grisanti had it under his supervision?

24 A. Not very long. It was in the middle of the case where we were trying to
25 settle it.

(Matthew Allen Lazroe - Cross)

1 Q. Okay.

2 A. So there might have been, like, one or two phone calls, and I do recall
3 that I got a call from the court asking what the status is and we'd try to
4 call the defendant's attorney and he didn't pick up, so it got postponed,
5 and then we played a lot of phone tag, and then nothing was ever
6 resolved.

7 Q. And eventually it was transferred to Judge Sedita?

8 A. Yes.

9 Q. So as the attorney who was representing one party, the time that it was
10 under Judge Grisanti's supervision, did he actually do anything in terms
11 of the case?

12 A. No.

13 Q. Okay. You said a phone call from the court. Sometimes phone calls
14 from the court are from the judge, sometimes they're from a law clerk,
15 sometimes they're from someone else in the staff.

16 A. Right.

17 Q. Do you know who the phone call was from?

18 A. I think it might have been two or three calls. I remember there was one
19 by Judge Grisanti, just -- and that -- and we tried to get a hold of the other
20 attorney and he didn't pick up, so we just postponed it to another day.

21 Q. So you did nothing --

22 A. Correct.

23 Q. -- on that call.

24 A. Nothing was accomplished in any of the calls with --

25 Q. Because the other attorney wasn't --

(Matthew Allen Lazroe - Cross)

1 A. Yeah.

2 Q. Couldn't participate in the call?

3 A. No, this ended up going to a motion to dismiss before Judge Sedita and
4 nothing was done at all the whole case, as far as settlement goes.

5 Q. Okay.

6 MR. DOYLE: Exhibit 19, please, Ms. Trapani?

7 BY MR. DOYLE:

8 Q. All right. This is the -- I'm going to refer to it as the *Anderson* case. It's
9 the *Fannie Mae v Anderson*, correct?

10 A. Yes.

11 Q. It's a foreclosure matter?

12 A. Yes.

13 Q. And you told us you were appointed as a guardian ad litem?

14 A. That's correct.

15 Q. Okay.

16 MR. DOYLE: If you could turn to the -- at the
17 bottom of the page it says page 4 of 7. I think it's one more.
18 There we are.

19 BY MR. DOYLE:

20 Q. So looking at the fourth page of Exhibit 19. This is the --

21 MR. DOYLE: Yeah, go up a little bit -- actually
22 back to where the handwriting was.

23 BY MR. DOYLE:

24 Q. This is the part of the order which appointed you guardian ad litem,
25 correct?

(Matthew Allen Lazroe - Cross)

1 A. Yes.

2 Q. All right. Your name is handwritten in?

3 A. It is.

4 Q. Do you know whose handwriting that is?

5 A. I do not.

6 Q. You said you received notice because you get a Part 36 email, I think you
7 called them?

8 A. Correct.

9 Q. All right. So you don't get a phone call from Judge Grisanti?

10 A. No.

11 Q. On this or any other case regarding your appointment?

12 A. No. Just the email.

13 Q. Or from his Part?

14 A. No.

15 MR. DOYLE: And then if you could turn -- if
16 you could -- the next page. Yeah.

17 BY MR. DOYLE:

18 Q. So the top of the next page of this order, again, we're still within Exhibit
19 19, says, "Ordered that the guardian appointed herein be paid \$250." Is
20 that right?

21 A. Yes.

22 Q. Is that an hour or is that a flat fee?

23 A. Flat fee.

24 Q. Okay. Are these -- if I can use the term, guardian appointments in
25 foreclosures, are they lucrative appointments?

(Matthew Allen Lazroe - Cross)

1 A. Not really.

2 Q. Okay. I think you said in this case or in another case you may have
3 gotten \$250 or \$350?

4 A. Yes.

5 Q. Okay. Just a couple more.

6 MR. DOYLE: Exhibit 20? Pachucki.

7 BY MR. DOYLE:

8 Q. This is a case where you mentioned it's a foreclosure case?

9 A. That's correct.

10 Q. You were appointed referee?

11 A. Yes.

12 Q. So the foreclosure has proceeded down the path. The settlement didn't
13 work and now the Court is ordering that the property be sold and there
14 needs to be a referee for the sale?

15 A. Correct.

16 MR. DOYLE: If you could turn -- it's about
17 halfway through, Ms. Trapani, to this order -- exactly.

18 BY MR. DOYLE:

19 Q. So within Exhibit 20 is the order of reference for appointment of referee.
20 So this is the order that appoints you?

21 A. Yes.

22 MR. DOYLE: And before we leave -- sorry, I
23 just want to get the date from the top.

24 BY MR. DOYLE:

25 Q. And so you were appointed apparently on August 20, 2019?

(Matthew Allen Lazroe - Cross)

1 A. Yes.

2 Q. Okay. And then the next page --

3 MR. DOYLE: A little bit down lower, sorry.

4 BY MR. DOYLE:

5 Q. The part that's on the screen now from the order is the part where you're
6 appointed referee?

7 A. Yes.

8 Q. And again, your name and address is handwritten in?

9 A. Spelled wrong but should be me.

10 Q. Do you know who's handwriting that is?

11 A. I do not.

12 MR. DOYLE: And the next page.

13 BY MR. DOYLE:

14 Q. That second paragraph that's on the page, again, part of the order in
15 Exhibit 20 says, "Ordered that statutory fee of \$50, and in the discretion
16 of the Court, a fee of \$100 shall be paid to the referee"?

17 A. Correct.

18 Q. All right. So again, not a -- in your view, not a lucrative appointment?

19 A. No.

20 Q. Did you have any conversation with Judge Grisanti about this
21 appointment?

22 A. No.

23 Q. Ultimately, if you know, did the sale go forward?

24 A. I believe it did, yes. I appeared.

25 Q. At the time the sale went forward, was there another judge assigned to

(Matthew Allen Lazroe - Cross)

- 1 this case? You mentioned Judge Colaiacovo.
- 2 A. Yeah. I believe it was this case, yeah.
- 3 Q. Okay. So before the sale went -- so your job as a referee in these types of
- 4 cases is solely related to what happens at the sale?
- 5 A. Yes.
- 6 Q. So before you carried out any duties, there was actually another judge
- 7 assigned to the case?
- 8 A. Yes.
- 9 Q. Did that judge rescind or revoke your assignment?
- 10 A. No.
- 11 Q. And we just established that your appointment -- that the order
- 12 appointing you was August 22nd of 2019. That was after your last
- 13 payment to Judge Grisanti, correct?
- 14 A. Correct.
- 15 Q. I'm going to ask you some questions about the F █████ case, which is the
- 16 appointment of the guardian. I don't think we need the records up, but
- 17 the -- you were asked about the fees that you received and in that case,
- 18 you were appointed as a court evaluator?
- 19 A. Correct.
- 20 Q. And I think you said, I don't want to put words in your mouth, that the
- 21 fees in that situation would be reviewed by all the other attorneys?
- 22 A. Yes.
- 23 Q. All right. So for example, in that case, the F █████ case, there was an
- 24 attorney who originally filed the action for the appointment of a
- 25 guardian?

(Matthew Allen Lazroe - Cross)

1 A. Correct.

2 Q. And then you were appointed as a court evaluator?

3 A. After, yes.

4 Q. Okay. And were there other attorneys that were involved as well for
5 other parties?

6 A. Yes. I mean, I wasn't the attorney for the AIP. I was just the evaluator
7 giving the reports while there were other attorneys representing other
8 parties there.

9 Q. Okay. Keep your voice up a little bit just so the mic can pick it up. In
10 any event, not necessarily as to F [REDACTED], but in any case where you're a
11 court evaluator and there's a request for fees for your work, they would be
12 reviewed by all of the parties, their attorneys, before the judge approves
13 them, correct?

14 A. Yes.

15 Q. And if there are objections, those are dealt with somehow, correct?

16 A. Correct.

17 Q. In the F [REDACTED] case, were there any objections to your request for fees that
18 you recall?

19 A. No objections.

20 Q. And what about in any of the other cases?

21 A. No objections in any of the cases.

22 Q. Okay. The L [REDACTED] was the other guardianship case, correct?

23 A. Yes.

24 Q. Was there any objection to your request for fees in that case?

25 A. No.

(Matthew Allen Lazroe - Cross)

1 Q. All right. And as to the foreclosures where you were guardian ad litem,
2 and I know I'm jumping back and forth a little bit, but this is the last
3 couple questions. In those cases, was there ever any objection to your
4 request for fees as guardian ad litem?

5 A. In those cases, I didn't request the fee. It was just assigned to me the fee,
6 so --

7 Q. Okay. Is that a matter of statute or court rule?

8 A. Yes.

9 Q. All right. And you received the statutory court rule fee?

10 A. The 250 or 350 bucks, yes.

11 Q. Okay. All right. So just some concluding questions. Hold on one
12 second. Sorry.

13 MR. DOYLE: Judge, can I have just a minute?

14 THE REFEREE: Sure, yeah.

15 MR. DOYLE: Yeah, sorry. Just one more.

16 Could you -- if you could up Exhibit 21? The L [REDACTED] case.

17 Third page. It's the order to show case.

18 BY MR. DOYLE:

19 Q. So this -- in the L [REDACTED] case, we're looking at the third page. This is the
20 order to show cause. It's dated November 4, 2019?

21 A. Yes.

22 Q. All right. And if we look two more pages in that paragraph there that's
23 up. That's the part of the order to show case that appoints you as court
24 evaluator?

25 A. Yes.

(Matthew Allen Lazroe - Cross)

1 Q. All right. And November 4, 2019, this is after your last payment to Judge
2 Grisanti for the 2015 contract?

3 A. Yes.

4 Q. All right. Mr. Lazroe, Mr. Duguay, the Commission's attorney asked you
5 a series of questions about in these cases whether Judge Grisanti
6 disclosed the financial relationship or transaction in any of these cases to
7 the other parties. So my question is, did you disclose the financial
8 transaction with the parties to any of the other lawyers or parties in any of
9 these eight cases?

10 A. No, I did not.

11 Q. Why?

12 A. It was never brought up. I didn't think it was relevant in some of these
13 cases. I didn't even have the opportunity because there was no party to
14 even disclose it to.

15 Q. All right. Just some concluding questions then. At any time did you ever
16 have a conversation with Judge Grisanti about appointing you as
17 guardian, court evaluator, or any other role?

18 A. Now, I do recall when we've signed the original agreement that he wasn't
19 allowed to assign Peter and I anything for two years. So I mean, I vividly
20 recall that, and I wasn't even appointed to the Part 36 program until 2017.
21 So I had zero dealings with him at all for more than two years after we
22 bought -- after Peter and I purchased the office.

23 Q. Okay.

24 A. So I do recall specifically him -- us talking about that.

25 Q. All right. So that conversation was at or about the time of the agreement,

(Matthew Allen Lazroe - Cross)

1 which was in 2015. It was May of 2015?

2 A. Yes.

3 Q. So for two years from that point forward, you had no cases with Judge
4 Grisanti either by assignment or because you represented any party?

5 A. Correct.

6 Q. Okay. Did you ever have any conversation with Judge Grisanti tying the
7 payments on the 2015 agreement to receiving appointments as guardian
8 or court evaluator?

9 A. No.

10 Q. Did you ever have an agreement between yourself and Judge Grisanti
11 connecting the payments on the 2015 agreement to any type of treatment
12 of you or your clients in any case?

13 A. Not at all.

14 Q. And was there any agreement between you and Judge Grisanti tying any
15 judicial act of his, whether in a case you were representing a party or by
16 appointment of you, to any of the payments on the 2015 contract?

17 A. No.

18 Q. Did the 2015 -- pardon me. Did the payments on the 2015 contract
19 remain steady with the exception of the \$5.00 or \$10.00 differences
20 throughout the entire four years that you made the payments?

21 A. Yes.

22 Q. All right. They didn't fluctuate based on any assignments or based on
23 Judge Grisanti's rulings in any case?

24 A. No. Same amount.

25 Q. Are you familiar -- have you ever heard the phrase *quid pro quo*?

(Matthew Allen Lazroe - Cross)

1 A. Yes.

2 Q. Did you have any type of *quid pro quo* agreement with Judge Grisanti
3 regarding his judicial treatment of you or any of your clients?

4 A. No.

5 Q. And do you believe that either you or your clients received any type of
6 favorable treatment from Judge Grisanti in any of the eight cases or any
7 other case for that matter, that he had assigned to him?

8 A. No. Not at all.

9 Q. Thank you.

10 MR. DOYLE: That's all I have, Judge.

11 THE REFEREE: Redirect?

12 MR. DUGUAY: Just one very minor point --

13 THE REFEREE: All right.

14 MR. DUGUAY: -- of clarification. Ms.

15 Trapani, if you could pull Exhibit 22? Exhibit 22, if you go
16 to the second page? Ms. Trapani, if you could bring it up a
17 little bit and enlarge it and focus in on maybe the middle
18 top portion of the page?

19 REDIRECT EXAMINATION

20 BY MR. DUGUAY:

21 Q. Are you able to read that document from where you're sitting, Mr.
22 Lazroe?

23 A. Yes.

24 Q. Again this is just for clarification. There appears to be some type of a
25 chart. Do you see what I'm referencing? It says appearance information

(Matthew Allen Lazroe - Redirect)

1 and there's a variety of sections?

2 A. Yes.

3 Q. Okay. In the left-most portion of that box are dates. Do you see those
4 dates?

5 A. Yes.

6 Q. Okay. The second box would have different times. Do you see that?

7 A. Yes.

8 Q. Do you see the next box for conference status?

9 A. Yes.

10 Q. The box beyond that confirms whether or not there was any action, I
11 guess, on its status? You see that box?

12 A. Yes.

13 Q. The box next to that has some type of judge identified, correct?

14 A. Yes.

15 Q. I'm going to ask you to look down six boxes.

16 A. Yes.

17 Q. There's a date 10/5/20, correct?

18 A. Yes.

19 Q. 9:15 is the time?

20 A. I see that, yes.

21 Q. Okay.

22 MS. TRAPANI: Mr. Duguay, I'm sorry to
23 interrupt.

24 MR. DUGUAY: I'm not speaking into the
25 microphone. Wrong microphone.

(Matthew Allen Lazroe - Redirect)

1 MR. DOYLE: It is. That's why I keep
2 complaining.

3 BY MR. DUGUAY:

4 Q. Again I'm just directing your attention to the box with the date of 10/5/20.

5 Do you see that, Mr. Lazroe?

6 A. I do.

7 Q. And the third box over references a conference status, correct?

8 A. Yes.

9 Q. References it was held?

10 A. Yes.

11 Q. The judge is Judge Grisanti, correct?

12 A. Yes.

13 Q. Okay. Now, looking -- and I'll give you a second to look at this.

14 Approximately the next eight boxes, if you just want to look and review
15 that briefly?

16 A. Yes.

17 Q. Okay. There appears -- at least the assignment of Judge Grisanti to a
18 number of conferences, correct?

19 A. Yes.

20 Q. And working down from 10/5 box downwards. One was held, according
21 to this document, a second was held, a third was held, one was adjourned,
22 two were held -- two were held, correct, with regard to Judge Grisanti's
23 name?

24 A. Yes.

25 Q. Okay. So with regard there were different calls, I believe you had

(Matthew Allen Lazroe - Redirect)

1 mentioned at least one call with Judge Grisanti in this case?

2 A. Yes.

3 Q. And that would have been one of the conferences that was held?

4 A. Yes.

5 Q. Okay. Is it consistent with your memory of whether or not any other
6 conferences were held indicated by this document?

7 A. What do you mean? Could you clarify that?

8 Q. Yeah, it's a bad question. Yeah, I will clarify it. You remember, at least
9 clearly, that one -- at least one phone call was held --

10 A. Yes.

11 Q. -- a conference regarding this case? The chart I just referenced indicates
12 there were, I believe, six or five conferences that were held with Judge
13 Grisanti.

14 A. Yes.

15 Q. Okay. Is that your recollection that this is an accurate chart?

16 A. I don't think that all of these were held. I think this was right at the start
17 of COVID and everything was done by phone. So I mean, I recall having
18 a couple conferences with the judge. At least one the other attorney
19 didn't show up, to try to resolve the matter and then nothing was ever
20 resolved.

21 Q. All right.

22 MR. DUGUAY: I have no further questions.

23 RECROSS EXAMINATION

24 BY MR. DOYLE:

25 Q. In your -- very briefly. In your experience, are there times when a

(Matthew Allen Lazroe - Recross)

1 conference is scheduled with a judge but it's a law clerk who actually
2 conducts it?

3 A. Yes.

4 Q. All right. And do you know at this time whether it was Mr. Curella, who
5 was Judge Grisanti's clerk?

6 A. Yes.

7 Q. Do you remember any conferences with him on this case or other cases?

8 A. I can't be certain, but there were times over during this COVID shutdown
9 that I would get a call from clerks --

10 Q. All right.

11 A. -- trying to find out what the judge.

12 Q. And Mr. Curella was well-known to you from the Foreclosure Part, right?

13 A. Yes.

14 Q. And you were known to him?

15 A. Just through the Foreclosure Part.

16 Q. Okay.

17 A. Not personally or anything.

18 Q. And whatever conference or phone calls that there were, were any
19 judicial decisions made that you recall in this --

20 A. No, this case went nowhere.

21 Q. Okay. All right. Thank you.

22 MR. DUGUAY: I have no follow-up.

23 THE REFEREE: I just got a couple clarification
24 questions. The agreement you had to purchase the goodwill
25 of the judge's law practice was between you, the judge, and

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Peter Pecoraro?

THE WITNESS: Yes.

THE REFEREE: When did Mr. Pecoraro die, do you know?

MS. TRAPANI: Excuse me, Mr. Easton, I'm sorry. Your microphone appears to be --

THE REFEREE: Covered by paper there. Sorry.

MS. TRAPANI: Thank you.

THE REFEREE: Violated my own directives. Are you aware of when Mr. Pecoraro died?

THE WITNESS: I mean, I would -- yes. I was in the hospital when he died. I mean, the month --

THE REFEREE: Yeah. The year or --

THE WITNESS: I want to say it was 2018.

THE REFEREE: Okay.

THE WITNESS: I don't recall the month.

THE REFEREE: Are you aware of payments that he made in connection with the practice or purchasing the goodwill of the practice?

THE WITNESS: No. We had separate accounts. We didn't commingle anything. I just made my payments to Judge Grisanti, and then I assumed Peter was making payments on his own. I wouldn't know either way.

THE REFEREE: And after he passed away, did

(Matthew Allen Lazroe - Recross)

1 you have any conversations with the judge about any
2 amount due and owing from Mr. Pecoraro's involvement in
3 the purchase?

4 THE WITNESS: No. It was -- I mean, when
5 Mr. Pecoraro died, his family came in and took all the files
6 out of my office. Kind of without any notice to me and,
7 you know, I spoke with them about what was going on and
8 they said they were settling it up everything with Mark. I
9 had no way. And then they cut me off. They don't even
10 talk to me anymore. Which was surprising. And after that,
11 I made up my last payment and then that -- Judge said
12 everything was all set.

13 THE REFEREE: Okay. I have nothing further.
14 Either party can cross -- or question in connection with my
15 questions?

16 FURTHER RECROSS EXAMINATION

17 BY MR. DOYLE:

18 Q. And so I thought I asked this but just to clarify, so after Mr. Pecoraro's
19 death, the judge never contacted you about settling up whatever he
20 owed --

21 A. No.

22 Q. -- if he owed anything. You just paid your half or --

23 A. Yes.

24 Q. -- the little more than half. I think \$2,000.

25 A. I mean, when that whole thing went down with the files, I think he

1 mentioned, like, he could go after the estate -- to go after Peter's estate for
2 that money, and then you know, I might have had some claims because
3 towards the end Peter, you know, I was helping Peter out and -- with
4 some files, but you know, we just let everything rest with the family --

5 Q. I.

6 A. -- and I have no -- I don't know what happened between the judge and
7 Peter's family, or the estate, or any money.

8 Q. Thank you.

9 THE REFEREE: Mr. Duguay?

10 MR. DUGUAY: Nothing further. Thank you.

11 THE REFEREE: You're discharged, Mr.

12 Lazroe. Thank you.

13 THE WITNESS: All set. Okay.

14 MS. TRAPANI: May we go off the record?

15 THE REFEREE: Yes.

16 (Recess from 3:47 p.m. to 4:04 p.m.)

17 MS. TRAPANI: Thank you. Okay. We're on
18 record.

19 THE REFEREE: Okay. June 14th,
20 approximately four o'clock. Let's conclude for the day, but
21 before we do, is there an application to admit certain items
22 of evidence?

23 MR. DUGUAY: There is. Thank you, Mr.
24 Easton. The Commission would move the entry into
25 evidence at this time the Exhibits 23 through 27, which are

1 the financial disclosure statements from 2/15 through 2/19
2 and also move into -- enter into evidence at this time,
3 Commission 28, which is an email dated August 11, 2021
4 from Billie Jo Zakia to the Commission.

5 (Commission Exhibits 23 through 28 were marked for
6 identification)

7 MR. DOYLE: No objection.

8 THE REFEREE: No objection? Received.

9 (Commission Exhibits 23 through 28 were admitted into
10 evidence)

11 THE REFEREE: I think that is all the exhibits
12 that were at least on the initial exhibit sheet from the
13 Commission?

14 MR. DUGUAY: That's correct, Mr. Easton.
15 We have no more exhibits we're moving at this time.

16 MR. DOYLE: I think there is, let's see, I don't
17 think number 10 is in.

18 MR. DUGUAY: And we're not moving to
19 admit that.

20 MR. GATELY: Okay.

21 MR. DUGUAY: I believe for the record, at
22 least my notes reflect that Exhibits 3, 4, 8, and 10 have not
23 been moved into evidence.

24 MR. DOYLE: Same as mine.

25 THE REFEREE: But ID'd -- or --

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MR. DUGUAY: They have been ID'd, not been moved in, yes.

THE REFEREE: All right. Then we're done for the day, and we'll resume tomorrow at two o'clock.

MR. DOYLE: Okay.

MS. TRAPANI: Excuse me.

MR. DUGUAY: Just for clarification, I don't believe that Exhibits 3 and 10 from the Commission were actually ID'd at any point --

THE REFEREE: Okay.

MR. DUGUAY: They were ID'd on the list but not ID'd at the hearing. Just for clarification.

THE REFEREE: Thank you.

MR. DUGUAY: Thank you.

MR. CONNORS: Should we move these back? (Unintelligible).

MS. TRAPANI: I'm sorry, Mr. Easton, are we --

THE REFEREE: We're done. Off record. (Proceedings ended at 4:06 p.m.)

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CERTIFICATION

I, Chandelle Paccione, do hereby certify that the foregoing is a true and accurate transcript of the audio recording described herein to the best of my knowledge and belief.

Dated: July 1, 2022



Chandelle Paccione



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

-----X

In the Matter of an Investigation :
Pursuant to Section 44, subdivision 4, :
of the Judiciary Law in Relation to :

MARK J. GRISANTI, :

a Judge of the Court of Claims, :
Acting Supreme Court Justice, :
Erie County. :

-----X

Erie County Family Court, Part 3
One Niagara Street, 7th Floor
Buffalo, New York 14202

June 15, 2022
2:09 p.m.

B e f o r e:

WILLIAM T. EASTON, ESQ.
Referee

P r e s e n t:

For the Commission
JOHN J. POSTEL, Deputy Administrator

DAVID M. DUGUAY, Senior Attorney

For the Respondent
TERRENCE M. CONNORS, Esq.

VINCENT E. DOYLE, III, Esq.

TYLER GATELY, Esq.

A l s o P r e s e n t:

HON. MARK J. GRISANTI, Respondent

KATHRYN TRAPANI, Executive Assistant to the Deputy Administrator

VANESSA MANGAN, Senior Investigator



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THE REFEREE: The resumption of the hearing is June 15, about 2:07. We're going to resume. I think we introduced some exhibits at the end of the business day yesterday, and I think with certain provisos on the record, the Commission has rested, and the case now turned over to the Respondent.

And I don't know what witnesses you have ready to go, Mr. Connors?

MR. CONNORS: We have Mr. Joseph Contino.

THE REFEREE: Okay. Call him.

Good afternoon.

MR. CONTINO: How you doing?

THE REFEREE: Good.

MR. CONTINO: Good.

THE REFEREE: I'm William Easton. I'm an attorney from Rochester, and I have been designated to sit as a referee/finder of fact for this hearing. And I will conduct the hearing and issue at the end of the hearing proposed findings of fact and law. And one thing I'd like to direct your attention to, because it's a little unusual, is that the mic in front of you is really for recording purposes. It doesn't project your voice out at all.

MR. CONTINO: Okay.

THE REFEREE: So direct your voice into it, but speak as though the mic is not functional, which it isn't,

(Joseph Contino - Direct)

1 and project your voice outward.

2 MR. CONTINO: Okay.

3 THE REFEREE: Other than that, I'll administer
4 the oath to you so you can proceed.

5 Do you swear or affirm under penalties of
6 perjury that the testimony you're about to give is the truth,
7 the whole truth, and nothing but the truth?

8 MR. CONTINO: I do.

9 THE REFEREE: You may proceed.

10

11 JOSEPH CONTINO

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

13

14 DIRECT EXAMINATION

15 BY MR. CONNORS:

16 Q. Will you please state your name for the record, sir?

17 A. Joseph Contino.

18 Q. No middle initial?

19 A. None. My mom didn't want me to be a junior.

20 Q. I'd like you to tell the hearing officer a little bit about your background.

21 First of all, how old are you?

22 A. 67.

23 Q. Tell me about your educational background.

24 A. Well, I have a BA in History from the University of Buffalo, and as a
25 financial advisor -- when I first got into the financial world, I took tests --

(Joseph Contino - Direct)

1 series licensing tests to be a stockbroker. Series 7, Series 8 to be an
2 Office Manager, Series 23, 24 to be a Supervisor, and currently take
3 advanced courses as part of my continuing education requirements in my
4 work.

5 Q. Are those licenses regulated by the state or federal government?

6 A. Both SEC and New York State.

7 Q. And how did you obtain those licenses? Did you have background
8 checks and things of that nature?

9 A. Oh, yes. Fingerprint checks, background checks by the SEC, correct.

10 Q. Will you tell me what your employment history has been, please?

11 A. Well, after school, I opened up an ice cream store in a now defunct mall
12 called the Courtyard Mall, downtown Buffalo. It was the first food court
13 of its kind in the city. It was actually very exciting. I was in my
14 twenties. Met a lot of people there that I'm still friends with.
15 But then I ended up selling that with a -- for a business opportunity with a
16 local startup firm in Indiana. I was kind of the office manager for the
17 Buffalo participants. It was a -- at the time, it was like an adventure for
18 producing oil. This was during the oil crisis to di -- to convert waste coal
19 into oil. And it worked in theory, but it didn't work in practicality, so that
20 closed.

21 And meanwhile, my wife was in Saint Louis working, and so I went there
22 because at the time, I decided to pursue a career in the financial world.

23 So I started working there with EF Hutton back in the day, and then
24 moved back to Buffalo. Worked at the firm called Olde Discount in the
25 Statler, and then from there Charles Schwab, where I worked for about 15

(Joseph Contino - Direct)

1 years. Currently, I'm working for Dopkins Wealth Management out in
2 Williamsville.

3 Q. What is Dopkins Wealth Management?

4 A. I'm sorry?

5 Q. What is it?

6 A. Oh. Dopkins -- we're part of Dopkins, an accounting -- a fine local
7 accounting firm, and I'm in the wealth management division. We manage
8 retirement assets, assets for individuals, 401K, pension plans.

9 Q. Is that what you do yourself?

10 A. Yes.

11 Q. Okay. Does your family have any connection to the legal field?

12 A. Yes. My dad is a retired lawyer. My father-in-law was a retired lawyer.
13 And my daughter is currently an IP lawyer in Raleigh, North Carolina.

14 Q. Okay. Where did she start her employment in the law?

15 A. Krista went to Carnegie Mellon and got her degree at Pitt Law, and then
16 she worked in the IP field in D.C., when she had the opportunity to be a
17 federal clerk at the circuit -- I don't know the exact number. It's like the
18 second highest court in Washington, D.C. Great opportunity for her; she
19 was there a couple of years. She got to have lunch with all the female
20 Supreme Court justices. Pretty exciting time for her. We're pretty proud
21 of her.

22 Q. Are you married?

23 A. Yes.

24 Q. What's your wife's name?

25 A. Jeanne, J-E-A-N-N-E.

(Joseph Contino - Direct)

1 Q. And long you been -- have you been married?

2 A. 36 years.

3 Q. Do you have any other children other than Krista?

4 A. We do not.

5 Q. Where do you presently live?

6 A. [REDACTED]. [REDACTED] [sic] Drive,
7 excuse me.

8 Q. When did you move to that location?

9 A. It was March of last year, 2021.

10 Q. Did you ever live on [REDACTED] Avenue?

11 A. Yes, I did. For 30 years.

12 Q. What was your address on [REDACTED] Avenue?

13 A. 22.

14 Q. Okay.

15 MR. CONNORS: Would you pull up Exhibit
16 DD, please?

17 BY MR. CONNORS:

18 Q. So Mr. Contino, we're showing you Exhibit DD, which has been received
19 into evidence.

20 A. Right.

21 Q. Can you identify where your home was in June of 2020?

22 A. Right where our name is, number 22.

23 Q. So that would be immediately to the right of the Mele home as you're
24 looking at it?

25 A. That is correct.

(Joseph Contino - Direct)

- 1 Q. Is that where you lived for the entire time that you were on [REDACTED]
2 Avenue?
- 3 A. Yes, it was.
- 4 Q. Do you remember when you first moved there?
- 5 A. Yeah, it was about 30 years ago. It was 1991, I believe.
- 6 Q. Okay. And you lived there up until you moved to [REDACTED]?
- 7 A. Correct.
- 8 Q. So I think you've established this already but let me just be sure for the
9 record. Were you living there on June 22, 2020?
- 10 A. Yes, I was.
- 11 Q. On June 22, 2020, did you see and hear an interaction between the Mele
12 family and the Grisanti family?
- 13 A. Yes, I did.
- 14 Q. Where were you located when the interaction began?
- 15 A. I was in my back yard reading the paper.
- 16 Q. How could you hear anything from your back yard?
- 17 A. Well, it's all -- it looks -- it's hard to tell here, but it's only about 30 or so
18 feet from the front of their driveway to my back yard. So I could hear
19 everything quite clearly.
- 20 Q. What did you hear?
- 21 A. I heard a lot of yelling, screaming, swearing. And then I came around to
22 the front of my house to hear and see what was going on.
- 23 Q. So that was my next question, what did you do when you heard that
24 commotion?
- 25 A. Yeah. So I went around, stood in my driveway, and was -- and

(Joseph Contino - Direct)

1 watched -- and saw what -- basically what had happened.

2 Q. Was your wife present at 22 [REDACTED] on June 22, 2020?

3 A. Yes, she was.

4 Q. Did she observe the incident between the Mele family and the Grisanti
5 family as well as you?

6 A. Not exactly. She was not there at the initial. She was actually there kind
7 of after it was over.

8 Q. And was there anyone else living in your home at that time?

9 A. No.

10 Q. Do you remember what time of day or night it was when you first heard
11 the commotion on --

12 A. Well, early evening around 8:30-ish, something like that.

13 Q. Okay. What were you doing in your back yard?

14 A. Reading the paper.

15 Q. Okay. And where in your back yard were you located, approximately?

16 A. There's a -- we have a back porch right behind the house. I was right
17 there.

18 Q. Okay. Now, when you walked out to the front, what route did you take?

19 A. Well, right out my porch and right out -- around the corner and then
20 down the driveway.

21 Q. Did you --

22 A. Now, these are little capes, so it's not very big, so.

23 Q. And when you arrived to the front of your home, where were you
24 located?

25 A. The lower right corner there, right -- if you -- if that -- over where the

(Joseph Contino - Direct)

1 hedges are right at the corner of the house.

2 Q. Okay. And when you say the corner of the house, you're talking about
3 the corner of 22 [REDACTED]

4 A. Correct.

5 Q. Okay. Would it be the south corner or the north corner?

6 A. North.

7 Q. Okay. So tell me what you saw when you arrived at that location.

8 A. So I looked out -- walked out, heard the commotion, saw in the street
9 there the Meles and their -- I found out later it was the sister -- arguing
10 with Mark and Maria and the -- at the end of their driveway swearing at
11 each other. Next thing I knew -- back and forth. Next thing I know there
12 was a altercation. The girls went at Maria; Mark tried to get in there. Joe
13 tried to get in there. Next thing you know, Joe and Mark get squared off.
14 The girls -- the two sisters dragged Maria -- had her in a chokehold.
15 Mark tried to break it up. Joe was there, involved. They kind of went
16 across the street to the Grisanti's driveway, kind of like a wrestling match,
17 for lack of a better word.

18 Q. Okay. Let me stop you there. You said that Maria was in a chokehold of
19 some kind?

20 A. Yes. Gina and the sister kind of -- one had around the neck and the other
21 one was, like, pulling her hair and grabbing her; correct.

22 Q. Where were they located when that occurred on [REDACTED] Avenue?

23 A. They were right in the middle of the block, right where the D is, to be
24 perfectly honest.

25 Q. Okay. All right. And what was Mark doing at that time?

(Joseph Contino - Direct)

1 A. Well, he was trying to get them off of his wife, pulling them apart. And
2 Joe went to get at Mark.

3 Q. When you say Joe, are you referring to Joe Mele?

4 A. Correct.

5 Q. What did he do when he went to hit at Mark?

6 A. Well, he grabbed him, you know, yelling at him. "You want a piece of
7 me?" Then next thing you know, they were wrestling separately from the
8 women, all in the middle of the street.

9 Q. Did you ever see Mark Grisanti throw a punch at Mele?

10 A. Never.

11 Q. Did you ever see Mark Grisanti throw a punch or any physical contact
12 with Gina Mele?

13 A. Never.

14 Q. And did you ever see Mark make any physical contact with Theresa
15 Dantonio, the sister of Gina Mele?

16 A. Never.

17 Q. Can you recall -- you told us somewhat of the words that you heard, but
18 can you recall anything that Joe Mele said to Mark when the incident
19 began?

20 A. Yeah. While they were yelling back and forth, Joe screams out, typical,
21 "You want a piece of me? You want a piece of me?" Like in some
22 gangster movie. And you know, nothing really happened until they all
23 just kind of converged in the middle of the street again. Mark did -- tried
24 to get Maria away, and then they just attacked her, and then all hell broke
25 loose.

(Joseph Contino - Direct)

1 Q. Did you see who was the aggressor in that confrontation?

2 MR. POSTEL: Objection. Phrasing of the
3 question -- form of the question.

4 THE REFEREE: Sustained.

5 BY MR. CONNORS:

6 Q. What was Mark doing when Joe was making those comments?

7 A. He was, like, trying to kind of get Maria away from the other two, and the
8 three of them in general, just trying to diffuse the situation.

9 Q. At any time that evening, did you ever hear Mark Grisanti say he was a
10 judge?

11 A. Never.

12 Q. At any time that evening while you were present, did you ever hear him
13 try to use his position as a judge to influence anyone?

14 A. Never.

15 Q. Did there come a time when the argument between the families moved
16 from the Mele side of the street to the Grisanti side of the street?

17 A. Yes. It kind of drifted toward the Grisanti driveway. Started at the --
18 kind of the end of the Meles and just drifted over to the apron of their
19 driveway current.

20 Q. Did you see that happen?

21 A. Yes, I did.

22 Q. What did you see when it drifted over to the Grisanti side of the street?

23 A. Well, like I said, Joe Mele and Mark were grappling, wrestling. Maria
24 had kind of escaped from the two girls -- two other women. They went
25 on their side. Mark and Joe were still going at it. Joe kind of tumbled,

(Joseph Contino - Direct)

1 fell on Mark's driveway while grappling with Mark, landed down on the
2 ground. And then Mark kind of stepped away. They were -- he was in
3 his driveway, and at that time, the Meles kind of retreated to their side.
4 Mark and Maria kind of went on their lawn. And then, basically, the
5 physical confrontation was over.

6 Q. Did you see Joe Mele trip and fall?

7 A. Yeah. I would say he fell on the driveway kind of lunging at Mark.

8 Q. On the Grisanti's side of the street?

9 A. Yeah, it was at the end of their driveway.

10 Q. Did you see him actually on the ground?

11 A. On the ground? Joe on the ground? Yes.

12 Q. Did Mark do anything or advance on him at all --

13 A. No.

14 Q. -- while he was on the ground?

15 A. Nope. Sorry. No, just kind of stepped away, stood there.

16 Q. Did there come a time when the police arrived?

17 A. Yes, shortly thereafter, maybe five minutes, a patrol car pulled up. Two
18 officers were in it.

19 Q. So what's your best estimate as to how long after the events that you
20 described, the police arrived on the scene?

21 A. Well, from the very beginning till when it kind of diffused, maybe ten
22 minutes at the most.

23 Q. Did you keep continuous watch on what was going on from the Mele side
24 of the street until it drifted over into the Grisanti side of the street?

25 A. Yes. Yes, I did.

(Joseph Contino - Direct)

1 Q. Where were you standing?

2 A. Once again, I had drifted down my driveway a little more, and I was
3 standing maybe three-quarters, right at the -- if you can picture where that
4 almost-triangle is, I was standing right there next to the side of our little
5 parcel there of grass.

6 Q. Okay.

7 A. I was able to see just about everything.

8 Q. Did you do anything to try to stop the interaction between the parties?

9 A. Unfortunately, I did not.

10 Q. Why not?

11 A. Well, to be perfectly candid, we've been afraid of the Meles --

12 MR. DUGUAY: Objection.

13 THE REFEREE: Basis?

14 MR. DUGUAY: That -- I believe I heard him
15 not answering specifically what the question was asking.

16 MR. CONNORS: No, he answered it.

17 MR. DUGUAY: All right.

18 MR. CONNORS: He still --

19 MR. DUGUAY: I'll withdraw my objection.

20 MR. CONNORS: You may continue.

21 THE REFEREE: Do you recall the question,
22 Mr. Contino?

23 THE WITNESS: Not exactly.

24 BY MR. CONNORS:

25 Q. Did you do anything to try to stop the interaction between the Meles and

(Joseph Contino - Direct)

1 the Grisantis?

2 A. No, I did not.

3 Q. Why not?

4 A. And once again, we've been afraid of the Meles for years and years now.

5 He's a big guy. I frankly didn't want to get hurt.

6 Q. Why were you afraid of them?

7 A. Well, from years and years of verbal abuse, garbage throwing in our yard,

8 harassment, swearing at us --

9 MR. DUGUAY: Objection of relevant

10 response. Not pertinent to the charges.

11 THE REFEREE: I'll overrule it.

12 A. I mean, a history of just being extremely, extremely mean and threatening

13 to us. So I -- like I said, I saw not only that, but I mean, I've seen

14 incidents in the past with incidents with other neighbors all involving

15 them.

16 MR. DUGUAY: Objection. Objection. It's

17 collateral --

18 THE REFEREE: I'll sustain it as to the other

19 neighbors, but --

20 THE WITNESS: Okay.

21 A. But the fact of the matter is, I was -- my wife and I were both very afraid

22 of that family.

23 MR. DUGUAY: Objection to what is -- what

24 he's -- what his state of mind was.

25 THE REFEREE: I'll overrule it.

(Joseph Contino - Direct)

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BY MR. CONNORS:

Q. Did you discuss your fears with the Grisantis prior to June 22, 2020?

A. Yes.

MR. DUGUAY: Objection. Asking for
hearsay.

MR. CONNORS: No, I haven't. Just asked if
he discussed it.

THE REFEREE: It's a yes, no.

BY MR. CONNORS:

Q. So your answer is you did discuss it?

A. Yes. They knew of the incidents that they did to us.

Q. Okay.

THE REFEREE: Oh.

MR. DUGUAY: Objection. Response.

THE REFEREE: Yeah, it -- focus on the
question, and then answer the question posed, and I think
the --

BY MR. CONNORS:

Q. I simply wanted to know if prior to June 22, 2020, you discussed with the
Grisanti family your interactions with the Meles?

A. Yes.

Q. Okay. How many police officers arrived on the scene initially?

A. Two.

Q. How many cars?

(Joseph Contino - Direct)

1 A. One.

2 Q. Where did they pull up on [REDACTED] Avenue?

3 A. They were actually in front of our house, 22.

4 Q. And what did you observe the police officers do when they arrived?

5 A. Well, they got out. One went to the Mele family, and one went to talk to
6 Mark and Maria.

7 Q. Where were you standing at the time?

8 A. The same place that I had been the entire time when I was watching the
9 incidents.

10 Q. Was there still shouting going on between the two families?

11 A. Yes. Yes, there was.

12 Q. What did you see and hear?

13 A. Well, Maria was very upset with Gina. Mark yelling at Joe; Joe swearing
14 back at Mark. Just anger vented as a result of the fight.

15 Q. What did you see the officers do at that point?

16 A. Well, one -- like I said, one went to Meles side, one went to Grisantis.
17 Started talking to each group. I'm assuming getting their side of the
18 story, trying to diffuse the situation, trying to calm them down. Because
19 there was -- the police were there, and there was shouting between the
20 two groups while the police were there.

21 Q. Do you remember which officer went to the Grisantis and which officer
22 went to the Meles?

23 A. I do not.

24 Q. So what was the next action that you saw the police take after they
25 arrived and went to visit with the Meles and visit with the Grisantis?

(Joseph Contino - Direct)

- 1 A. What happened next -- the officer that was talking to the Meles --
2 Meles -- turned around and ran across the street towards Maria, who was
3 on her lawn, grabbed her, was yelling at her, grabbed her by the shoulders
4 and threw her to the ground, and put her on her stomach and cuffed her
5 and then put her back on her feet.
- 6 Q. What was Maria doing at the time?
- 7 A. She was just yelling. Just yelling at the Meles. She might have been
8 yelling at the police. Just kind of yelling.
- 9 Q. Was she on her property?
- 10 A. Yes.
- 11 Q. Whereabouts?
- 12 A. On her front lawn.
- 13 Q. What was Mark doing at the time?
- 14 A. Mark was a few feet away from her, once again, just kind of watching,
15 talking to the officer, trying to diffuse the situation.
- 16 Q. Was he talking to the other officer, or was he talking to the officer that
17 came across the street to handcuff Maria?
- 18 A. He was talking to the other officer.
- 19 Q. Where were they standing approximately?
- 20 A. Right in the middle of their lawn.
- 21 Q. Okay.
- 22 A. Just a few feet from where Maria was standing.
- 23 Q. And as the officer crossed the street towards Maria, what did Mark do?
- 24 A. Well, after that -- after he tackled her -- excuse me, after he threw her
25 down and cuffed her, then Mark went up to him, kind of said, "What are

(Joseph Contino - Direct)

1 you doing? Take the handcuffs off my wife." Visibly upset at how they
2 were treating Maria.

3 Q. Did he make any contact with the police officer that you saw?

4 A. He -- you know, he, like, kind of, "What are you doing?" You know, that
5 type of gesture. Not a shove, not a push, just put his hand, "What are you
6 doing to my wife? Why do you have her in cuffs?" Things like that.

7 Q. So let the record reflect that you were making a gesture with your hand --
8 your right hand -- in the direction of the police officer. Is that what you
9 were trying to signify?

10 A. Right. That's correct.

11 Q. So what did you see after that encounter occurred?

12 A. Well, then Mark was visibly upset at how his wife was treated and
13 handcuffed, talking to the other officer. The -- let me think. I believe --
14 and the other officer also just started getting in Mark's face, and telling
15 him to be quiet, "I'm doing the talking. Let me do the talking. I don't
16 want to hear anything more from you." And I mean, and then Mark
17 stopped talking.

18 Q. What were the Meles doing at this time?

19 A. They were on their property yelling. I don't specifically remember
20 anything that they were doing, per se. There were -- there was no other
21 officers there at the time.

22 Q. Did you see whether or not the officers took Mark into custody?

23 A. Yes. Yes, after the confrontation with the other officer, when he kept
24 saying to stop talking, and then eventually he said, "Put your hands
25 behind you," and he cuffed Mark as well.

(Joseph Contino - Direct)

1 Q. Did Mark comply with that?

2 A. Yes, he did.

3 Q. Do you realize, Mr. Contino, that you're testifying in a proceeding that
4 involves charges against Mark Grisanti by the State Commission on
5 Judicial Conduct?

6 A. Yes, I do.

7 Q. And have you been made aware of that?

8 A. Yes, I have.

9 Q. Okay. And you've just told us you saw and heard the argument on July
10 [sic] 22, 2020 between the Mele family and the Grisanti family?

11 A. Yes, I did.

12 Q. Did you also have an opportunity to take a look at the video?

13 A. Yes, I did.

14 Q. Do you realize that one of the charges in this particular matter is that
15 Mark engaged in a physical confrontation with the Buffalo Police -- with
16 a Buffalo police officer?

17 A. I am aware of that, yes.

18 Q. And what is your description of what happened between Mark and the
19 Buffalo police officer that you saw firsthand?

20 A. I would call it less than a shove. I would just call it putting your hand on
21 someone to say, "Stop whatever it is you're doing," would be my best
22 description.

23 Q. What was happening to Maria at the time Mark did that?

24 A. At the time, she was placed in the back of the patrol car.

25 Q. No, at the time of the contact between --

(Joseph Contino - Direct)

1 A. Oh. Maria was there in cuffs on the lawn, visibly upset. There was
2 another policeman there. She was kind of yelling, "I'm not going to hurt
3 anybody. I'm not a threat." Things of that nature.

4 Q. Was Mark upset?

5 A. Absolutely. I mean, who wouldn't be?

6 Q. And --

7 MR. DUGUAY: Objection.

8 BY MR. CONNORS:

9 Q. Did you ever see him as upset as he was that evening?

10 A. I did not.

11 Q. And --

12 MR. DUGUAY: I'm sorry.

13 BY MR. CONNORS:

14 Q. And I meant to encompass in the 30 years that you've known him, did
15 you ever see him as upset as that?

16 A. Never.

17 Q. Did you hear Mark use any vulgar language?

18 A. Yes, I did.

19 Q. Okay. And did you hear him use it that evening on June 22, 2020?

20 A. Yes, I did.

21 Q. In what context did you hear him use that vulgar language?

22 A. Being upset at the treatment of his wife, at the confrontation with the
23 Meles. Basically those two incidents.

24 Q. Had you ever, in all the years you've known Mark Grisanti, heard him use
25 that language?

(Joseph Contino - Direct)

1 A. Never.

2 Q. What was your observation of his level of excitement in that evening?

3 A. He was visibly agitated. One, after a physical confrontation, and
4 secondly, after you see your wife thrown to the ground and handcuff --

5 MR. DUGUAY: Objection to the part of the
6 response.

7 THE REFEREE: Sustained.

8 BY MR. CONNORS:

9 Q. You described it? You finished your description about his emotional
10 state?

11 A. Visibly upset.

12 Q. Okay. Did you hear Mark make any threats that evening?

13 A. I don't know if you'd call it a threat.

14 Q. What did you hear?

15 A. I just heard him say that -- something to the effect that, you know, "After
16 all this is said and done, things won't go well for you." Something to that
17 effect. I don't remember the exact words.

18 Q. Did you hear him mention the fact that he had relatives on the police
19 force?

20 A. Yes. Right. His -- he has two children -- or Maria's two children are
21 members of the City Police.

22 Q. What was the context in which you observed those comments?

23 A. He -- when he was upset, he -- talking to the policeman in cuffs, he had
24 mentioned, "I have two family members that are on the force."

25 Q. Did you yourself consider that to be a threat?

(Joseph Contino - Direct)

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MR. DUGUAY: Objection.

THE REFEREE: Sustained.

BY MR. CONNORS:

Q. What did you consider those comments to reflect?

A. Just someone upset about their wife. Not -- certainly not a threat.

Q. Did you hear him mention the name Mayor Brown at all that evening?

A. Not really, I did not.

Q. Okay. So you're not saying it was or wasn't mentioned, you just don't recall hearing it?

A. I don't recall it, no.

Q. Do you know the neighbors Linda and Jerry Chwalinski?

A. Yes, I do. Very well.

Q. And is their home identified in this particular exhibit, DD, which has been marked into evidence?

A. Correct. Number 15. They're the Grisantis neighbors.

Q. So they would be next door to the Grisanti home?

A. Correct.

Q. Without telling me what the discussion was, have you discussed any of your interactions with the Meles with the Chwalinskis?

A. Yes, many times.

Q. In the time that you lived on [REDACTED] Avenue, did you interact with the Grisantis?

A. Yes, on social events. We were at probably three different backyard parties of theirs. We talk on the street, on the front lawns like typical neighbors.

(Joseph Contino - Direct)

1 Q. Do you consider them to be friends of yours?

2 A. Yes.

3 Q. Have you interacted with them socially since you moved away?

4 A. We have not.

5 Q. Do you know others in the community of North Buffalo that also know
6 the Grisantis?

7 A. Yes. Yes, I do.

8 Q. And are you aware of Judge Grisanti's actions and activities in the
9 community of North Buffalo?

10 A. Yes, I am.

11 Q. And have you had some opportunity to discuss his actions and activities
12 in the community of North Buffalo with other members of that
13 community?

14 A. Not the community at large. More our neighborhood.

15 Q. Okay. And based upon that knowledge and the information of your
16 neighborhood community, are you aware of Mark's reputation within that
17 community for honesty and integrity?

18 A. Absolutely.

19 Q. What's his reputation?

20 A. Well, when he was our Assemblyman, he was -- or State Senator, I'm
21 sorry, I don't remember which one -- extremely hardworking. I mean,
22 diligent, used to see him pacing at night.

23 MR. DUGUAY: Objection. Not responsive to
24 the question. Sorry.

25 THE REFEREE: Yeah. Excuse me. The

(Joseph Contino - Direct)

1 question reread to you is what he asked you for.

2 THE WITNESS: Okay. I'll do my best.

3 MR. CONNORS: I can rephrase if you want.

4 THE REFEREE: You can rephrase.

5 (Unintelligible).

6 BY MR. CONNORS:

7 Q. Okay. I'm asking for the discussions with the community members.

8 What came up with respect to him and his honesty and integrity?

9 A. That he was an extremely hard worker in both the Assembly or the
10 State --

11 MR. DUGUAY: Objection. Response.

12 Withdrawn.

13 THE REFEREE: You can proceed.

14 A. I --

15 BY MR. CONNORS:

16 Q. Go ahead. They --

17 A. He was --

18 Q. You're allowed to discuss it.

19 A. -- looking out for our community. I don't know what else to say.

20 Q. In addition, within that community, was there some discussions about
21 Mark's character traits and personality?

22 A. He was extremely nice. He was a great neighbor.

23 Q. Okay. And was there discussions about Mark's reputation for
24 peacefulness in the community of North Buffalo that you're aware of?

25 A. Honestly, on peacefulness, not really sure if you could define it that way,

(Joseph Contino - Direct)

1 I'll be honest.

2 Q. Okay. Just that's not your experience?

3 A. No, it's just never really came up in conversations, peacefulness.

4 Q. Had you ever seen him in a confrontation like he was on June 22, 2020?

5 A. Never.

6 Q. I take it you know that he's a judge?

7 A. Yes, I do.

8 Q. And when did you learn that?

9 A. Pretty much when he was appointed. I made sure to call him Judge every
10 time I saw him out of a sign of respect.

11 Q. And within that same community that we discussed before, do you have
12 an opinion as to whether or not Mark promotes confidence, integrity, and
13 impartiality in the judiciary?

14 A. Oh, absolutely.

15 Q. What's your opinion?

16 A. That he is. He really does a great job. I mean, I've -- I read some of his
17 rulings in, you know, in the Buffalo News, so I'm aware of some of the
18 things he's done. Not a lot, but some of the high-profile cases, I'm aware
19 of what he's done.

20 Q. Is that an opinion shared by others within the community?

21 A. I would think so, yes.

22 Q. Now, you told us that you lived there up until March 6, 2021, I think?

23 A. That's correct.

24 Q. And that's when you moved to [REDACTED]?

25 A. Correct.

(Joseph Contino - Direct)

1 Q. Why did you move?

2 MR. DUGUAY: Objection.

3 THE REFEREE: Overruled.

4 A. Why did we move? Because of the Meles. And that fight on the street
5 was the last straw. My wife wanted to leave well before that. I always
6 pushed back.

7 MR. DUGUAY: Objection. It's gone beyond
8 the question at this point.

9 THE REFEREE: Yes, sustained.

10 A. Sorry.

11 BY MR. CONNORS:

12 Q. It's all right. You just give me -- if you can confine it to the reasons why
13 you moved off [REDACTED] Avenue.

14 A. Some of the previous incidents of harassment by them against us. My
15 wife literally feared for her life after her life was --

16 MR. DUGUAY: Objection.

17 THE REFEREE: Yeah, I'll sustain it.

18 A. Okay. Harassment. That fight was the last straw for us. We started
19 looking the very next day.

20 MR. CONNORS: Thank you.

21 THE REFEREE: Cross examination?

22 MR. DUGUAY: Thank you, Mr. Easton.

23 CROSS EXAMINATION

24 BY MR. DUGUAY:

25 Q. Good afternoon, Mr. Contino.

(Joseph Contino - Cross)

1 A. Hello.

2 Q. You're not appearing pursuant to a subpoena, right? You're coming here
3 because you want to be here?

4 A. Correct.

5 Q. And you've been friends with Mark Grisanti for over 20 years, correct?

6 A. Correct, since they moved in.

7 Q. Okay. And you're here today out of a sense of loyalty? You want to help
8 Mark out. That's why you're here, right?

9 A. That's correct.

10 Q. Okay. And you spoke with Mark prior to coming here, didn't you?

11 A. Only the fact that they were going to be doing this --

12 Q. I didn't ask what you spoke about. I asked if you spoke with him prior to
13 coming here.

14 A. Yes.

15 Q. And you spoke with your wife prior to coming here, correct, about why
16 you were coming here?

17 A. Yes.

18 Q. And you spoke with Linda Chwalinski about why you were coming here,
19 correct?

20 A. I did not.

21 Q. Okay, June 22, 2020, you said you didn't see the whole incident, did
22 you?

23 A. I didn't see the very beginning.

24 Q. Okay. The question was you didn't see the whole incident, did you?

25 A. The whole incident, I guess not.

(Joseph Contino - Cross)

1 Q. You don't know when it began, do you?

2 A. I'm not sure I know what you mean.

3 Q. How did it start, do you know?

4 A. It started as a verbal confrontation.

5 Q. That's your belief, correct?

6 A. I heard it.

7 Q. Did you see Maria Grisanti come across the street to the Meles driveway?

8 A. I saw Maria in the street. I don't think she was ever on the driveway.

9 Q. Did you see Mark Grisanti cross the street and go into the driveway of the
10 Meles residence?

11 A. I saw him --

12 Q. That's a yes or no. Did you see Mark Grisanti cross in the Meles
13 driveway?

14 A. No.

15 Q. Okay. Did you hear Judge Grisanti, while standing in the Meles
16 driveway, call Joe Mele an "asshole"? It's not a tough question. Do you
17 understand the question?

18 A. I'm not sure.

19 MR. CONNORS: Well --

20 A. I might've. I can't remember. There was a lot of screaming going on at
21 the time.

22 BY MR. DUGUAY:

23 Q. Okay. But you refer to the Meles as "asshole" all the time, don't you?

24 You don't refer to them by name? You call them "asshole".

25 A. Yes, I do.

(Joseph Contino - Cross)

1 Q. And that's been for 20 years, right?

2 A. Not quite 20.

3 Q. Pretty close, right?

4 A. But pretty close. Ever since they started to harass us.

5 Q. All right. Did you hear Mark Grisanti say, "Come on, come on, come on.
6 What you got?" to Mark before the incident physically started?

7 MR. CONNORS: Excuse -- wait, excuse me, I
8 object to that. You said -- I think you --

9 MR. DUGUAY: I'm sorry. I keep doing it.
10 I'm -- I apologize.

11 MR. CONNORS: Yeah, I think you confused
12 the names. You said, "Did you see Mark Grisanti" --

13 MR. DUGUAY: Right.

14 MR. DUGUAY: -- "say 'Come on, come on,
15 come on'?"

16 MR. DUGUAY: Right.

17 BY MR. DUGUAY:

18 Q. Did you hear Judge Grisanti say to Joe Mele, "Come on, come on, come
19 on. What do you got? What you got?" prior to any physical encounter?

20 A. No, not at all.

21 Q. Did you hear Judge Grisanti call Mark a "fucking asshole"?

22 A. I'm confused. Judge Grisanti --

23 Q. I keep -- I apologize.

24 A. I'm --

25 Q. Right. Did you hear Judge Grisanti call Joe Mele an "asshole"?

(Joseph Contino - Cross)

1 A. Yes, I did.

2 Q. Did you hear Judge Grisanti call Joe Mele a "fucker"?

3 A. I don't know specifically.

4 Q. Did you hear Judge Grisanti tell -- or in speaking to Joe Mele, say, "You
5 want to go again, tough fucking guy"?

6 MR. CONNORS: Excuse -- object to the form
7 of that question. Are you reading from the transcript?

8 THE REFEREE: Is it the -- are you referring --

9 MR. DUGUAY: I am.

10 THE REFEREE: Overruled.

11 A. What was that again? Sorry.

12 BY MR. DUGUAY:

13 Q. Yeah, I'll repeat the question. Did you hear Judge Grisanti say to Joe
14 Mele, "You want to go again, tough fucking guy?"

15 A. I did not hear that.

16 Q. Okay. Did you hear Judge Grisanti say to Joe Mele, "I'll fucking flatten
17 your face again"?

18 A. I did not hear that.

19 Q. But yet you're standing -- you just testified you saw most of it, was your
20 testimony; is that true?

21 A. Yes, it was.

22 Q. Okay. You were standing across the street next to your house, correct,
23 because you were afraid?

24 A. Yes, exactly.

25 Q. Okay. You didn't record this at all, did you?

(Joseph Contino - Cross)

1 A. Well, to the police when they came up to us --

2 Q. But you made no recording of this event, did you?

3 A. No. I didn't have my cell with me.

4 Q. Okay. So you heard yelling and the commotion, and you didn't have your
5 cell to come outside and look, right?

6 A. You lost me there.

7 MR. CONNORS: I didn't -- excuse me.

8 MR. DUGUAY: Yeah. I'll withdraw the
9 question.

10 MR. CONNORS: Excuse me, I object to the --

11 THE REFEREE: It's withdrawn.

12 MR. CONNORS: Yeah.

13 MR. DUGUAY: I'll withdraw the question.

14 MR. CONNORS: Have your --

15 BY MR. DUGUAY:

16 Q. You said originally when this commotion started, you were in the back of
17 your house, right?

18 A. Right.

19 Q. It's 22 [REDACTED] Avenue?

20 A. Correct.

21 Q. Okay. There's a brown -- what seems like either a building or a patio, I
22 can't decipher --

23 A. Patio.

24 Q. Is that where you were, on the back patio?

25 A. Yes.

(Joseph Contino - Cross)

1 Q. Directly behind the house?

2 A. Correct.

3 Q. And you had to come either through or around the house to the front,
4 correct?

5 A. Around the house from the outside.

6 Q. And you never went beyond essentially the hedge area of your house --
7 the front of your house?

8 A. Yeah, between the hedges and the -- you know, the walkway, I guess
9 you'd call it.

10 Q. And that's where you remained for the whole interaction, correct?

11 A. Yes.

12 Q. And you said you heard some vulgarities from Judge Grisanti, correct?

13 A. Yes, I did.

14 Q. So you heard him say, "Fuck you" to Joe Mele a number of times,
15 correct?

16 A. I heard -- who he was directing it to -- I did hear that.

17 Q. Two, three, four times? Do you recall?

18 A. I can't recall a number.

19 Q. Okay. Did you hear Judge Grisanti refer to someone as a "piece of shit"?

20 A. I did not.

21 Q. Okay. You said you've been friends with Judge Grisanti for over 20
22 years -- or close to --

23 A. Pretty much since -- once they moved in together, our fathers were
24 friends from the law field, so --

25 Q. Okay. And you'd visit his house, correct?

(Joseph Contino - Cross)

1 A. Yes.

2 Q. Knew the kids?

3 A. Yes.

4 Q. Went to events?

5 A. Yes.

6 Q. Exchanged gifts back and forth over those 18 plus years?

7 A. Not really. We didn't exchange gifts. A bottle of wine here and there.

8 Q. That's what I was thinking, actually, so right. Friends. You never did
9 that with the Meles, correct?

10 A. Never.

11 Q. In fact, your wife stopped talk -- you stopped talking to the Meles pretty
12 much within a year of them moving in; isn't that true?

13 A. I would say pretty close.

14 Q. You gave a statement on the night of this incident, correct?

15 A. Yes, to a policeman -- police woman. I'm not sure who it was. I can't
16 remember.

17 Q. Right. They gave you a piece of paper, correct?

18 A. Yes.

19 Q. Right. And they told you -- they let you write your own statement, didn't
20 they?

21 A. Yes.

22 Q. And they told you, "Tell us what you saw."

23 A. Correct.

24 Q. "Be accurate," correct?

25 A. Correct.

(Joseph Contino - Cross)

1 Q. "Write down all the important stuff," correct? You understood that?

2 A. I did the best I could.

3 Q. And you -- I'm not asking how you did. I'm asking what they asked you,
4 right? You understand the question?

5 A. Yes. Right.

6 Q. All right. You could have written it as much as you wanted, correct?

7 A. I don't know if I was -- I don't know if that was the case.

8 Q. Well, you did make a statement, correct?

9 A. Yes.

10 Q. And prior to making that statement, you were told to make it complete
11 and accurate, correct?

12 A. Well --

13 Q. That's a yes or no.

14 MR. CONNORS: No, excuse me. He --

15 A. I don't -- I really -- I don't know what I'm --

16 MR. CONNORS: -- interrupting. Let -- he's
17 being interrupted. Let him --

18 THE REFEREE: Let him answer the question.

19 A. I'm not really sure of the statement. I wrote the statement on what I saw
20 about the incident, not about anything else.

21 BY MR. DUGUAY:

22 Q. You understood you had to be honest and accurate; is that correct?

23 Honest --

24 A. To the best of my ability, correct.

25 Q. And you actually signed a document that --

(Joseph Contino - Cross)

1 A. Yes, I did.

2 Q. And you understood that if you made any incorrect statements or
3 something wasn't true, that you could be prosecuted for a misdemeanor
4 for making a false written statement, correct?

5 A. Whatever you say.

6 Q. No, it's not whatever I say. It's --

7 A. No, whatever. Fine. Yes.

8 Q. Well, your dad -- your dad's a lawyer, right?

9 A. He's a retired lawyer.

10 Q. And your daughter's a lawyer?

11 A. She is. She's an IP lawyer.

12 Q. And you understand the importance of statements --

13 A. Yes, I do.

14 Q. And you understand that you signed it pursuant to --

15 A. Yes, I did.

16 MR. CONNORS: So this has been asked and
17 answered.

18 THE REFEREE: Yeah. If you can refer to the
19 document. I -- show it to the witness so he understands.

20 MR. DUGUAY: Oh, sure.

21 THE WITNESS: Yeah, I mean, you know, I'm
22 shooting in the dark here. This was two years ago.

23 MR. DUGUAY: It's page 12.

24 MR. CONNORS: I'm sorry?

25 MR. DUGUAY: It's discovery page 12.

(Joseph Contino - Cross)

1 MR. CONNORS: Exhibit number, please?

2 MR. DUGUAY: Exhibit 31.

3 May I approach the witness?

4 (Commission Exhibit 31 was marked for identification)

5 THE REFEREE: Sure.

6 BY MR. DUGUAY:

7 Q. Mr. Contino, I'm going to hand you what's been marked as Exhibit 31,
8 ask you to take your time, look at that document, let me know when
9 you're done looking at it.

10 A. Yep.

11 Q. Recognize what that is?

12 A. Yep.

13 Q. It's your statement from June 22, 2020, correct?

14 A. Right.

15 Q. The night of the incident that you just testified about, correct?

16 A. Right.

17 Q. Okay. And shortly after, within an hour, two hours, certainly that night,
18 correct?

19 A. Yes.

20 Q. Can you show me on there where it says that you saw any hair-pulling?

21 MR. CONNORS: I'll object to that.

22 THE REFEREE: Sustained.

23 MR. DUGUAY: Sure.

24 BY MR. DUGUAY:

25 Q. Okay. You don't write anything about any hair pulling or choking,

(Joseph Contino - Cross)

1 correct, in this document?

2 MR. CONNORS: Object to that.

3 THE REFEREE: I'll sustain it.

4 MR. CONNORS: Joe -- Joe --

5 A. Well, Gina and --

6 MR. CONNORS: Excuse me. No question. It's

7 sustained.

8 THE WITNESS: Okay.

9 MR. CONNORS: You don't --

10 BY MR. DUGUAY:

11 Q. You didn't tell the police that Mark Grisanti was yelling, "fuck" to the
12 neighbors, correct?

13 MR. CONNORS: I'll object to that.

14 THE REFEREE: I'll sustain, from foundation
15 ground, (unintelligible).

16 BY MR. DUGUAY:

17 Q. I'll ask him to look at Exhibit 31. That's your statement, correct?

18 A. Yes, sir.

19 Q. You had chance to read it --

20 A. Yes, sir.

21 Q. -- prior to signing that statement? You read that statement now?

22 A. I'm reading it -- I've read it. I've read it again.

23 Q. Okay. And you were told to make an accurate statement that night,
24 correct?

25 MR. CONNORS: Okay, that's -- these have

(Joseph Contino - Cross)

1 been asked and answered. These questions --

2 A. What? I'm sorry, I --

3 MR. CONNORS: Excuse me. Let me do --
4 wait till I object, if I do, so the judge can rule.

5 THE REFEREE: Overruled.

6 MR. DUGUAY: I'll offer the statement in
7 evidence at this time.

8 THE REFEREE: You offer the statement in
9 evidence?

10 MR. CONNORS: I object for that.

11 THE REFEREE: Sustained.

12 MR. DUGUAY: One moment, please.

13 BY MR. DUGUAY:

14 Q. So Mr. Contino, did you tell the police that Mr. Grisanti was swearing at
15 Mr. Mele?

16 A. Let's see. I think I --

17 MR. CONNORS: Joe, I think he's just asking
18 you without the statement, just in general.

19 A. The --

20 BY MR. DUGUAY:

21 Q. Just in general. I'm not asking if you put it in your statement.

22 A. I really can't remember. I might have. I might not have. I can't
23 remember what exactly I told them.

24 MR. DUGUAY: Yeah. If I could have one
25 minute, please, Mr. Easton?

(Joseph Contino - Cross)

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THE REFEREE: Sure.

MR. DUGUAY: Okay. If I -- gentlemen, we're going to ask at this time that Exhibit 12 be brought on the display. It's Ofc. Muhammad's body cam video. I'm going to ask for the portion shortly after Maria Grisanti is handcuffed.

I'm going to ask to have the video played at this time.

[Video was played.]

MR. DUGUAY: I'm just going to ask Ms. Trapani to stop the video. I'm going to ask if we'd advance it to right before -- you don't have to. I can do it. I can withdraw it. Why don't you play the video and I ask you to stop along the way and I'll ask questions?

[Video was played.]

MR. DUGUAY: Okay. Stop the video at this point.

BY MR. DUGUAY:

Q. Okay. Do you recognize the individual that's in the -- shirtless at this point, correct?

A. Yes.

Q. Okay. And you were standing how far away at this point? You described what you saw, correct?

A. I was on my driveway.

Q. Okay.

(Joseph Contino - Cross)

1 MR. DUGUAY: Okay. Continue the video.

2 [Video was played.]

3 BY MR. DUGUAY:

4 Q. And that's the push you described earlier, correct?

5 A. I'm sorry?

6 Q. Was that the push you described earlier?

7 A. Honestly --

8 MR. CONNORS: Objection.

9 A. I don't know what -- I didn't even know what I saw there. It was kind of
10 blurry. I --

11 BY MR. DUGUAY:

12 Q. Okay. You --

13 MR. DUGUAY: That's fine. You can pull the
14 video down.

15 BY MR. DUGUAY:

16 Q. Mr. Contino, you testified that you saw a police officer pick up Ms.
17 Grisanti by the shoulders and forcefully put her to the ground is your
18 testimony?

19 A. Right.

20 Q. Was that characterized right?

21 A. I would say so.

22 Q. Okay. Did you call the police and make a complaint about that?

23 MR. CONNORS: I'm sorry, did he call the
24 police --

25 MR. DUGUAY: Did he call the police and

(Joseph Contino - Cross)

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make a complaint about that?

MR. CONNORS: Yeah, I object to that.

THE REFEREE: Sustained.

A. Did I call the police?

MR. CONNORS: Joe --

THE REFEREE: Sustained.

MR. CONNORS: -- you have to wait till he
rules.

THE REFEREE: You don't have to answer that.

BY MR. DUGUAY:

Q. Did the police -- do you believe the police used excessive force against
Maria Grisanti?

A. I'm not qualified to answer that.

Q. Okay. And you didn't make a report about that, did you?

MR. CONNORS: That's objected to again.

THE REFEREE: Sustained.

BY MR. DUGUAY:

Q. Now Mr. Contino, you said you did not call the police that night when
you were witnessing this event, correct?

A. I did not, no.

Q. Okay. But you've talked to other people about the event since then,
correct?

A. Yes.

Q. All right. You talked to these people before we came to court today?
Prior -- sometime prior to coming to court today; is that correct?

(Joseph Contino - Redirect)

1 A. No.

2 Q. You read your statement before coming to court today?

3 A. Yes.

4 Q. Do you believe your statement is an accurate recording of the events of
5 that night?

6 A. Absolutely.

7 Q. Okay. Did you write in -- I'll withdraw that question.

8 MR. DUGUAY: I have no further questions at
9 this time, Mr. Easton.

10 THE REFEREE: Redirect?

11 REDIRECT EXAMINATION

12 BY MR. CONNORS:

13 Q. Just a few, Mr. Contino. When you were first asked questions by Mr.
14 Duguay here in cross examination, he asked you whether or not you had
15 spoken to Mark. I assume he meant Mark Grisanti; you understood that?

16 A. That was my impression.

17 Q. Okay. And of course you've spoken to him, haven't you?

18 A. Yes.

19 Q. Did you ever speak to Mark about what you should say in this particular
20 proceeding?

21 A. Never.

22 Q. Okay. And is this -- what you've told us today your best recollection of
23 the events that occurred?

24 A. Absolutely.

25 Q. Did the judge ever ask you to say anything on his behalf specifically?

(Joseph Contino - Redirect)

1 A. Judge Grisanti?

2 Q. Yes.

3 A. No.

4 Q. Okay. Now, you said that you were in your back yard reading the paper
5 when you heard a verbal confrontation?

6 A. Correct. I heard yelling and swearing and screaming, yes.

7 Q. Okay. And prior to that, was it quiet?

8 A. Yes.

9 Q. Okay. So when you heard the yelling and screaming, that was the first
10 thing that you had heard in the front of your house, correct?

11 A. That is correct.

12 Q. Did you go out right away?

13 A. Yes.

14 Q. Now, is that why you believe you heard and saw the entire contact?

15 A. Sure.

16 Q. Okay. Now, you were asked if you referred to the Meles as "assholes";
17 do you remember that?

18 A. Yes, I do.

19 Q. And you said you do refer to them as that?

20 A. Yes, I do.

21 Q. Why is that?

22 A. Because of the continuing harassment over the years, how they've treated
23 my wife and I. I can give examples, if I'm allowed, from throwing
24 garbage --

25 MR. DUGUAY: I object beyond the initial

(Joseph Contino - Redirect)

1 statement.

2 THE REFEREE: Sustained.

3 BY MR. CONNORS:

4 Q. So have you finished your answer as to why you refer to them as an
5 "asshole" in response to the Commission's questions to you?

6 A. I guess so. I -- I'm not allowed to say what -- the reasons.

7 Q. Well, do you have specific reasons why you refer to them as that?

8 A. Yes. If --

9 Q. What are they?

10 A. Well, when we were away on vacation, we came back, and we have trees
11 that hang over the fence --

12 MR. DUGUAY: Objection. This is a collateral
13 issue. It's also --

14 THE REFEREE: No, I'm going to overrule this.
15 It's a specific example.

16 A. And big trees in the back, and when we were told by Judge Grisanti that
17 Gina had --

18 MR. DUGUAY: Objection at this point.

19 THE REFEREE: I'll sustain this.

20 BY MR. CONNORS:

21 Q. Yeah, you can't say what someone else said.

22 A. Okay. Well, when I came back to our -- after a vacation, there was a pile
23 of branches probably 15 feet long by 20 feet wide in our back yard. And
24 it wasn't a windstorm that put them there.

25 MR. DUGUAY: Objection.

(Joseph Contino - Redirect)

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BY MR. CONNORS:

Q. Did you have any other -- I'm sorry.

THE REFEREE: Is that your answer, Mr.

Contino? You're finished with the answer?

A. Well, other incidences, spitting at people that work on my property, spitting at my wife, swearing vulgarly, complete vulgar language while we're sitting in our back yard, skimming from their built-in pool, throwing it over our fence. We actually witnessed this more than once.

BY MR. CONNORS:

Q. Now, you were asked some questions about whether or not you heard the Judge use vulgar language on the evening of June 22, 2020; you recall that?

A. Yes.

Q. And you were asked some specific questions by Mr. Duguay with respect to the judge, correct?

A. Correct.

Q. Would it be fair to say you also heard Joe Mele use vulgar language on numerous occasions that evening?

A. Correct.

Q. And on numerous occasions before?

A. Correct.

Q. And would it be also fair to say that you heard Gina Mele use vulgar language that evening and on many occasions before?

A. That is correct as well.

(Joseph Contino - Redirect)

1 Q. Now, he asked you whether or not you had ever exchanged presents with
2 the Grisantis, and you said, "Not very frequently, maybe a bottle of
3 wine."

4 A. That's a fair statement.

5 Q. You remember he asked you, "Have you ever exchanged a bottle of wine
6 with the Mele family?" and you said, "No"?

7 A. Correct.

8 Q. Why not?

9 A. Because we despised those people.

10 Q. Now, you were asked the questions -- a number of questions about
11 Exhibit 31, which was a statement that you gave in writing that evening;
12 you recall that?

13 A. Yes.

14 Q. And when you were -- in addition to that statement, you also gave a
15 recorded statement on the body camera of two police officers, correct?

16 A. I found that out after the fact; yes I did.

17 Q. One was Lt. Turello, who interviewed you, and you gave her your
18 statement as well on body camera?

19 A. Yes.

20 Q. And the other would be Ofc. Ryan Gehr, and you gave him your
21 statement as well, correct?

22 A. Correct.

23 Q. Thank you.

24 MR. CONNORS: That's all I have.

25 MR. DUGUAY: Just briefly, Mr. Easton.

(Joseph Contino - Recross)

1 RECCROSS EXAMINATION

2 BY MR. DUGUAY:

3 Q. Mr. Contino, you said that the Meles have harassed you over a period of
4 nearly 20 years, correct?

5 A. Close.

6 Q. You described various incidents, correct?

7 A. Correct.

8 Q. Okay. So you called the police on them before, haven't you?

9 A. Yes.

10 Q. Okay. And you've tried to file charges on a number of occasions against
11 the Meles, haven't you?

12 A. I don't think we filed charges. I don't --

13 Q. You tried to file -- you wanted to file charges, correct?

14 A. I'm try --

15 Q. That's a yes or a no, please.

16 MR. CONNORS: Well, let him answer, okay?

17 A. I think we were told we really didn't have -- oh, I remember. We needed
18 the -- when we told the police, they said that they needed proof. Pictures
19 or video or something of the things we were talking about.

20 BY MR. DUGUAY:

21 Q. Okay. And no --

22 A. So we never did file a charge.

23 Q. So in over 18 years with all of these incidents, you never had any proof
24 that could support any charges against the Meles, correct.

25 MR. CONNORS: I'd object to that.

(Joseph Contino - Recross)

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THE REFEREE: Sustained.

BY MR. DUGUAY:

Q. Okay. You wanted to file charges against the Meles, correct?

MR. CONNORS: That's been asked and
answered.

THE REFEREE: Sustained.

BY MR. DUGUAY:

Q. Okay. You weren't able to obtain any proof to have the Meles charged
with any crime, is that what you --

MR. CONNORS: Object to that.

THE REFEREE: Sustained.

BY MR. DUGUAY:

Q. Well, how many times did you call the police on the Meles?

A. Maybe two or three or four, not -- something like that. About that.

Q. So less than four times? I didn't get an answer; I'm sorry.

A. Let's just say four times. I'm not sure, exactly.

Q. Okay. And that's over the amount of years that you lived next to the
Meles, correct?

A. Correct.

Q. And you lived next to the Meles for 20-plus years, correct?

A. I'm not sure when they moved in.

Q. It was over 20 years that you lived next to the Meles though, correct?

A. Whenever they moved in there, yes. I don't remember when they moved
in. It could be that long.

Q. I'd asked you earlier when you stopped talking to the Meles, correct?

(Joseph Contino - Redirect)

1 A. Yes.

2 Q. Okay. And you --

3 A. Whatever -- if it was around 20 years, I'll believe you. I'm not sure about
4 exactly how many years.

5 Q. So you can't even remember when they moved in?

6 A. No, I can't.

7 Q. Okay. But you can remember that you stopped talking to them within the
8 year of them moving in?

9 A. Pretty much.

10 Q. All right.

11 MR. DUGUAY: No further questions.

12 FURTHER REDIRECT EXAMINATION

13 BY MR. CONNORS:

14 Q. So you were asked some questions just now about calling the police,
15 correct?

16 A. Correct.

17 Q. All right. And you said you did it approximately four times?

18 A. Correct.

19 Q. Was one of those times when you saw them choking their daughter in
20 your driveway?

21 A. Yes.

22 Q. Tell us about that.

23 A. My wife initially saw it. I came in. The middle daughter was being
24 choked by Gina in the driveway. We heard, "Help. Help. Help me." and
25 we looked out the window and we saw it, and we called 911. And they

(Joseph Contino - Recross)

1 came shortly thereafter.

2 Q. Were there other occasions when you saw them being taken out of their
3 home in handcuffs?

4 A. Yes.

5 Q. How many times?

6 A. At least twice for Joe, and at least once for Gina.

7 Q. Would you believe that law enforcement would be addressing those
8 issues?

9 A. I would hope so.

10 Q. Thank you.

11 MR. CONNORS: That's all I have.

12 FURTHER RECROSS EXAMINATION

13 BY MR. DUGUAY:

14 Q. With regard to choking, you ever signed any statement with regard to the
15 choking of a daughter or any other person by the Meles, did you?

16 MR. CONNORS: I'm sorry, I didn't -- I'm -- I
17 was distracted.

18 MR. DUGUAY: Yep.

19 MR. CONNORS: Could you please rephrase?

20 BY MR. DUGUAY:

21 Q. Did you ever sign -- you said the police came to the house for an incident,
22 correct, about the -- some type of a choking incident?

23 MR. CONNORS: No, no, no. That's not what
24 the testimony was.

25 MR. DUGUAY: That's what I'm trying to

(Joseph Contino - Recross)

1 remember.

2 BY MR. DUGUAY:

3 Q. You said something about a daughter?

4 A. We witnessed Gina choking her daughter crying for help.

5 Q. So eyewitness testimony is what you're saying?

6 A. Yes.

7 Q. Okay. And the police came as a result of your call?

8 A. Yes.

9 Q. Okay. And no charges were ever filed, were they?

10 MR. CONNORS: Well, object to that.

11 A. I don't know.

12 THE REFEREE: Sustained.

13 BY MR. DUGUAY:

14 Q. You didn't give any type of a statement, did you?

15 A. We talked to the police that night.

16 Q. Did you sign a sworn statement?

17 A. I don't remember signing anything.

18 Q. So you have no memory of this incident you called the police about?

19 MR. CONNORS: I'd object to that. That's --

20 THE REFEREE: Sustained.

21 MR. DUGUAY: I have no further questions.

22 MR. CONNORS: Thank you.

23 THE REFEREE: Mr. Contino, you're

24 discharged as a witness. Thank you.

25 MR. CONTINO: Okay.

1 MS. TRAPANI: Mr. Easton, would you like to
2 go off the record?

3 THE REFEREE: Sure.

4 (Recess from 3:11 p.m. to 3:13 p.m.)

5 THE REFEREE: Mr. Qadir?

6 MR. QADIR: Yes, sir.

7 THE REFEREE: I'm William Easton. I'm an
8 attorney in Rochester.

9 MR. QADIR: Okay.

10 THE REFEREE: And I've been commissioned
11 to be a finder of fact or referee for this proceeding, and take
12 testimony, and then issue a finding of fact and law for the
13 Commission on Judicial Conduct regarding this matter.

14 MR. QADIR: Okay. Yep.

15 THE REFEREE: You're a witness. You're here.

16 MR. QADIR: Yes, sir.

17 THE REFEREE: And I have to just go over one
18 thing with you. There's a microphone in front of you?

19 MR. QADIR: Yep. Um-hum.

20 THE REFEREE: You're going to have to -- the
21 microphone will capture your voice, but it won't project it.

22 MR. QADIR: Okay.

23 THE REFEREE: So just throw your voice out
24 there as loud as you can, and don't worry that it's going to
25 interfere with the microphone.

(Matter of Mark J. Grisanti - Colloquy)

1 MR. QADIR: Okay. No problem. Yep.

2 THE REFEREE: It's very difficult to do.

3 MR. QADIR: Okay. Okay.

4 THE REFEREE: All right?

5 MR. QADIR: Yep.

6 THE REFEREE: And right now, I'll administer
7 to you the oath.

8 Do you swear or affirm under penalty of perjury
9 that you'll give testimony at this proceeding and your
10 testimony will be the truth, the whole truth --

11 MR. QADIR: Yep.

12 THE REFEREE: -- and nothing but the truth?

13 MR. QADIR: Yes.

14 THE REFEREE: Okay. Ready to proceed.

15 MR. CONNORS: All right.

16

17

AZAD QADIR

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

19

20 DIRECT EXAMINATION

21 BY MR. DOYLE:

22 Q. Mr. Qadir, I'm going to sit here. I'm going to ask you some questions.

23 Make sure you keep your voice up so we can all hear you in the whole --

24 A. Okay.

25 Q. -- courtroom, okay?

(Azad Qadir - Direct)

1 A. Okay.

2 Q. And make sure just one of us is talking at a time, because everything's
3 being recorded, okay, sir?

4 A. Yep.

5 Q. All right. Could you tell us your name and spell your name, please?

6 A. My first name, Azad, A-Z-A-D. Last name Qadir, Q-A-D-I-R.

7 Q. All right. And sir, where do you live?

8 A. 7 █████ Avenue, Buffalo, New York 14216.

9 Q. All right. How long have you lived there?

10 A. Ten years now.

11 Q. Okay. Since about 2012?

12 A. '12, yes.

13 Q. And where were you born, sir?

14 A. I was born in Mosul, Iraq.

15 Q. Okay.

16 A. I am Kurdish.

17 Q. You're a naturalized United States citizen?

18 A. Yes.

19 Q. Okay.

20 MR. DOYLE: Would you be able to put up DD,
21 please?

22 BY MR. DOYLE:

23 Q. If you look to your right, sir, on the screen we're going to show an exhibit
24 we marked DD, which is a big map. Okay. You told -- and that's a map,
25 and you see in the center it's labeled █████ Avenue, correct?

(Azad Qadir - Direct)

- 1 A. Yes.
- 2 Q. And if you look in the bottom left-hand corner, sir, there's something that
- 3 it says 7, and it then it has your last name, Qadir?
- 4 A. Should be Q-A-D-I-R, not Q-U.
- 5 Q. There's no U in your name?
- 6 A. No.
- 7 Q. Apologies for that.
- 8 A. Not a problem.
- 9 Q. We mislabeled the map.
- 10 A. No problem.
- 11 Q. All right. But that is your house, the one that's labeled number 7?
- 12 A. Yes. I am in a corner house, yes.
- 13 Q. Okay. Sir, do you know -- and if you look also on DD, the map, if you
- 14 look over, there's a house that has a 21 on it, and it says Grisanti?
- 15 A. Yes.
- 16 Q. All right. Do you know someone named Mark Grisanti?
- 17 A. What do you mean this?
- 18 Q. Do you know a person named Mark Grisanti?
- 19 A. Yes, yes.
- 20 Q. And is he sitting --
- 21 A. Yeah, he's Mr. Mark.
- 22 Q. -- right to my right here?
- 23 A. Yep. I know.
- 24 Q. Okay. Just one of us talking at a time, okay?
- 25 A. Oh, okay. Yeah. Sorry.

(Azad Qadir - Direct)

1 MR. DOYLE: And Your Honor, could we have
2 the record reflect that he's identified Mr. Grisanti?

3 THE REFEREE: Yes, record will so reflect.

4 MR. DOYLE: Okay. All right.

5 BY MR. DOYLE:

6 Q. Is it easier for you, sir, if I refer to him as Mark?

7 A. Yes. Yeah.

8 Q. Okay. That's how you know him?

9 A. Yeah, I know him.

10 Q. All right. And how long have you known Mark?

11 A. Since I've been there, you know, I saw him every time, you know, on --
12 you know, couple time I pick him up also with the wife to airport also.

13 Q. Okay. So you say when you see him there, do you mean on the street on
14 [REDACTED] Avenue?

15 A. Yes.

16 Q. Okay. And you mentioned -- and I forgot to ask you this, but you
17 mentioned when you pick him up -- what do you do for your work?

18 A. I am working for airport transportation.

19 Q. Okay. So you drive people to the airport?

20 A. Yes.

21 Q. All right.

22 MS. TRAPANI: Mr. Doyle? (Unintelligible).

23 MR. DOYLE: Okay. If you could move back a
24 little bit from the microphone, sir.

25 THE WITNESS: Okay.

(Azad Qadir - Direct)

1 MR. DOYLE: Yeah. If you're too close, it gets,
2 I guess, a little echo. All right.

3 Am I okay? All right.

4 BY MR. DOYLE:

5 Q. Do you know Mark's wife?

6 A. Just I meet here with Mark, you know, a couple time, you know, and --

7 Q. Right.

8 A. -- I don't know exactly, you know, because we don't go to their house or
9 they never come to my house. But I know, yes, I know her.

10 Q. Okay. So just to make it clear, you said that you don't go over to their
11 house --

12 A. No, but --

13 Q. -- they don't come over --

14 A. But I know her, yes.

15 Q. All right. So you're not personal friends?

16 A. No.

17 Q. Are you on friendly terms though? Are you friendly with Mark when
18 you see him?

19 A. No friend, but you know -- but I know him, you know, from --

20 Q. Okay.

21 A. -- many years, you know?

22 Q. Fair enough. Do you know his wife's name?

23 A. Believe me, I don't know.

24 Q. Okay. That's fine. Now, there are some other houses that have numbers
25 on them on Exhibit DD. Across the street, there's a house -- it has a red

(Azad Qadir - Direct)

- 1 star and there's a number 15 [sic]; do you see that?
- 2 A. Yes.
- 3 Q. Okay. And it has a name there, M-E-L-E, Mele.
- 4 A. Yep.
- 5 Q. Do you know the people who live in that house?
- 6 A. I don't know exactly the name or anything, but I know what many years I
- 7 been there, I know, yeah, you know --
- 8 Q. Okay.
- 9 A. -- all the time I saw them, you know?
- 10 Q. Okay. But do you know -- is there a man that lives there?
- 11 A. One man, two women were there, you know. Yeah.
- 12 Q. Okay.
- 13 A. I don't know now how many there.
- 14 Q. All right. Mr. Qadir, did there come a time when you witnessed some
- 15 type of fight between the people -- between Mark and his wife and the
- 16 people who live in number 15 [sic]?
- 17 A. Yes, they --
- 18 Q. Okay. When was that? When did you see that?
- 19 A. Two years ago.
- 20 Q. Three years ago?
- 21 A. Two. Two.
- 22 Q. Two years ago.
- 23 A. Two years ago.
- 24 Q. Okay. So 2020?
- 25 A. Yes.

(Azad Qadir - Direct)

- 1 Q. Okay. And what were you doing at the time just before you saw the
2 fight?
- 3 A. I was in my back -- you know, back yard, you know --
- 4 Q. Okay.
- 5 A. -- the garden. I do something there.
- 6 Q. All right. And did something happen? Did you hear or see something?
- 7 A. I hear shouting, you know, on -- I come out, I say, "What's going on?"
8 You know, I want to see it, you know.
- 9 Q. Okay.
- 10 A. Yeah.
- 11 Q. If we look at that map and your house, it has the number 7, is the yard
12 you're working at to the right of your house?
- 13 A. Yes, yeah.
- 14 Q. Okay.
- 15 A. On the right side.
- 16 Q. You call that the back yard, but --
- 17 A. Yeah, but in the side, you know.
- 18 Q. Very good. So you heard some shouting, and you came out around your
19 fence?
- 20 A. Yes.
- 21 Q. And what did you see when you came out around your fence?
- 22 A. I saw the other people, you know, from the other side, they come to --
- 23 Q. Okay. The people at 15 [sic]?
- 24 A. 15; three people. Two women with other guys, you know.
- 25 Q. Okay.

(Azad Qadir - Direct)

- 1 A. They come to cross the street. They in front Mark house.
- 2 Q. Okay. So when you refer to the people from number 15 [sic], you said
- 3 there was a man?
- 4 A. The man with the two women, yes.
- 5 Q. With two women?
- 6 A. Yes.
- 7 Q. Okay. And did you -- if you know, did you understand that one of the
- 8 women was married to the man?
- 9 A. Yes. Yeah. The other one, I figured, you know, just I figured out, you
- 10 know, they're sister, but they --
- 11 Q. Okay.
- 12 A. -- I think that they are daughter, but you know, after --
- 13 Q. Okay. So one of the women was the wife?
- 14 A. Wife, yes.
- 15 Q. And one, you came to learn, was the sister?
- 16 A. Yeah.
- 17 Q. Okay.
- 18 A. Before, yes. But now I know it.
- 19 Q. All right. And if I say the name "Joe Mele," is that the man who lives at
- 20 15 [sic], if you know?
- 21 A. I don't know the name.
- 22 Q. Fair enough. So you've identified three people from number 15 [sic].
- 23 Who else was involved in whatever you saw? Mark?
- 24 A. Mark, wife --
- 25 Q. And his wife?

(Azad Qadir - Direct)

- 1 A. -- and the other. Yes.
- 2 Q. So there were five people?
- 3 A. Five people.
- 4 Q. Okay. And when you first saw these five people, where were they?
- 5 A. In front their house in the street. In front the driveway.
- 6 Q. Whose driveway?
- 7 A. Mark driveway.
- 8 Q. Mark's driveway?
- 9 A. Yes.
- 10 Q. Okay. And what did you see any of the people doing?
- 11 A. The other two men, you know, they try to -- I don't know exactly,
- 12 because I was, you know, behind?
- 13 Q. Yes.
- 14 A. You know, I saw both of them, the -- you know, like, his wife, you know,
- 15 in front their house.
- 16 Q. Okay.
- 17 A. And Mark also, he try to just make them, you know, separate. And the
- 18 other guy, you know, the husband for that was this bad lady.
- 19 Q. Yeah.
- 20 A. Right away he come in and he -- that -- Mark, that time, he wearing the
- 21 white under -- you know --
- 22 Q. Undershirt?
- 23 A. -- undershirt. Undershirt, yes.
- 24 Q. Okay.
- 25 A. The guy, you know, he tried to just, I don't know, beat him or something.

(Azad Qadir - Direct)

- 1 Right away, he touches the -- what the name, T-shirt?
- 2 Q. Yes.
- 3 A. And you know, fell it down, the guy, you know, because the T-shirt
- 4 was -- what the name, tear, you know?
- 5 Q. Okay.
- 6 A. Yeah, he fell down in the street.
- 7 Q. Okay. So I'm just going to go back a bit to make --
- 8 A. Yeah.
- 9 Q. -- sure I understand what you're saying. So I think you said you saw the
- 10 two women -- the wife and the sister from number 15 [sic] --
- 11 A. Yes.
- 12 Q. -- they were doing something to Mark's wife.
- 13 A. Yep.
- 14 Q. What were they doing to Mark's wife?
- 15 A. I don't know, because the -- his wife also fell down, you know, because
- 16 both of them, they try to beat her. I don't know what they want to do it,
- 17 you know, because I was behind, you know, because those --
- 18 Q. Okay.
- 19 A. Yeah.
- 20 Q. All right. But the two of them were, you said, trying to beat Mark's wife?
- 21 A. Yeah, because both of them, the hand was, you know, the closeness or
- 22 the hand -- I don't see exactly what, but I know both of them, they try to,
- 23 you know.
- 24 Q. Okay. You made a gesture with your hands --
- 25 A. Yeah, the hand. Yes, both.

(Azad Qadir - Direct)

1 Q. -- and towards Mark's wife's neck?

2 A. Yes.

3 Q. Okay. So both of the women from 15 [sic], the wife and the sister, had
4 their hands near --

5 A. The -- Mark's wife, yeah.

6 Q. -- Mark's wife's neck?

7 MR. DUGUAY: Objection. I don't believe that
8 was the testimony exactly specified. Placement of the
9 hands is what I'm objecting to.

10 MR. DOYLE: Okay. So let me -- then I'll
11 rephrase. Sorry.

12 BY MR. DOYLE:

13 Q. Where were the hands of the wife and the sister from 15 [sic]? Where
14 were their hands in relation to Mark's wife's body?

15 A. You see, because, you know, too many hands, you know, six hands were
16 there.

17 Q. Okay. Right.

18 A. You know what I mean? Exactly, I don't know, but I see, you know, the
19 hand -- the -- because she wearing T-shirt also that time, you know, and
20 T-shirt, the hand up, I don't know what. Believe me, you know exactly, I
21 don't know what -- how it was. But I know both of them, they try to beat
22 her, you know?

23 Q. Okay.

24 A. And she fell down also.

25 Q. Mark's wife --

(Azad Qadir - Direct)

1 A. Yes.

2 Q. -- fell down? Okay. While that was happening, what did you see Mark
3 do, if anything?

4 A. Mark is, you know, he try to take them, you know, separate, you know,
5 just --

6 Q. Separate them.

7 A. -- put -- separate them and put the wife in, you know, on -- the guy also
8 came in right away he's come to Mark, you know.

9 Q. Okay.

10 A. And tried to, you know, fighting with Mark.

11 Q. All right. So you said that the husband from 15 [sic], he -- I think you
12 said he went towards Mark --

13 A. Yes.

14 Q. -- correct? And you mentioned something about Mark's shirt. He was
15 wearing --

16 A. Yes, Mark's shirt, yep.

17 Q. -- a T-shirt or an undershirt?

18 A. Yep.

19 Q. And what did you see regarding the husband and Mark and Mark's T-
20 shirt?

21 A. Mark, he try to separate them, you know, and the guy, he figure it, my
22 opinion, you know, I don't know.

23 Q. Okay.

24 A. Maybe he feel that he try to beat them or anything, try to -- he come in,
25 you know, jump --

(Azad Qadir - Direct)

1 MR. DUGUAY: I'm going to object to the
2 speculation at this point.

3 MR. DOYLE: Yeah. So don't tell us what you
4 think anyone did.

5 THE WITNESS: Okay.

6 MR. DOYLE: Just tell us what you saw.

7 A. Okay. Yeah, I -- you know, he come in across the street, try to beat
8 Mark, you know, because he hold, you know, what the name, hair, and
9 like, you know, we were in -- I told him, he wearing the white --

10 BY MR. DOYLE:

11 Q. T-shirt.

12 A. -- T-shirt, and you know, after he try to, I don't know, beat him or
13 anything, you know, the -- what the name, the T-shirt is tight and he fell
14 down, the guy.

15 Q. Okay.

16 A. Because I saw like that.

17 Q. The husband from number 15 [sic] fell down?

18 A. Yes?

19 Q. Where did he fall down?

20 A. In front his house on the street.

21 Q. I keep saying 15 and 16.

22 A. 15.

23 Q. Okay. Thank you. So apologies, several times --

24 A. No, 21. Yeah. In front 21, you know, the street.

25 Q. Okay. Okay. So the husband from number 16, and apologies, I think

(Azad Qadir - Direct)

1 before I said 15, but for -- the house number 16 across the street, the
2 husband is the person who was involved in this fight?

3 A. Not just one time. Believe me, three, four time, they come in, they come
4 back again.

5 MR. DUGUAY: Objection. Objection.

6 THE REFEREE: I didn't hear the response.

7 Could you say that again slow, I mean, loud, I mean --

8 THE WITNESS: Okay.

9 THE REFEREE: Project your voice, Mr. Qadir.

10 MR. DOYLE: Well, let me ask over, Judge.

11 Let me -- if that's all right.

12 BY MR. DOYLE:

13 Q. So again, we're talking about the husband who is from the house that's
14 across the street from Mark, correct?

15 A. Yes.

16 Q. And on the map, DD, it's labeled number 16 with a red star, correct?

17 A. Yes.

18 Q. All right. So the husband from number 16, he fell? You said he fell?

19 A. He fell in front, yeah. In the front.

20 Q. And where was he when he fell?

21 A. In front his -- Mark house.

22 Q. Okay.

23 A. Yeah.

24 Q. Was he in the street, in the driveway, or somewhere else?

25 A. Before his driveway in the street.

(Azad Qadir - Direct)

1 Q. Okay. Of Mark's house?

2 A. Yes.

3 Q. All right. Where were the -- where were the women at that point -- the
4 two women from number 16 and Mark's wife; where were they?

5 A. Both of them were there in the same --

6 Q. The same area?

7 A. The same area.

8 Q. All right. In front of Mark's house?

9 A. Yes.

10 Q. What happened then, after the husband from 16 fell? What happened
11 next?

12 A. You know, Mr. Jerry come out also, you know, other neighbor, with wife,
13 and he went there. He tried to, you know, make separate, and you
14 know --

15 Q. All right.

16 A. -- he was there.

17 Q. So the person you identify as Mr. Jerry, he lives at 15?

18 A. 15, yes.

19 Q. The house between you and Mark?

20 A. Yes.

21 Q. And he and his wife both came out?

22 A. Yes.

23 Q. Okay. So what happened then after they came out to separate the --

24 A. They make separate and still, you know, after that, you know, the other
25 people, they went back to their house, and they coming again, you know,

(Azad Qadir - Direct)

1 third time I saw they come back again to him.

2 Q. How many times did they come back?

3 A. Third. Third time.

4 Q. Three times?

5 A. Yes.

6 Q. So just so I'm clear, the people -- the husband, his wife, and the sister
7 from number 16 -- after they separated, they went over to their side of the
8 street, but they came back. You're saying they came back three times --

9 A. Three, yes.

10 Q. -- to continue the argument with the Grisantis?

11 A. Yep.

12 Q. Did there come a time when the police came, sir?

13 A. The time was come, you know, they was late, because you know, that
14 time I say, yeah, they come --

15 Q. Okay.

16 A. -- but one car come, and after that, another cop, you know, car was --

17 Q. Okay. After the police came, what did you do?

18 A. After the police come, you know, I went back to my back yard.

19 Q. Okay. Okay. Thank you. Those are all the questions that I have for you,
20 Mr. Qadir.

21 A. Okay. Thank you.

22 Q. But Mr. Duguay may have some questions.

23 A. Yeah, no problem.

24 MR. DUGUAY: No cross examination. Thank
25 you.

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MR. CONNORS: Okay.

THE REFEREE: You're discharged. Thank you for testifying.

MR. QADIR: Thank you. Yeah, thank you. Should I go? Thank you.

MS. TRAPANI: Should I go off record?

THE REFEREE: Yes.

(Recess from 3:30 p.m. to 3:32 p.m.)

THE REFEREE: Ms. Contino?

MS. CONTINO: Yes?

MS. TRAPANI: I'm sorry. We're on the record.

THE REFEREE: We're on record? Ms. Contino, my name is William Easton. I'm an attorney from Rochester, New York, and I'm acting as a referee or a finder of fact for a hearing today --

MS. CONTINO: Yes?

THE REFEREE: -- involving Judge Grisanti.

MS. CONTINO: Okay.

THE REFEREE: And you're a witness here today, and the thing I would like to talk to you about first is as a witness, there's a -- you'll be speaking into that microphone.

MS. CONTINO: Right.

THE REFEREE: And speak loudly, clearly. The microphone's going to capture your voice so it's

(Jeanne S. Contino - Direct)

1 recorded, but it doesn't project your voice, so they have to
2 do two things at once, speak into the mic, but also project
3 your voice out --

4 MS. CONTINO: Okay.

5 THE REFEREE: -- so we can all hear it. Wait
6 till the question's asked, answer it to the best of your ability,
7 and answer only the question asked. And then both sides
8 can question you.

9 MS. CONTINO: Okay.

10 THE REFEREE: Does that make sense?

11 MS. CONTINO: Thank you.

12 THE REFEREE: Okay. We'll proceed. I'll --
13 before we proceed, I'd like to administer the oath to you.

14 To the testimony you're going to give here, do
15 you affirm that it's true, or swear that it's true, and it's the
16 truth, the whole truth, and nothing but the truth?

17 MS. CONTINO: I do.

18 THE REFEREE: You may proceed.

19

20 J E A N N E S . C O N T I N O

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

22

23 DIRECT EXAMINATION

24 BY MR. CONNORS:

25 Q. Ms. Contino, will you give me your full name for the record, please?

(Jeanne S. Contino - Direct)

1 A. Jeanne S. Contino.

2 Q. Okay. And tell me a little bit about your educational background.

3 A. I have a Bachelor's Science in Health Administration and -- which is
4 basically a medical records degree. And I worked in medical records
5 departments for a few years. And then I moved on to helping
6 computerize the first coding book. And then I moved -- well, I lived in
7 Denver, then I -- we moved to Saint Louis, and I worked for McDonnell
8 Douglas, again in the healthcare industry.

9 And then we moved back to Buffalo, and I did physician recruiting for
10 several years which I really enjoyed that. And then after that, I was
11 working for Blue Cross, and I worked in their Special Investigations
12 department. And then I bought -- I was there for seven years.

13 And then I purchased a business that teaches providers -- physicians and
14 nurse practitioners, et cetera -- how to document properly so that they
15 don't get in trouble with insurance companies. So -- and so I have had
16 that business since 2006.

17 And then I became a Compliance Officer for University Pediatrics, and I
18 did work for different departments within the UBMD health system.

19 And now I'm hoping to be semi-retired, and I basically just -- I teach
20 providers what to do and how to do it properly.

21 Q. So you combined your educational background with your employment
22 history for me, correct?

23 A. Yes.

24 Q. All right. Where did you get your degree again?

25 A. I got it at Daemen.

(Jeanne S. Contino - Direct)

1 Q. Daemen College?

2 A. Um-hum.

3 Q. Okay. Now, you're married?

4 A. Yes.

5 Q. Your husband, his name is Joseph?

6 A. Yes, it is.

7 Q. Okay. And he just testified before you?

8 A. Yes.

9 Q. And we learned you have a daughter who is a lawyer?

10 A. Yes, she is.

11 Q. Okay. Did you formerly live on [REDACTED] Avenue?

12 A. Yes, I did.

13 Q. Take a look at that exhibit that's on the screen. It's DD. And tell me if
14 you can see your home there.

15 A. Yes, I do. It's --

16 Q. Where --

17 A. -- labeled Contino.

18 Q. Okay. And so it's 22 --

19 A. Yes.

20 Q. -- [REDACTED]

21 A. Um-hum.

22 Q. Okay. And when did you first move to [REDACTED] Avenue?

23 A. We moved to [REDACTED] in 1990.

24 Q. How long did you stay there?

25 A. 30 years.

(Jeanne S. Contino - Direct)

1 Q. Were you living on [REDACTED] Avenue on June 22, 2020?

2 A. Yes, I was.

3 Q. And I take it you were living in that home that's depicted at 22 [REDACTED]

4 A. Yes, I did.

5 Q. On that day, did you witness an incident between the Mele family and the
6 Grisanti family?

7 A. Yes, I did.

8 Q. And do -- was your husband also present at that time?

9 A. Yes. He actually witnessed more than I did.

10 Q. Where were you located when the interaction began?

11 A. I was in my house.

12 Q. Do you remember what you were doing?

13 A. I think I was watching television.

14 Q. All right. Do you remember about what time of the evening it was?

15 A. By the time I got outside, it was close to nine o'clock.

16 Q. Okay. And what brought you outside?

17 A. My husband came and said to me, "Get out here, there's a whole bunch of
18 ruckus going on outside."

19 Q. Okay. And after you came outside, what did you see?

20 A. I saw the police officers in one car, two police officers pull up, and one
21 police officer went over to the Grisanti's house, and then the other police
22 officer went to the Mele's house.

23 Q. What did you see the police officers do?

24 A. The police officer that was originally at the Grisanti's house was trying to
25 calm the whole thing down. He was trying to calm Maria down. And

(Jeanne S. Contino - Direct)

1 then as quick as I could believe, is that the other police officer raced
2 across the street and grabbed Maria and aggressively threw her to the
3 ground and she hit her face.

4 Q. Did you see that yourself?

5 A. Yes.

6 Q. Okay. And what was Mark doing at the time?

7 A. He was trying to talk to the police officers and, you know, trying to
8 diffuse the situation. But it was a very violent, aggressive act on the part
9 of the one police officer.

10 Q. Now, did you see anything that happened before that police officer came
11 across the street? And by that, anything between the Meles and the
12 Grisantis that led to that police officer's conduct?

13 A. No, I did not see that.

14 Q. Okay. Did you see Maria standing on her own property before she was
15 approached by the police officer?

16 A. Yes.

17 Q. And was she screaming?

18 A. She was upset and angry.

19 Q. Did you see her to be excited?

20 A. I would say so.

21 Q. How long had you known Maria up to that point?

22 A. Probably about 20 years.

23 Q. Would you say that -- what would you say about her emotional state
24 when you saw her at that point?

25 A. I wasn't used to seeing her like that. That's -- really wasn't what she was

(Jeanne S. Contino - Direct)

1 about. She's always been extremely nice. But she was visibly upset.

2 Q. Did you see Mark at that point too, before the time that the officer came
3 across ██████ Avenue and restrained Maria?

4 A. He was standing close by to Maria and the first police officer.

5 Q. What was he -- what was Mark doing at the time?

6 A. He was just trying to diffuse the situation as best he could, and I didn't --
7 you know, I mean, there was a lot going on at one time. It really was
8 very, very just --

9 Q. Now, I keep referring to him as Mark and Maria, but I'm talking about
10 Judge Grisanti and Maria Grisanti.

11 A. Yes.

12 Q. All right. And you know them by their first names from living there so
13 long?

14 A. Right.

15 Q. Okay. What were the Meles doing at that time?

16 A. I try not to pay much attention to them.

17 Q. Did you pay much attention that evening?

18 A. Well, I -- somewhat. But --

19 Q. What do you remember seeing the Meles doing that evening?

20 A. I didn't see the actual altercation, but I know that their -- they have a
21 reputation for doing that.

22 MR. DUGUAY: Objection.

23 THE REFEREE: Sustained.

24 BY MR. CONNORS:

25 Q. So we'll get to that later. I'm just asking you now for what you saw and

(Jeanne S. Contino - Direct)

1 hear about the Meles.

2 A. Okay. I really -- you know, there was a lot of yelling.

3 Q. A lot of foul language?

4 A. Oh, yes.

5 Q. Both sides, Grisanti and Meles?

6 A. Yes.

7 Q. Okay. Were the Meles, when you saw them standing, on their side of the
8 street, or the Grisantis' side of the street?

9 A. On the Mele side.

10 Q. Okay. And in addition to Joe Mele and Gina Mele, was there a third
11 person?

12 A. Gina's sister.

13 Q. Did you know her to be her sister at the time?

14 A. She lives out of town, and I did know that she had a sister who was a
15 dentist in New Jersey.

16 Q. Okay. Did you know whether or not she had a vehicle that evening on
17 June 22?

18 A. Yes.

19 Q. Do you know where that vehicle was parked?

20 A. It was parking in front of the Grisanti's house.

21 Q. Okay. Can you tell me where it was in proximity to the Grisanti
22 driveway?

23 A. It was either right in or very close to the apron of the driveway.

24 Q. How do you recall that?

25 A. Because the Meles always park their cars that way.

(Jeanne S. Contino - Direct)

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MR. DUGUAY: Objection.

MR. CONNORS: So --

THE REFEREE: Overruled.

BY MR. CONNORS:

Q. So tell me a little -- you've had prior experience with the Mele vehicles on [REDACTED] Avenue?

A. Yes.

Q. Tell us about that experience.

A. Not as much on our side of the street, but whenever it was on -- the parking is alternate, and when it's on the side of the street for the Grisantis and the Chwalinskis, they would be out there -- they, meaning the Meles -- would be moving their vehicles around as quickly as they could and encroaching on the driveways of the other -- of the Grisantis and of the Chwalinskis.

Q. Did you see that with your own eyes?

A. Yes. It went on for years.

Q. I was going to ask you how long it occurred. It's a constant issue --

A. Yes.

Q. -- over a number of years?

A. Yes.

Q. Okay. Now, could we go back to June 22, 2020? And I think you told us that you did see one of the officers take Maria and you described what you saw, correct?

A. Yes.

Q. And she ended up on the ground, correct?

(Jeanne S. Contino - Direct)

1 A. Yes, she was.

2 Q. And you -- did you see Mark come towards the police officer?

3 A. Well, yes, because they were handcuffing Maria and what --

4 MR. DUGUAY: Objection. Nonresponsive.

5 THE REFEREE: Overruled. You may proceed.

6 A. Thank you. And so what he wanted to do was --

7 MR. DUGUAY: Objection.

8 THE REFEREE: I'll sustain that.

9 MR. CONNORS: Just tell us what you saw.

10 THE WITNESS: Okay.

11 THE REFEREE: What you see, what you hear.

12 THE WITNESS: What I see and what I hear.

13 MR. CONNORS: Just what you saw and heard.

14 THE WITNESS: Okay.

15 A. I saw Mark pleading with the police officer to take the handcuffs off of
16 Maria. That's what I saw.

17 BY MR. CONNORS:

18 Q. Okay. Do you recall what happened with respect to Mark after he made
19 those pleas?

20 A. Not exactly.

21 Q. Do you recall what happened with Maria after she was placed in
22 handcuffs?

23 A. They put her in a police car.

24 Q. Okay. All right. Where were you at that time located?

25 A. Standing in my driveway.

(Jeanne S. Contino - Direct)

1 Q. And that's your driveway marked --

2 A. To the right of my house.

3 Q. Okay. Is that the position you stayed at through the entire incident?

4 A. Yes, because -- and I stood back so that the Meles could not see me.

5 Q. Why did you do that?

6 A. Because I'm afraid of them.

7 Q. Why are you afraid of them?

8 A. Because they're so aggressive, and I'm not into violence.

9 Q. Have you had any specific experiences with them over the years that you
10 lived there?

11 A. Yes.

12 Q. Tell us that.

13 A. It's mostly -- it was mostly Gina, that she would swear at us over the
14 fence, and accuse us of hiding behind our fence, and just very aggressive
15 and inappropriate. And I did -- I also saw her choking her daughter in the
16 driveway, and she had her in a choke hold, and she was pushing her up
17 the driveway. And her daughter's --

18 Q. When did that occur?

19 A. -- very small.

20 Q. When did that occur?

21 A. That occurred in 2016.

22 Q. And did you call the police?

23 A. Yes.

24 Q. So over the years prior to June of 2020, had you had occasion -- your
25 family -- to talk to the Grisantis about the Mele issues?

(Jeanne S. Contino - Direct)

1 A. It came up in passing.

2 Q. Okay. And so that your knowledge, would it be accurate to say your
3 knowledge about some of their conduct would be relayed to the Grisantis
4 so they would know about it?

5 A. Yes.

6 Q. Okay. And of course, whatever they saw themselves, they would know it
7 from their own --

8 A. Right.

9 Q. -- experience?

10 A. Right.

11 Q. Okay. So how long did you stay at the scene on June 22, 2020?

12 A. Oh, until the detective came to our house and interviewed my husband.

13 Q. Okay. And that would be Det. Moretti, was it?

14 A. I believe so.

15 Q. Okay. Was there also an earlier time when an officer or a lieutenant
16 came to interview you while you were in the driveway?

17 A. Yes.

18 Q. Okay. Did you know that there was a body camera that was recording?

19 A. No, I did not.

20 Q. Have you later learned that there was a body camera recording what you
21 were saying?

22 A. Yes.

23 Q. Okay. Now, you were both present, both you and your husband, when
24 those body cameras were being recorded?

25 A. Yes.

(Jeanne S. Contino - Direct)

1 Q. Do you know if one -- do you know the name of the officer who did it
2 initially?

3 A. No, I do not.

4 Q. And do you know the name of the lieutenant who came later on?

5 A. I don't know -- I cannot remember her name.

6 Q. Okay. If I said the name Karin Turello, would that in any way refresh
7 your recollection? If not, no?

8 A. Not really.

9 Q. Okay. Was that the extent of your knowledge -- was that the extent of
10 what you saw and heard on June 22, 2020, or did you see anything else?

11 A. No. Then they ended up putting Judge Grisanti in handcuffs and put him
12 in another police car.

13 Q. Okay. At what point did you go back into your home?

14 A. Oh, it probably was close to ten o'clock at night, maybe after that. It was
15 pretty late.

16 Q. So did you stay outside and continue to observe until you went in your
17 home at ten o'clock?

18 A. Pretty much. And other neighbors were coming out and certain ones we
19 could converse with, and certain ones we could not, because they were
20 also going to be witnesses.

21 Q. Okay. The interaction that you did see out in front of your home when
22 you first came out, how long did that take place?

23 A. Could you repeat that, please?

24 Q. Sure. You told us that you came out of your home, and you saw the
25 police officer coming across the street towards Maria?

(Jeanne S. Contino - Direct)

1 A. Yes.

2 Q. How long in a point of time did that take? Was it very short? Was it --

3 A. I would say very short.

4 Q. Okay. And the same thing with respect to when you saw Mark
5 interacting with the officer that handcuffed his wife, how long did that
6 take place?

7 A. Oh, this all took place within minutes.

8 Q. Okay. Now, are you friends with the Grisantis?

9 A. Neighbors.

10 Q. Do you socialize?

11 A. On rarest of occasion.

12 Q. Okay. And had you had an opportunity to observe Mark in the
13 neighborhood prior to June 22, 2020?

14 A. Oh, yes.

15 Q. All right. Had you ever seen him act -- first of all, have you ever seen
16 him use that language or heard him use that language prior to June 22,
17 2020?

18 A. Never.

19 Q. Okay. Had you ever seen him -- well, you didn't see the interaction
20 between him and Mele?

21 A. No, I did not witness that.

22 Q. Okay. Had you ever seen the Grisantis interact with any of the other
23 neighbors on the block the way things occurred on June 22, 2020?

24 A. Never.

25 Q. Had you ever seen Mark or Maria swear or use the vulgar language with

(Jeanne S. Contino - Direct)

1 any of the other neighbors on June -- excuse me, with any of the other
2 neighbors on [REDACTED] like it happened on June 22, 2020?

3 A. No.

4 Q. Do you remember how long it was that Maria and Mark Grisanti were in
5 separate police cars?

6 A. Probably -- I'm guessing about 20 minutes.

7 Q. And then did you ever talk to them after this event?

8 A. I did call Maria the next day to see how she was doing.

9 Q. Okay. And was that the extent of the conversation?

10 A. And it was about the fact that she was aggressively thrown to the ground,
11 and I wanted to know if she was okay, because she -- it looked like she
12 could really be hurt.

13 Q. Okay. Now you're here to testify on behalf of Mark, correct?

14 A. Correct.

15 Q. You know that it's a proceeding that's conducted by the State
16 Commission on Judicial Conduct regarding him as a judge?

17 A. Yes, I do.

18 Q. All right. And you're not here pursuant to a subpoena, correct?

19 A. No.

20 Q. You agreed to come here voluntarily?

21 A. Absolutely.

22 Q. Did Mark ever meet with you to talk to you to tell you what to say in this
23 proceeding?

24 A. No.

25 Q. Did he ever meet with you to discuss you to try to persuade you to say

(Jeanne S. Contino - Direct)

1 something that you didn't see that evening?

2 A. No, he did not.

3 Q. Are you giving us your testimony based upon the best recollection of
4 events that occurred on the evening of June 22, 2020?

5 A. Yes.

6 Q. The time that you were on [REDACTED] Avenue on June 22, 2020 at about 9:00
7 p.m., did you ever hear Mark Grisanti say that he was a judge?

8 A. No, never.

9 Q. Did you ever hear him ask for any consideration from the police officers
10 because he is a judge?

11 A. No.

12 Q. Have you ever heard him say that in any of the years that you've known
13 him where he's trying to gain special treatment because he's a judge?

14 A. Absolutely not.

15 Q. Okay. Now, where do you live now?

16 A. [REDACTED].

17 Q. March 6th, 2021?

18 A. Yes.

19 Q. That's the date you moved there?

20 A. Yes.

21 Q. Why did you move?

22 A. Because of the Meles.

23 Q. Why?

24 A. Because I was afraid of them.

25 Q. Why were you afraid of them?

(Jeanne S. Contino - Direct)

1 A. Because I watched them do -- perform aggressive acts pretty much from
2 the time they moved in.

3 Q. Now, did you ever make any complaints about the Mele's conduct?

4 A. Yes.

5 Q. Did you call 911 about the Mele's conduct?

6 A. In the past, yes.

7 Q. Okay. All those were done prior to June 22, 2020?

8 A. Yes.

9 Q. Had you seen the police come to the Mele's home on occasions prior to
10 June 22, 2020?

11 A. Yes.

12 Q. Why? Why did they come? What did you see?

13 A. I saw Gina Mele get arrested and put in handcuffs and -- for shoplifting
14 and assault.

15 Q. And were there any other occasions when you saw the police from the
16 City of Buffalo come to [REDACTED] Avenue because of the Meles?

17 A. Yes.

18 Q. Tell me.

19 A. Another occasion was when a friend of the Chwalinskis, he parked in
20 front of Joe Mele's house, and Joe had a fit because that was his spot.
21 And so it escalated, and they ended up calling police in regards to that.
22 And he ended up getting handcuffed and put in a police car.

23 MR. DUGUAY: Objection. I -- I've made a
24 prior objection. It's collateral. We've given a lot of leeway.

25 THE REFEREE: I'll sustain it.

(Jeanne S. Contino - Cross)

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BY MR. CONNORS:

Q. Do you still see the Grisantis on a social basis?

A. I have not seen them since.

Q. Since you moved?

A. Yes.

Q. Thank you.

THE REFEREE: Cross examination?

MR. DUGUAY: Thank you, Mr. Easton.

CROSS EXAMINATION

BY MR. DUGUAY

Q. Good afternoon, Ms. Contino.

A. Hi.

Q. Ms. Contino, you're here because you want to help the judge, correct?

A. Yes.

Q. Okay. And you didn't see how the incident on June 22, 2020 started, did you?

A. No. I was in the house. I --

Q. You saw nothing about --

A. No.

Q. -- what occurred between the Meles and the Grisantis up until you came out of the house?

A. That's correct.

Q. Which was after the incident concluded, correct?

A. It was starting to conclude.

(Jeanne S. Contino - Cross)

1 Q. Well, but the parties are on the opposite sides of the street at that time,
2 correct?

3 A. I'm sorry, repeat that?

4 Q. I -- the parties were on opposite sides of the street at that time?

5 A. Yes.

6 Q. Okay. And you were standing next to your husband, correct?

7 A. Yes.

8 Q. And that was at the back -- I'll direct your attention to what's up on the
9 screen. That's Exhibit DD.

10 A. Um-hum.

11 Q. And if you look, your house marked there, I believe it's 22? No.

12 A. Yes, 22.

13 Q. 22? I can't see that well. You were standing back close to the corner of
14 your own house, correct?

15 A. A little bit behind the house so that the Meles could not see me.

16 Q. Okay. So you were that distance back, and that's where you made all
17 your observations that --

18 A. Um-hum.

19 Q. -- you just testified about, correct?

20 A. Yes.

21 MR. DUGUAY: And again, I'm trying to
22 determine, since I can't see, can I ask the witness to get up
23 and point where she was standing?

24 THE REFEREE: Sure. You can approach
25 that --

(Jeanne S. Contino - Cross)

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THE WITNESS: Okay.

THE REFEREE: -- screen and point out, if you
can navigate the door there. It's very tricky.

MR. DUGUAY: Yeah. Thank you, Ms.
Contino.

A. I was standing right there.

BY MR. DUGUAY:

Q. Okay, so just behind the corner of the house, correct?

A. Yes.

Q. And this was close to 8:30 or perhaps close to 9:00, is what you testified
to?

A. Close to nine. Um-hum.

Q. Okay. But you can grab a seat again. I appreciate that.

A. Okay.

Q. Thank you. And be careful, please. But you testified that you saw --
your words, I believe, were "a violent, aggressive act" by a police officer
from the Buffalo Police Department, correct?

A. Yes, I did.

Q. And you later said, I believe, that it looked like Ms. Grisanti was hurt
because of what you had -- the act that you had seen the police officer
perform, correct?

A. Yes.

Q. Okay. You never made a complaint to the police department about that
action by the officer, did you?

A. No.

(Jeanne S. Contino - Cross)

- 1 Q. You also testified about the parking on ██████ Avenue, correct?
- 2 A. Yes.
- 3 Q. If I can direct your attention again to Exhibit DD, you said primarily
- 4 there's a problem with the odd numbered house side of the street, correct?
- 5 A. That's correct.
- 6 Q. So if we look at the display here, the Exhibit DD, you know Mr. Qadir
- 7 that lives at number 7?
- 8 A. I'm sorry?
- 9 Q. Your neighbor to -- your neighbor across the street --
- 10 A. Yes?
- 11 Q. -- at the end of the street near St. Lawrence, right? That's a side street?
- 12 A. Yes.
- 13 Q. The corner house?
- 14 A. Yes.
- 15 Q. He's got a double driveway, correct?
- 16 A. Yes.
- 17 Q. Okay. And the Chwalinskis at number 15, they have an expanded
- 18 driveway with an apron, don't they?
- 19 A. Yes, they do.
- 20 Q. And Mr. Grisanti has a double driveway with an apron --
- 21 A. Yes.
- 22 Q. -- also, correct? Okay. And I can't see behind the tree, but I believe that
- 23 there might be an apron on that house as well, correct?
- 24 A. Correct.
- 25 Q. Okay. And 31, tough to tell because we have any of those trees. Was

(Jeanne S. Contino - Cross)

- 1 there an apron also on 31?
- 2 A. Yes.
- 3 Q. Okay. So all the houses across the street from your house have aprons
- 4 across the driveway, correct?
- 5 A. Correct.
- 6 Q. And all the houses on 15 -- all the driveways are single driveways,
- 7 correct?
- 8 A. Yes, they are.
- 9 Q. And the Meles had three children, correct?
- 10 A. Yes.
- 11 Q. And Mr. Mele had his own car, correct?
- 12 A. Yes, he did.
- 13 Q. And Ms. Mele had her own car?
- 14 A. Yes.
- 15 Q. And all the three kids had their own car?
- 16 A. I don't know if they each had one.
- 17 Q. Okay. And Mr. Mele worked, correct?
- 18 A. Yes.
- 19 Q. And Ms. Mele worked at some time?
- 20 A. Sometimes.
- 21 Q. Right. And the daughters were going to college, correct, and going to
- 22 school?
- 23 A. The youngest one, yes.
- 24 Q. Okay. So there were a variety of cars going in and out of the Meles'
- 25 house every day, correct?

(Jeanne S. Contino - Cross)

1 A. Correct.

2 Q. All right. Okay. Okay. And Ms. Contino, you don't know specifically of
3 any charges against Ms. Mele, correct? You don't know -- you
4 mentioned that you thought there was some type of an assault charge,
5 correct?

6 A. That, yeah, she was arrested for shoplifting and assault.

7 Q. Okay. And you know that from talking to other people, correct?

8 A. Yes.

9 Q. So you have no firsthand information? That's a rumor?

10 A. Well, I watched her standing there and get put in handcuffs and taken in a
11 police car.

12 Q. Well, that would be a police officer detaining someone, correct?

13 A. Yes.

14 Q. What -- you saw the police officers detain Mark Grisanti, correct? The
15 police officers took him in the police car, correct?

16 A. Yes.

17 Q. Okay. And so how -- you said it was for an assault charge?

18 A. Yes.

19 Q. Okay. But you don't know that; you were told that? That's your belief?

20 A. I was told that.

21 Q. Right. So just wanted to clarify that. Okay. And you said you moved
22 after approximately 20 or so years living next to the Meles, correct?

23 A. Yes.

24 Q. So you lived next to them despite not being fans of them, shall we say,
25 correct?

(Jeanne S. Contino - Cross)

1 A. That was not my idea. It was my husband's idea.

2 Q. I didn't ask whose idea it was, but you lived there for close to 20 years,
3 correct?

4 A. I lived there for 30 years.

5 Q. Okay. Now, the Meles moved in approximately 2000, 2001, correct?

6 A. Yes.

7 Q. And you stopped talking to the Meles approximately in -- within the
8 year -- within six months, correct?

9 A. Yes.

10 Q. Okay. And you really have not spoken with them --

11 A. No.

12 Q. -- for nearly 18 years, correct?

13 A. That's right.

14 Q. Okay. You didn't refer to them by their name, you just called them
15 "asshole" -- or "assholes"?

16 A. Well, that's what my husband and I refer to them as, yeah.

17 Q. Right. Okay. And you've done that for pretty much the whole time --
18 the 20 years that you've lived next door to them?

19 A. Just to each other.

20 MR. DUGUAY: I have no further questions.

21 But -- excuse me. Okay. Just one final -- I'm sorry, Ms.

22 Contino.

23 BY MR. DUGUAY:

24 Q. You testified about a truck being parked in front of the Grisantis' house
25 on June 22, correct?

(Jeanne S. Contino - Cross)

1 A. Yes.

2 Q. Okay. And you're standing at your house looking at the truck, correct?

3 A. Yes.

4 Q. You never moved down to the sidewalk to look straight down the
5 driveway, correct, because you were afraid --

6 A. No, I did not, because yes, I was -- I would be afraid to.

7 Q. Right. And the car wasn't blocking -- the truck was not blocking the
8 Grisantis' drive or even the apron of the driveway, was it?

9 A. It was very much in the encroachment.

10 Q. Okay. The encroachment, so we can clarify it, would mean that the
11 bumper was past the concrete?

12 A. From my angle, I could not see that.

13 Q. Okay, you couldn't see it, correct?

14 A. Right.

15 Q. Okay.

16 MR. DUGUAY: No further questions.

17 REDIRECT EXAMINATION

18 BY MR. CONNORS:

19 Q. Did you have any trouble seeing when the officer ran across the street and
20 grabbed Maria Grisanti and threw her to the ground?

21 A. Did I have any trouble seeing --

22 Q. Yeah.

23 A. No, I did witness that.

24 Q. You could see that clearly?

25 A. Yes.

(Jeanne S. Contino - Redirect)

- 1 Q. No matter where you were standing in --
- 2 A. It was -- the angle was just appropriate, yeah.
- 3 Q. Okay. Now, you were asked whether or not you ever made any
- 4 complaints that night about the conduct of the police officers. Do you
- 5 recall that question from Mr. Duguay?
- 6 A. Yes.
- 7 Q. You did, though, speak to the officer's -- excuse me. You never made a
- 8 formal written complaint, did you?
- 9 A. No.
- 10 Q. But you did speak to the officers that night about the conduct of the
- 11 officer who arrested Maria Grisanti, correct?
- 12 A. Mostly to my husband.
- 13 Q. Okay. You were asked about whether you -- you didn't have any
- 14 firsthand knowledge about any assault charge or any assault by Gina
- 15 Mele; you recall that question?
- 16 A. Yes.
- 17 Q. Okay. But you do have firsthand knowledge seeing her actually assault
- 18 someone, didn't you?
- 19 A. Her daughter.
- 20 Q. When did you see that happen?
- 21 A. I saw it in their driveway, and she had her in a choke hold, and she was
- 22 shoving her up the driveway.
- 23 Q. What did you do about that?
- 24 A. I called 911.
- 25 Q. Okay. Now, you were asked some questions about the parking on both

(Jeanne S. Contino - Redirect)

1 sides of the street and about the parking in front of the Grisantis' home on
2 June 22; remember that?

3 A. Yes.

4 Q. And you were asked, "Well, it wasn't blocking the driveway at the
5 Grisanti home," correct?

6 A. As I said, from my angle, I couldn't tell exactly.

7 Q. Because the -- it was an SUV, it was a large vehicle, correct?

8 A. It looked like a pickup truck to me.

9 Q. Okay. And so where you were standing, you couldn't see exactly whether
10 it was blocking or not?

11 A. No.

12 Q. Okay. But in the past, have you experienced situations where the Meles
13 had parked in close proximity or encroached the various driveways on

14

15 A. Yes.

16 Q. Tell us about that.

17 A. That was something that they did as an act of aggression.

18 MR. DUGUAY: Objection.

19 THE REFEREE: Sustained.

20 BY MR. CONNORS:

21 Q. Tell us what you saw.

22 A. I used to see them backing their trucks -- their vehicles up and down and
23 just getting as close to the driveways as they could, and --

24 MR. DUGUAY: Objection.

25 THE REFEREE: Overruled.

(Jeanne S. Contino - Redirect)

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BY MR. CONNORS:

Q. Go ahead.

A. And it's just to be intimidating.

MR. DUGUAY: Objection.

THE REFEREE: Sustained to that.

A. Okay.

BY MR. CONNORS:

Q. When they would do that, and they would park, would there also be room in front of them where they could pull up very easily?

A. Oh, yes.

MR. DUGUAY: Objection.

THE REFEREE: Overruled.

BY MR. CONNORS:

Q. Now, you were asked questions by Mr. Duguay where he said, "Well, you lived there for 30 years?" You recall that?

A. Yes.

Q. Did you want to move during the time period that you lived there?

A. Yes.

Q. Why did you want to move?

A. Because I was afraid of the Meles.

MR. DUGUAY: Objection. Asked and answered, I believe, on direct. Was that asked and answered?

MR. CONNORS: Well, you asked on cross,

(Jeanne S. Contino - Recross)

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so --

MR. DUGUAY: All right.

THE REFEREE: All right.

THE WITNESS: Answer it?

THE REFEREE: You can answer.

A. I was afraid.

MR. CONNORS: Okay. Thank you. That's all

I have.

RECCROSS EXAMINATION

BY MR. DUGUAY:

Q. Ms. Contino, just briefly; just a few more questions, so thank you very much. You described the police coming to the house after you called them about something you thought you observed with Gina, correct? You remember that?

A. When she was choking her daughter.

Q. Well, what you believe was choking her daughter, correct? Her assault?

A. Yes.

Q. Okay. You never signed a statement, though, did you?

A. No.

Q. I just asked whether or not you signed a statement, correct? Okay. And you described Maria had a long history of being violent and aggressive, correct?

MR. CONNORS: I'm sorry.

BY MR. DUGUAY:

Q. That was your testimony?

(Jeanne S. Contino - Recross)

1 MR. CONNORS: I'm sorry. I didn't hear that.

2 BY MR. DUGUAY:

3 Q. I'm sorry. Gina.

4 A. Yes.

5 Q. I keep doing that. I apologize. Okay. There came a point at time on
6 June 22, 2020, when you came outside, correct?

7 A. Yes.

8 Q. Okay. And you witnessed Maria Grisanti, after the police arrived, come
9 over and stand right in the face of Gina Mele, correct?

10 A. No.

11 Q. You didn't observe that?

12 A. No.

13 Q. Okay. You're saying that didn't happen?

14 A. It's not that it didn't happen. I wasn't out there then.

15 Q. Okay. You said you were watching when the police pulled up, correct?

16 A. Maria was on her property the entire time I was there.

17 Q. Okay.

18 MR. DUGUAY: I have no further questions.

19 MR. CONNORS: No further questions.

20 THE REFEREE: You're discharged. Thank
21 you for your testimony.

22 MS. CONTINO: Yay.

23 MS. TRAPANI: Off?

24 THE REFEREE: Yes.

25 (Proceedings concluded at 4:06 p.m.)

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CERTIFICATION

I, Kimberly Knowlton, do hereby certify that the foregoing is a true and accurate transcript of the audio recording described herein to the best of my knowledge and belief.

Dated: July 1, 2022

Kimberly Knowlton

Kimberly Knowlton



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

-----X

In the Matter of an Investigation :
Pursuant to Section 44, subdivision 4, :
of the Judiciary Law in Relation to :

MARK J. GRISANTI, :

a Judge of the Court of Claims, :
Acting Supreme Court Justice, :
Erie County. :

-----X

Erie County Family Court, Part 3
One Niagara Street, 7th Floor
Buffalo, New York 14202

June 21, 2022
10:02 a.m.

B e f o r e:

WILLIAM T. EASTON, ESQ.
Referee

P r e s e n t:

For the Commission
JOHN J. POSTEL, Deputy Administrator

DAVID M. DUGUAY, Senior Attorney

For the Respondent
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A l s o P r e s e n t:

HON. MARK J. GRISANTI, Respondent

KATHRYN TRAPANI, Executive Assistant to the Deputy Administrator

VANESSA MANGAN, Senior Investigator



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THE REFEREE: This is the continuation of the hearing of Mark J. Grisanti. It's June 21, about ten o'clock. We're resuming the hearing. The courtroom is again -- is secure except for presence of the Commission staff, myself, the parties, and I think there's a witness ready to testify. But other than that, is the parties ready to proceed?

MR. CONNORS: We are.

MR. DUGUAY: We are.

MR. CONNORS: Respondent calls Linda Chwalinski.

MS. CHWALINSKI: Hi.

THE REFEREE: Good morning, Ms. Chwalinski. I'm William Easton, and I'm an attorney from Rochester. And I've been commissioned to sit as a finder of fact --

MS. CHWALINSKI: Um-hum.

THE REFEREE: -- for the Commission to Judicial Conduct for a hearing. And you've been subpoenaed or you're testifying here as a witness.

The first thing I'd like to alert you to -- well, first I'd like to do is put you under oath.

MS. CHWALINSKI: Okay.

THE REFEREE: Do you swear or affirm under the penalties of perjury that the testimony that you're about to provide is the truth, the whole truth, and nothing but the

(Linda Marie Chwalinski - Direct)

1 truth?

2 MS. CHWALINSKI: I do.

3 THE REFEREE: All right. We're ready to
4 proceed except for this one little trick is that that
5 microphone in front of you, you have to speak into it,
6 because --

7 THE WITNESS: Okay.

8 THE REFEREE: -- it's a recording device. But
9 it's not a projection device, so at the same time, you've got
10 to keep your voice loud enough so that everyone can hear in
11 the courtroom.

12

13 L I N D A M A R I E C H W A L I N S K I

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

15

16 DIRECT EXAMINATION

17 BY MR. CONNORS:

18 Q. Good morning, Ms. Chwalinski.

19 A. Good morning.

20 Q. As I mentioned to you, we are sitting over on this side, so you have to
21 keep your chair closer to the front, and --

22 A. Um-hum.

23 Q. -- just so we can talk to you and still be heard on this recording device.

24 Would you please state your full name for the record?

25 A. Linda Marie Chwalinski.

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(Linda Marie Chwalinski - Direct)

1 Q. Where do you live?

2 A. 15 [REDACTED] Avenue, Buffalo, New York.

3 Q. How long have you lived there?

4 A. It will be 32 years this November.

5 Q. All right. Were you living there on June 22, 2020?

6 A. Yes, I was.

7 Q. Did you see an altercation between the Mele family and the Grisanti
8 family?

9 A. Yes, I did.

10 Q. Do you know the Grisantis?

11 A. Yes, I do.

12 Q. Do you know both Mark and Maria?

13 A. Yes.

14 Q. Okay. Do you also know who the Meles are?

15 A. Yes, I do.

16 Q. Which members of the Mele family did you see on the evening of June
17 22, 2020?

18 A. Joe Mele, Gina Mele, and her sister, Theresa.

19 Q. And were you familiar with the sister Theresa before that date?

20 A. Yes.

21 Q. Where were you standing when you saw the altercation?

22 A. I was standing on the grass between the sidewalk and the curb at the --
23 Mark Grisanti's side of the driveway.

24 Q. How far away from the parties were you when you saw the altercation?

25 A. Well, the altercation happened in the middle of the street, so maybe ten

(Linda Marie Chwalinski - Direct)

1 feet. I don't know the distance.

2 Q. Did you have a clear vantage point?

3 A. Yes, I did.

4 Q. And could you see everything clearly?

5 A. Yes.

6 Q. Do you recall if you saw the beginning of the altercation?

7 A. I saw the -- I verbally heard it before I saw the physical.

8 Q. Tell me what you mean by that?

9 A. My husband and I heard the yelling and screaming and walked down our
10 driveway, and then I saw the physical.

11 Q. How soon after you heard the yelling and screaming did you walk down
12 your driveway?

13 A. Probably within a minute or so.

14 Q. When you walked down the driveway, what did you see?

15 A. I saw Maria Grisanti being choked by Gina Mele and her sister, Theresa.
16 Joe Mele was also in the altercation, and he had his arm across Maria
17 trying to keep her -- well, the three of them were basically assaulting
18 Maria Grisanti, and violently shaking her by the neck.

19 Q. Okay. I'm going to ask you some more questions about what you saw
20 that evening, but first, I'd like you to tell the hearing officer a little bit
21 about your background. First, can you tell us your educational
22 background?

23 A. Yes. I graduated from Erie Community College with an Associate's
24 Degree.

25 Q. What was your degree in?

(Linda Marie Chwalinski - Direct)

1 A. Applied Science -- Secretarials, Applied Science.

2 Q. What did you do with that degree after you graduated from Erie
3 Community College?

4 A. I worked for Blue Cross and Blue Shield of Western New York as an
5 Administrative Assistant.

6 Q. And what did you do as an Administrative Assistant?

7 A. Well, I worked for three Directors and a Vice President, maintaining their
8 meetings and you know, scheduling, and you know, basically secretarial.

9 Q. How long did you do that?

10 A. I worked for them for 16 years.

11 Q. All right. Was it interrupted at any period of time?

12 A. It was interrupted when we had our third daughter, and I decided to stay
13 home and raise our three daughters.

14 Q. Okay. And after you had your children, did you go back to work?

15 A. Yes, I did.

16 Q. Where did you go back to work?

17 A. I worked for the City of Buffalo as an intern in the City Clerk's Office.

18 Q. What did you do? What type of work?

19 A. I worked for Diana Rico, the Deputy City Clerk, helping her with the
20 birth records.

21 Q. Are you married?

22 A. Yes, I am.

23 Q. What's your husband's name?

24 A. Gerald Chwalinski.

25 Q. Does he live with you on [REDACTED] Avenue?

(Linda Marie Chwalinski - Direct)

1 A. Yes, he does.

2 Q. Was he living there on June 22, 2020?

3 A. Yes, he was.

4 Q. Did he see any of the altercation?

5 A. He saw -- as soon as we saw Maria being violently attacked, I
6 immediately told him to call 911, as I feared for Maria's life.

7 Q. So did he leave the area?

8 A. So -- yes.

9 Q. I'm sorry.

10 A. I'm sorry. Go ahead. I interrupted.

11 Q. Did he leave the area where you were standing?

12 A. Yes. He immediately ran into our home to call 911.

13 Q. What does your husband do?

14 A. He's retired now, three years retired, and he was the City Clerk of
15 Buffalo.

16 Q. What does the City Clerk of Buffalo do? What are his duties?

17 A. Well, he called the meetings for the Common Council, and he's the
18 Registrar for the birth, death, and marriage records.

19 Q. Now, you told us you interrupted your employment with Blue Cross and
20 Blue Shield to give birth to your children. How many children do you
21 have?

22 A. Three daughters.

23 Q. And how long have you been married?

24 A. It will be 32 years this September.

25 Q. Do you have any criminal record whatsoever?

(Linda Marie Chwalinski - Direct)

1 A. No.

2 Q. Have you ever been convicted of a crime?

3 A. No.

4 Q. Have you ever been arrested for a crime?

5 A. No.

6 Q. Okay. How about your husband? To your knowledge, does he have any
7 criminal record?

8 A. No. That's actually funny. He's the nicest person in the world.

9 MR. DUGUAY: Objection. Responsive,
10 although it is a pleasant response.

11 THE REFEREE: Sustained.

12 THE WITNESS: Sorry.

13 THE REFEREE: Go -- though I -- he probably
14 appreciates -- after Father's Day, but it's still sustained.

15 BY MR. CONNORS:

16 Q. And after 32 years, if you can still say that, I think that's -- I'm going to
17 show you what's been marked into evidence as Exhibit DD, and I'd ask to
18 pull that up on the projection screen. Thank you. Do you recognize that
19 exhibit?

20 A. Yes, it's our street.

21 Q. Okay. What is depicted on that exhibit?

22 A. Well, my house, the Grisantis' house, and neighboring houses.

23 Q. Is that a fair and accurate depiction of the street as it existed on June 22,
24 2020?

25 A. Yes.

(Linda Marie Chwalinski - Direct)

1 Q. And do the names of the individuals on top of the homes accurately
2 reflect those who were living there on June 22, 2020?

3 A. Yes.

4 Q. All right. Would you please indicate where your home is located?

5 A. I'm at 15, Chwalinski. 15 [REDACTED]

6 Q. So you're indicating in the middle of the document where it says 15 with
7 Chwalinski underneath it?

8 A. Yes, next to Mark and Maria.

9 Q. And you're right next door to the Grisantis?

10 A. Yes.

11 Q. So let me take you back now to June 22, 2020, and ask you your best
12 recollection as to what time it was that you saw the altercation -- that you
13 first saw the altercation between the Meles and the Grisantis.

14 A. It was around nine o'clock.

15 Q. And can you tell us where you were located and perhaps indicate on the
16 exhibit where it was that you were located?

17 A. Sure. Okay. Where Mark Grisanti's driveway is between our houses, I
18 was standing right at the grass between the street and the sidewalk.
19 Basically, I was almost in Mark Grisanti's driveway, but I was just
20 standing on the edge of the grass.

21 Q. So this is Mark Grisanti's driveway, indicated between 21 and 15,
22 correct?

23 A. Um-hum, yes.

24 Q. You have to say yes or no.

25 A. Yes, yes.

(Linda Marie Chwalinski - Direct)

- 1 Q. Okay. And you were standing to the right of his driveway?
- 2 A. No. On my grass. Yeah, but right -- keep going. Right there.
- 3 Q. Okay. So there's a patch of grass between the sidewalk and the street;
- 4 were you standing on that?
- 5 A. Yes.
- 6 Q. And were you standing on the edge?
- 7 A. Yes.
- 8 Q. Okay. And was that the edge that bordered the Grisanti driveway?
- 9 A. Yes.
- 10 Q. Is that your vantage point when you observed the altercation between the
- 11 Grisantis and the Meles?
- 12 A. Yes.
- 13 Q. Okay. So tell me your best recollection of what it is you saw from the
- 14 beginning until the end.
- 15 A. Well, I witnessed Gina, her sister Theresa, and Joe Mele violently
- 16 attacking Maria Grisanti. One of them, and I -- Maria [sic] and her sister
- 17 both had Maria by the neck. I think her sister's arm was kind of like,
- 18 down a little further. And Gina was saying to choke her. And Joe Mele's
- 19 arm across all of them, kind of more like towards Maria's face or shoulder
- 20 area. And Mark Grisanti trying to pull his wife away from the three of
- 21 them that were violently assaulting her.
- 22 Q. What did you see Mark do at that point?
- 23 A. Pull Maria away from them. He, you know, basically, he had to -- he
- 24 was -- she was fighting for her life.
- 25 MR. DUGUAY: Objection.

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(Linda Marie Chwalinski - Direct)

1 THE REFEREE: Objection is sustained.

2 BY MR. CONNORS:

3 Q. What did you see Maria do?

4 A. Maria tried to get away. Like, she went with Mark when he, like -- when
5 Mark was finally able to free her, they both walked up their approach.

6 Q. And where did they go after Maria was freed from the altercation?

7 A. Maria went on her front lawn. She was yelling and screaming at them.
8 And Mark -- Joe Mele was trying to get Mark to come back in the street
9 and fight. And Mark said, "Joe, the police have been called. I'm not
10 going to fight you."

11 Q. What was Joe Mele saying?

12 A. Well, a lot of profanity. He was egging Mark on. He was goading him
13 into a physical altercation between the two of them.

14 MR. DUGUAY: Objection. Description.

15 THE REFEREE: Overruled.

16 A. And he told Mark the cameras were off, "Come out and fight like a man."

17 BY MR. CONNORS:

18 Q. What -- how did Mark Grisanti respond?

19 A. He told them that the police were called.

20 Q. Okay. What was the next thing you saw after that exchange between Joe
21 Mele and Mark Grisanti?

22 A. Well, Gina Mele and Joe Mele didn't accept that. They wanted to
23 continue the fight.

24 MR. DUGUAY: Objection.

25 THE REFEREE: Sustained.

(Linda Marie Chwalinski - Direct)

1 BY MR. CONNORS:

2 Q. Just tell us what you saw.

3 A. Okay. And they came across to Mark's side of the street and Joe Mele
4 lunged -- he went to -- he ripped Mark's button-down shirt off his body,
5 and Mark only got away from him by putting his head down and
6 wiggling out of his shirt. And then the next thing Joe Mele did was lunge
7 at Mark. I was standing right next to him, because I thought he was
8 going to take me down with him.

9 MR. DUGUAY: Objection.

10 THE REFEREE: Overruled.

11 BY MR. CONNORS:

12 Q. Yeah?

13 A. Well, and he ripped -- he lunged at Mark. He got a hold of Mark's chain
14 and his cross, ripped -- pulled it -- ripped it right off his body and then he
15 ripped his other shirt right down. And when he did that, he face-planted
16 right on the street, right at the foot of Mark and I -- basically, right at our
17 feet. I couldn't believe that he just face-planted right at our feet. And he
18 hit the ground like a ton of bricks.

19 Q. When you say he, are you referring to Joe Mele?

20 A. Joe Mele face-planted.

21 Q. Was he able to get his arms out to --

22 A. No.

23 Q. -- break his fall?

24 A. I think it happened so fast and because he was grabbing --

25 MR. DUGUAY: Objection to what I think.

(Linda Marie Chwalinski - Direct)

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THE WITNESS: Oh.

THE REFEREE: Overruled.

A. It happened so fast that Joe never had, I believe, the opportunity to react to the fall. He just fell face-first, smashing his face. His face hit the ground first, with his glasses intact, originally, and when he stood up, alls I remember is his glasses were all busted on his face, and he was trying to fix them, but they were broken.

BY MR. CONNORS:

Q. Okay.

A. And -- yeah, so --

Q. Can we pull up Exhibit 8, please? So Exhibit 8, first of all, do you recognize the individuals in those photos?

A. Yes, Gina and Joe Mele.

Q. Okay. But I want to ask you a question specifically about the injuries that are depicted in that photo, and I'm going to direct your attention to the far-right exhibit, Exhibit 8. You see that?

A. Um-hum. Um-hum. Yes.

Q. Now, prior to the time that Mr. Mele fell, and as you say, "face-planted" on the ground, did you see any injuries like that on Joe Mele?

A. No, absolutely not. There were no injuries on him at all.

Q. Okay. Did you -- you can take that down. Thank you. Did you see Mark standing over him at the time Mele fell to the ground?

A. Yes.

Q. And just for orientation, where exactly was it that Joe Mele fell?

A. Basically right at the foot of the end of Mark's approach.

(Linda Marie Chwalinski - Direct)

1 Q. Okay. And by that, you mean the approach to his driveway?

2 A. Yes.

3 Q. Okay. Okay. And was Mark standing over him at the time?

4 A. Yes. We both were.

5 Q. Did Mark do anything to attack or assault or strike Mr. Mele while he
6 was on the ground?

7 A. No, not at all.

8 Q. Now, up until that time, had you ever heard Mark Grisanti mention that
9 he was a judge?

10 A. No.

11 Q. Did he ever say that in your presence on June 22, 2020?

12 A. No.

13 Q. Do you have a security system?

14 A. Yes.

15 Q. What type of a system do you have?

16 A. Vivint.

17 Q. That's V-I-V-A-N-T?

18 A. V-I-V-I-N-T.

19 Q. I-N-T. Okay. Was it operational on June 22, 2020?

20 A. Yes.

21 Q. Was it set to record on that day?

22 A. No.

23 Q. Why not?

24 A. Because we basically use it more for when we're on vacation, and it
25 doesn't have a long length of recording, so most of the time, the only

(Linda Marie Chwalinski - Direct)

1 thing that got recorded were my flowers, so my husband got tired of
2 looking at those type of recordings, so.

3 Q. So you have no record of the events that occurred on June 22, 2020 that is
4 either video or audio recorded?

5 A. No.

6 Q. Approximately how long did the altercation last between the Grisantis
7 and the Meles?

8 A. 10, 15 minutes.

9 Q. Did the verbal arguing continue?

10 A. Yes.

11 Q. Were you able to hear if there was cursing and shouting exchanged
12 between the parties?

13 A. Yes.

14 Q. Eventually, did the police arrive?

15 A. Yes.

16 Q. How long after the alteration [sic] concluded did the police arrive?

17 A. How long after the altercation -- well, when the police -- well, the
18 Meles -- well, I'm trying to think. The cops were there as the Meles were
19 retreating back to their side of the street. As the police were pulling up,
20 they retreated back to their side of the street.

21 Q. Okay. So that was after Mele had fallen and as you said, "face-planted"
22 himself in the entrance to the Grisanti driveway?

23 A. Yes. He injured himself, so he retreated.

24 MR. DUGUAY: Objection.

25 THE REFEREE: Sustained.

(Linda Marie Chwalinski - Direct)

1 BY MR. CONNORS:

2 Q. So then did you see Gina Mele, Joe Mele, and Gina's sister go back to
3 their side of the street?

4 A. Yes.

5 Q. As the police arrived?

6 A. Yes.

7 Q. So I asked you some questions about when Mark Grisanti was standing
8 over Mele after he'd fallen. And you answered those questions, but at
9 any time, did you ever see Mark Grisanti throw a punch on June 22,
10 2020?

11 A. No.

12 Q. You said you saw him trying to get Maria out of the confrontation,
13 correct?

14 A. Yes.

15 Q. How was he doing that? What was he doing?

16 A. He was just trying to pull her free from their grip. I mean, he was doing
17 anything and everything to get him -- his wife --

18 MR. DUGUAY: Objection.

19 THE REFEREE: Sustained. Just what you saw.

20 BY MR. CONNORS:

21 Q. What physically did you see him do?

22 A. Tried to get his wife away from being physically assaulted.

23 MR. DUGUAY: Objection.

24 THE REFEREE: I'll overrule it.

25 A. Well, I don't know how to say it.

(Linda Marie Chwalinski - Direct)

1 BY MR. CONNORS:

2 Q. Prior to the time that the police arrived, did you intervene at all?

3 A. Just screaming to let Maria go, because I was afraid that they were going
4 to kill her.

5 Q. Did they let her go?

6 A. No.

7 Q. How many police officers arrived on the scene initially?

8 A. One cop car and two officers.

9 Q. Okay. And what did you observe the officers do when they arrived on
10 the scene?

11 A. Well, one went towards the Mele side, and one came over to the Grisanti
12 side.

13 Q. What did they do after they went over to the Mele side and one toward
14 the Grisanti side? What did the officers do?

15 A. Well, I think they were taking statements or trying to, you know, figure
16 out what happened. So once again, you know --

17 Q. Where was Maria standing at that time?

18 A. I believe she was, like, in the middle of her lawn.

19 Q. On her side of the street?

20 A. Yes.

21 Q. Where was Mark standing at the time?

22 A. In his driveway, I believe.

23 Q. Was he talking to one of the police officers?

24 A. Yes.

25 Q. Were you able to overhear what they said?

(Linda Marie Chwalinski - Direct)

1 A. No, not really.

2 Q. Okay. Were you able to overhear what Maria was saying?

3 A. Just that she had been violently assaulted by the Meles.

4 Q. Was she still shouting and cursing at the time?

5 A. Yes.

6 Q. How would you describe Maria's state of mind at that time when the
7 police officers arrived?

8 MR. DUGUAY: Objection form of the
9 question.

10 THE REFEREE: Sustained.

11 BY MR. CONNORS:

12 Q. How would you describe Maria's acts at the time the police arrived?

13 A. She was very upset. She had just survived a brutal attack.

14 MR. DUGUAY: Objection beyond very upset.

15 A. Okay. Well, she was upset.

16 THE REFEREE: Sustained. Just what you saw.
17 Less -- not so much your conclusions you've drawn from it,
18 but what you saw.

19 A. Well, I saw her acting -- well, I know I saw her acting upset. I don't -- I
20 don't know how to explain it. She was someone who just freed herself
21 from a violent attack and she was trying to tell the police that she was the
22 one that was attacked, not the Meles, because they were using their
23 injuries to play the victim.

24 MR. DUGUAY: Objection.

25 THE REFEREE: Sustained for a portion of it.

(Linda Marie Chwalinski - Direct)

1 The first portion is overruled. But again, really, just what
2 you saw and observed. It's --

3 A. Okay. I -- okay.

4 BY MR. CONNORS:

5 Q. What did you see the officers do at that point when Maria was standing
6 on her property, Mark was standing with the other officer, and the other
7 officer was across the street? What did you see the officer do?

8 A. I saw the officer from Joe -- from the Mele's side of the street come
9 running over across to Maria, yelling at her, and the next thing I saw was
10 that officer slam Maria Grisanti to the ground. I thought he almost broke
11 her arm the way he slammed her down so hard.

12 MR. DUGUAY: Objection.

13 THE REFEREE: Sustained.

14 A. Okay. Oh, I'm sorry. I -- well --

15 BY MR. CONNORS:

16 Q. Just what you saw. What you saw.

17 A. He slammed her down so hard, and he was trying to handcuff her.

18 Q. Did you hear the officer say anything?

19 A. Yeah. He said -- she was saying something about, "What are you going
20 to do, arrest me?" And he said, "I" -- you know, something about, "I can
21 fucking arrest you" or something. There was an -- you know, a verbal
22 altercation between the two of them.

23 Q. What was Mark doing at that time?

24 A. Well, Mark was trying to -- he was trying to tell them that they were the
25 ones that were assaulted. They were the ones that called 911. They were

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(Linda Marie Chwalinski - Direct)

1 the ones that were the assaulted, and to release Maria. You know, he's
2 telling them to release her, that once they got all the witnesses and talked
3 to everybody, they would see that we -- they were the ones that were
4 assaulted, not the Meles.

5 Q. Did you hear Mark say in words or substance -- did you hear him say
6 words to that effect to the police officers?

7 A. What, that he -- what? Yes. I heard him basically say that once they
8 review the tapes, they're going to be sorry when they see what the tapes
9 and videos would show.

10 Q. Did you see Mark do anything physically with respect to the officer who
11 was handcuffing Maria?

12 A. I know at one point he put his hand on an officer to try and get to his
13 wife, is all I -- you know, he didn't -- just basically put his hand on him.

14 Q. Did you see that with your own eyes.

15 A. Um-hum.

16 Q. You have to answer yes or no.

17 A. Yes.

18 Q. Okay. Where were you standing when you saw that?

19 A. I was standing on my -- still, like, the grass part of where I was pretty
20 much standing the whole time, at the end of my driveway -- or at the end
21 of Mark's driveway on my grass.

22 Q. Do you recall if you heard --

23 THE REFEREE: Just to make the record clear
24 on this, that -- in the center of DD, it says [REDACTED] Avenue --

25 THE WITNESS: Um-hum.

(Linda Marie Chwalinski - Direct)

1 THE REFEREE: -- you see that?

2 THE WITNESS: Um-hum.

3 THE REFEREE: And then if you go straight
4 down, there's a rectangle -- green rectangle, that's your --
5 the grass you were standing on?

6 THE WITNESS: Um-hum.

7 THE REFEREE: And it was all the way over
8 towards the driveway between your house and Grisantis
9 house, is that correct?

10 MR. CONNORS: I have a copy of the exhibit
11 that you --

12 THE REFEREE: Okay. Maybe you can mark
13 where you're standing.

14 THE WITNESS: Oh. I was basically standing
15 right here.

16 MR. CONNORS: Did you put an X there?

17 THE WITNESS: No, I put a circle. I don't
18 know. X? You want me to do X marks the spot?

19 MR. CONNORS: Yes, so let the record reflect
20 that she put an X surrounded by a circle where she was
21 standing.

22 THE REFEREE: Thank you.

23 MR. DUGUAY: Mr. Connors -- yeah, thanks.

24 MR. CONNORS: Sure.

25 MR. DUGUAY: All right. Thank you.

(Linda Marie Chwalinski - Direct)

1 MR. CONNORS: And we'll preserve this and --

2 MR. POSTEL: Do you want to have that in
3 evidence?

4 MR. CONNORS: Yeah. What I'll do is I want
5 to mark it as DD-1. So sort of a subdivision, and we'll offer
6 that into evidence.

7 (Respondent's Exhibit DD-1 was marked for identification)

8 MR. POSTEL: You want to convert it to a
9 digital file?

10 MR. CONNORS: Yes. And we'll send it to --

11 MR. DUGUAY: Yeah. No objection.

12 MR. CONNORS: Thank you.

13 THE REFEREE: Received.

14 (Respondent's Exhibit DD-1 was admitted into evidence)

15 BY MR. CONNORS:

16 Q. Now, you mentioned that there was another officer across the street who
17 came across to arrest Maria and handcuff her; you recall that?

18 A. Yes.

19 Q. Now, did you hear -- do you recall hearing the other officer say anything
20 as the one officer came across the street to arrest Maria?

21 A. Yes. He said something to the effect that, "It's okay. I got it."

22 Q. Okay. So what were you doing while this was going on?

23 A. Just observing.

24 Q. And had your husband come back out yet?

25 A. No. He actually was taking care of Fredo, Mark and Maria's dog, who

(Linda Marie Chwalinski - Direct)

1 had wandered down the street, so he got the dog and took him in the back
2 of our house to calm him down.

3 Q. Now, you mentioned the Grisantis dog. Was that a long-time family pet?

4 A. Yes. They -- yes.

5 Q. Now, after Maria was placed in the police car, what did you observe?

6 A. I'm trying to think. Well, I observed the Meles across the street pointing
7 and arguing and fighting -- or, like, pointing and I heard them say that
8 they were attacked. I heard -- and then Mark Grisanti was trying to
9 explain to them that they were the ones that were attacked.

10 Q. Did you hear Mark mention Mayor Brown's name?

11 A. Yes.

12 Q. What did you hear him say with respect to Mayor Brown?

13 A. He said that he knew Mayor Brown, and he was well aware of the
14 situation on our street, that there's a history of violence on our street from
15 these people.

16 MR. DUGUAY: Objection.

17 MR. CONNORS: No, I think that's --

18 THE REFEREE: Not -- it is for its truth or --

19 MR. CONNORS: No, no.

20 THE REFEREE: No. It's not for its truth. I'll

21 let it in.

22 BY MR. CONNORS:

23 Q. What did you understand that statement to mean when Mark Grisanti
24 mentioned Mayor Brown's name as being "well aware" of what was
25 going on in the street?

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1 MR. DUGUAY: Objection.

2 THE REFEREE: Could you rephrase it?

3 MR. CONNORS: Sure.

4 BY MR. CONNORS:

5 Q. What did you understand when you heard Judge Grisanti mention that
6 Mayor Brown is "well aware" of it?

7 A. Well, that if anyone looked into the records, I guess, they would see that
8 Joe and Gina Mele, who live at 16 [REDACTED] have been the subject of all the
9 phone calls, all the police phone calls --

10 MR. DUGUAY: Objection. It's unresponsive to
11 relation to the Mayor of Buffalo.

12 THE REFEREE: I'll overrule it.

13 BY MR. CONNORS:

14 Q. You may finish.

15 A. Oh. That they have been the subject of all the violence on our street, and
16 Mark was just making a point that, you know, that the Mayor is --

17 MR. DUGUAY: Okay. Objection again. Ask
18 to strike.

19 THE REFEREE: That I'll sustain.

20 A. Okay. Well.

21 BY MR. CONNORS:

22 Q. So as of June 22, 2020, did you and your family personally experience
23 previous issues with the Mele family?

24 A. Yes, we -- constantly.

25 Q. Now, did Mark also mention the fact that some of his family members

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1 were police officers?

2 A. Yes.

3 Q. What did he say in that respect?

4 A. He said his daughter and his son-in-law were police officers.

5 Q. What happened after that? What did you observe next?

6 A. Nothing. He was just saying that, you know, basically I guess he was just

7 saying, you know, "My," you know, basically saying, "They're police

8 officers and I know," you know, I really wasn't sure what he meant by the

9 comment, but he was just informing them that they were police officers.

10 Q. Okay. And do you recall whether or not the police officers responded to

11 that comment in any way?

12 A. I -- not to my knowledge. I don't remember exactly what they said --

13 Q. Okay.

14 A. -- at this time.

15 Q. Did you hear Mark Grisanti use vulgar language that evening?

16 A. Everyone used vulgar language that evening.

17 MR. DUGUAY: Objection. Unresponsive.

18 A. Yes, he did.

19 BY MR. CONNORS:

20 Q. Okay. Are you friends with Mark and Maria Grisanti?

21 A. Yes.

22 Q. Have you socialized with them?

23 A. Yes.

24 Q. Have you known them for a long time?

25 A. Yes.

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1 Q. What observations did you make about Mark's actions that evening? In
2 other words -- I'll strike that. What observations did you make about
3 Mark's conduct that evening?

4 A. Mark is always the constant professional. He's always a -- such a nice
5 man. And for them to bring him to a level --

6 MR. DUGUAY: Objection.

7 THE REFEREE: Okay. Sustained. I mean, the
8 question is what did you see about his conduct that night?
9 What did you observe?

10 A. Well, he was highly upset about the fact that he just witnessed his --

11 MR. DUGUAY: Objection. Objection.

12 THE REFEREE: Yeah. Not about the why, but
13 what you could see in the way he conducted himself?

14 A. Okay. I saw a man who witnessed his wife --

15 MR. DUGUAY: Objection.

16 A. Okay. I don't know how -- he was upset. He was excited.

17 BY MR. CONNORS:

18 Q. Yeah.

19 A. He was upset.

20 THE REFEREE: And you can describe it? You
21 can go further and describe how he was upset and excited,
22 but not of the ultimate conclusions you're drawing.

23 THE WITNESS: Well, I describe him as a man
24 that was emotional, upset. I don't know, he was, like,
25 beyond belief that these people --

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1 MR. DUGUAY: Objection.
2 THE WITNESS: -- attacked his wife, I guess. I
3 mean --
4 MR. DUGUAY: Objection.
5 THE REFEREE: I'll overrule it.
6 MR. DUGUAY: Well, she described the
7 operation of somebody else's mind.
8 THE WITNESS: Okay.
9 BY MR. CONNORS:
10 Q. Had you ever heard --
11 A. He was agitated, I guess.
12 Q. Okay. So you've described him as excited, upset, and agitated?
13 A. Agitated, yes.
14 Q. Was he acting emotionally, in your mind?
15 A. Yeah, very emotional. It was a very emotional -- it was very traumatizing
16 to him to watch his wife --
17 MR. DUGUAY: Objection on traumatizing.
18 THE REFEREE: Yes, it --
19 THE WITNESS: Okay.
20 THE REFEREE: You can't testify as to what he
21 was --
22 THE WITNESS: Okay.
23 THE REFEREE: -- experiencing, even though
24 you are sympathetic to it --
25 THE WITNESS: Yeah.

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1 THE REFEREE: -- just what you saw.

2 THE WITNESS: Okay.

3 BY MR. CONNORS:

4 Q. Have you ever heard Mark use that language before in all the years that
5 you've known him?

6 A. No.

7 Q. Did you hear Mark make any threats that evening, anything that you
8 would characterize as a threat?

9 A. No, not to my knowledge.

10 Q. Did you hear him direct the police officers to get the cuffs off his wife?

11 A. Yes, I heard him say, "Remove the cuffs, because you're going to be
12 sorry when you see -- when you see the video and the audio and see that
13 my wife was the one that was attacked."

14 Q. During the course of your 30-plus years on [REDACTED] Avenue, has your
15 family experienced any incidents with the Mele family?

16 A. Yes. Countless.

17 Q. Have you discussed these incidents with Mark and Maria prior to June
18 22, 2020?

19 A. Yes.

20 Q. And did you advise them with respect to the experiences that you had
21 with the Meles prior to June 22, 2020?

22 A. Did I -- I'm sorry, did I --

23 Q. Did you speak to them and advise them about what had happened
24 between you and the Meles prior to June 22, 2020?

25 A. Yes.

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1 Q. And did they share with you some of their experiences about their
2 interactions with the Mele family prior to June 22, 2020?

3 A. Yes.

4 Q. Now, what I'd like you to do is to go through some of the experiences that
5 you've had with the Mele family, but I want to limit it to those that have
6 occurred prior to June 22, 2020 and those that you've talked about with
7 Mark Grisanti, okay?

8 A. Okay. Sure.

9 Q. And we have an exhibit, it's FFF, that's been marked for identification.

10 (Respondent's Exhibit FFF was marked for identification)

11 BY MR. CONNORS:

12 Q. I'm just going to make it available to you.

13 A. Okay.

14 Q. If you need it to refresh your recollection --

15 A. Yes.

16 Q. -- with respect to any of these incidents, all right?

17 A. Yes. And could I just have my purse to get my glasses? Thank you so
18 much.

19 Q. So the only restriction I'll place you, Linda, is that if you need the
20 document marked FFF to refresh your recollection, you may refer to it,
21 but if you don't need it, tell us the experiences that you've had with the
22 Mele family prior to June 22, 2020 and that you've discussed with the
23 Grisanti family, okay?

24 MR. DUGUAY: Yeah, if I may make just an
25 initial objection? As far as reputational evidence for

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1 specifics, I understand the question, but again, if we're
2 getting into detailed collateral evidence, then we have a
3 different issue at hand. So if she wants to testify of
4 reputational, I have no objection. Particulars, I may have
5 objections. I just wanted to give a highlight of that before
6 we begin.

7 THE REFEREE: I think I understand that, but
8 maybe it'll crystallize when the question comes, if he's
9 drawing on particulars or keeping it to the what was
10 conveyed to the Grisantis. But why don't we do it question
11 by question as it comes up?

12 BY MR. CONNORS:

13 Q. Yeah. So what I would like you to do is to recount those experiences you
14 had with the Meles prior to June 22, 2020 and had discussed with Mark
15 Grisanti so that he would be apprised of those experiences that you had,
16 okay?

17 A. Sure. I mean, I have --

18 Q. Now, you have to keep your voice up and project so we can --

19 A. Okay. In August -- the abuse basically started in August of 2003.

20 MR. DUGUAY: Objection. It's not -- "abuse
21 started;" she's not answering a direct question.

22 THE WITNESS: Oh.

23 MR. DUGUAY: She's giving a -- she's
24 beginning a litany of complaints.

25 MR. CONNORS: Well, she --

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1 THE WITNESS: Well, Joe and Gina Mele --

2 MR. CONNORS: Excuse me. Just --

3 THE WITNESS: -- have been --

4 THE REFEREE: Wait. Wait. So just to go
5 back and the first incident you can recall that you relayed to
6 the Grisantis; what was it about?

7 A. Well, Gina Mele physically assaulted me from behind and attacked me
8 and threatened to kill me. She did this in front of about eight to ten small
9 children, three of which were mine, and then screamed -- went up to my
10 three daughters and screamed, "Tell your fucking bitches to behave."

11 BY MR. CONNORS:

12 Q. When did that occur?

13 A. In August of 2003.

14 Q. Okay. If you'd tell us --

15 THE REFEREE: Was it 2003?

16 MR. CONNORS: Yes.

17 THE WITNESS: Um-hum.

18 BY MR. CONNORS:

19 Q. If you'd tell us the next experience you had with the Meles prior to June
20 22, 2020 and discussed with Mark Grisanti?

21 A. In August of '04, my youngest daughter and the Riccio's youngest
22 daughter came up my driveway, crying, hysterical, that the three Mele
23 girls were chasing them on their bikes and taunting them, at which time
24 Gina Mele came out and yelled and screamed at my daughter and
25 Michelle Riccio. She started yelling and screaming at the neighborhood

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1 children at that time.

2 And then August of '04, my husband had to get a restraining order against
3 Joe Mele because they kept --

4 MR. DUGUAY: Objection to the foundation.

5 THE REFEREE: I'll overrule it.

6 A. The abuse just kept getting worse. Then Joe Mele and his three daughters
7 kept coming up our driveway, down our sidewalk, and just circled our
8 house constantly, yelling at us and spitting. My husband finally got an
9 order of protection when Joe was -- my husband was trying to edge our
10 lawn, and Joe kept driving his bike next to him, provoking, trying --

11 MR. DUGUAY: Objection. We're beyond --

12 A. Provoking him.

13 MR. DUGUAY: Objection.

14 A. Okay. Well --

15 THE REFEREE: Well --

16 A. -- we had a restraining order against Joe Mele.

17 THE REFEREE: So the incident about the bike
18 riding and the yelling and spitting, they were contained in
19 whatever compelled your husband to get a order of
20 protection?

21 THE WITNESS: Yes, because he was
22 threatening my husband.

23 THE REFEREE: Okay.

24 MR. CONNORS: Could you pull up Exhibit
25 BB, please?

(Linda Marie Chwalinski - Direct)

1 (Respondent's Exhibit BB was marked for identification)
2 BY MR. CONNORS:
3 Q. Now, the exhibit that's listed on the projector as Exhibit BB is identified
4 as a protective order against Joe Mele. Is that one of the protective orders
5 that your family obtained against him?

6 A. Yes.

7 MR. CONNORS: Could you pull up CC,
8 please?

9 MR. POSTEL: Wait. Can we go back to that,
10 please, and --

11 MR. CONNORS: Sure.

12 MR. POSTEL: -- increase it?

13 MR. CONNORS: Yeah.

14 MR. POSTEL: I can't read it.

15 MR. CONNORS: Yeah, it's tough.

16 THE WITNESS: Want my glasses?

17 MR. CONNORS: I have a copy here, so.

18 MR. POSTEL: I need one. And you can scroll
19 down?

20 MR. CONNORS: Sure.

21 MR. POSTEL: And scroll over, please? And
22 scroll up.

23 THE WITNESS: Actually --

24 MR. CONNORS: Just let them look at it.

25 THE WITNESS: Oh.

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1 MR. CONNORS: If we could scroll to the
2 bottom, please?

3 BY MR. CONNORS:

4 Q. So that was the one issued by Susan M. Eagan in Buffalo City Court?

5 A. Can I -- well, but that's the order --

6 Q. We're going to get there. We're going to get there.

7 A. All right.

8 Q. Just hold -- just answer that question.

9 A. Yes.

10 Q. Susan Eagan in Buffalo City Court?

11 A. Yes.

12 Q. And on the left-hand side, it's signed by Joe Mele?

13 A. Yes.

14 Q. Now, is that one that was obtained to protect your daughter, Victoria?

15 A. Yes.

16 Q. Why was that obtained?

17 A. That was obtained because Joe Mele almost ran me over in my own
18 driveway, and when I went in the house to call the police, he also
19 threatened my daughter, Victoria.

20 Q. Okay.

21 A. So we had to get an -- so the cops were called. They did come, and they
22 issued an order of protection for my daughter, Victoria.

23 Q. And that's dated November 13, 2014?

24 A. Yes.

25 MR. CONNORS: Now, if we'd please pull up

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1 Exhibit CC.

2 (Respondent's Exhibit CC was marked for identification)

3 BY MR. CONNORS:

4 Q. Now, that looks to be another order of protection obtained by your
5 husband, Gerald.

6 A. Um-hum.

7 MR. CONNORS: Can you scroll down just a
8 little bit?

9 BY MR. CONNORS:

10 Q. And signed by Judge Gruber, who was acting as a City Court Judge at the
11 time. Is that the one you referred to earlier?

12 A. Yes.

13 Q. All right.

14 A. Yes. That's the order --

15 Q. And that's dated August 31, 2004?

16 A. Yes.

17 Q. And have you told us all the facts that were behind obtaining that
18 particular order of protection?

19 A. Yes.

20 Q. And it has a signature of Joseph Mele on it; do you recognize that to be
21 his signature?

22 A. Yes.

23 MR. CONNORS: So we'll offer both of those
24 into evidence, Your Honor.

25 MR. DUGUAY: Objection.

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1 THE REFEREE: Received.

2 (Respondent's Exhibits BB, CC were admitted into
3 evidence)

4 MR. CONNORS: Now, if you could pull up
5 AA, please?

6 BY MR. CONNORS:

7 Q. Now, that purports to be a order of protection obtained from Judge Debra
8 Givens, Buffalo City Court.

9 A. Um-hum.

10 MR. CONNORS: If you'd scroll down just a
11 little bit.

12 BY MR. CONNORS:

13 Q. Now, that's an order of protection that you obtained, correct?

14 A. Yes.

15 Q. All right. And it's dated -- if you'd scroll down a little bit more -- that's
16 also dated August 2014?

17 A. Yes.

18 Q. And that is an order of protection against Gina Mele; you recall that?

19 A. Yes.

20 Q. Have you told us the circumstances that required you to apply to Judge
21 Givens for that protective order?

22 A. Gina Mele threatened to kill me in front of Maria Grisanti, Johnny
23 Amoia's girlfriend at the time, Ashley (ph.), Maria's young niece, who
24 was ten at the time. Gina Mele came out of her driveway, rolled down
25 her window, and she threatened to kill me.

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1 MR. CONNORS: Offer AA into evidence as
2 well.

3 MR. DUGUAY: No objection.

4 THE REFEREE: Received.

5 (Respondent's Exhibit AA was admitted into evidence)

6 BY MR. CONNORS:

7 Q. Now, the orders of protection that we just discussed, were those also
8 discussed with Mark Grisanti prior to June 22, 2020?

9 A. Yes.

10 Q. Did you also file police reports?

11 A. Yes.

12 Q. And have you told us all of the experiences you had with the Mele family
13 prior to June 22, 2020 as you recall them and discussed them with the
14 Grisanti family?

15 A. Well, we wouldn't have time to discuss every incident that the Meles
16 have done to us.

17 MR. DUGUAY: Objection.

18 THE REFEREE: Overruled.

19 A. They -- it was countless. It was every day abuse. The swearing, the
20 spitting, the harassing. Every time I went on my front lawn, I feared for
21 my life. Gina Mele was constantly harassing me. Constant. Then she
22 started following me. It became road rage. She literally -- I tried to go to
23 Kenmore Mercy Hospital --

24 MR. DUGUAY: Objection. It's unresponsive to
25 the question.

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1 MR. CONNORS: No, that's --

2 THE REFEREE: Let -- again, limit it to the
3 question he asked. You can cut your answer off at the last
4 sentence.

5 BY MR. CONNORS:

6 Q. What you saw and what you heard is what you're permitted to say.

7 A. As far -- can you ask the question again?

8 Q. Keep your voice off --

9 MR. DUGUAY: Well, if I can just be -- and not
10 to interrupt your asking the question again. This is
11 supposed to all relate to what she communicated to --

12 MR. CONNORS: Mark.

13 MR. DUGUAY: -- Mark or Gina [sic], so.

14 THE WITNESS: Well, he knows of every --

15 MR. DUGUAY: And the description --

16 THE WITNESS: Every --

17 MR. CONNORS: Linda --

18 THE WITNESS: Oh. Okay.

19 MR. DUGUAY: So in the description, she's --

20 THE REFEREE: Yeah. I understand. And --

21 MR. DUGUAY: -- not being clear.

22 THE REFEREE: Mr. Connors (unintelligible)

23 be giving a long-range lead here. But --

24 A. Well, Mark was home the day that Gina Mele blocked me from going
25 down the street. I told him about it afterwards. I had an appointment at

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1 Kenmore Mercy Hospital and Gina Mele flew out of her driveway and
2 blocked me from going towards Kenmore Avenue. She refused to move.
3 Refused. She rolled down the window, started calling me all kinds of
4 obscenities, called my husband names, and I begged her to move. I had
5 to get to Kenmore Mercy. She refused. I had to go on my lawn, drive
6 across Mark's approach and down Mark's lawn to get away from her. By
7 the time I was done with what I had to do at Kenmore Mercy Hospital,
8 went down to the D-District, I advised Capt. Nichols -- he told me to go
9 down, file a report. By the time I got down there, Gina Mele was already
10 down there playing the victim. How could she be the victim if she was
11 blocking me?

12 BY MR. CONNORS:

13 Q. Ms. Chwalinski, these episodes with the Mele family that you've
14 described, did they continue right up until June 22, 2020?

15 A. Yes.

16 Q. Do you know of your own personal knowledge whether the Meles had
17 similar incidents with other neighbors on [REDACTED] Avenue?

18 A. Yes. Every neighbor.

19 Q. Now, did you observe any of those prior to June 22, 2020 and discuss
20 them with Mark Grisanti?

21 A. Yes. There was -- she fought with Fran Riccio in her driveway over the
22 garbage. Joe Mele's the garbage man. Gina was videoing her garbage
23 and Fran and her had an altercation. Mark knew about that.

24 MR. DUGUAY: Objection. Foundation. Just
25 for clarification, please.

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1 THE REFEREE: Overruled.

2 BY MR. CONNORS:

3 Q. Now, the Riccios live next door to the Meles?

4 A. Yes.

5 Q. They lived at 12?

6 A. Yes.

7 Q. Okay.

8 MR. CONNORS: If we could put DD back up
9 on the screen, just in case. That's in evidence now.

10 BY MR. CONNORS:

11 Q. And I wanted to know any other experiences that you know of occurring
12 with the other neighbors on the street that were discussed with the
13 Grisantis?

14 A. Yes. Joe and Jeanne Contino were also harassed by the Meles.

15 Q. Now, they've testified already in this particular proceeding.

16 A. Um-hum.

17 Q. Anyone else on those streets?

18 A. Let's see. No, basically the three families.

19 Q. Okay.

20 A. Oh, well, unless you want me to -- John --

21 MR. DUGUAY: Objection.

22 A. -- and Ann Vertino?

23 MR. DUGUAY: Objection. She's asking a
24 question.

25 A. John and Ann Vertino moved because of the Meles.

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1 BY MR. CONNORS:

2 Q. Yes, well, we'll take that.

3 A. Oh.

4 Q. Now, you've made a reference to the Vertinos. They actually lived on
5 ██████████ Avenue prior to this time period?

6 A. Yes, in the Grisanti home.

7 Q. Okay. Do you know of your own personal knowledge why they moved
8 from ██████████ Avenue?

9 A. Yes.

10 Q. Why?

11 A. Because --

12 MR. DUGUAY: Objection.

13 A. Ann witnessed a --

14 THE REFEREE: Wait, wait.

15 MR. DUGUAY: Objection.

16 MR. CONNORS: Let him finish.

17 THE REFEREE: Foundation -- how do you
18 know?

19 THE WITNESS: How do I know? They told
20 me.

21 THE REFEREE: All right. Overruled.

22 A. They told me, because Ann Vertino witnessed --

23 MR. DUGUAY: Objection.

24 THE WITNESS: What? Well --

25 THE REFEREE: Overruled.

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1 BY MR. CONNORS:

2 Q. You may answer.

3 A. Ann Vertino witnessed from her window Gina assault me from behind --
4 the first incident I mentioned, and Gina Mele abused their younger son
5 continuously, verbally, continuously, and they said as soon as John could
6 retire --

7 MR. DUGUAY: Objection. Hearsay.

8 A. -- he could move from the city because --

9 THE REFEREE: It's not coming in for its truth.

10 But it's -- I'll overrule it.

11 A. He couldn't move from the city because he had to live in the city, and
12 once he retired, they moved immediately because of the abuse that they
13 witnessed.

14 BY MR. CONNORS:

15 Q. Specifically, do you recall an incident in June of 2020, while you were
16 landscaping, you had an interaction with Mr. Mele?

17 A. Yes.

18 Q. Tell us what happened then.

19 A. I was doing some landscaping for Joe and Jeanne Contino, and this was
20 during the height of COVID. I was on the Mele side -- well, I was by the
21 Mele driveway by the Contino landscaping there. Joe Mele pulled up in
22 one of the city trucks, walked up the driveway, took one look at me, and
23 spit at me.

24 Q. Do you -- was that prior to June 22, 2020, but in the same month?

25 A. Yes, it was earlier in the month.

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1 Q. Oh, okay. And you --

2 A. June 6 or something like that, I think.

3 Q. Did you discuss that with the Grisantis as well?

4 A. Yes.

5 MR. CONNORS: If you could pull up GGG,
6 please?

7 (Respondent's Exhibit GGG was marked for identification)

8 MS. TRAPANI: I don't think I have
9 (unintelligible).

10 MR. CONNORS: Oh, no? Okay.

11 BY MR. CONNORS:

12 Q. I'm going to show what's been marked for identification as Exhibit GGG,
13 which is Respondent's exhibit. Just take a look at that. Now, we talked
14 earlier about the fact that you had made some police reports regarding
15 Gina Mele.

16 A. Um-hum.

17 Q. Take a look at that and see if that report is one of the reports that you
18 made with regard to her conduct in September of 2017.

19 A. Yes. This would be when she blocked me from going to Kenmore Mercy
20 Hospital.

21 Q. Okay.

22 MR. CONNORS: Offer that into evidence.

23 MR. DUGUAY: Objection. Basis, foundation.

24 THE REFEREE: Received.

25 (Respondent's Exhibit GGG was admitted into evidence)

(Linda Marie Chwalinski - Direct)

1 MR. DUGUAY: Okay.

2 MR. CONNORS: Now, if you could pull up
3 Exhibit UU, please. Could you -- is it possible to expand
4 that just a little bit? Thank you.

5 BY MR. CONNORS:

6 Q. I'm showing you what's been marked for identification as Respondent's
7 Exhibit UU. Do you see that?

8 A. Yes.

9 Q. Do you recognize that vehicle?

10 A. Yes. It's Gina Mele's.

11 Q. Do you recognize where it's parked?

12 A. Yes. In my curb cut.

13 Q. Did you take that photo?

14 A. Yes. I believe --

15 Q. I'm going to show you VV, the next exhibit. Do you recognize that
16 vehicle?

17 A. Yes.

18 Q. Okay. What do you recognize that vehicle to be?

19 A. I believe it was Angela Mele's first vehicle.

20 Q. Do you recognize where it's parked?

21 A. Yes, in my curb cut.

22 Q. Okay. Now, when you say in your curb cut, what do you mean by that?

23 A. Well, we extended our driveway by three feet when we bought our trailer,
24 and we originally had plans to extend it all the way down, but we didn't.

25 But then when my husband bought a different truck, he couldn't make the

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1 swing, so we added that little extra piece of concrete, and we asked the
2 city -- we weren't going to ask the city about a curb cut until Gina Mele
3 started parking on top of our driveway. So then we asked the city if we
4 could get a curb cut to prevent them from blocking us from pulling in our
5 trailer. They issued us a curb cut, but the Meles refused to accept that,
6 and they continually --

7 MR. DUGUAY: Objection.

8 A. -- parked in our --

9 THE REFEREE: I'll overrule it.

10 A. -- continually parked.

11 BY MR. CONNORS:

12 Q. Now, with respect to Exhibit UU and Exhibit VV, can you give us your
13 best estimate as to when those photographs were taken?

14 A. Well, if I can just look at my notes, after the curb cut was issued, which --
15 I know that -- I'm going to see when the curb cut was. July 23 of 2014
16 we were issued a curb cut, so these all happened after that.

17 Q. So Exhibits UU and VV occurred after 2014?

18 A. Yes.

19 Q. Can you tell us if those photographs in Exhibit UU and VV were taken
20 before June 22, 2020?

21 A. Yes.

22 Q. Now, if you look at Exhibit WW, please? Do you recognize that exhibit?

23 A. Yes.

24 Q. What's depicted in that exhibit?

25 A. It looks like Angela's car, and I believe that might have been one of their

(Linda Marie Chwalinski - Direct)

1 other daughters' cars. It's to show how they parked, leaving
2 approximately, I don't know, eight to ten feet in between, so there was no
3 reason for them to be parking on top of our driveway. They did it --

4 MR. DUGUAY: Objection.

5 A. -- in spite.

6 THE REFEREE: Just -- again, just what you
7 saw when you took the picture.

8 THE WITNESS: Oh. Okay.

9 A. Well, it's the space between the cars.

10 BY MR. CONNORS:

11 Q. So is that the same car that's depicted in Exhibit VV?

12 A. The one prior in the --

13 Q. Yes.

14 A. Yes.

15 Q. Yes. And does it show that there's a space behind that white vehicle in
16 WW, that would allow that vehicle to move backwards and not block
17 your space?

18 A. Yes.

19 Q. Is that something that was a continuous issue with respect to the way the
20 Meles parked their vehicles prior to June 22, 2020?

21 A. Yes.

22 Q. How often would that occur?

23 A. There's parking on every -- we have alternate parking, so from Monday
24 night to late -- Monday night at six till Thursday at six, we were
25 constantly -- their cars were parked at the end of our driveway like

(Linda Marie Chwalinski - Direct)

1 bookends.

2 Q. Did that also occur with respect to the Grisanti driveway --

3 A. Yes.

4 Q. -- if you observed it?

5 A. Yes.

6 Q. Did it occur with the Grisanti driveway as frequently?

7 A. Not as frequently. Ours -- the main objective was to block us, and then if
8 they --

9 MR. DUGUAY: Objection.

10 THE REFEREE: Sustained.

11 BY MR. CONNORS:

12 Q. You can tell us where it occurred, most on your property --

13 A. Yes.

14 Q. -- on the Grisanti --

15 A. Mostly on ours.

16 Q. Okay. And how many cars did the Meles have at the time of these
17 photographs?

18 A. Four or five. Gina had a car. Joe had a car. And I believe each one of
19 their daughters had a car. Their youngest didn't always have a car, so
20 four to five cars.

21 Q. And were those parking practices that were employed by the Mele family
22 on a continuous basis up until June 22, 2020?

23 A. Yes.

24 MR. CONNORS: We'd look at XX, please.

25 //

(Linda Marie Chwalinski - Direct)

1 BY MR. CONNORS:

2 Q. Can you identify that?

3 A. Yes. It's Joe Mele's truck parked in our curb cut, and that's Gina Mele
4 taking pictures because he received a parking ticket. I think you can kind
5 of --

6 MR. DUGUAY: Objection.

7 A. -- see the ticket.

8 MR. DUGUAY: Objection. Foundation.

9 THE REFEREE: Sustained.

10 BY MR. CONNORS:

11 Q. What do you see -- what's depicted in XX?

12 A. There's a parking ticket on Joe Mele's truck.

13 Q. Okay.

14 A. And Gina was --

15 MR. DUGUAY: Objection. I'm looking at it, if
16 we could ask or voir dire, perhaps, because there doesn't
17 appear to be anything on the window from my perspective.

18 MR. CONNORS: Well, that's a matter of --

19 MR. DUGUAY: She described it --

20 THE REFEREE: If she can identify as such.

21 THE WITNESS: It is -- that's why she's there.

22 She's taking a picture to show that he wasn't, but he was.

23 BY MR. CONNORS:

24 Q. So go back to my question, I'm asking you whose truck is that depicted in
25 XX?

(Linda Marie Chwalinski - Direct)

1 A. Joe Mele's.

2 Q. Okay. Whose driveway is depicted there?

3 A. Mine.

4 Q. And was that done prior to June 22, 2020?

5 A. Yes.

6 Q. Now, you said that Gina Mele is taking a photograph there?

7 A. Yes.

8 Q. You saw that when you took those photographs?

9 A. Yes.

10 Q. And did you see a parking ticket on the windshield of the car?

11 A. Yes.

12 Q. Of the truck, actually. Yes. Now, if we'd look at YY, please. Tell us
13 what's depicted in this Exhibit YY.

14 A. Joe Mele's truck parked at the end of my driveway in my curb cut.

15 Q. Is that the same photo from a different angle as XX, the previous exhibit?

16 A. Well, the parking ticket is missing.

17 Q. Is what?

18 A. The parking ticket appears to be missing.

19 Q. Okay. So is it your best estimate that that's the same photograph as XX,
20 only from a different view?

21 A. Yes.

22 Q. But once again, what's the date it was taken, approximately?

23 A. Well, any -- they did it every day, you know.

24 MR. DUGUAY: Objection.

25 A. Any time after July 2014.

(Linda Marie Chwalinski - Direct)

1 BY MR. CONNORS:

2 Q. Now, I've showed you a series of photographs with respect to the vehicles
3 of the Mele family, starting at UU and ending at XX. Do those photos
4 fairly and accurately depict the parking tactics that were used by the
5 Meles prior to June --

6 MR. DUGUAY: Objection. Form of question,
7 tactics.

8 BY MR. CONNORS:

9 Q. -- prior to June 22, 2020?

10 A. Yes.

11 Q. Okay. And specifically, with respect to WW, Exhibit WW. You've
12 previously identified those vehicles as Mele vehicles, correct?

13 A. Yes.

14 Q. And you've identified and described a space that existed between the
15 white vehicle and the black vehicle, correct?

16 A. Yes.

17 Q. Does that photograph fairly and accurately depict the parking tactics that
18 were used by the Mele family prior to June 22, 2020 on [REDACTED] Avenue?

19 A. Yes.

20 Q. If I could take you back to June 22, 2020, and you told us that you had
21 seen certain interactions between the Grisantis and the Mele family,
22 correct?

23 A. Yes.

24 Q. You also told us about some of the officers who came on the scene
25 initially, and were joined later by other officers, correct?

(Linda Marie Chwalinski - Direct)

1 A. Yes. Um-hum.

2 Q. Do you remember on the evening of June 22, 2020 that you were actually
3 interviewed by one of the officers who advised you that he or she was
4 wearing a body camera?

5 A. Yes.

6 Q. And did you provide them with information that you had seen so that
7 they could record some of it on the body camera?

8 A. Yes.

9 Q. And did you also give a written statement later that evening?

10 A. Yes.

11 Q. Do you remember about what time it was that you gave the written
12 statement?

13 A. Well, I don't remember.

14 Q. If you don't remember, that's okay. I'm just looking for an estimate.

15 A. Well, maybe 10:30.

16 Q. And when you gave the statement, did you give them everything that you
17 possibly knew about the entire evening that occurred between the
18 Grisantis and the Meles?

19 A. Well, it was pretty much a small piece of paper, so just basically the fact
20 that Maria Grisanti was the one that was being assaulted.

21 Q. Okay. But with the information that was contained in that report, is that a
22 lot less than the information you provided today in the two hours of
23 testimony in this proceeding?

24 A. Yes, I --

25 Q. Okay.

(Linda Marie Chwalinski - Direct)

1 MR. CONNORS: I think that's all I have, Your
2 Honor. Just one second, please.

3 If we could go to Exhibit 2, which is in
4 evidence, and pull it up to start at page 5?

5 THE REFEREE: I think it's 2-A.

6 MR. CONNORS: Exhibit 2?

7 THE REFEREE: 2-A.

8 MR. CONNORS: Transcript -- yeah, 2-A. I'm
9 sorry. Can we go to line 20, please?

10 BY MR. CONNORS:

11 Q. Now, Ms. Chwalinski, you've told us that you were present, and you
12 observed the altercation between Maria Grisanti --

13 A. Yes.

14 Q. -- and the Mele family, correct?

15 A. Yes.

16 Q. This is a transcript that's in evidence, and you're mentioned in this
17 transcript starting at line 20, where you say, "Let go of Maria." Do you
18 remember that?

19 A. Yes.

20 Q. Why were you yelling that?

21 A. Because they were choking Maria Grisanti.

22 Q. You mentioned earlier that you heard Gina Mele say things about
23 choking Maria?

24 A. Yes.

25 Q. And look at line 21, where's Gina Mele, "Choke her, choke her, give her

(Linda Marie Chwalinski - Direct)

1 a choke hold, Theresa." And then on line 24, "Fucking choke her." Do
2 you recall hearing that?

3 A. Yes.

4 Q. Now, in between, you yell, "Call 911!" That's line 23.

5 A. Yes.

6 Q. Were you yelling that to your husband, or what was -- what were you
7 doing --

8 A. I was yelling it to my husband, yes, Jerry.

9 Q. Okay. And page 6, there's a reference to you on line 5. You're saying,
10 "Calling 911 right now." Do you recall that?

11 A. Yes.

12 Q. And who are you referring that to?

13 A. I think I was yelling it that I was calling them. I was hoping that they
14 would stop their physical altercation if they knew the police were on the
15 way, I guess.

16 Q. Okay. And line 6 is a comment attributed to Mr. Mele, and you told us
17 earlier that Mr. Mele was egging on Mark to try to get him into a fight;
18 do you recall that?

19 A. Yes.

20 Q. Was that the language that Mele used, "Come on, motherfucker?"

21 A. Yes.

22 Q. And then at line 17, you make a second reference, or a third reference to
23 calling 911; do you see that?

24 A. 17, yes.

25 Q. Now, we weren't able to discern what you said after "calling 911".

(Linda Marie Chwalinski - Direct)

1 Would you have any recollection as to what words you said?

2 A. I think I was just -- it seemed like a long time before the police came.

3 Like, it seemed like it was in slow motion, kind of, and I was just yelling,
4 "Calling 911" because I thought if I kept saying that, these people would
5 realize what they were doing and stop choking Maria. I really believed
6 they were going to choke her to death.

7 Q. And in line 21, you say, "I saw" and then unintelligible "choking her."

8 Do you have any recollection as to what it is you were saying at that
9 particular time?

10 A. I don't know. Probably something like, "I saw those assholes choking
11 her." You know, probably to that effect. I'm not -- you know, all three of
12 them were, you know, were ganging up on her.

13 Q. We go to page 16, line 18. Well, first, if I can, start at line 11. Judge
14 Grisanti says -- well, first of all, line 9, Judge Grisanti says, "Maria."
15 And Maria responds, "What is it?" And Judge Grisanti says, "Get over
16 here." Do you see that?

17 A. Yes.

18 Q. Okay. And there's a statement from Gina Mele about something
19 unintelligible, but "this is where they came," and then unintelligible,
20 "where they came." And then you respond, "Well, you were on this side
21 when" something "too, asshole." See that?

22 A. Yes.

23 Q. Okay. Do you know what the complete version of that sentence was?
24 Does this help you?

25 A. That they were on Mark's side when they attacked them.

(Linda Marie Chwalinski - Direct)

1 Q. Okay. And then Ms. Mele says, "Linda, go in the house." And Mr. Mele
2 says, "Fuck you, Linda." Do you recall that?

3 A. Yes.

4 Q. And you had a response that's unintelligible?

5 A. I don't recall what I said to them.

6 Q. Do you recall Gina calling you a Polish dumb -- "You're a Pollock dumb
7 fuck"?

8 A. Yep. Yes.

9 MR. CONNORS: Thank you. That's all I have.

10 THE REFEREE: Mr. Duguay, would you like a
11 break before we continue?

12 MR. DUGUAY: That might be just helpful for
13 time. Yeah, I'll reorganize some of the papers.

14 THE REFEREE: Why don't we take a ten-
15 minute break?

16 (Recess from 11:15 a.m. to 11:26 a.m.)

17 THE REFEREE: Okay. It's about 11:25. We're
18 resuming the testimony of -- the one matter of
19 housekeeping is I think there were -- the exhibits, the
20 photos were introduced from, looks like UU, VV, WW, XX
21 were identified.

22 MR. CONNORS: Yes.

23 THE REFEREE: But I don't think they were in
24 evidence, and were you going to introduce them?

25 MR. CONNORS: I was going to -- I did ask the

1 foundational questions. I was going to put them at the end,
2 but I can put them in now, too.

3 THE REFEREE: Oh, okay. I just thought they
4 were an aid that she --

5 MR. CONNORS: They may want to use them,
6 so I'll move them into evidence.

7 THE REFEREE: Any objections?

8 MR. DUGUAY: Yes.

9 THE REFEREE: To the photographs? What's
10 that?

11 MR. DUGUAY: I do object.

12 THE REFEREE: On grounds or --

13 MR. DUGUAY: I -- just think insufficient
14 foundation, evidential value.

15 THE REFEREE: Okay. Overruled. We'll
16 receive them.

17 (Respondent's Exhibits UU, VV, WW, XX were admitted
18 into evidence)

19 THE REFEREE: Mr. Duguay? Cross
20 examination?

21 MR. DUGUAY: Okay. Thank you, Mr. Easton.

22 CROSS EXAMINATION

23 BY MR. DUGUAY:

24 Q. Good morning, Ms. Chwalinski.

25 A. Good morning.

(Linda Marie Chwalinski - Cross)

1 Q. Okay. And if I'm slurring my words, or you don't understand me, please
2 ask me to repeat myself?

3 A. Okay.

4 Q. Okay. You're appearing today without a subpoena, correct?

5 A. Yes.

6 Q. That's because you're here -- you want to help Mark Grisanti with this
7 matter, correct?

8 A. I want to tell the truth.

9 Q. Do you want to help him?

10 A. Yes.

11 Q. Okay. Okay. You're long-standing friends with Mark and Maria
12 Grisanti; is that true?

13 A. Yes.

14 Q. Nearly two decades, approximately?

15 A. Yes.

16 Q. Okay. You're not long-time friends with the Meles, are you, correct?

17 A. No.

18 Q. You'd consider them your enemies, wouldn't you?

19 A. Yes.

20 Q. And you've considered them your enemies pretty much since the time
21 that they moved in, correct?

22 A. All but two years.

23 Q. Okay. So there's that 18 to 20 years, approximately, that they've been
24 your enemies?

25 A. Yes.

(Linda Marie Chwalinski - Cross)

1 Q. Okay. And would you consider yourself as a good neighbor to them, to
2 the Meles?

3 A. Well, yes. We pretty much avoided them or tried to stay --

4 Q. Okay.

5 A. -- away from them.

6 Q. Okay. Do good neighbors call their other neighbors assholes?

7 A. Only when they're being threatened.

8 Q. The question was do good neighbors call their neighbors assholes?

9 MR. CONNORS: I think the answer was
10 responsive, so.

11 THE REFEREE: (Unintelligible).

12 BY MR. DUGUAY:

13 Q. You call the Meles assholes all the time, don't you?

14 A. Well, it's a figure of speech. It's -- you're basically calling someone what
15 you believe them to be.

16 MR. CONNORS: And you have to project a
17 little bit, too.

18 THE REFEREE: Project the voice.

19 THE WITNESS: Oh, okay. I'm sorry.

20 A. I'm using -- I don't know, was it an adjective, verb? I don't know. I'm
21 calling them what I believe them to be, so.

22 BY MR. DUGUAY:

23 Q. Okay. And you also mock Ms. Mele on a regular basis, correct?

24 A. No.

25 Q. You call her a fat ass all the time, don't you?

(Linda Marie Chwalinski - Cross)

1 A. Every now and then.

2 Q. Every now and then; that's your testimony?

3 A. Um-hum.

4 Q. Is every now and then approximately thousands of times over the last ten
5 years?

6 A. No.

7 Q. Okay. Well, you mock her disability all the time, don't you?

8 A. No.

9 Q. You've never called her a Weeble-Wobble?

10 A. I might have motioned that. I'm not sure if I called her that.

11 Q. Well, standing with Maria Grisanti, isn't it a common practice that you
12 would refer to Gina Mele as "Fat Ass"?

13 A. Let me think. Wasn't a common occurrence, no.

14 Q. Okay. Well, it was common enough to happen, actually, on the day that
15 Mark Grisanti had family members over after his mother passed, true?

16 A. No.

17 Q. So you didn't call her a fat ass on that occasion when Mark's family was
18 over for the -- post-services?

19 A. Not to my knowledge. I didn't even see the Grisantis till later that
20 evening.

21 Q. Ms. Chwalinski, I'd like to direct your attention to June 22, 2020, correct?

22 A. Yes.

23 Q. Okay. Mark was emotional, correct?

24 A. Yes.

25 Q. Okay. Did you hear Mark challenging Joe Mele at all during the

(Linda Marie Chwalinski - Cross)

- 1 encounter that you witnessed from 15 or 10 feet away?
- 2 A. No.
- 3 Q. So you didn't hear Mark say, "Come on, come on, come on" to Joe Mele?
- 4 A. Not that I recollect.
- 5 Q. Do you recollect Mark Grisanti saying to Joe, "What you got? What do
- 6 you got?"
- 7 A. I'm -- what -- I'm sorry, I didn't --
- 8 Q. Sure. I'll slow down. Do you remember Mark Grisanti saying to Joe
- 9 Mele during this incident, "What do you got? What do you got?"
- 10 A. I don't even know what that was referencing to.
- 11 Q. Okay, but you heard Mark Grisanti call Joe a "fucking asshole," didn't
- 12 you?
- 13 A. There was a lot of swearing going on, so --
- 14 Q. Well, the question was, did you hear Mark call Joe a "fucking asshole"?
- 15 A. I'm -- probably, he did.
- 16 Q. I'm not asking probably.
- 17 A. Yes, I guess. I don't remember. I don't recall.
- 18 Q. Okay. Well, you were there; I wasn't. That's why I'm asking you.
- 19 A. Yes. I don't recall offhand what.
- 20 Q. Okay. Do you remember Mark Grisanti saying to Joe Mele, "You think
- 21 we're done? Come on!" Remember that part?
- 22 A. He's -- no, I don't.
- 23 Q. But you were ten feet away for most of the encounter, was your
- 24 testimony, correct?
- 25 A. Okay. But I don't recall word for word everything that was said.

(Linda Marie Chwalinski - Cross)

1 Q. Well, do you recall Mark Grisanti saying to Joe Mele, "You want to go
2 again, tough fucking guy?"

3 A. That was after Joe Mele, I believe, already fell.

4 MR. DUGUAY: I -- unresponsive. Ask to
5 strike.

6 BY MR. DUGUAY:

7 Q. Could you answer my question, please?

8 THE REFEREE: Just answer the question. It's
9 stricken.

10 A. Okay, again?

11 BY MR. DUGUAY:

12 Q. Did you hear Mark Grisanti say to Joe Mele, " You want to go again,
13 tough fucking guy?"

14 A. I don't recall. I don't remember.

15 Q. That would be a challenge, wouldn't it, in your estimation, if you heard
16 that?

17 A. It would be if I heard it, but I don't remember it.

18 Q. Okay. So you don't remember Mark challenging Joe Mele at all during
19 this incident; is that your testimony?

20 A. No, I don't remember Mark challenging Joe at all.

21 Q. What about threatening? Mark threatening Joe Mele with violence
22 during the incident?

23 A. I don't recall Mark threatening anyone during it. The only thing he did
24 was --

25 Q. Would you consider, "I'll fucking flatten your face again" a threat?

(Linda Marie Chwalinski - Cross)

1 A. He was referring to --

2 Q. Objection. I'm asking if you consider the statement, "I'll fucking flatten
3 your face again" a threat?

4 A. Well, it would be if it was taken that he was going to hit him.

5 Q. Well, could you -- I'll -- any way you could flatten somebody's face
6 would be a physical act, correct?

7 A. Well, it's because Joe just flattened his own face, so --

8 Q. That wasn't my question. That's not responsive.

9 MR. CONNORS: I object that --

10 THE REFEREE: Yeah, you just proceed with
11 the next question. Rephrase it.

12 MR. DUGUAY: Sure. Yep.

13 BY MR. DUGUAY:

14 Q. But you didn't hear Mark Grisanti say to Joe Mele, "I'll fucking flatten
15 your face again"?

16 MR. CONNORS: Now that's been asked --
17 excuse me.

18 THE REFEREE: Yeah, it's been asked and
19 answered, and she doesn't remember.

20 THE WITNESS: Yeah.

21 BY MR. DUGUAY:

22 Q. You said there came a point when the police officer showed up, correct?

23 A. Yes.

24 Q. Okay. And you described it at one point, Maria Grisanti had to be taken
25 into custody, correct?

(Linda Marie Chwalinski - Cross)

1 A. She was -- yes.

2 Q. You said she was slammed to the ground, correct?

3 A. Yes, she was.

4 Q. Okay. And you saw the officer who did it, correct?

5 A. Yes.

6 Q. Okay. So -- and you talked to the officer later that evening, within half

7 an hour or so; isn't that correct?

8 A. The officer that slammed Maria to the ground?

9 Q. Yep.

10 A. I don't believe it was the same officer.

11 Q. Okay. Well, you said two officers showed up, correct?

12 A. Yes.

13 Q. There was a white officer, correct?

14 A. Yes.

15 Q. And there was a black officer, correct?

16 A. Yes.

17 Q. And which officer did you see with Maria Grisanti, the white officer, or

18 the black officer?

19 A. I believe it was the white one, but I'm not sure. I mean --

20 Q. Okay. You're not sure?

21 A. Yeah.

22 Q. Okay.

23 A. I don't recall which officer was doing what. It just happened.

24 Q. Okay. You were ten feet away is what you told us, correct?

25 A. By that time, Maria was already on --

(Linda Marie Chwalinski - Cross)

1 Q. I didn't ask you --

2 MR. CONNORS: Excuse me. That's
3 interrupting.

4 THE REFEREE: No. Just ask the question.
5 What's your response? Listen to the question.

6 THE WITNESS: Okay.

7 THE REFEREE: Answer the question.

8 A. I was further --

9 THE REFEREE: Just the question asked.

10 A. I was further than ten feet away --

11 BY MR. DUGUAY:

12 Q. Okay. Was it --

13 A. -- from --

14 Q. -- your testimony earlier that you were ten feet, and that X that you drew
15 is where you were standing throughout most of the incident?

16 A. But the officer slammed --

17 THE REFEREE: Okay. Answer the question.

18 Okay.

19 BY MR. DUGUAY:

20 Q. Were you standing --

21 A. Yes. Yes. But --

22 Q. Okay. And you don't recall which officer touched Maria Grisanti that
23 you described, correct?

24 A. No.

25 Q. You don't remember if it was a white officer or the black officer, correct?

(Linda Marie Chwalinski - Cross)

1 A. No, I don't.

2 Q. Okay. You described that you thought it was a pretty violent act; is that a
3 fair characterization?

4 A. Yes, it was.

5 Q. Okay. So did you say something to the officer?

6 A. No. I --

7 Q. Well, did you call the police department about what that officer had
8 done?

9 A. No.

10 Q. Did you file a complaint with the police department?

11 A. No.

12 Q. Okay. Well, you've called the police department -- by June 22, 2020,
13 you'd called the police department hundreds of times, correct?

14 A. Yes.

15 Q. So you knew how to call the police department, correct?

16 A. Yes.

17 Q. Okay. In fact, you testified that there were countless incidents involving
18 the Meles and yourself, your family, correct?

19 A. Yes.

20 Q. Okay. And you testified that there were also many, many instances with
21 all the other neighbors, correct?

22 A. Yes.

23 Q. So you -- police were called, would it be fair to say, hundreds of times
24 over the --

25 A. Yes.

(Linda Marie Chwalinski - Cross)

1 Q. -- time period that Mr. Connors had asked you about?

2 A. Yes.

3 Q. Okay. One temporary order of protection against you was the only case
4 that was ever filed, correct?

5 A. There was several against my entire family.

6 Q. Object -- the question is --

7 A. Me? Yes.

8 Q. -- against you, correct?

9 A. Yes.

10 Q. Okay. So no other cases that went to court, correct?

11 A. No.

12 Q. Okay. No other cases that were prosecuted, correct?

13 A. No.

14 Q. So -- and to you, it was just the one order of protection, correct?

15 A. Yes.

16 Q. And that was from an incident -- actually, if we could have the -- I'm
17 sorry, the exhibit's up in front of you, if I may approach?

18 THE REFEREE: Yes.

19 A. Well, I don't know. This whole thing?

20 BY MR. DUGUAY:

21 Q. Ms. Chwalinski, you had an order of protection issued in your favor on
22 August 11 or August -- if you could bring up the exhibit --

23 A. I don't remember the date. It might be here.

24 MR. DUGUAY: Okay. If you could scroll
25 down to the bottom of the exhibit, left-hand side.

(Linda Marie Chwalinski - Cross)

1 THE REFEREE: Is it GGG? Mr. Duguay, what
2 exhibit is it?

3 MR. DUGUAY: I'm trying to see what exhibit
4 it was, order of protection.

5 THE REFEREE: Oh, GGG.

6 MS. TRAPANI: This is Exhibit AA.

7 THE REFEREE: AA?

8 MR. DUGUAY: AA.

9 BY MR. DUGUAY:

10 Q. So you testified that this was issued to Gina Mele on August 11, 2014,
11 correct?

12 A. Yes.

13 Q. Okay. So Ms. Chwalinski, thank you for your patience.

14 A. Sure.

15 Q. So this was an order of protection that was given in court against Gina
16 Mele on August 11, 2014, correct?

17 A. Yes.

18 Q. The only order of protection that you ever got in your favor against Gina,
19 correct?

20 A. Yes. Yes.

21 Q. Okay. And that wasn't the first order of protection that you knew about
22 that involved Gina Mele and yourself, correct?

23 A. Yes.

24 Q. Okay. You don't know of any other order of protection involving you
25 and Gina Mele?

(Linda Marie Chwalinski - Cross)

1 A. Well, she got one the same day.

2 Q. Oh.

3 A. Or pretty close to it.

4 MR. DUGUAY: I'm going to approach.

5 (Commission Exhibit 32 was marked for identification)

6 BY MR. DUGUAY:

7 Q. I'm going to show you what's been marked as Exhibit 32. I'll leave that in
8 front of you if you want to look at that briefly.

9 A. Yes.

10 Q. Okay. Do you recognize what that document is?

11 A. Yes.

12 Q. That's the order of protection that was issued against you, correct?

13 A. Yes.

14 Q. In fact, if you look down, and I apologize, this has not been put in our
15 system, but if I could direct your attention to the middle bottom of the
16 document, there's a signature; do you see that?

17 A. Yes.

18 Q. It's your signature, correct?

19 A. Yes.

20 Q. Okay. And there's a date underneath your signature, correct?

21 A. Yes. July 29.

22 Q. Right. July 29, 2014 is when this document was issued against you,
23 correct?

24 A. Um-hum. Yes.

25 Q. And you had to go to court, correct?

(Linda Marie Chwalinski - Cross)

1 A. Yes.

2 Q. You had to sign this document?

3 A. Yes.

4 Q. Okay. And the allegations about you harassing Linda [sic] Mele, correct?

5 A. Who?

6 Q. Or excuse me, you having -- your conduct towards Gina Mele is what --

7 A. Well --

8 Q. -- this is about, to your understanding, correct?

9 A. It's all the same incident.

10 Q. I didn't ask that question. This is --

11 A. Well, that's what it is.

12 Q. It's issued against you, correct?

13 A. Yes.

14 Q. And this is dated July 29, 2014, correct?

15 A. Yes. Gina was very good at playing the victim.

16 MR. DUGUAY: That -- and I'm going to ask
17 that this be admitted at this time, entered as evidence.

18 MR. CONNORS: No objection.

19 THE REFEREE: Received.

20 (Commission Exhibit 32 was admitted into evidence)

21 BY MR. DUGUAY:

22 Q. Okay. Ms. Chwalinski, you testified there were other orders of
23 protections, correct, that were issued involving your family and the Mele
24 family?

25 A. Yes.

(Linda Marie Chwalinski - Cross)

1 Q. They were all temporary orders of protection --

2 A. Yes.

3 Q. -- is that correct?

4 A. Yes.

5 Q. So none of those cases was ever litigated? In other words, none of those
6 cases ever went to court, correct?

7 A. Yes. My daughter's did.

8 Q. There's a prosecution in that case?

9 A. Well, we went to court.

10 Q. You went -- you attempted to go to dispute --

11 A. He was arrested.

12 Q. That's not my question.

13 A. Okay.

14 Q. Okay. There was no final order of protection ever, was there in any of
15 the order of protections?

16 A. No. No.

17 Q. Okay. And again, that would take -- to your understanding -- you would
18 have had to go to court and essentially had a trial about the issues,
19 correct?

20 A. Yes.

21 Q. All right. So you never testified at any court proceeding, correct?

22 A. No.

23 Q. And Jerry, your husband -- I'm sorry, Mr. Chwalinski, never testified at
24 any court hearings, correct?

25 A. I'm trying to remember. I don't believe so.

(Linda Marie Chwalinski - Cross)

1 Q. And your daughter didn't testify at any court proceedings, correct?

2 A. We did have a trial where there were testimony. My sister-in-law was
3 involved.

4 Q. That was involving the Meles?

5 A. Yes.

6 Q. And there's no final order of protection, correct?

7 A. There's no final order.

8 Q. Right. Because it wasn't sustained. There's no conviction in the matter,
9 correct?

10 MR. CONNORS: I'm going to object to that
11 question..

12 A. Okay.

13 THE REFEREE: That's sustained.

14 A. I'm not a lawyer.

15 MR. CONNORS: Excuse me.

16 THE REFEREE: That's sustained.

17 A. So I'm not --

18 THE REFEREE: No, don't answer the
19 questions, but --

20 THE WITNESS: Okay. Okay.

21 BY MR. DUGUAY:

22 Q. Okay. You testified that there were a number of parking problems as
23 well, correct?

24 A. Yes.

25 Q. Okay. Now, on your state, if we could call up DD. Okay. Ms.

(Linda Marie Chwalinski - Cross)

1 Chwalinski, I will -- I'm looking at your side of the block, which I'm -- is
2 that the west side or the east side? Do you know?

3 A. I believe I'm on the east side.

4 Q. All right. And if I could direct your attention -- Mr. Qadir, number 7, is
5 at the end of the block, correct?

6 A. Yes.

7 Q. Okay. And that's an accurate picture, right? I think Mr. Connors asked
8 you that before?

9 A. Yes.

10 Q. Okay. And Mr. Qadir has a double driveway, correct?

11 A. Yes.

12 Q. And there's that section of green is the only parking area, correct?
13 Between them, sorry, 7 and your house?

14 A. Between 7 and my house? And parking to the corner as well. He -- that's
15 the corner house, so --

16 Q. Correct. I'm asking about the driveway area, correct?

17 A. Okay.

18 Q. Okay.

19 A. Yes.

20 Q. And so number 7 has the double driveway, correct?

21 A. Yes.

22 Q. And your house, number 15, has an extended apron, correct?

23 A. Yes.

24 Q. Okay. In fact, you testified, I think, earlier, that you got a permit in July,
25 July 23, 2014, correct?

(Linda Marie Chwalinski - Cross)

1 A. Yes.

2 Q. Okay. Okay. You had actually started work on the driveway prior to
3 that, correct? The extension.

4 A. We did the extension, like, when we got our trailer. We never planned on
5 going -- when the guys originally did the --

6 Q. My question -- I'm sorry. I'll ask a quick question.

7 A. -- I guess --

8 Q. You started construction on your driveway, meaning that there was some
9 type of cement or some type of work done prior to July 23, 2014, correct?

10 A. Yes. Yes.

11 Q. All right. And Gina Mele complained because you didn't have a permit,
12 correct?

13 A. I did have a permit.

14 Q. Before --

15 A. I had a permit to do the entire thing, all the way to the street originally.

16 Q. You know that Gina Mele complained prior to you getting a permit; that's
17 why you got a permit, correct?

18 A. I didn't -- yes, for the curb cut, I got it.

19 Q. Okay. Okay. Continuing. So between your house, which is number 15,
20 and the Grisantis, number 21, there's also a double driveway at the
21 Grisantis, correct?

22 A. Yes.

23 Q. Extended driveway? And number 27 has an extended driveway as well,
24 correct?

25 A. Yes, I guess.

525.



(Linda Marie Chwalinski - Cross)

1 Q. Okay. And 31, I believe, also has an extended driveway; is that correct?

2 A. I don't know. They all look pretty much the same to me.

3 Q. Well, you live on the street, so I'm asking from your memory. Do you
4 know or do you not know?

5 A. Well, there's trees and -- I don't know. Which one are you asking me
6 about?

7 Q. 31.

8 A. 31. And which -- and the tree is blocking the end of it; is that --

9 Q. I'm asking from your memory. This is an assistance, but if you can't
10 see -- you live on [REDACTED] Avenue, correct?

11 A. Yes.

12 Q. You've lived there for -- I think you said 30 years, almost 30 years?

13 A. 32.

14 Q. 32. Okay. You drive up and down your street every day?

15 A. Yes.

16 Q. Okay. So I'm just asking, do you know if 31 -- house number 31 also has
17 an extended apron on their driveway?

18 A. I don't really pay attention to everybody's apron on our street, so --

19 Q. You don't pay attention to the parking spaces; is that your testimony?

20 MR. CONNORS: I object to that.

21 THE REFEREE: Sustained.

22 A. I --

23 BY MR. DUGUAY:

24 Q. Do you pay attention to the parking places on [REDACTED] Avenue?

25 A. In front of my house, yes.

(Linda Marie Chwalinski - Cross)

1 Q. That's it?

2 A. Well, pretty much. I mean, I'm not going to worry about parking.

3 Q. Okay. Well, [REDACTED] is a one-block street, correct?

4 A. Yes.

5 Q. From Kenmore Avenue to Saint Lawrence, correct?

6 A. Yes.

7 Q. And then Kenmore Avenue to Saint Joe's Collegiate Institute, a boys'
8 high school, correct?

9 A. Yes.

10 Q. Parking's an issue at the high school; is that a fair statement?

11 A. I don't know what goes on at the high school.

12 Q. Well, you have boys from St. Joe's parking on [REDACTED] all the time, don't
13 you?

14 A. No, they don't.

15 Q. Okay. That's your testimony, that the high school boys don't park on
16 your street?

17 A. Not to my knowledge.

18 Q. Okay.

19 A. I've never seen one park in front of my house.

20 Q. I just want to make sure that I understood what you were testifying about
21 discussion between Mr. Grisanti and Mr. Mele. You had made a
22 comment about "the camera's off, come on over and fight," something to
23 that effect.

24 A. Yes.

25 Q. Do you remember those words you testified to?

(Linda Marie Chwalinski - Cross)

1 A. Yes.

2 Q. So you said that during the course of what you witnessed between Mr.
3 Mele and Mr. Grisanti, correct?

4 A. Um-hum.

5 Q. That Mr. Mele had said something along the lines of, "The camera's off,
6 Mark, come on and fight," something to that effect?

7 A. Yes.

8 Q. Okay. When did that happen?

9 A. It happened prior -- that happened right after Mark Grisanti got -- was
10 able to free Maria from them and bring her back over to their side of the
11 street. But that -- but then Joe and Gina Mele wanted to continue the
12 altercation, and he was trying to get Mark to come back in the street and
13 continually fight.

14 Q. Okay. And you're sure he heard those words, correct?

15 A. I'm positive.

16 Q. Because you were standing right there?

17 A. Yes.

18 Q. Okay. And there was no punches thrown, was your testimony, during
19 this encounter; is that correct?

20 A. Yes.

21 MR. CONNORS: Excuse me. No -- object to
22 that. That's not the testimony.

23 THE REFEREE: Rephrase.

24 A. What? I --

25 //

(Linda Marie Chwalinski - Cross)

1 BY MR. DUGUAY:

2 Q. Sure. Did you see anybody throw punches during the encounter?

3 A. No. No, I didn't.

4 Q. And you said that Mr. Mele fell when he -- or, I'm sorry, at some point,
5 Joe Mele fell; is that correct?

6 A. Yes.

7 Q. And prior to falling, he was holding on to Mark Grisanti's shirt, correct?

8 A. Yes.

9 Q. And reaching around his collar or such?

10 A. His gold chain and -- he broke his gold chain and his cross. Ripped it
11 right off of him.

12 Q. Ms. Chwalinski -- I apologize, I have a tough time pronouncing that.

13 A. Oh, just say Linda, I guess.

14 Q. Well, I mean, that feels impolite, so I'll try.

15 A. Oh.

16 Q. Thank you though. You said there came a point when you saw Maria
17 Grisanti taken into custody, correct?

18 A. Yes.

19 Q. Fair to say you've described as being highly emotional at that time; is that
20 fair?

21 A. Maria?

22 Q. Or Maria?

23 A. Yeah, she was.

24 Q. Maria.

25 A. Okay, yes. Maria was highly upset.

(Linda Marie Chwalinski - Cross)

1 Q. Okay. And you saw Mark have contact with the police officer while he
2 was handcuffing Maria, I believe was your testimony; is that accurate?

3 A. Yes.

4 Q. Okay. And that -- he shoved him, correct?

5 A. I --

6 Q. Mark shoved the police officer?

7 A. I didn't really necessarily think it was a shove. He did put his hand on
8 him.

9 Q. One hand?

10 A. Yeah.

11 Q. You're sure?

12 A. I believe it was one hand.

13 Q. You're standing there, so is it your testimony he only put one hand -- you
14 saw Mark Grisanti put one hand only on the police officer?

15 A. My recollection is one hand. It was two years ago. I don't necessarily
16 remember.

17 THE REFEREE: Just answer the question.

18 BY MR. DUGUAY:

19 Q. Okay. And you heard Mark Grisanti make threats to the police officers
20 during this time period that I'm asking you about during the handcuffing
21 and such?

22 A. Threats?

23 Q. Is that true? Threats, right.

24 A. No. I heard him say that -- well, that they would be sorry when they
25 actually saw the footage -- the video -- and saw the evidence --

(Linda Marie Chwalinski - Cross)

1 Q. Okay.

2 A. -- to the fact that they were the ones that were violently attacked.

3 Q. Okay. Those were his words? He said something about "when you see
4 the camera" or "when you see the footage"?

5 A. Yeah.

6 Q. That's the words you heard?

7 A. Yeah.

8 Q. Okay. Okay. You heard him say that, "You arrest my fucking wife,
9 you're going to be sorry!" Did you hear Mark say that to the police?

10 A. Yes.

11 Q. Okay. That's a threat, correct? Characterize that as a threat?

12 A. I guess, yes. I --

13 MR. CONNORS: Excuse me. I'd object to that.

14 THE REFEREE: Sustained. Sustained.

15 MR. DUGUAY: Sure.

16 BY MR. DUGUAY:

17 Q. Did you hear Mark Grisanti say to the police officers, "If you don't get
18 the cuffs off of her right now, you're going to have a problem"?

19 A. Yes.

20 Q. How would you characterize that statement?

21 A. Well, they were going to have a problem because they're arresting the
22 wrong person.

23 Q. Is that generally how you hear -- in your experience, have you heard
24 people talk to police officers previously? When the police showed up --
25 you called the police, you said they showed up before?

531.



(Linda Marie Chwalinski - Cross)

1 A. Showed up at my house?

2 Q. I'll withdraw the question.

3 A. I don't understand what you're asking.

4 Q. I know. That's a confusing question.

5 THE REFEREE: There's -- it's -- no question's
6 out there. You don't have to answer anything.

7 THE WITNESS: Okay.

8 BY MR. DUGUAY:

9 Q. Okay. So you said you witnessed the one police officer handcuffing
10 Maria, correct?

11 A. Yes.

12 Q. And then you said you saw Mark take some type of action that you
13 described, correct?

14 A. Yes.

15 Q. And then did you hear one of the police officers tell Mark Grisanti, "Keep
16 your hands off a cop"?

17 A. No, I don't recall that.

18 Q. Do you recall the -- or a police officer saying to Mark Grisanti, "Do not
19 fight a police officer"?

20 A. No.

21 Q. You don't recall that?

22 A. At this -- can I just --

23 Q. I'm just asking if you recall it or not.

24 A. They are now --

25 THE REFEREE: If you don't recall, you don't

1 recall.

2 THE WITNESS: I don't recall it.

3 THE REFEREE: That's it.

4 THE WITNESS: Okay.

5 BY MR. DUGUAY:

6 Q. What about did you ever hear a police officer tell Mark Grisanti, "You're
7 not going to fight a cop"?

8 A. I don't recall.

9 Q. Yeah.

10 MR. DUGUAY: I have no further questions at
11 this time, Mr. Easton.

12 THE REFEREE: Redirect?

13 REDIRECT EXAMINATION

14 BY MR. CONNORS:

15 Q. You were asked a question about a protective order that Gina Mele
16 obtained; do you recall that?

17 A. Yes.

18 Q. Do you remember the circumstances under which that was obtained?

19 A. Yes.

20 Q. Tell us.

21 A. That was when Gina Mele pulled out of her driveway, and she rolled
22 down the window yelling and screaming. I was helping Maria Grisanti,
23 who had just had knee surgery, get back to her home, along with her ten-
24 year-old niece and Johnny Amoia's girlfriend, Ashley, when Gina Mele
25 pulled out of her driveway, rolled down her window, and she said, "I'm

(Linda Marie Chwalinski - Redirect)

1 going to fucking kill you, you bitch." And then we -- we all heard it.

2 MR. DUGUAY: Objection. Just objection as to
3 what anybody else heard or saw.

4 THE REFEREE: Overruled.

5 A. Okay. Well, and we proceeded to go up Maria's driveway, and we called
6 911. My husband -- I can't even remember if we called 911 or my
7 husband did, and we were waiting for the cops to come, in Mark's house
8 so we could give our statements. In the meantime, Ashley had to go --
9 Ashley had an appointment. I went back to my home. The cops finally
10 did show up. They went to Maria; Maria said they were -- I had gone
11 next door. They went -- the one cop, he went across the street, and all he
12 did was socialize with the Grisantis [sic] and he did not come -- he did
13 not come over and get my statement. And then he advised Gina Mele to
14 get a restraining order against me before I could get one against her.

15 Q. You mentioned, and I didn't mean to interrupt you, but you mentioned the
16 Grisantis -- you socialized with the Grisantis. You meant -- did you
17 mean the Meles? The police officer?

18 A. Oh, yes. He was -- he wasn't doing his job. He was over there laughing
19 and goofing around with them. Like, he finally walked up my driveway
20 and basically didn't even ask me anything. He didn't ask me the incident.
21 He didn't ask me -- it was like he was a friend of theirs or something.
22 And it wasn't until we got Capt. Nichols involved -- actually, I think that's
23 the first incident Capt. Nichols was involved --

24 MR. DUGUAY: Objection at this point.

25 THE REFEREE: Yeah, well, the --

(Linda Marie Chwalinski - Redirect)

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THE WITNESS: Well --

THE REFEREE: You've answered the question.

THE WITNESS: Okay. Well --

BY MR. CONNORS:

Q. Do you know what Gina Mele represented to the court or to the law enforcement to get her order of protection? Do you know what she said to them?

A. Trying to remember. I -- yeah, I did. I'm trying to remember. It happened so long ago. Oh, that I -- wait. I'm trying to think of how she put it. I startled her. That was her complaint against me. I startled her when she pulled out of the driveway, and we were there. I startled her.

Q. Did you obtain your order of protection first?

A. No. I was advised by Capt. Nichols --

MR. DUGUAY: Objection.

A. -- to obtain one.

MR. DUGUAY: Objection.

THE REFEREE: So you didn't get it first?

THE WITNESS: Oh, no. No, no. Clearly, I

didn't.

BY MR. CONNORS:

Q. Now, when did you get your order of protection?

A. Well, August whatever it was, 13 or --

Q. I mean, in relation to Gina Mele, when did you get it?

A. Well, it -- a week or so later when we met -- when we found out she was getting one against me.

(Linda Marie Chwalinski - Redirect)

1 Q. Did you go and tell the whole story to the --

2 A. Yes. Yes.

3 Q. -- to the police or to the court?

4 A. I think Capt. Nichols, we told him first, and then he sent us down where
5 you go to get an order of protection, and we told them the whole incident.

6 Q. And is that the court order of protection that you obtained for the incident
7 that you described?

8 A. Yes.

9 Q. Signed by the judge?

10 A. Yes.

11 Q. Okay. You were asked a couple of questions about double driveways?

12 A. Yes.

13 Q. And first of all, do the Meles ever park their cars in their driveway?

14 A. No.

15 Q. And you were asked about -- well, I don't know if you were about 37,
16 Adamo.

17 A. I --

18 Q. That's not a double driveway, is it?

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

20 Q. Okay.

21 A. I think --

22 Q. And 27?

23 A. They're all singles.

24 Q. They're all singles.

25 A. Single, single, Mark's is -- even Rick's is -- that's Rick's.

(Linda Marie Chwalinski - Redirect)

1 Q. When you say Rick, you have to identify the number.

2 A. 27.

3 Q. So that's France -- Rick France?

4 A. Yes.

5 Q. Okay. And across the street, 22 is a single?

6 A. I can't see. Yes. They're all singles.

7 Q. Sorry. 32, 36 is a single? Can you tell?

8 A. Yes, I believe so.

9 Q. 28 is a single?

10 A. I believe so.

11 Q. Contino is a single?

12 A. Yes.

13 Q. Riccio?

14 A. Yes.

15 Q. And the other two remaining are single?

16 A. Yes.

17 MR. CONNORS: I think that's all. Thank you.

18 MR. DUGUAY: Just briefly, Mr. Easton.

19 RE CROSS EXAMINATION

20 BY MR. DUGUAY:

21 Q. Ms. Chwalinski, when you're answering Mr. Connors' questions about the
22 driveway, you were basing your answers upon what you see in DD,
23 correct?

24 A. Yes.

25 Q. Okay. So that's what your perception is, your answer was based upon

537.



(Linda Marie Chwalinski - Recross)

- 1 what you can see right now in the picture, correct?
- 2 A. Yes.
- 3 Q. Do you know when that picture was taken?
- 4 A. When it was taken?
- 5 Q. Yeah.
- 6 A. I didn't take it, so I -- how -- I don't have knowledge of when it was
- 7 taken.
- 8 Q. Okay. Mr. Connors also asked you about Ms. Mele's order of protection
- 9 against you, correct?
- 10 A. Yes.
- 11 Q. Your testimony is that the police showed up that day and they didn't want
- 12 to talk with you?
- 13 A. No.
- 14 Q. Is that a fair characterization?
- 15 A. Yes. Yeah. They already heard her side. They already assumed she was
- 16 the -- Gina Mele is very good at playing the victim. And that's exactly
- 17 what she did.
- 18 Q. Okay. Where were you coming from? You described you were coming
- 19 from somewhere?
- 20 A. Originally, I was in -- we were -- I was in my own back yard. Gina -- or
- 21 not Gina, Maria Grisanti -- I had some friends over.
- 22 Q. All right. So a police officer did come to your side of the street, correct?
- 23 A. He did, yes.
- 24 Q. Do you remember his name as Ofc. Rodriguez?
- 25 A. No, I don't remember his name at all.

538.



(Linda Marie Chwalinski - Recross)

1 Q. Did you look at his name tag?

2 A. That was how many years ago? I don't remember.

3 Q. Well, you made friends with a lot of the different police officers by
4 calling them, correct?

5 A. Friends? I would never consider a --

6 MR. CONNORS: I'm sorry, what -- I'm sorry, I
7 didn't hear. "You made friends" was the question?

8 MR. DUGUAY: Friends with some of the
9 police --

10 A. I didn't make friends.

11 MR. CONNORS: Excuse me.

12 THE REFEREE: Wait, wait, wait.

13 MR. CONNORS: Linda. Objection to that.

14 THE REFEREE: Sustained.

15 BY MR. DUGUAY:

16 Q. Okay. You knew Ofc. Nichols, correct?

17 A. Yes.

18 Q. Okay. And you had him on speed dial, as a matter of fact, correct?

19 A. He was assigned to us.

20 Q. The question was --

21 A. Yes.

22 Q. -- you had him on speed dial, correct? Called him a lot, correct?

23 A. Yes.

24 Q. Okay. So on this day that you say the police came, they didn't want to
25 hear your side of the story?

(Linda Marie Chwalinski - Recross)

1 A. No.

2 Q. Okay, well, the officer did come across the street, correct?

3 A. Yes.

4 Q. Yeah. You were highly -- you were highly intoxicated. Would that be a
5 fair characterization of how you were?

6 A. No.

7 Q. You were drinking that day, weren't you?

8 A. Of course I was.

9 Q. But you weren't highly intoxicated --

10 A. No.

11 Q. -- correct? Okay. Did you tell -- were you aggressive toward the officer
12 who came across the street?

13 A. No.

14 Q. Well, you were mad at him because he didn't hear --

15 A. I was --

16 Q. -- your side of the story first, right?

17 A. Yes.

18 Q. Okay. But you weren't aggressive towards him?

19 A. No.

20 Q. Okay. Did you let him finish his sentences when he tried to speak with
21 you?

22 A. I don't remember.

23 Q. Okay. But you did remember that you told him you were going to call
24 "the people you knew," correct? The other police officers that you knew?
25 You told him that.

540.



(Linda Marie Chwalinski - Recross)

1 A. Oh, I might have.

2 Q. Yeah, and that's what happened afterwards. Then you called Ofc.

3 Nichols to get an order of protection to balance things off, correct?

4 A. Called Capt. --

5 MR. CONNORS: I'll object to that.

6 THE REFEREE: Sustained.

7 THE WITNESS: Yeah.

8 BY MR. DUGUAY:

9 Q. You called afterwards to get your order of protection, correct?

10 A. We didn't even know Capt. Nichols at that time.

11 Q. The question was you called the police after --

12 A. I don't --

13 Q. -- Gina had gotten her order of protection, correct?

14 A. We were advised by Capt. Nichols, after we told him what happened,
15 Capt. Nichols wanted to know if I wanted to press charges against Ofc. --

16 MR. DUGUAY: I'm going to object that it's
17 unresponsive and --

18 THE REFEREE: All right. You responded
19 already.

20 THE WITNESS: Well, okay. Yeah.

21 MR. DUGUAY: I have no further questions.

22 MR. CONNORS: Nothing. Thank you.

23 THE REFEREE: Ms. Chwalinski, you're
24 discharged now.

25 MS. CHWALINSKI: Oh, thank God.

1 THE REFEREE: As long as you can navigate
2 that door.

3 MS. CHWALINSKI: I have better things to do.

4 MS. TRAPANI: Would you like me to go off
5 the record?

6 THE REFEREE: Yeah.

7 (Recess from 12:02 p.m. until 12:05 p.m.)

8 MS. TRAPANI: We are back on the record

9 THE REFEREE: I'm William Easton. I'm an
10 attorney from Rochester, and I've been designated to sit as a
11 fact-finder at this hearing and it's a hearing the Commission
12 of Judicial Conduct is conducting. At the end of the
13 testimony, I'll issue a decision of findings of fact and law
14 based on testimony at this hearing.

15 MR. CURELLA: Okay.

16 THE REFEREE: You're a witness at the
17 hearing and the first thing I will do is administer the oath.

18 MR. CURELLA: Sure.

19 THE REFEREE: Do you swear to answer the
20 questions truthfully under -- swear to do that under penalty
21 of perjury and affirm to do that?

22 MR. CURELLA: I do.

23 THE REFEREE: And you will give the truth,
24 the whole truth, and nothing but the truth in your answers?

25 MR. CURELLA: Yes.

(Doug Curella, Jr. - Direct)

1 THE REFEREE: The thing that we advise all
2 witnesses is there's a mic in front of you. That's a mic that
3 is the recording device. These proceedings are being
4 digitally recorded, so it's going to capture your voice --

5 THE WITNESS: Okay.

6 THE REFEREE: -- for the record. But you
7 have -- it's not projecting your voice. We rely on you to do
8 that with your vocal chords, so --

9 THE WITNESS: Sure.

10 THE REFEREE: So you know, make sure the
11 mic hears you but project it to the entire room.

12 THE WITNESS: You got it.

13 THE REFEREE: With that, we're ready to
14 proceed.

15 THE WITNESS: Thank you.

16

17 DOUG CURELLA, JR.

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

19

20 DIRECT EXAMINATION

21 BY MR. DOYLE:

22 Q. Mr. Curella, could you state and spell your last name for us, please?

23 A. Sure. It's Doug Curella, Jr. C-U-R-E-L-L-A.

24 Q. All right. And you've been subpoenaed to come here to testify today?

25 A. Yes.

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(Doug Curella, Jr. - Direct)

1 Q. Are you an attorney admitted in -- to practice in New York?

2 A. Yes, I am.

3 Q. And what's your current employment?

4 A. I'm the Confidential Law Clerk for the Honorable Judge Lightcap
5 Cianfrini out of Genesee County.

6 Q. All right. Could you spell Judge Cianfrini's last name for us?

7 A. Sure. It's C-I-N-F-R-I-N-I [sic].

8 Q. Do you know Judge Mark Grisanti?

9 A. Yes, I do.

10 Q. How long have you known him?

11 A. About ten years.

12 Q. All right. How did you first come to know Judge Grisanti?

13 A. Back in, I want to say late 2009 or it was 2010, I was his campaign
14 manager for his first Senate run in the New York State 60th Senate
15 District.

16 Q. How was it that you came to be connected to the judge -- at that point, to
17 Mark Grisanti?

18 A. I was currently working in Wisconsin. I went to law school out in
19 Minnesota. I was working on a different U.S. Senate race. I tore my
20 ACL, came back to Buffalo for medical treatment, and at that time, I was
21 looking to get back to New York and my dad ran into, I believe, Joel
22 Giambra, who said he had somebody running for office if your son was
23 looking to hop on a campaign locally, and I believe, if memory serves me
24 right, I believe that's how the connection was made. I met with Mark,
25 and I ended up running his campaign.

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(Doug Curella, Jr. - Direct)

1 Q. Okay. And you mentioned, but just to be clear, what was the campaign at
2 that time for Mark Grisanti?

3 A. Oh, it was the 60th Senate District.

4 Q. Okay. New York State Senate?

5 A. Yeah, I'm sorry. It was the New York State Senate District for the 60th
6 District. I think it's still called the 60th. I don't know if they've redone
7 the numbers with redistricting, but at the time, it was the 60th. That
8 included Buffalo, Grand Island, Niagara Falls.

9 Q. And you were Mark's campaign manager?

10 A. Yes, I was.

11 Q. And was that a successful campaign for Senate?

12 A. Yes. We ended up being successful after a pretty long recount.

13 Q. Okay. After the campaign, did you go to work for Mark?

14 A. Yes, I did.

15 Q. In what capacity?

16 A. I was his Chief of Staff and Legal Counsel.

17 Q. For what period of time?

18 A. For the four years that he was in office before losing his reelection bid.

19 Q. All right. So that was 2011 through 2014?

20 A. Yes.

21 Q. And you already mentioned this, in 2014, he ran for reelection and was
22 not successful.

23 A. Correct.

24 Q. During the time that you worked for Senator Grisanti, as his counsel and
25 Chief of Staff, did you also practice law?

(Doug Curella, Jr. - Direct)

1 A. Yes, I did.

2 Q. And can you tell us about that? What type of law and where -- what
3 setting it was?

4 A. Sure. I worked for the Knoer Group. K-N-O-E-R. It was a small to
5 medium sized practice located right here in downtown Buffalo. I did tons
6 of different things. I was on the assigned counsel panel for family. I did
7 criminal defense work, environmental law, civil defense. I had a couple
8 plaintiff's cases, tax certs. Really a lot of different -- a lot of different
9 items. Liquor law licenses. We represented a lot of the developers and a
10 lot of business owners in the city of Buffalo.

11 Q. Did there come a time in 2015 when you became aware that Mark
12 Grisanti was going to be appointed as a New York Court of Claims
13 Judge?

14 A. Yes.

15 Q. Okay. And did anything change in terms of your employment at that
16 time?

17 A. At that time, I was offered the position of a Confidential Law Clerk to
18 soon-to-be Judge Grisanti, and then I weighed my options with staying in
19 private practice or continue on with the soon-to-be judge as a clerkship.

20 Q. And what decision did you make?

21 A. I decided after talking to the partner, Bob Knoer, he said if I didn't take
22 the Confidential Law Clerk, he would call Mark and ask him to hire him
23 to it.

24 Q. Okay. So, you became confidential law assistant or Law Clerk to Judge
25 Grisanti?

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(Doug Curella, Jr. - Direct)

1 A. That's correct.

2 Q. For what period of time?

3 A. I believe he was appointed in April or May of 2015, and I served in that
4 position until December 31st of 2021.

5 Q. In December in 2021, is that when you became a Law Clerk for Judge
6 Cianfrini?

7 A. Yeah, I -- yes. I started on January 1st of 2022 when her -- she was just
8 elected as judge and her term began on January 1st of 2022.

9 Q. Why the change from Judge Grisanti to Judge Cianfrini?

10 A. A few different things. First, I moved further into Clarence Center,
11 almost towards the Genesee County border. So location was one factor.
12 The second factor was a different area of law. Criminal law, which I
13 missed doing. Surrogates work and pistol permit office are there. So
14 there was different areas of law that I wanted to expand on, the location,
15 and it was just we started our -- I'm sorry, Judge Grisanti and I started in
16 Genesee County when he was first appointed as judge, and I kept
17 connections. I really enjoyed Genesee County.

18 Q. Was there any -- were there any family considerations at play as well?

19 A. Yeah, absolutely. I have two young kids. Two-and-a-half-year-old and
20 an eight-month-old. Wife's currently on maternity leave. So family was
21 a huge factor given the distance and the travel time as well.

22 Q. So going to the time that you were a Law Clerk to Judge Grisanti, can
23 you tell us just in general, what your duties were?

24 A. Sure. As Confidential Law Clerk, I handled a ton of different things. I
25 would handle court conferences, mediations. I'd handle foreclosures. I'd

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(Doug Curella, Jr. - Direct)

1 handle appointments off the Part 36 list, settlement conferences, jury
2 charges, verdict sheets, basically everything needed to run an efficient
3 civil case and chambers, including scheduling orders, motion schedules,
4 research and writing. Just a lot of different things.

5 Q. And during the time you worked as Judge Grisanti's Law Clerk, can you
6 tell us what your working relationship was like?

7 A. Sure. I would say it was more like a partnership. We were a really busy
8 Part -- really busy chambers, constant trials, constant pre-trials, and we
9 would kind of like tag-team the work. Like, we'd come in, there'd maybe
10 be like ten cases. "I'll take five; you take this five." We'd go over them
11 real quick. All right, down to the afternoon calendar. You know. When
12 there's motions, all right, "I'll take these, you take those." We discussed
13 some motions, you know, case law they would come in. I mean, I would
14 say it was more like a partnership. He gave me a lot of freedom and
15 leeway to handle kind of my caseload.

16 Q. All right. What can you tell us about Judge Grisanti's work habits during
17 the time you worked with him?

18 A. I would say he's a workaholic. He's always there. Maybe a little
19 obsessive about his job. Just a very strong work ethic. I mean, we were
20 probably the busiest chambers in the Eighth District, and looking at our
21 standards and goals numbers. I mean, we were a very, very busy Part, I
22 would say and that was because of Judge Grisanti's initiative.

23 Q. A lot of us may understand, but just so the record is clear, when you
24 mention "standards and goals," what are you talking about?

25 A. Sure. So standards and goals is something that comes out every month.

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(Doug Curella, Jr. - Direct)

1 And it basically shows how efficient your judges and how efficient your
2 Part is. So it would tell you how many days your judge was on trial, how
3 many days of non-trial, how many hearings, how many cases disposed,
4 how many active cases. It would break down how many, like of the type
5 of cases you have, whether it's civil or post-mat, and it's basically, like the
6 best way to put it would be a spreadsheet of, like, your stats. Like, if you
7 were an athlete, it'd be your stats for that month.

8 Q. And these are put out by the Office of Court Administration?

9 A. I believe they're the ones who make the numbers, yeah. We'd get an
10 email every month from like the Chief Judge or the Chief Judge's Law
11 Clerk updating the stats.

12 Q. And while you were with Judge Grisanti, how were your standards and
13 goals "stats," as you say?

14 A. Top three in the district all the time.

15 Q. In what way? What do you mean by that top three?

16 A. Sorry. So standards and goals will tell you how long -- when you have
17 civil cases, you have two years from the date you get the case until
18 resolution. If it's longer than two years, that case would click over, as
19 over standards and goals. Now, if a Note of Issue is filed, which is --
20 meaning it's trial ready, you'd get extended another year for that case. So
21 it's a stat based system. So our standards and goals were usually under
22 ten percent where, in comparison, some other judges, they were in the
23 30s, 40s, and 50 percents.

24 Q. Okay. During the time that you worked with Judge Grisanti, what can
25 you tell us about his temperament?

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(Doug Curella, Jr. - Direct)

1 A. I mean, Judge Grisanti's the -- he gets along with everybody. Like the
2 Plaintiff's bar, the Defense bar, I mean, the pro se, like everybody likes
3 the judge. I mean, all the attorneys like working with him. I mean, he's
4 very calm. He's thought out. He's patient. I mean, I would just say he's
5 very, very -- just very normal, relaxed judge.

6 Q. Had you seen the judge handle cases that were more difficult, more
7 complex, more emotional than other cases?

8 A. Sure.

9 Q. And how was his temperament at those times?

10 A. Yeah. We definitely had some, you know, more difficult cases. Post-
11 mats. We had, you know, an emotional vaccine case that, you know,
12 gave, that there was some publicity on. Other cases that are in the news
13 dealing with, you know, alleged corrections officers killing someone in
14 our holding center, and he, you know, was very patient in all those and
15 handled them with, like, a lot -- just a lot of thought. And he'd hear both
16 sides out. And you know, he's very, you know, in tune with, you know,
17 the emotions going on inside the courtroom or in pre-trial conferences.
18 We'd also deal with, you know, pro se clients. Do I need to define pro se
19 client?

20 Q. No, I think we got that one.

21 A. Okay. Pro se clients, which, you know, aren't always the easiest to deal
22 with when they come in without an attorney, but you know, he handled
23 them all with respect and gave them their day in court.

24 Q. While you were Law Clerk to Judge Grisanti, were you familiar with how
25 foreclosure cases were handled in generally in the Eighth District?

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(Doug Curella, Jr. - Direct)

1 A. Yes. Very familiar.

2 Q. Okay. How were you familiar?

3 A. I was familiar because I was one of the -- so as judge's law -- Judge
4 Grisanti's Law Clerk, I was also assigned to the Foreclosure Part, which
5 is located in the basement. Not every Law Clerk had this appointed upon
6 them. Only a few Law Clerks within the Eighth District would do this. I
7 was one of them. So I would see the cases as they first started off in the
8 basement. We call it in the basement of the Foreclosure Part.

9 Q. Okay.

10 A. And then into its finality when it -- when and if it got kicked up to Judge
11 Grisanti.

12 Q. When we're talking about the basement, is at the basement of the
13 courthouse here in Buffalo?

14 A. Yeah. Yeah. Either -- they used to hold the foreclosure conferences in
15 the basement of 25 Delaware until it flooded and then we had to go
16 across the street to City Court and hold Foreclosure Conference Part.

17 Q. Okay. And just -- we've heard a little bit of this already, but could you
18 just tell us how foreclosure cases were processed and the time frame
19 we're looking at is 2017, '18, '19?

20 A. So as of 2017, '18, '19?

21 Q. Yes. Yes.

22 A. How they were processed.

23 Q. So if you had a foreclosure case, and an RJI was filed, what would
24 happen with the case?

25 A. Okay. So if you had a foreclosure case, and an RJI was filed, it would be

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(Doug Curella, Jr. - Direct)

1 put on the wheel. The wheel is this mythical creature, I'd like to call it.
2 Think of the Wheel of Fortune, and you have a bunch of judge's names
3 on it, and the electronic device spins this wheel, and it goes to that judge,
4 right? Not every judge is on the wheel. For example, like, when I
5 worked with Judge Grisanti, we were not on the criminal wheel. So we
6 would never get a criminal case, but we were maybe on foreclosures or
7 med mals, or whatever it was. So RJI comes up. There's some formula
8 that I don't know what it is, and we'd randomly be assigned a foreclosure
9 or this slip and fall and the way it would work is once it's kicked out of
10 the Foreclosure Part, meaning the basement where there's no RJI, they
11 couldn't resolve it, it would go up to a judge, kicked on the wheel and
12 then the case would be presented to the judge, Grisanti. You know, the
13 number would come up. Paperwork would come in. Our court clerk
14 would get the paperwork, hand me the paperwork. I'd review all the
15 information and see what the next steps would be on that paperwork
16 depending on what the attorneys asked for.

17 Q. So going to before a judge is assigned, you mentioned the Settlement Part
18 in the basement.

19 A. Yep. Yep.

20 Q. When a case is down in the Settlement Part, is a judge assigned?

21 A. No.

22 Q. Okay. So and you mentioned that you would go down to the Settlement
23 Part in periods of time to conduct settlement conferences?

24 A. Correct.

25 Q. Were the cases you did settlement conferences on assigned to Judge

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(Doug Curella, Jr. - Direct)

1 Grisanti at the time?

2 A. No. They had no judge assignment.

3 Q. Okay. But you did work in the Settlement Part for foreclosures?

4 A. Oh, yeah.

5 Q. Do you know an attorney by the name of Matt Lazroe?

6 A. Yes, I do.

7 Q. How did you first come to know Matt Lazroe?

8 A. I know him through the Foreclosure Part.

9 Q. Explain what you mean by that.

10 A. Matt is -- Matt's niche, I would say, is foreclosures. He was one of the
11 regular attorneys down there in the Foreclosure Part, along with other
12 attorneys who are regularly there representing large banks, and he'd be in
13 the Foreclosure Part probably every single time I'm down there.

14 Q. And did you have conferences in this Settlement Part with Matt Lazroe
15 representing one of the defendants?

16 A. Many conferences. It would be the situation where I'd have somebody
17 from the bank here, somebody -- Matt Lazroe or somebody for legal
18 services for the disadvantage or -- you know. Everybody in the
19 foreclosure part, I should say, everybody who's about to be evicted from
20 their home essentially, gets a free lawyer. They get a lawyer. And
21 there'd be five cases I'd have with the same bank and lawyer, and we just
22 keep turning them out. Yeah.

23 Q. As a result of your experiences with Matt Lazroe, did you have any
24 opinion about his competence in foreclosure matters?

25 A. No. He was really good with foreclosures. He's one of the only -- not

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(Doug Curella, Jr. - Direct)

1 one of the only, there's not a huge foreclosure bar here in Erie County.

2 He's one of them.

3 Q. Okay. At the time, in 2017, '18, or '19, were you aware that Matt Lazroe
4 had a purchased Judge Grisanti's law practice?

5 A. I was not.

6 Q. Did you ever become aware of that?

7 A. I did.

8 Q. How?

9 A. I read it in a news article.

10 Q. Okay.

11 A. I don't remember which one, but it was in one of the articles after the
12 incident happened.

13 Q. A news article about the initiation of the Judicial Conduct Commission
14 Investigation?

15 A. Yeah. Yes.

16 Q. Now, I also want to ask you generally about the topic of assignments.

17 A. Sure.

18 Q. There are situations, cases in which a Court has to appoint or assign
19 someone to a certain role. Is that correct?

20 A. That's correct.

21 Q. Can you give us -- just give us some examples?

22 A. Somebody under mental incompetence or disability, somebody for
23 unknown heirs, attorneys for the children, court referees, military refer --
24 merit -- military guardian ad litem. Those are just a few I can think of
25 off the top of my head.

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(Doug Curella, Jr. - Direct)

1 Q. Are these what you referred to earlier as Part 36?

2 A. Correct. They're all on pre-approved list.

3 Q. Hold on. I just want to slow you down.

4 A. Sorry.

5 Q. Okay. So we're referring to Part 36 of the Court Rules, correct?

6 A. Yeah. Of OCA, yes.

7 Q. And when you say they're on a list, you mean eligible attorneys are on a
8 list?

9 A. My understanding is --

10 Q. Sure.

11 A. -- because I was on the Part 36 list as a private attorney, you need to take
12 CLEs, certain classes, and apply to be on the list.

13 Q. And are there different lists for different types of appointments?

14 A. Yeah. There's a lot of different lists.

15 Q. While you were Law Clerk to Judge Grisanti, how were assignments
16 handled in Judge Grisanti's Part?

17 A. I handled all the assignments.

18 Q. What do you mean by that?

19 A. So the way cases come in, they come in on paper. I review all the paper.
20 If a case needed an assignment, I'd go on the list. I'd find an attorney who
21 I thought would fit that case that was on the Part 36 list, and I'd appoint
22 him to it. Him or her.

23 Q. Okay. Now you say you'd appoint them. Ultimately would Judge
24 Grisanti sign the order?

25 A. Correct.

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(Doug Curella, Jr. - Direct)

1 Q. All right.

2 A. Yes, he would.

3 Q. So perhaps you would select the name of the attorney.

4 A. I would select the name or recommend the attorney, fill in the blank, and
5 put it in his basket to be signed with other orders.

6 Q. What instructions, if any, did Judge Grisanti ever give you about
7 assigning or selecting attorneys for assignment in his Part?

8 A. The only instruction he ever gave me was try to spread it around and try
9 to give it to people who don't have a lot of appointments.

10 Q. During the time that you were there as Judge Grisanti's Law Clerk, do
11 you have any estimate how many appointments per year would come out
12 of the Part?

13 A. Depending on the year, over 50; 50 to -- it just depends on the year.
14 Some cases you have to assign four people to one case, so it's a lot.
15 We're a very busy Part.

16 Q. What instructions, if any, did Judge Grisanti give you about selecting
17 Matthew Lazroe for any type of appointments from Judge Grisanti's Part?

18 A. He's never given me any instructions on Matt Lazroe. He's never given
19 me any instructions to appoint somebody or not to appoint somebody.
20 He really gave me free rein on appointments.

21 Q. Mr. Curella, I want to ask you about a couple particular cases.

22 MR. DOYLE: Your Honor, if I -- may I
23 approach?

24 THE REFEREE: Sure.

25 MR. DOYLE: I was going to hand -- if it's okay

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(Doug Curella, Jr. - Direct)

1 with Counsel, I was going to hand Mr. Curella the copy of
2 the exhibits. So if you could turn to the paper copies.
3 You'll see there are exhibit number tabs and I'll ask you to
4 turn to --

5 THE WITNESS: Okay.

6 MR. DOYLE: -- a particular number.

7 BY MR. DOYLE:

8 Q. I'll ask you to turn to the tab that's labeled 16.

9 A. Okay. I'm there.

10 Q. Hold on a second, we're going to pull it up on the screen as well. These
11 are the court records already admitted in evidence. This is involving a
12 case called *Bayview Loan v Fornes*. F-O-R-N-E-S. So we're turning to a
13 particular page that says Residential Foreclosure Conference Intake
14 Form. And you can either look on the screen or look at it on paper.

15 A. Okay.

16 Q. It reflects a conference, according to the first line after the caption, a
17 conference that occurred on January 19, 2018. Do you see that either on
18 the screen or in paper?

19 A. I do, but I'm on the wrong appearance form.

20 Q. They're a little bit out of order.

21 A. Yeah.

22 Q. I think it's a second intake form.

23 A. Okay.

24 Q. In the paper.

25 A. I believe I'm on the right page.

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(Doug Curella, Jr. - Direct)

1 Q. Okay, great. So can you tell us what these forms are?

2 A. Yeah.

3 Q. Okay.

4 A. Yeah, this is the basement or Foreclosure Part. These are the forms that
5 come in. So just to explain this form, what it looks like is there was an
6 appearance by Richard Fay from the bank, who represented Bayview,
7 Matt Lazroe was representing Mary Lee Fornes, which, based on this
8 sounds like she was pro se and probably went to the basement without a
9 lawyer because under the law firm, it looks like she's a pro se. And then
10 it's not on there, but on the sheet I'm reading, it looks like a conference
11 was held with, looks like Diane Boccio's signature.

12 Q. Okay. Who is Diane Boccio?

13 A. So Diane Boccio, at -- as I explained before, the Law Clerks would fill in
14 and do the Foreclosure Part until they finally hired somebody to do all the
15 foreclosures, which was Diane Boccio. So then she did all the
16 foreclosures for a short time and then when she retired, they went back to
17 all the selected Law Clerks doing the Conference Part again.

18 Q. Okay.

19 A. Yeah.

20 Q. And you already told us in general, that the foreclosures would stay in the
21 basement for settlement conferences. Sometimes the case would resolve,
22 would settle. And if it didn't, it would then be assigned to a judge. Is that
23 correct?

24 A. Yeah. It would be assigned to the judge on the wheel. A random
25 assigned them a judge. Oh, sorry --

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(Doug Curella, Jr. - Direct)

1 Q. Go ahead. And for cases that were then randomly assigned to Judge
2 Grisanti, what would happen after they were assigned, and they came up
3 from the Settlement Part?

4 A. When they were assigned to us, we'd usually get just an RJI, which would
5 say the case name and the defendant. I would say nine times out of ten,
6 sometimes ten times out of ten, there would just be a bank attorney's
7 name. More times than not, they were from New York City, and the
8 defendant's usually pro se in those. There's usually no attorneys for the
9 defendants, because once -- what's important to note in this Foreclosure
10 Part is the defendants are protected. They cannot get kicked out of their
11 house while they're in here and they get free counsel per RPAPL, Real
12 Estate Property Law. They get the free counsel. Once they've exhausted
13 their options, and it goes up to a judge, now they need to afford an
14 attorney and they're in foreclosure and they usually can't afford an
15 attorney.

16 Q. If you could turn -- it's I think it's the fourth page from the beginning of
17 Exhibit 16 is a Request for Judicial Intervention form.

18 A. Okay. I'm there.

19 Q. That's what we -- that's what you refer to as an RJI?

20 A. That's an RJI, yes.

21 Q. And if you turn to the second page of that, is there a spot for the counsel
22 to be identified for each of the parties?

23 A. Yes, there is.

24 Q. And who is the counsel identified for Ms. Fornes, the homeowner?

25 A. Herself. She's representing herself, I believe, pro se.

(Doug Curella, Jr. - Direct)

1 Q. And this is what would come up, you said after the case was determined -
2 - dismissed from the Foreclosure Settlement Part.

3 A. Yeah. So what happens is it would be released from the Part --

4 Q. Released.

5 A. -- and if you go on the second page of this, that I skipped to, it says why
6 it's up with the judge. Under "other," it said, "Filed in compliance with
7 CPLR 3408, not conference eligible." So 3408 just means it's not eligible
8 for the for the Foreclosure Conference Part. Not to get into the law, but
9 you might not be eligible if you don't live in the home, or if it's a rental
10 property. So you go to the Conference Part. They determine if you're
11 eligible, and if you're not, they release it.

12 Q. Okay. If you turn then two pages after that, I believe there's a scheduling
13 order, which is dated September 7, 2018.

14 A. I'm there. Yep. I see it.

15 Q. Okay. How were -- how was the scheduling order like this prepared?

16 A. Sure. So I get the RJI, I grab -- I have a -- in my old office, I had a box of
17 blank scheduling orders. I'd fill in dates that I would do foreclosure
18 conferences on, and I'd notify the attorney of record, and I'd give them
19 dates and say, "All right, we need the order of reference," which would
20 be the next step that we would need in the process, "by this date, or you
21 must appear" and basically tell me why you haven't done it.

22 Q. Now, Mr. Lazroe is not identified on this scheduling order, correct?

23 A. He's not an attorney on the case.

24 Q. Okay. Well, could you explain that, because he was at settlement
25 conferences in the basement.

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(Doug Curella, Jr. - Direct)

1 A. Right. The best way to put it is like there are two separate -- two
2 parallels. You can be an attorney in the Foreclosure Part, but not be the
3 attorney moving up. And the same goes for the bank attorney. I skipped
4 through, when I was reading these, and one of the names that appears is
5 Rob Gleichenhaus. Rob Gleichenhaus appears for about 15 different
6 banks down there. He's local counsel for Bayview or for Rosicki.
7 Rosicki's in New York City. It looks like they might have an office in
8 Batavia, but that's a large firm. I mean, practically speaking, New York
9 City is not going to fly somebody out here for a five- to ten-minute
10 Foreclosure Part Conference. They hire local counsel.
11 So on these Counsel Part sheets, there could be different attorneys on
12 both sides. Because when Ms. Fornes shows up without a lawyer, they
13 say, "Hey, you know, here's legal -- neighborhood legal services.
14 Here's," maybe, "Mr. Lazroe. Here's Mr. Smith. Does anyone want to
15 step in and help her in the Foreclosure Part?" And by the way,
16 sometimes these people don't want a lawyer and they want to just do it
17 themselves, and I've had those down there too. But just because you're
18 advocating for somebody in the Foreclosure Part doesn't mean you're
19 their retained attorney. I go by what's off the RJI.
20 And another thing is when I get the file, I wouldn't necessarily have the
21 sheets from the Foreclosure Part, so I wouldn't -- I don't have -- what
22 you're showing me, I don't have all this when it comes to me. It might be
23 in NYSEF, but the paper copy I get is an RJI, and maybe a cover letter
24 saying schedule this for a conference or something, or so I don't have all
25 this all the time.

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(Doug Curella, Jr. - Direct)

1 Q. So we're going to move to Exhibit 18.

2 A. Okay.

3 Q. Which is the -- been identified as the *Trifera* case.

4 A. Okay.

5 Q. This is a foreclosure matter?

6 A. Yes, it is.

7 Q. Okay. If you could turn, I think it's, I think it's the eighth or ninth page?

8 This is part of what's entitled an Order of Publication.

9 A. Yes. Yep, the order on there.

10 Q. Okay. And then I think it's three pages into the Order of Publication,

11 there is a paragraph in which Matthew Lazroe's name has been written in

12 -- handwritten in. Do you see that?

13 A. Yes.

14 Q. So first of all, can you explain what an Order of Publication is generally
15 in foreclosure matters?

16 A. Order of Publication means they're having trouble serving potentially

17 unknown heirs or people that are -- you know, people that should --

18 what's the best way to put it. They're giving notice out to the world that

19 this house is in foreclosure, and somebody might have an interest that

20 they can't find.

21 Q. Okay. And regarding Mr. Lazroe, we'll come back to how his name gets

22 there, but his name has been written in as being appointed "guardian ad

23 litem and military attorney"?

24 A. Correct.

25 Q. And what is that?

562.



(Doug Curella, Jr. - Direct)

1 A. He was appointed to basically accept service. If somebody were to see
2 this in -- you know, in the newspaper and call and that was basically his
3 role.

4 Q. Okay. Do you recognize the handwriting that has written in Matthew
5 Lazroe and his office address and phone number?

6 A. Yes.

7 Q. Whose handwriting is that?

8 A. That's my handwriting.

9 Q. What does that indicate, if anything?

10 A. It indicates that I want on the Part 36 list and appointed Matt.

11 Q. Okay. So you wrote that in. You selected Matt for appointment?

12 A. Correct.

13 Q. Ultimately, the order is signed by Judge Grisanti though, correct?

14 A. That's correct.

15 Q. And did you have any conversation with Judge Grisanti about your
16 selection of Matthew Lazroe for appointment?

17 A. No, I did not.

18 Q. Okay. What connection was there, if any, between Matthew Lazroe
19 being selected for appointment, and the fact that he had bought the
20 judge's law practice? Do you understand the question?

21 A. Yeah. There -- no connection. I mean, there's no connection.

22 Q. When you wrote Matthew Lazroe's name in -- when you selected him for
23 appointment, were you aware that he had purchased the judge's law
24 practice?

25 A. No.

563.



(Doug Curella, Jr. - Direct)

1 Q. Or that he was making continuing payments to the judge on that
2 purchase?

3 A. No. I had no idea of Mark's personal matters. None.

4 Q. Why did you select Matthew Lazroe for appointment?

5 A. A couple of different reasons. First, I'm familiar with him in the
6 Foreclosure Part. It's his niche. He's good at it. And I probably looked
7 at the Part 36 list and saw he probably didn't have any appointments.
8 And picking a competent -- picking, appointing, or recommending
9 competent people helps me do my job, too. If I'm appointing somebody
10 that doesn't do foreclosures, it's more work for me.

11 Q. We can move to Exhibit 19 now.

12 A. Okay.

13 Q. Which is *Fannie Mae v Anderson*. This is also a foreclosure. Is that
14 correct?

15 A. Yes, it is.

16 Q. And if you can turn to the -- so the front document is an ex parte order
17 directing service, correct?

18 A. Correct.

19 Q. That's something that happens in a foreclosure?

20 A. Yes, it does.

21 Q. And if you can turn to the fourth page. Again, there's an order which
22 selects Mr. Lazroe for appointment as guardian ad litem and military
23 attorney?

24 A. Yes.

25 Q. And his name has been handwritten in?

(Doug Curella, Jr. - Direct)

1 A. Yeah, looks like I misspelled it because I whited it out.

2 Q. Okay. Whose handwriting is that?

3 A. It's my handwriting.

4 Q. Okay. Same questions. Did Judge Grisanti have any conversation with
5 you about selecting Mr. Lazroe for appointment?

6 A. He did not.

7 Q. Okay. If you can turn to Exhibit 20 which is the *Greater Woodlawn v*
8 *Pachucki*?

9 A. Okay.

10 Q. This is also foreclosure. Is that correct?

11 A. Correct.

12 Q. If you can turn, there's an Order of Reference that's about between five to
13 ten pages in?

14 A. Okay. I'm there.

15 Q. And this is an Order of Reference for Appointment of Referee. Could
16 you explain that briefly?

17 A. Yeah. An order or a referee's duties is to double check the numbers from
18 the bank, do the calculations, make sure the calculations are accurate. If
19 it does proceed to a foreclosure auction, the referee will conduct the
20 auction.

21 Q. Okay.

22 A. Which was held in the foreclosure alcove at 25 Delaware.

23 Q. On the second page of the order, down towards the bottom of the page,
24 Mr. Lazroe's name has been handwritten in as being selected for
25 appointment to referee. Whose handwriting is that?

565.



(Doug Curella, Jr. - Direct)

1 A. It's my handwriting.

2 Q. Okay. Again, indicating that you selected his name?

3 A. That's correct.

4 Q. Did you have any conversation with Judge Grisanti about selecting Matt
5 Lazroe's name in this case?

6 A. No, I did not.

7 Q. If you turn, I think three more pages. This file includes an email from
8 you to Judge Grisanti. Do you see that?

9 A. Yeah. Yes.

10 Q. I'm just going to read the beginning of it. It says, "This case assigned to
11 Judge Colaiacovo. We previously had this case and Mr. Lazroe was
12 assigned as referee, pursuant to section of RPAPL, RPAPL 1321." And
13 I'm just going to skip to the next one. The next paragraph says, "The sale
14 was to adjourn due to COVID and case transferred to Judge Colaiacovo
15 where Mr. Lazroe is still the referee." Do you remember anything about
16 this email?

17 A. Yeah. Yes, I do.

18 Q. Okay. What do you recall?

19 A. I believe the judge asked me to look up all the cases that Matt Lazroe, or
20 all the active cases that Matt Lazroe was appointed to in the Foreclosure
21 Part.

22 Q. Okay. And sorry, just for the record, the date of this email is March 22
23 2021, correct?

24 A. Correct.

25 Q. And was this after the articles had appeared about the topic of the

566.



(Doug Curella, Jr. - Direct)

1 Commission's investigation? If you know?

2 A. I don't remember the exact date, but I'm guessing it was after.

3 Q. Okay. There were two cases, Mr. Curella, where Mr. Lazroe was
4 appointed as court evaluator in guardianship proceedings. What does a
5 court evaluator do in a guardianship proceeding?

6 A. Court evaluator in a guardian guardianship proceeding helps gather
7 information from both sides, depending on what the issue is, and make a
8 recommendation to the Court.

9 Q. And do you recall selecting Mr. Lazroe for appointment as court
10 evaluator in two cases?

11 A. I'm sure I did appoint him as --

12 Q. Okay.

13 A. -- evaluator.

14 Q. Is it a separate Part 36 list?

15 A. It's a different list than the -- it's a different list than the referee list. It's a
16 different list than the guardian ad litem list. It's still part of -- it's still a
17 part of the Part 36. It's just like a different drop-down menu.

18 Q. All right. And different things a lawyer has to go through to qualify for
19 those different lists?

20 A. That's correct.

21 Q. All right. And apparently, Mr. Lazroe was qualified for each of those
22 lists?

23 A. He was on the list, so yes.

24 Q. Why did you select Mr. Lazroe for appointment as court evaluator in
25 those guardianship proceedings?

567.



(Doug Curella, Jr. - Direct)

1 A. Probably two-fold. One, he always did good work with the foreclosure
2 stuff, so I had confidence in him that he'd do good work on the court
3 evaluator position, and also I probably looked and saw he hadn't had any
4 appointments. So just spread it around.

5 Q. What conversations, if any, did you have with Judge Grisanti about
6 selecting Mr. Lazroe for appointment as court evaluator in those
7 guardianships?

8 A. None. The judge has never told me who to appoint or who not to
9 appoint. He let me to do all that stuff. I'm sorry, recommend, since I
10 don't sign the order.

11 Q. If you can turn to Exhibit 22. This involves a case called *Jones v Jerry*
12 *Gratl Motors*. It's been identified as a lemon law case.

13 A. Yep.

14 Q. From Niagara County. Do you recall this case?

15 A. I do.

16 Q. Do you recall a situation involving your transfer of some cases from
17 Niagara Falls?

18 A. I do remember that.

19 Q. What do you remember about that, generally?

20 A. Generally speaking, I believe that one of the judges in Niagara County
21 fell ill. I don't recall what judge it was. We were asked by, I believe,
22 Judge Feroletto, if any judge would want to pick up 30 trial-ready cases.
23 And I'm sure I told Mark, why make more work for ourselves, but of
24 course, he said yes. And we took 30 or so more cases. I remember this,
25 because it says Niagara County Supreme Court. We got a ton of Niagara

568.



(Doug Curella, Jr. - Direct)

1 cases that were all allegedly trial ready. And yeah, we were asked to take
2 a boatload of cases for a judge that was ill.

3 Q. You said, "of course Mark said yes." What do you mean by that?

4 A. Mark never says no. So anytime there's an email and it's like, "Hey, does
5 anyone want to cover a trial?" Mark would be the first one to respond
6 and say yes, even before I could walk in the office and say no. Like, it's
7 just, he never said no when people asked for help. So I mean, the
8 standards and goals, like, it'll show you how many cases we go through.
9 A lot of those he'd volunteer to help other judges.

10 Q. And the cases that were transferred, you said, there were about 30 of
11 them, I think?

12 A. Probably 30. It was a good amount.

13 Q. All right. Whatever number it was, how were those handled once they
14 were transferred to you? To your part?

15 A. I believe we got an email from Judge Feroletto and whoever, I'm sorry, I
16 don't remember the judge that was ill, I believe was that judge's secretary
17 and they arranged for all the files to come to us. These files were in
18 Niagara County. So they arranged for somehow these files to come to us.
19 We'd get the files, and we'd schedule them for either a pre-trial
20 conference, or we'd honor the pre-trial conference date that was already
21 selected by the previous judge that was on it. That's how we got the
22 actual physical files if that's what you're asking.

23 Q. In this particular court record, there is a trial scheduling order. If you
24 want to look for it, but in general, how were scheduling orders handled
25 by your Part at this time?

569.



(Doug Curella, Jr. - Direct)

1 A. Scheduling orders were handled two ways. As I previously stated, when
2 we did our conferences, one of the things we'd always do is give
3 scheduling orders. Basically, it keeps the attorneys -- you know, it makes
4 us -- we have something to go by when we're like, "Hey, why wasn't
5 depositions done?" "Hey, we have a scheduling order. It was e-filed. It
6 was emailed to you. Like, why didn't you do anything?" So scheduling
7 orders, we would have a bunch of blank ones. I'd have them in my office.
8 I believe the judge had them in his, and we'd write down, and we'd
9 handwrite the dates in, give them to our secretary. She would type them
10 up. We'd review them, that the dates were correct, and then the judge
11 would eventually sign the order. And I'm sorry, but I'm having trouble
12 finding the scheduling order on this one.

13 Q. That's all right. I think we have what we need on that. The last thing on
14 this case I want to ask you about is if you turn to the second page of
15 Exhibit 22, there are a number of conferences that are written down.
16 Some of them reflect conference, either held or not held, and it says,
17 "Grisanti, Honorable Mark J." Do you see that?

18 A. Yes, I do.

19 Q. Okay. So are you familiar with this eCourts system?

20 A. I'm somewhat familiar with it.

21 Q. Okay. If you know, the conferences that are listed there with the dates
22 and held, would they have been with Judge Grisanti himself? Would
23 they have been with you? Would they have been with someone else? If
24 you know?

25 A. They could have been with either of us. It does -- I will say eCourts is

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(Doug Curella, Jr. - Direct)

1 pretty inaccurate, because the eCourts is available to the public. And I
2 don't enter these dates in, the judge doesn't. This is like a back-end office
3 where everything needs a date. So even if you adjourn something or --
4 everything needs a date. You can't -- everything needs a date in the
5 future is the best way to put it. So I'm looking here. Yeah, that's the best
6 way I can describe it.

7 Q. Okay. So the last case I have to ask you about then is Exhibit 29 are the
8 court records in a case called *Buffalo Seminary v Stephanie Satterwhite*.

9 A. Okay.

10 Q. Do you recall this case?

11 A. I mean, from reading it, I could bring myself up to speed pretty quickly.

12 Q. Okay. What type of case was it and what was the Court's involvement, if
13 you recall?

14 A. This -- it looks like it's a -- either a default judgment or a summary
15 judgment motion.

16 Q. Well, if you turn to the fourth and the fifth page --

17 A. Okay.

18 Q. -- there's a Notice of Motion.

19 A. Oh, it's for Default Judgment.

20 Q. Okay. And Default Judgment means there has been a complaint filed, but
21 there has been no answer to it?

22 A. Correct. The statutory time has run out.

23 Q. Okay. And in the supporting papers in support of the motion for default,
24 there's reference to a Confession of Judgment being attached?

25 A. I'm sorry, I'm just looking for it.

571.



(Doug Curella, Jr. - Direct)

1 Q. That's okay.

2 A. Not that I don't believe you.

3 Q. It's many pages in.

4 A. Okay. Yes, I do see the Marlette affidavit. I'm there. I'm at that page.

5 Q. Okay. So this was a -- this case was a motion for default judgment on a
6 debt in which there had been a Confession of Judgment?

7 A. That's correct. That's what it looks like.

8 Q. And there was no opposition filed to the motion for default?

9 A. No opposition. No appearance.

10 Q. Okay. So how was this case handled then?

11 A. It probably was, if I had to guess, e-filed. Went to my court clerk. So it
12 was either e-filed and/or mailed in. She gets the mail. She opens the
13 mail. Come in, there's a stack of papers to go through, and I review the
14 papers. I check to see what's going on. Numbers add up, dates add up,
15 put a sticky note for the judge's signature, put it in his bin to sign. This is
16 a very simple routine. We get tons of these.

17 Q. Did you have any conversation that you recall with Judge Grisanti about
18 how this case should be handled in light of Mr. Lazroe being involved?

19 A. Zero conversation.

20 Q. Regarding any case, during the time you were with Judge Grisanti, did he
21 ever give you any instructions as to how any case involving Mr. Lazroe
22 should be handled?

23 A. Never any instruction.

24 MR. DOYLE: Can I have a minute, Judge?

25 THE REFEREE: Oh, sure.

572.



(Doug Curella, Jr. - Cross)

1 MR. DOYLE: That's all I have. Thank you,
2 Mr. Curella.

3 THE WITNESS: Thanks.

4 THE REFEREE: Cross examination?

5 MR. DUGUAY: Yes. Thank you, Mr. Easton.

6 CROSS EXAMINATION

7 BY MR. DUGUAY:

8 Q. Good afternoon, Mr. Curella.

9 A. Good afternoon.

10 Q. Mr. Curella, you testified that you -- prior to working for Judge Grisanti,
11 you had had some work in Wisconsin, correct?

12 A. Yes.

13 Q. A Senator?

14 A. Yep.

15 Q. That was for Ron Johnson, correct?

16 A. That is correct.

17 Q. Four months as his Deputy Communications Director?

18 A. That's correct.

19 Q. You never ran a political campaign before?

20 A. That's incorrect.

21 Q. What campaign did you run prior to that?

22 A. Dr. Marc Trager for Congress.

23 Q. And then you said you became Mark Grisanti's campaign manager
24 September 2010. Does that sound right?

25 A. Sounds about right, yes.

(Doug Curella, Jr. - Cross)

1 Q. Paid for your services. Were --

2 A. No.

3 Q. -- you paid for your services?

4 A. He did not.

5 Q. All volunteer?

6 A. Yes, it was.

7 Q. Okay. But after he won his election, he did hire you, correct?

8 A. Correct.

9 Q. And you worked for about seven years for Judge Grisanti?

10 A. No. I only worked for him for four years in the Senate, if that's --

11 Q. No. I'm sorry. Not for the Senate time.

12 A. Oh, okay.

13 Q. After his Senate experience ended, correct? You did work for him as his
14 Confidential Law Clerk, correct?

15 A. Yes, I did.

16 Q. And that was for seven years, correct?

17 A. Yes, it was.

18 Q. All right. And you made over \$800,000 pursuant to that appointment,
19 that work for Judge Grisanti, correct?

20 A. That's probably accurate.

21 Q. You became personal friends with Judge Grisanti over those seven years,
22 correct?

23 A. Absolutely, yes.

24 Q. Became close?

25 A. Yes.

(Doug Curella, Jr. - Cross)

1 Q. All right. You'd go to his house occasionally, correct?

2 A. Occasionally, yes.

3 Q. And he'd occasionally come to your house or houses?

4 A. Yes. Well, yeah. He's came to my house once.

5 Q. Okay. You described your relationship as like a partnership, correct?

6 A. In the -- in chambers, yes.

7 Q. Okay. So that's how you viewed it, but he was the judge, and you were
8 his clerk, correct?

9 A. That's correct.

10 Q. Ultimately, he was responsible for the judicial decisions, correct? Not
11 you?

12 A. He was.

13 Q. And as far as appointments, Judge Grisanti kept a conflict list of
14 attorneys, didn't he?

15 A. That's correct.

16 Q. Okay. Mark [sic] Lazroe ever appear on that conflict list?

17 A. I don't believe I ever saw his name. There was a --

18 Q. I'm sorry. Was Matthew Lazroe -- I'm mispronouncing the name.

19 A. No, yeah, it's -- I knew what you meant. I don't believe he was on the
20 recusal list. There was a lot of names in that recusal list.

21 Q. But that would be something you'd be sure to check to make sure it was
22 on the list or not, correct?

23 MR. DOYLE: I object to that, Judge.

24 THE REFEREE: Overruled.

25 A. Can you just say that again?

575.



(Doug Curella, Jr. - Cross)

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BY MR. DUGUAY:

Q. Sure. Part of your job is to make sure that you caught conflicts for the judge, correct?

A. That's correct.

Q. And it was based upon the list that the judge provided you, correct?

A. Well, there was conflicts -- that was from my own -- I had conflicts on that list as well, but yes.

Q. I'm asking about the judge's conflicts. You understand that, correct?

A. Correct. I -- correct.

Q. You talked about when you went to Niagara Falls, you were hit with a big caseload of trial ready cases, correct?

A. No, that -- that's -- not completely. We got cases transferred to us from Niagara County.

Q. Okay. And you were responsible for all those cases, correct?

A. Correct.

Q. And you said many were trial ready?

A. That was my understanding. Yes.

Q. So it would be particularly important to be aware of conflicts with -- pertinent to those Niagara Falls cases, correct?

A. Well, conflict cases wouldn't come to us because they would have been, they would have -- the wheel would have caught it. The OCA would have caught that.

Q. All right. So --

A. Because they have a copy of our recusal list.

Q. Okay. So you would not have been assigned cases that had been

(Doug Curella, Jr. - Cross)

1 conflicted out prior to the wheel assigning the case, correct?

2 A. Correct. Like the former firm I was at, we've never had a case because
3 they would catch that before it even came to us.

4 Q. Okay. And that would apply to every case that you just testified about,
5 correct?

6 A. If it was on a recusal list, yes.

7 Q. Okay. You had been shown a number of orders pursuant to various
8 cases, correct?

9 A. What was the first part?

10 Q. Yeah. You had been shown, through the exhibits, a --

11 A. Oh, shown.

12 Q. -- variety of orders that were signed by the judge, correct?

13 A. Yes.

14 Q. Okay. And the judge read the orders before he signed them then, correct?

15 A. I assume so.

16 Q. Okay. Was it his practice to read the orders before signing them?

17 A. The way it would work is if he was on the bench, there was a bin. I
18 would put multiple orders in that bin, whether it be scheduling orders,
19 appointments, letters, I put them in a bin and the judge at his leisure, at
20 his time, would review and sign.

21 MR. DUGUAY: I have no further questions.

22 MR. DOYLE: Nothing further.

23 THE REFEREE: You're discharged. Thank
24 you.

25 THE WITNESS: Thank you. Do you want the

577.



(Doug Curella, Jr. - Cross)

1 book? Just leave it here.

2 THE REFEREE: You can leave it there.

3 (Recess from 12:58 p.m. to 2:00 p.m.)

4 MS. TRAPANI: Okay. We're on the record.

5 THE REFEREE: All right. We'll resume the
6 hearing. It's two o'clock on June 21st. Hello.

7 MR. SMIDT: Hello.

8 THE REFEREE: I'm William Easton. I'm an
9 attorney in Rochester.

10 MR. SMIDT: Okay.

11 THE REFEREE: And I'm the hearing examiner
12 or the referee, finder of fact for this hearing, which is a
13 hearing under the aegis of the Commission of Judicial
14 Conduct.

15 MR. SMIDT: Okay.

16 THE REFEREE: And you're a witness and the
17 first thing I would like to do is to administer the oath.

18 MR. SMIDT: Okay.

19 THE REFEREE: Do you swear or affirm under
20 the penalties of perjury that the testimony you're about to
21 give is the truth, the whole truth, and nothing but the truth?

22 THE WITNESS: I do.

23 THE REFEREE: Now, I'll take your testimony.
24 And the thing that we advise all witnesses in addition to
25 navigating a very tricky door, is the mic is recording device

578.



(Jakob Smidt - Direct)

1 for the audio.

2 THE WITNESS: Okay.

3 THE REFEREE: Hearing is digitally recorded,
4 so it's picking up your voice and so it can be transcribed.
5 But it's not projecting your voice at all.

6 THE WITNESS: Okay.

7 THE REFEREE: So you have to have a delicate
8 balance of projecting your voice so that everyone can hear
9 it and not blowing out the ears of the person listening to the
10 mic, but it can be done. You just got to get yourself in the
11 right position.

12 THE WITNESS: Got it. Will do.

13 THE REFEREE: Okay? We can proceed.

14

15 J A K O B S M I D T

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

17

18 DIRECT EXAMINATION

19 BY MR. CONNORS:

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

21 A. My name is Jakob Smidt.

22 Q. What is your profession?

23 A. I'm a licensed clinical social worker.

24 Q. What does that mean to be a licensed clinical social worker?

25 A. That means I am now allowed by New York State to assess, diagnose,

579.



(Jakob Smidt - Direct)

1 and treat individuals for either mental health and or substance use and be
2 in my own practice if I so choose to.

3 Q. And are you in your own private practice now?

4 A. I am.

5 Q. How long have you been in private practice?

6 A. Two years on June 24th.

7 Q. Now, you say you were -- your profession enables you to make
8 assessments and provide care plans. What type of skills do you use to do
9 that kind of work?

10 A. My go to skill is, you know, Cognitive Behavior Therapy, and also a
11 Dialectical Behavior therapy. I'm also trained in EMDR, which is Eye
12 Movement Desensitization and Reprocessing Therapy. Which is a
13 trauma therapy.

14 [REDACTED]

15 [REDACTED]

16 [REDACTED]

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19 [REDACTED]

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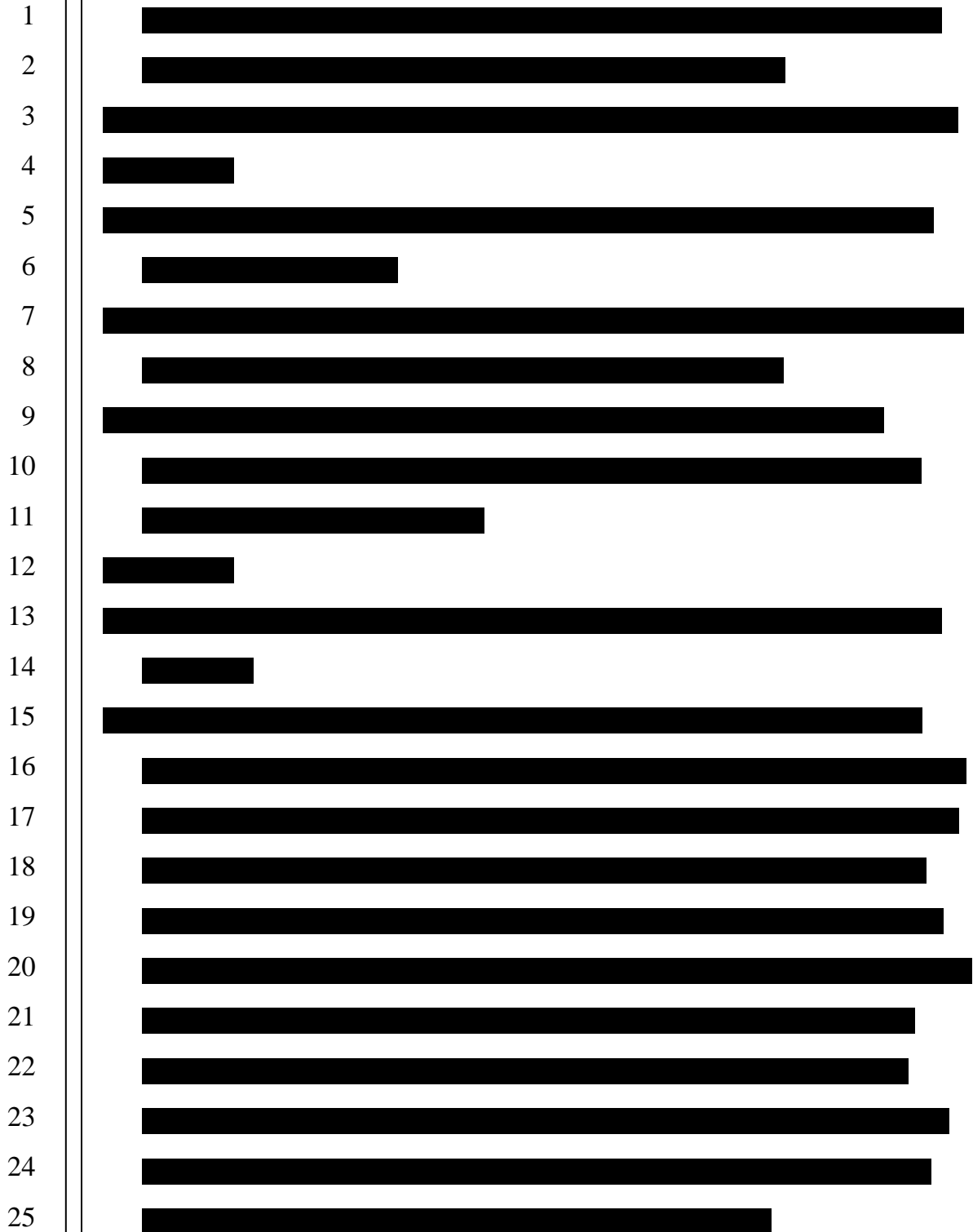
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(Jakob Smidt - Direct)

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(Jakob Smidt - Direct)



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(Jakob Smidt - Direct)

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(Jakob Smidt - Direct)

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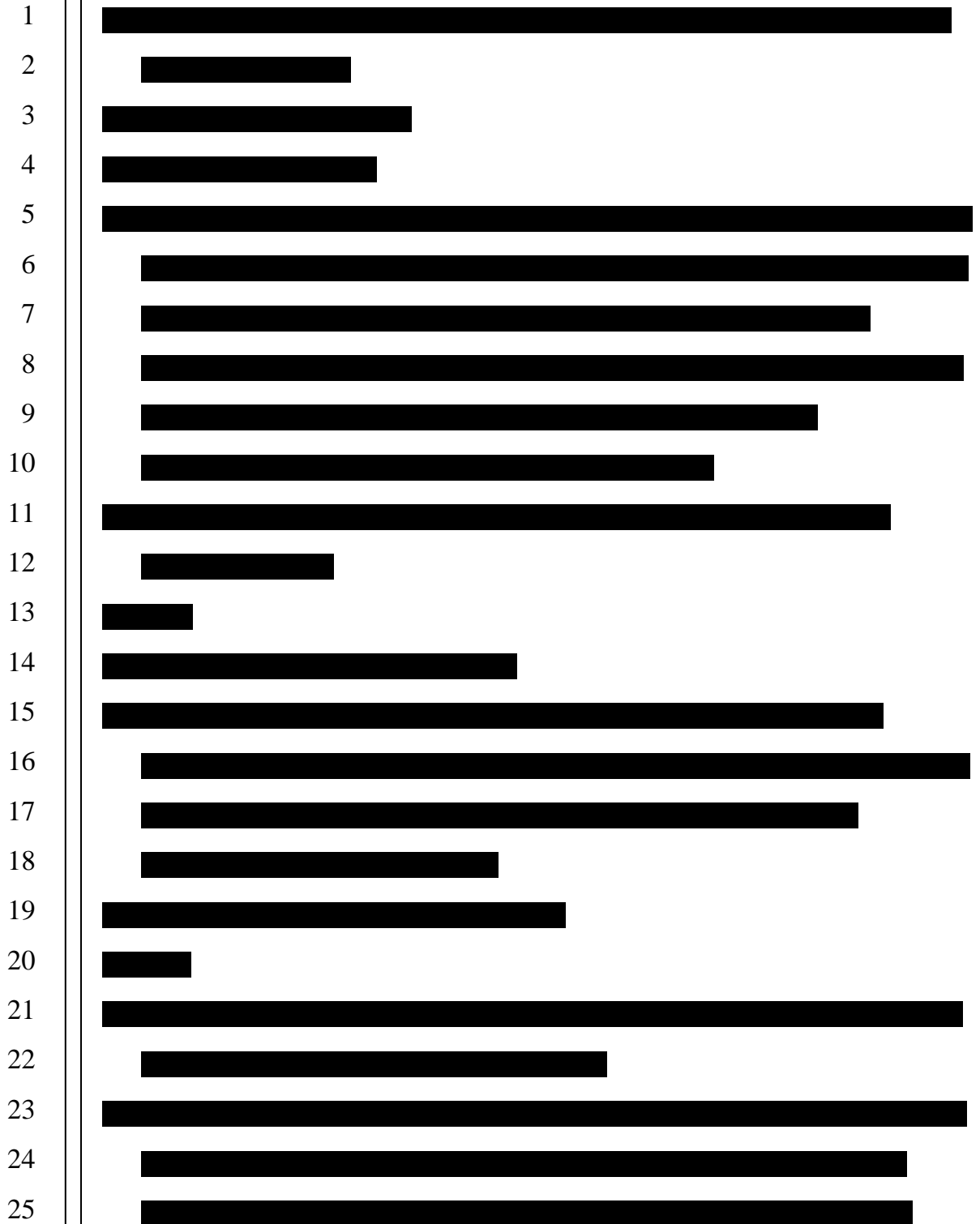


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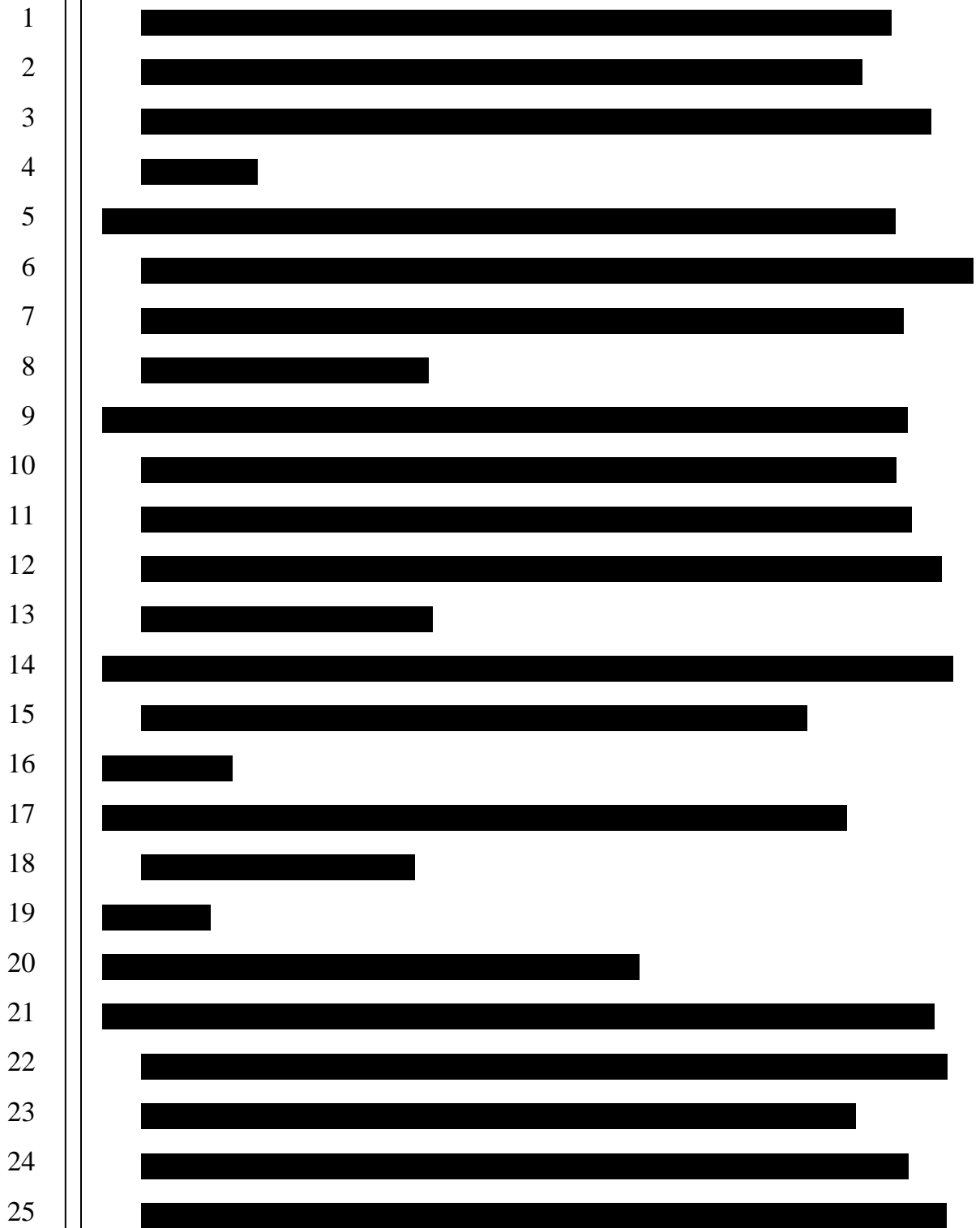
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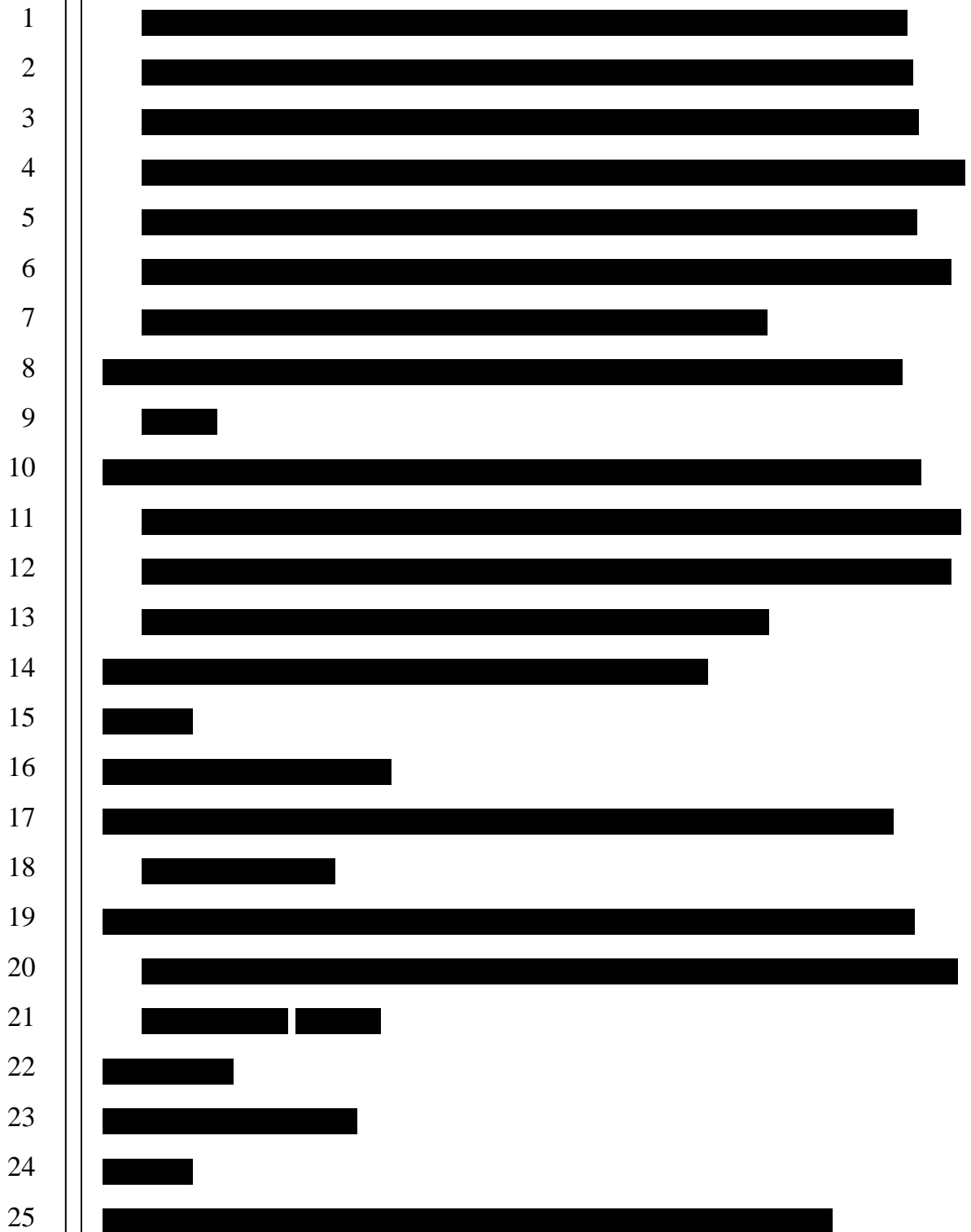


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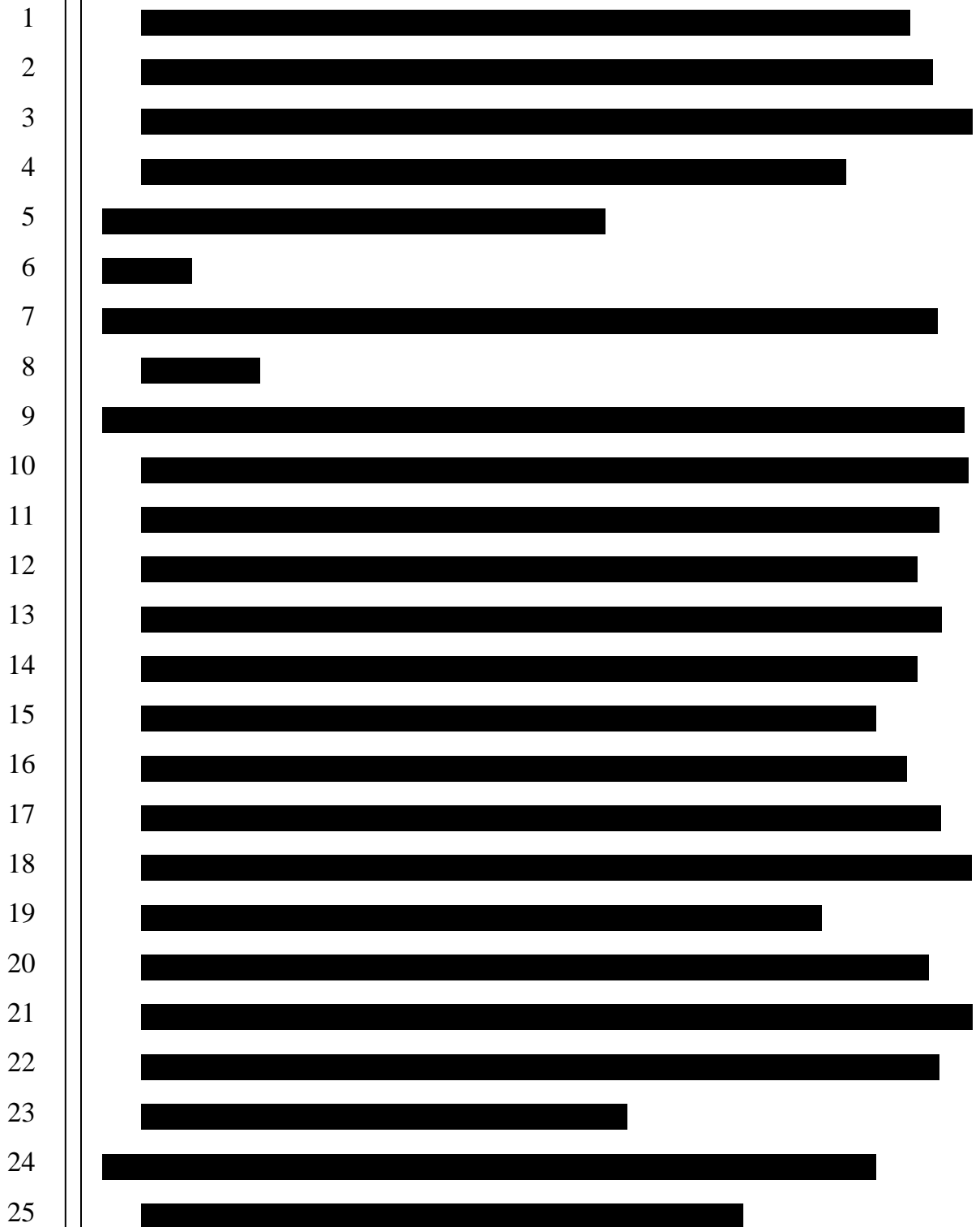


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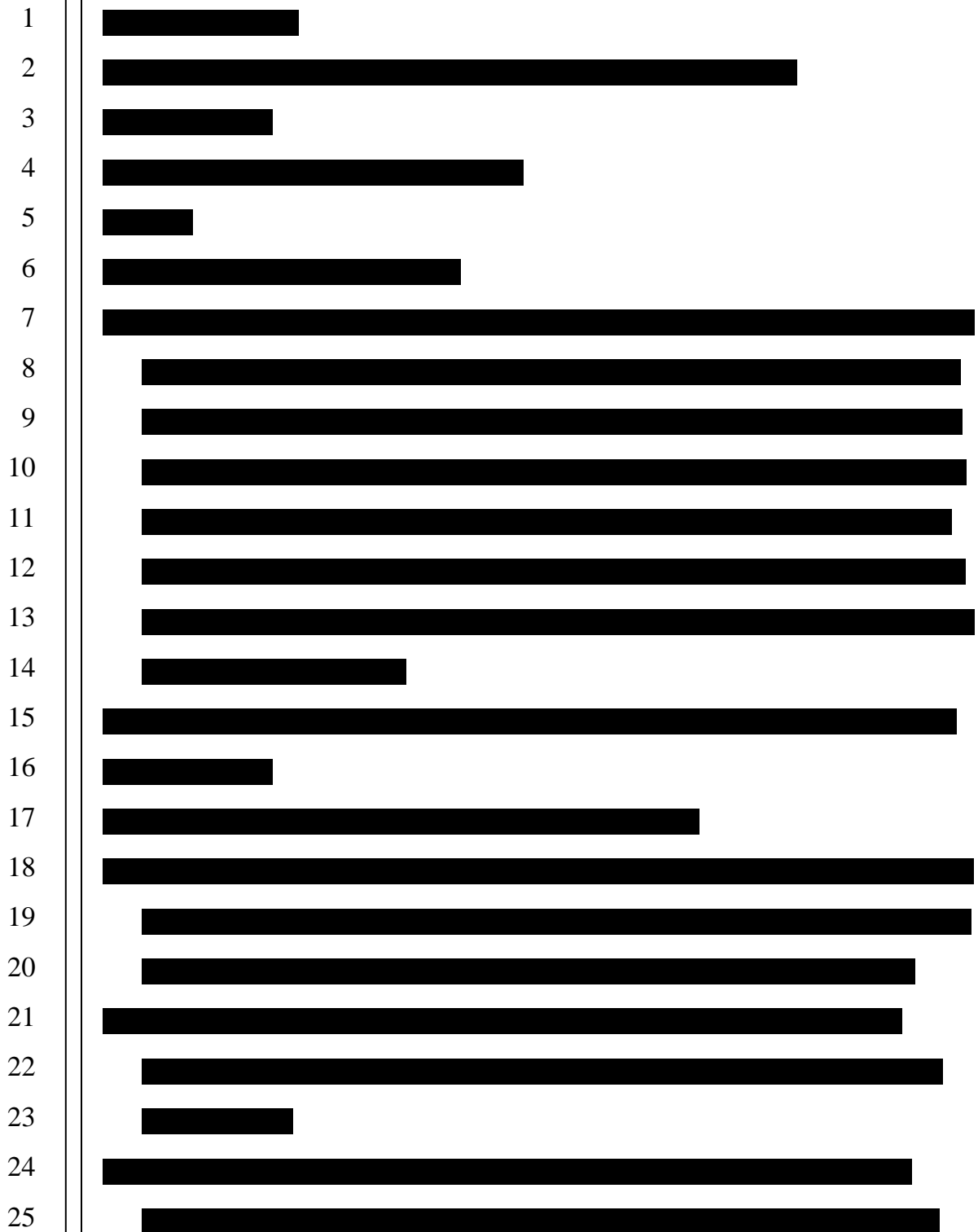


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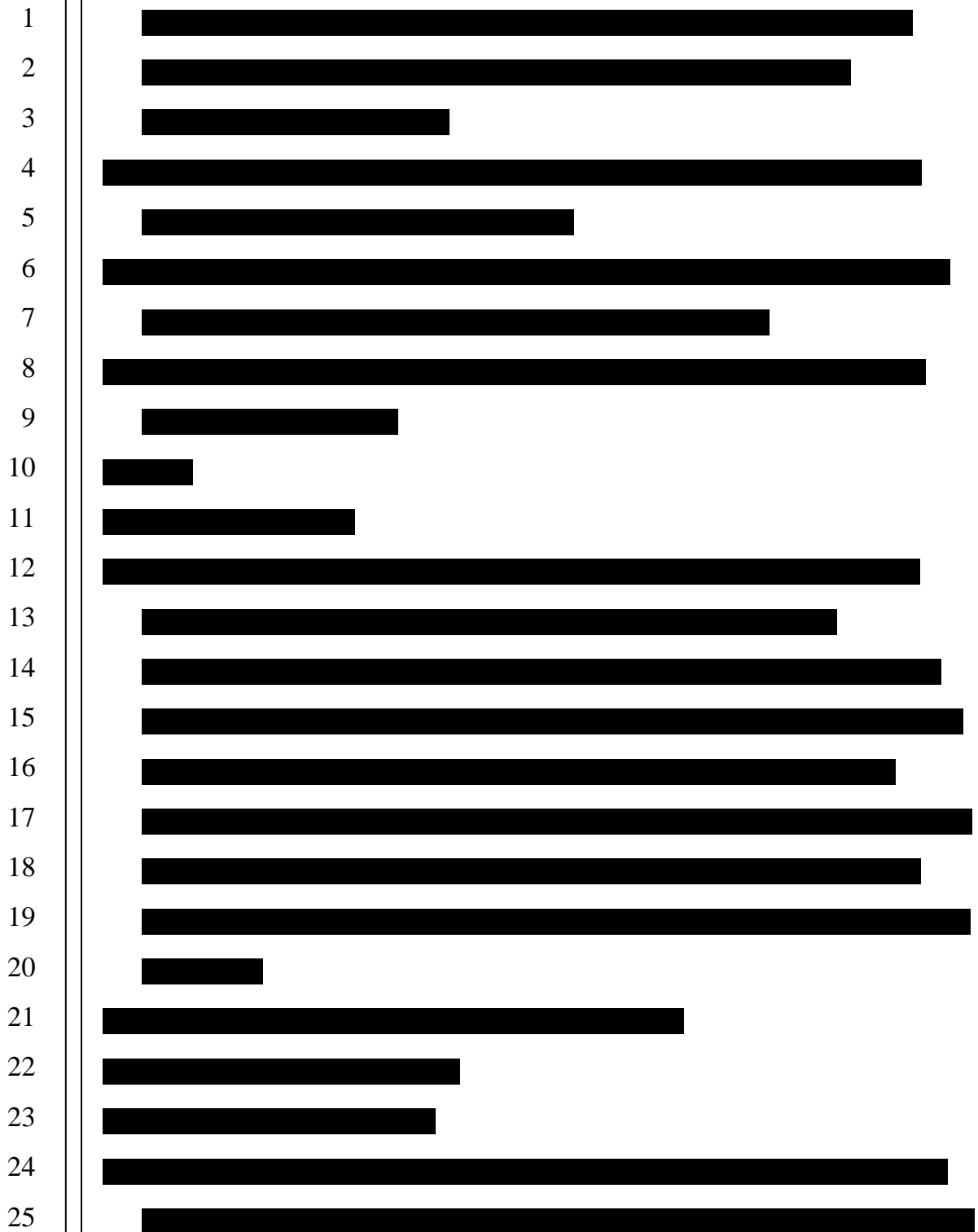
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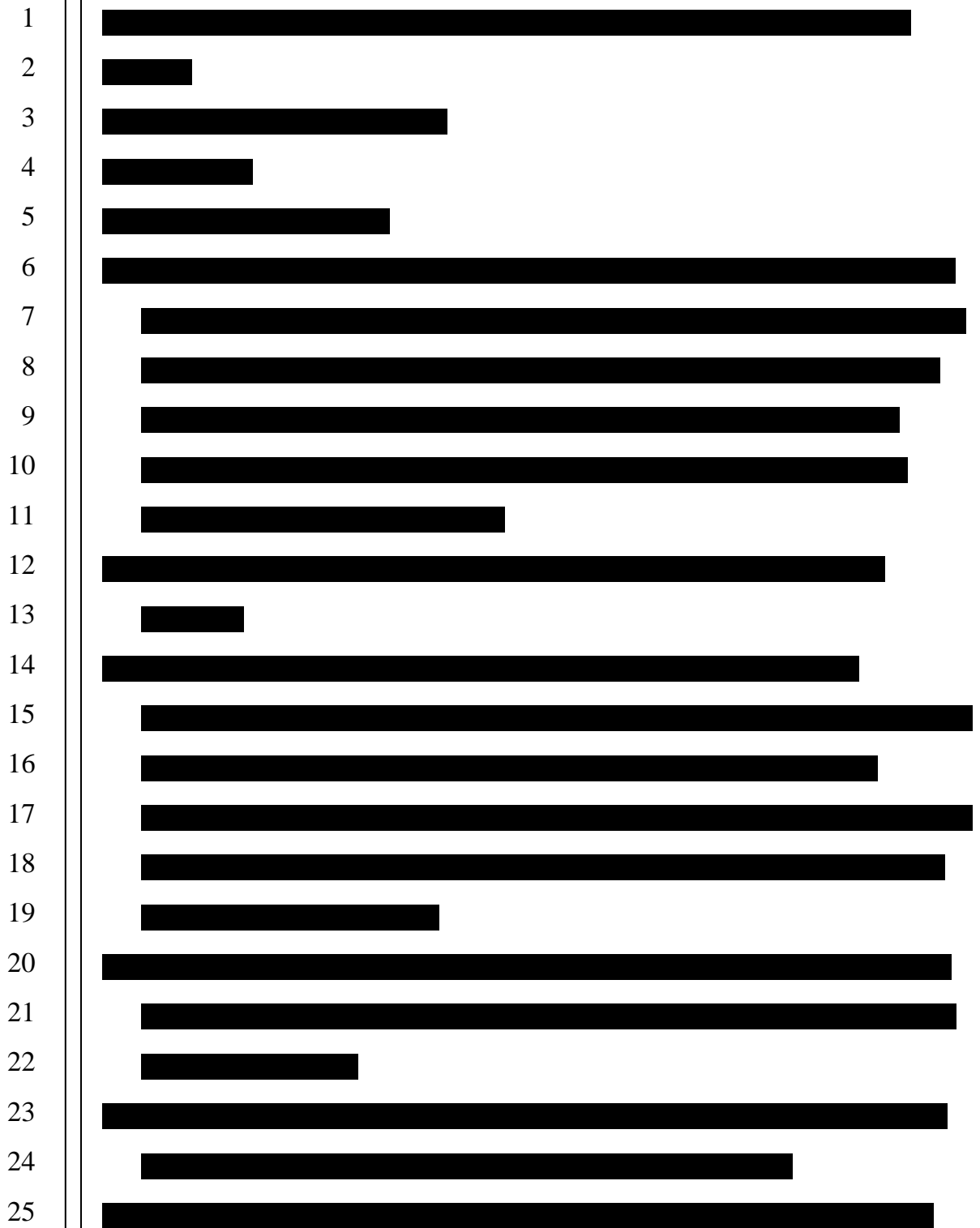


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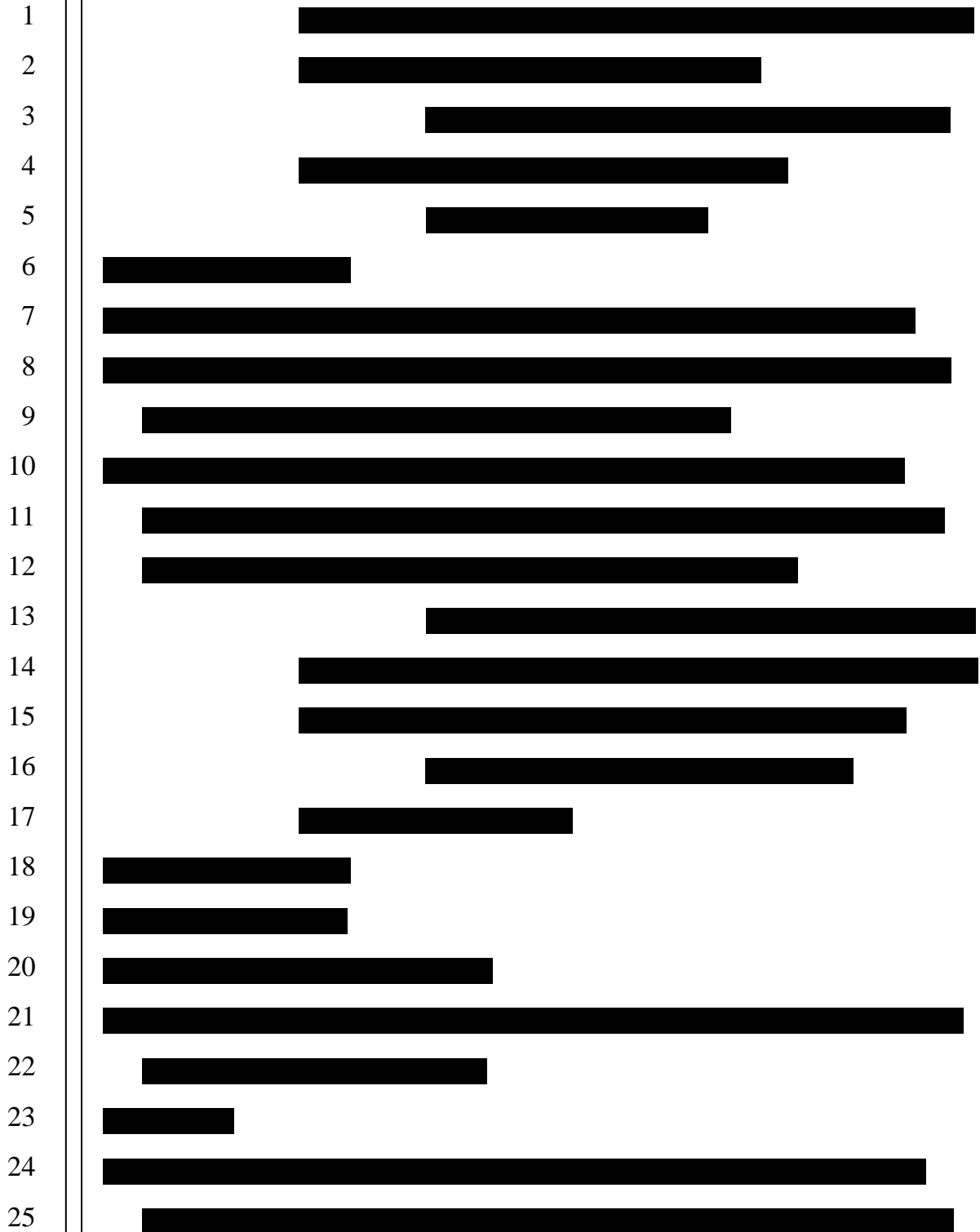


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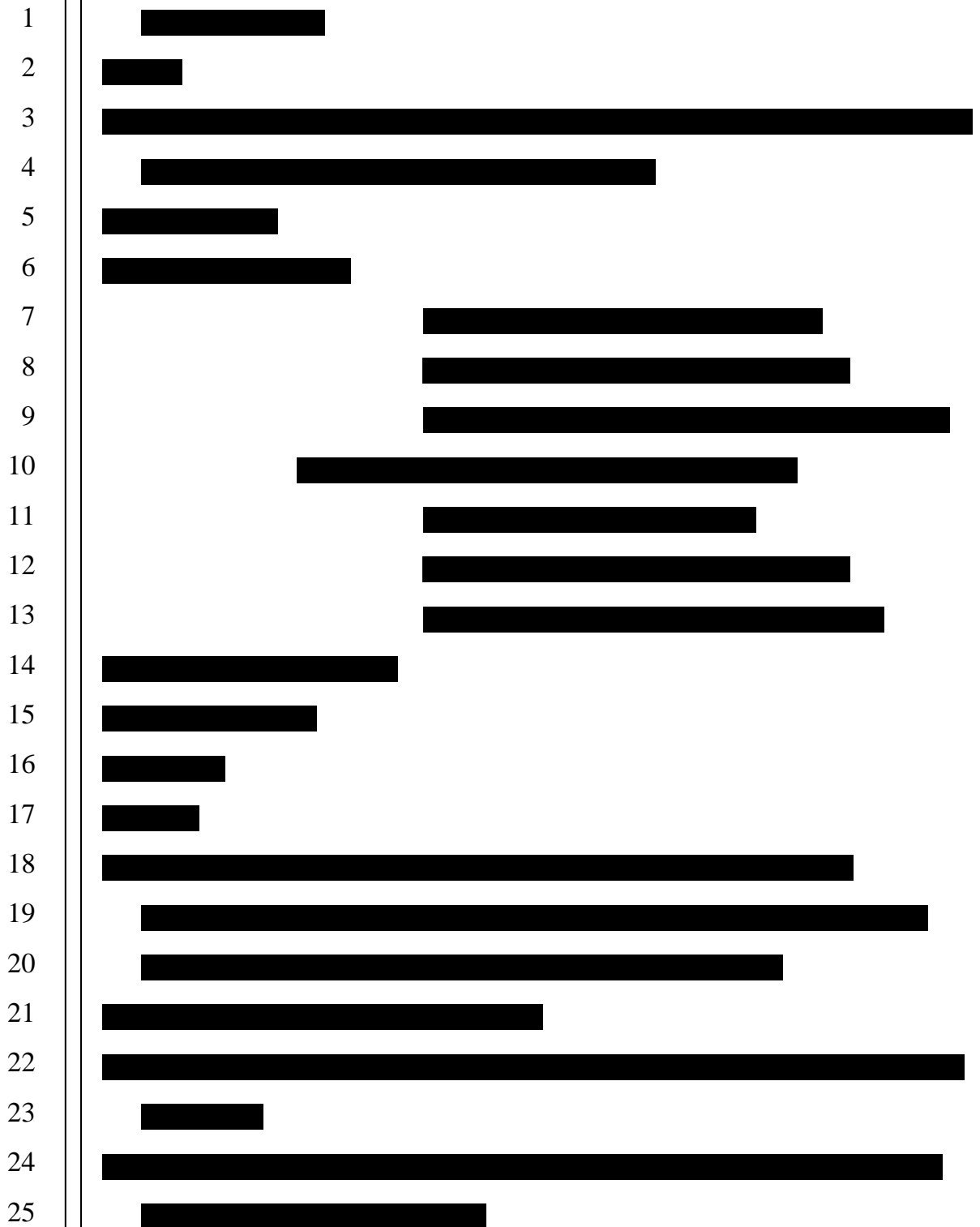
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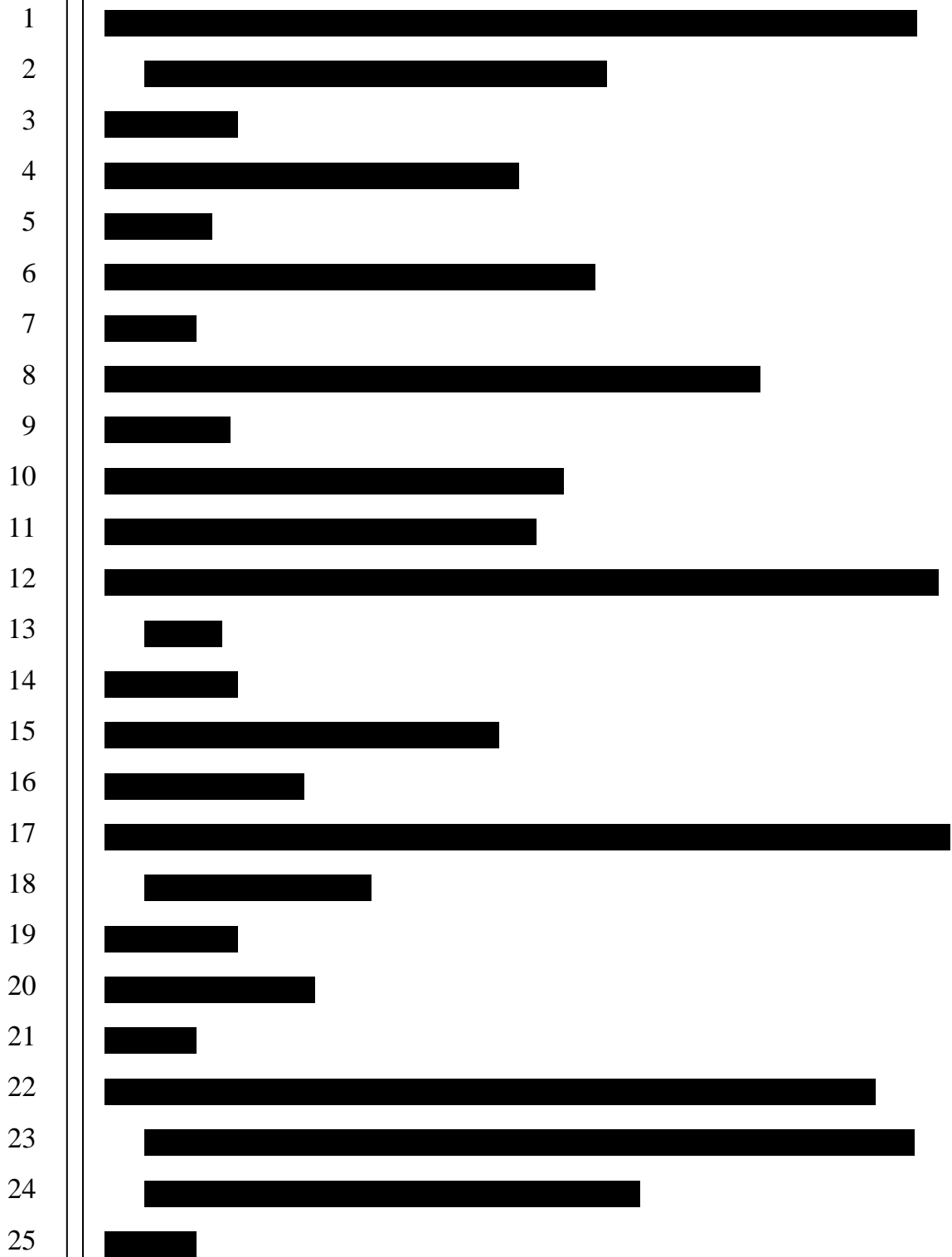
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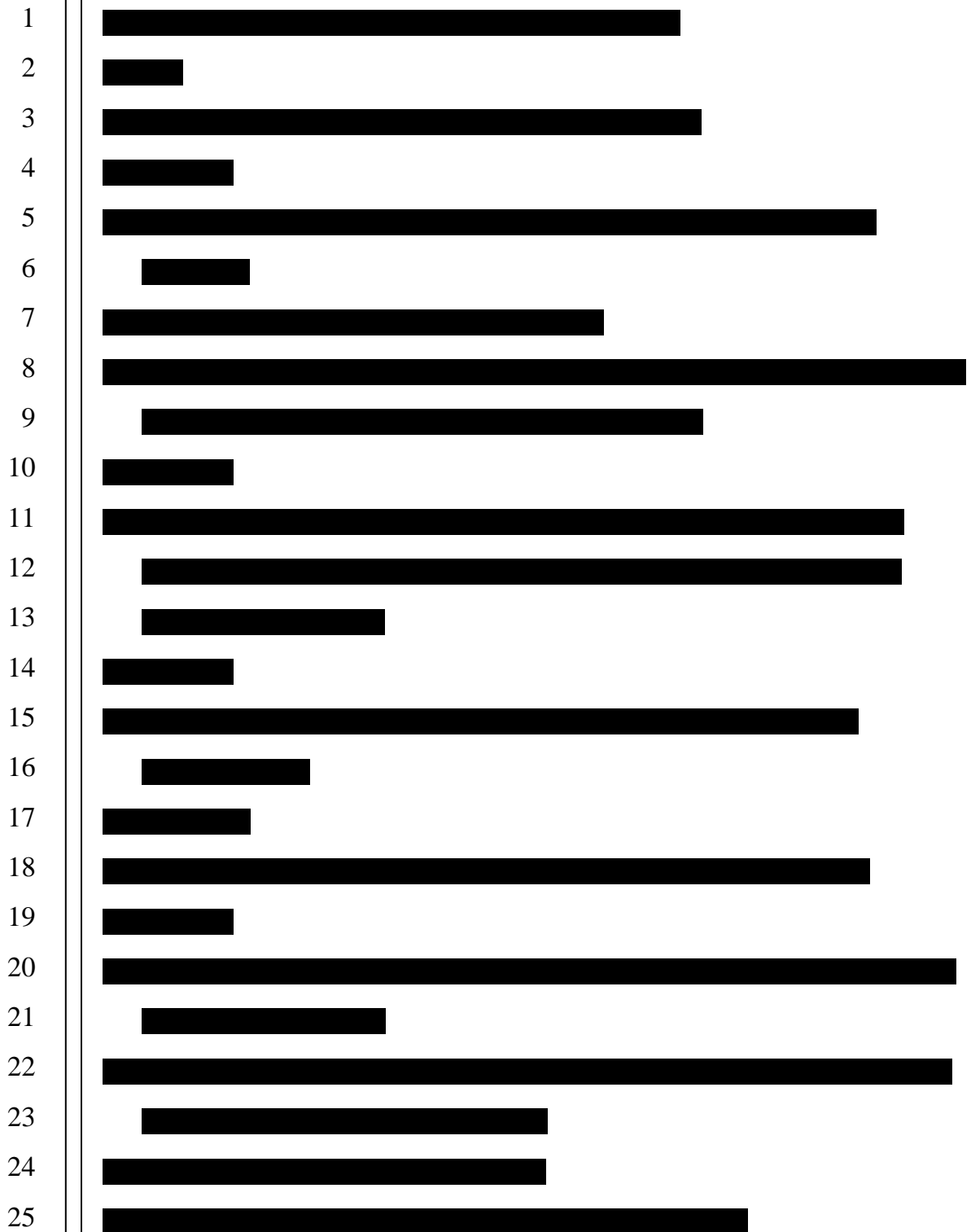
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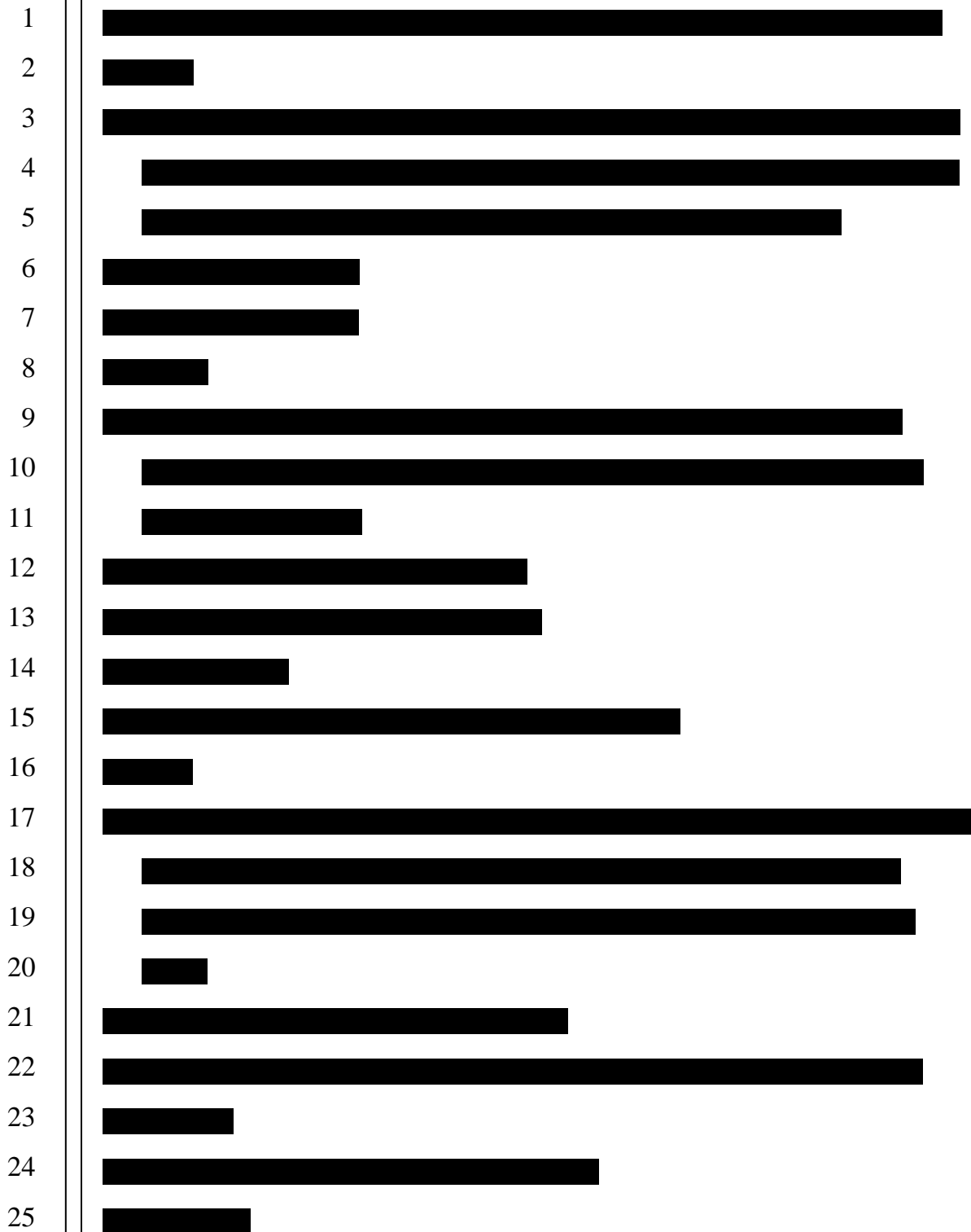
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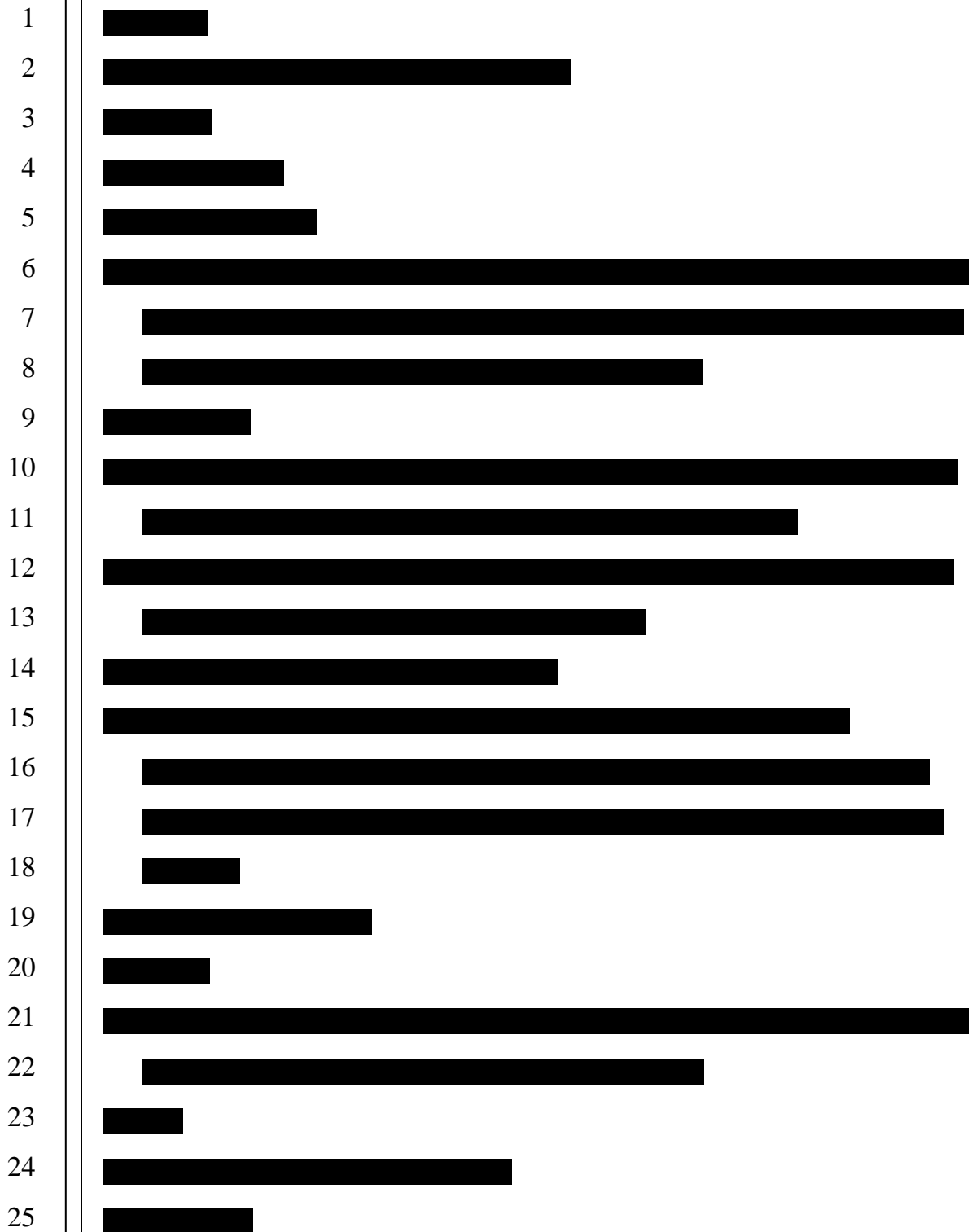
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- 24 [REDACTED] ut what his problems are?
- 25 A. Yeah.

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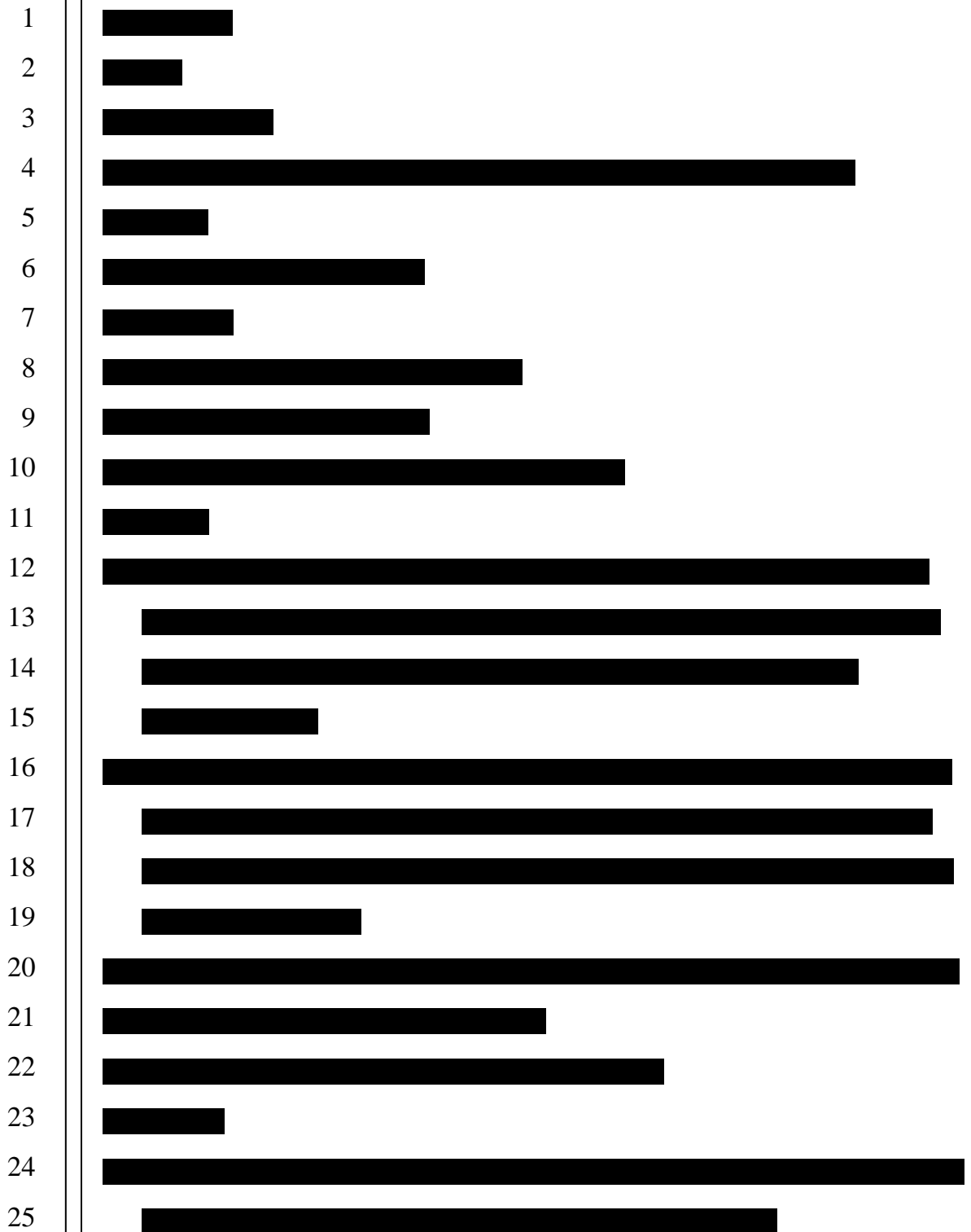
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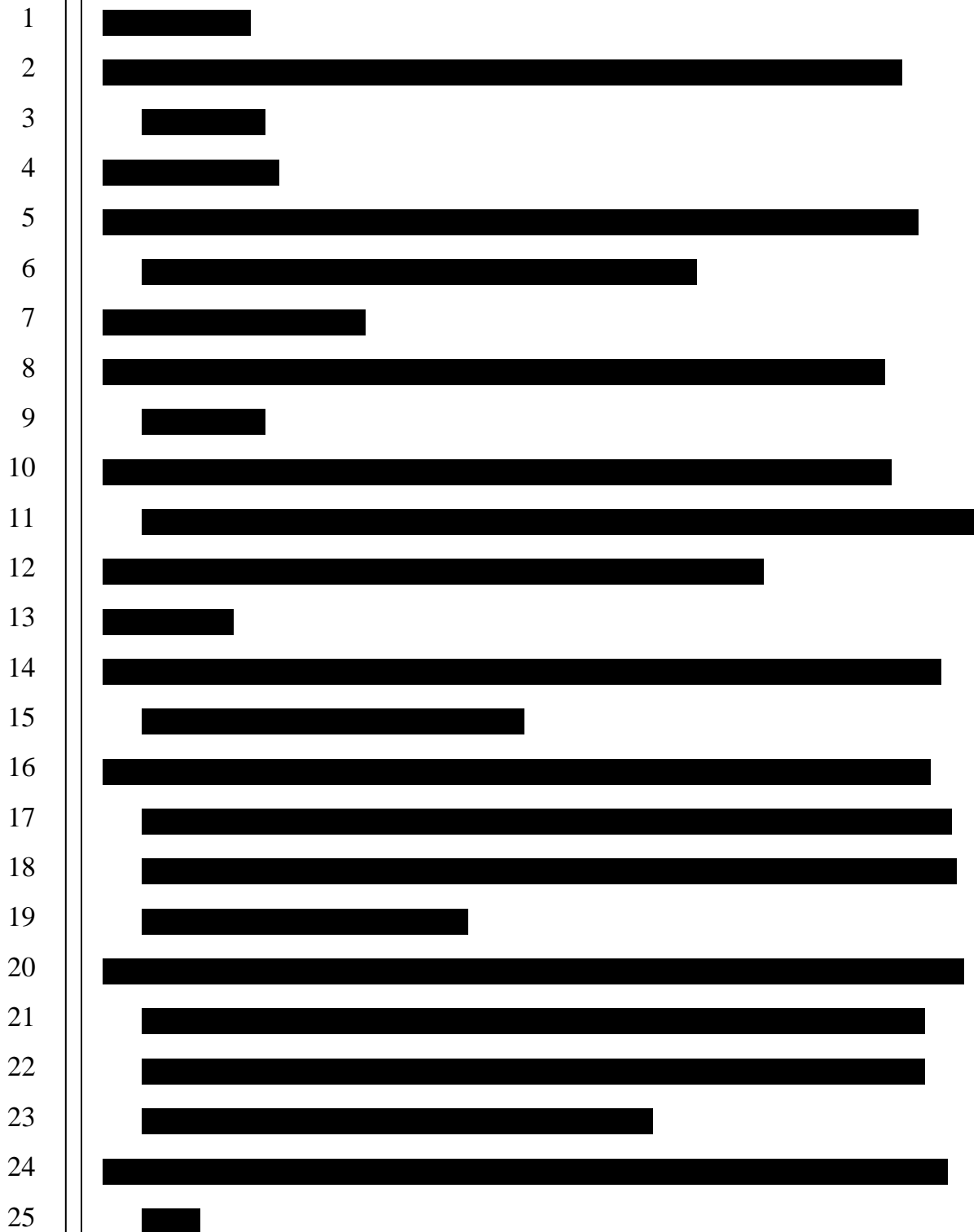
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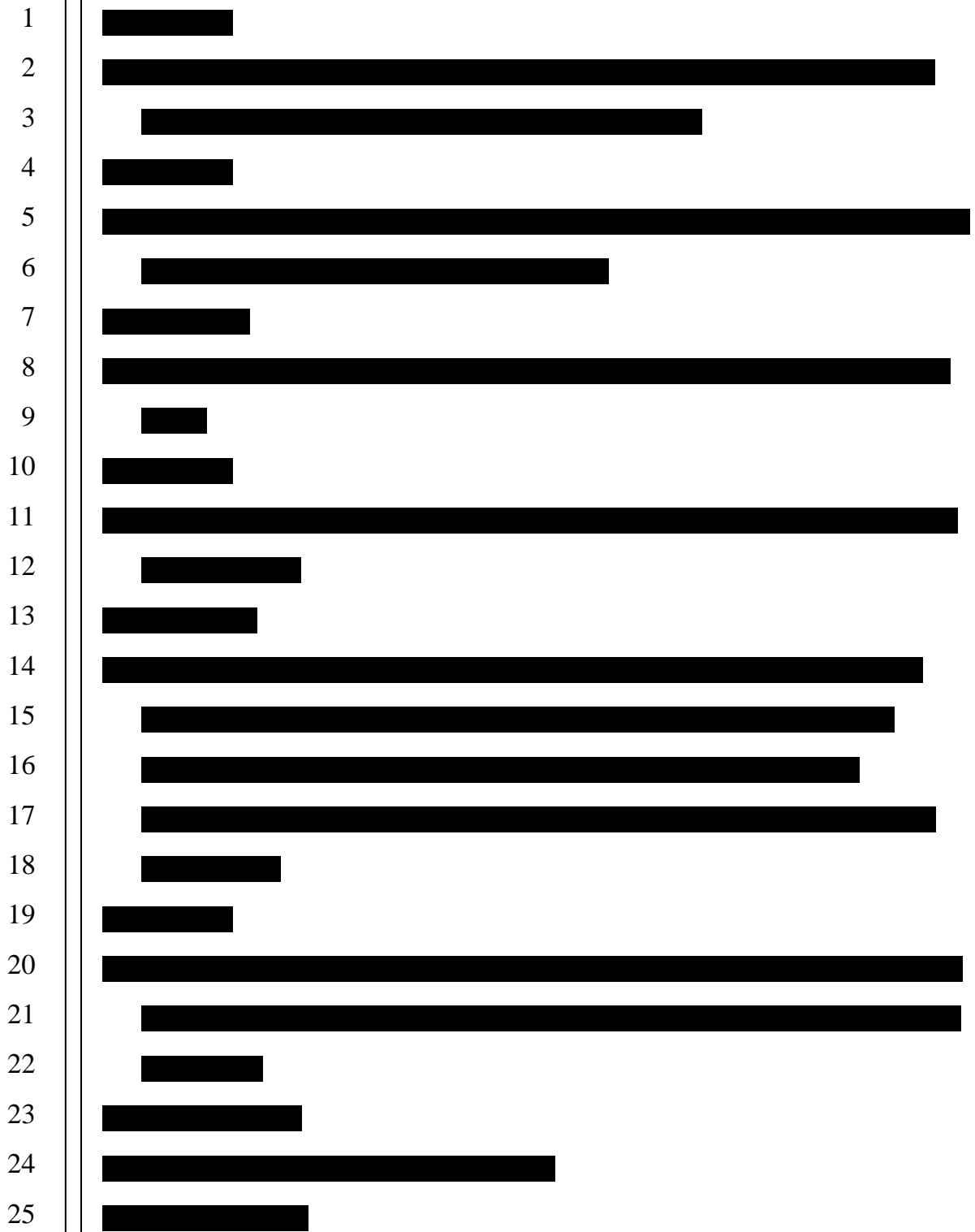


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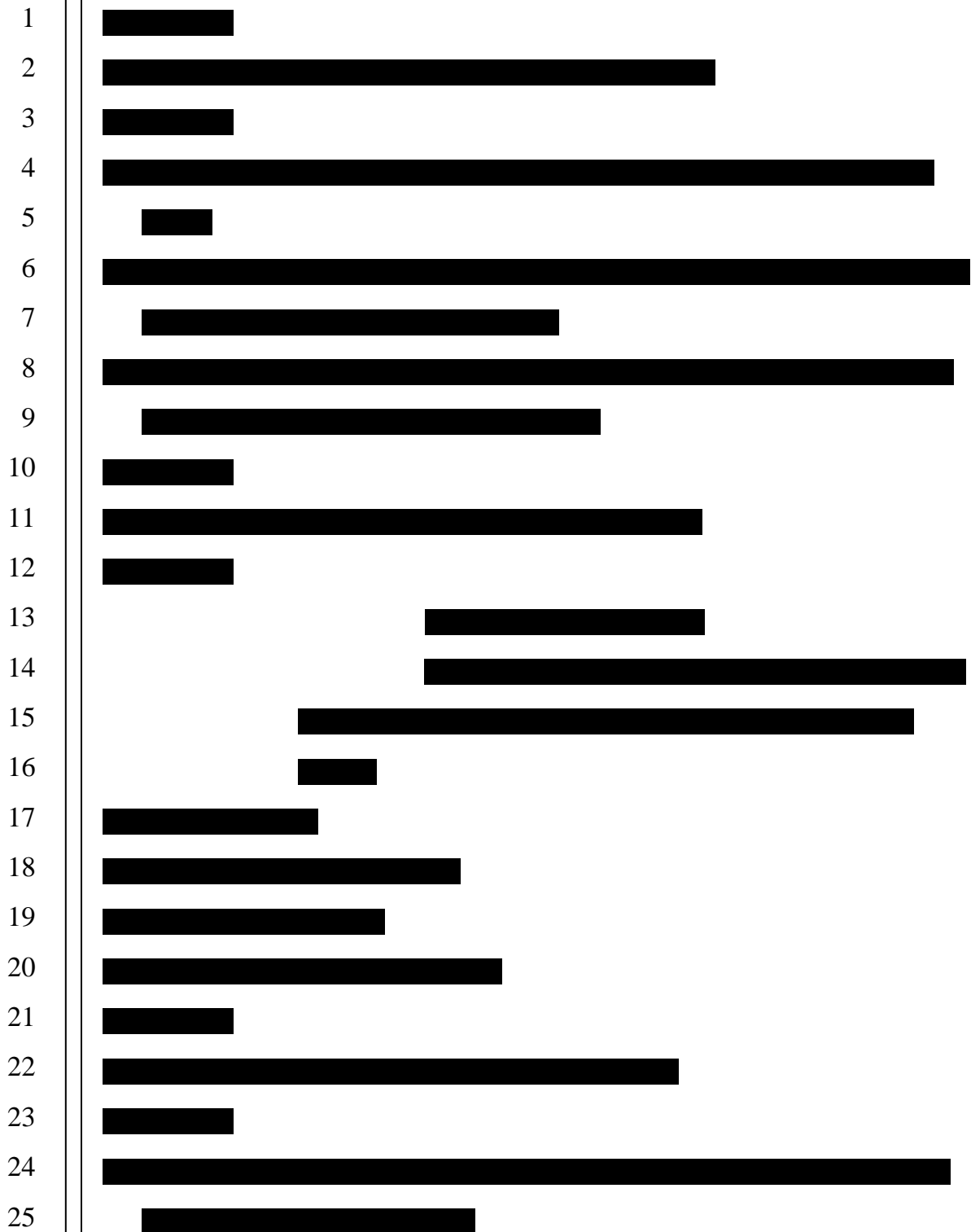
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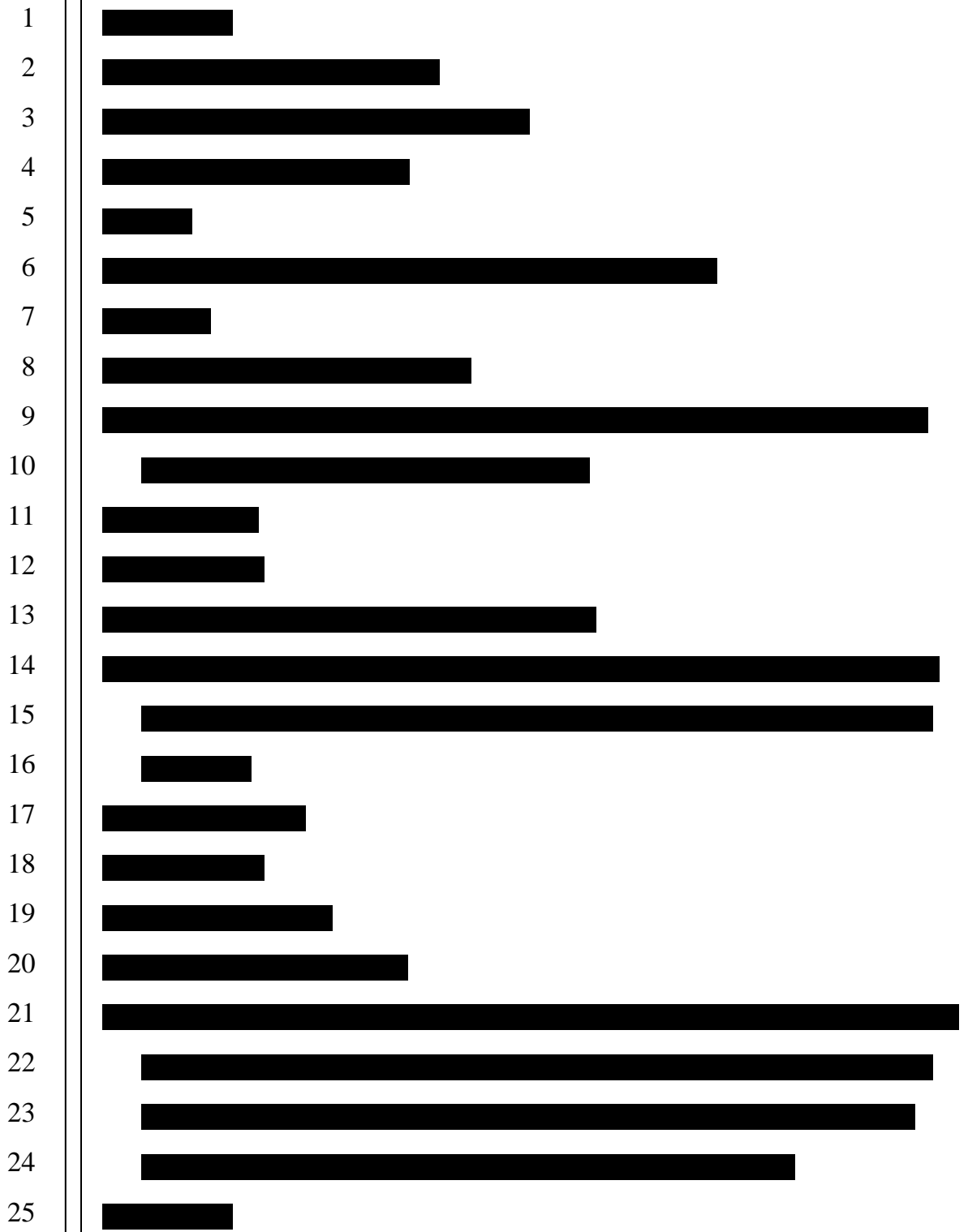
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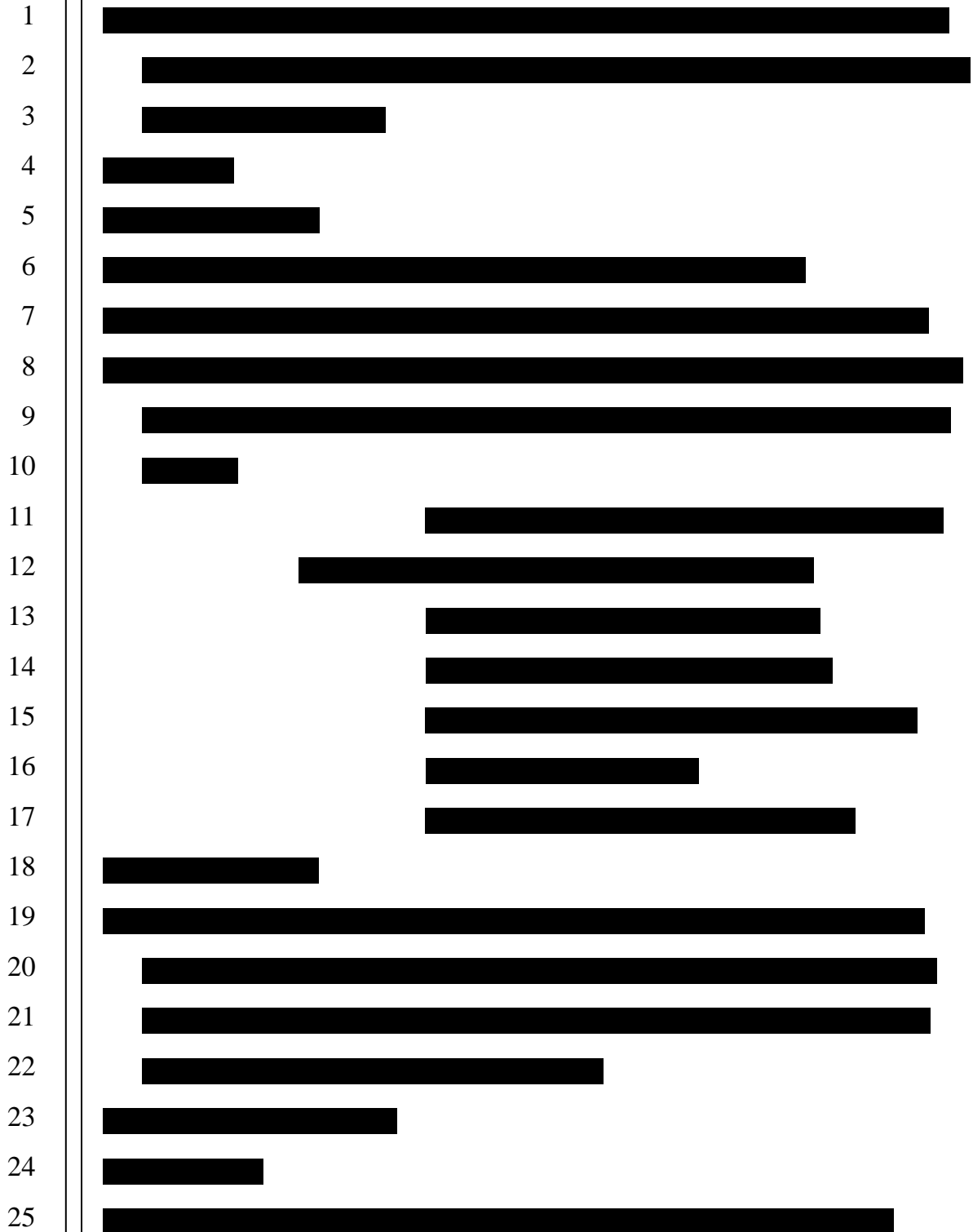
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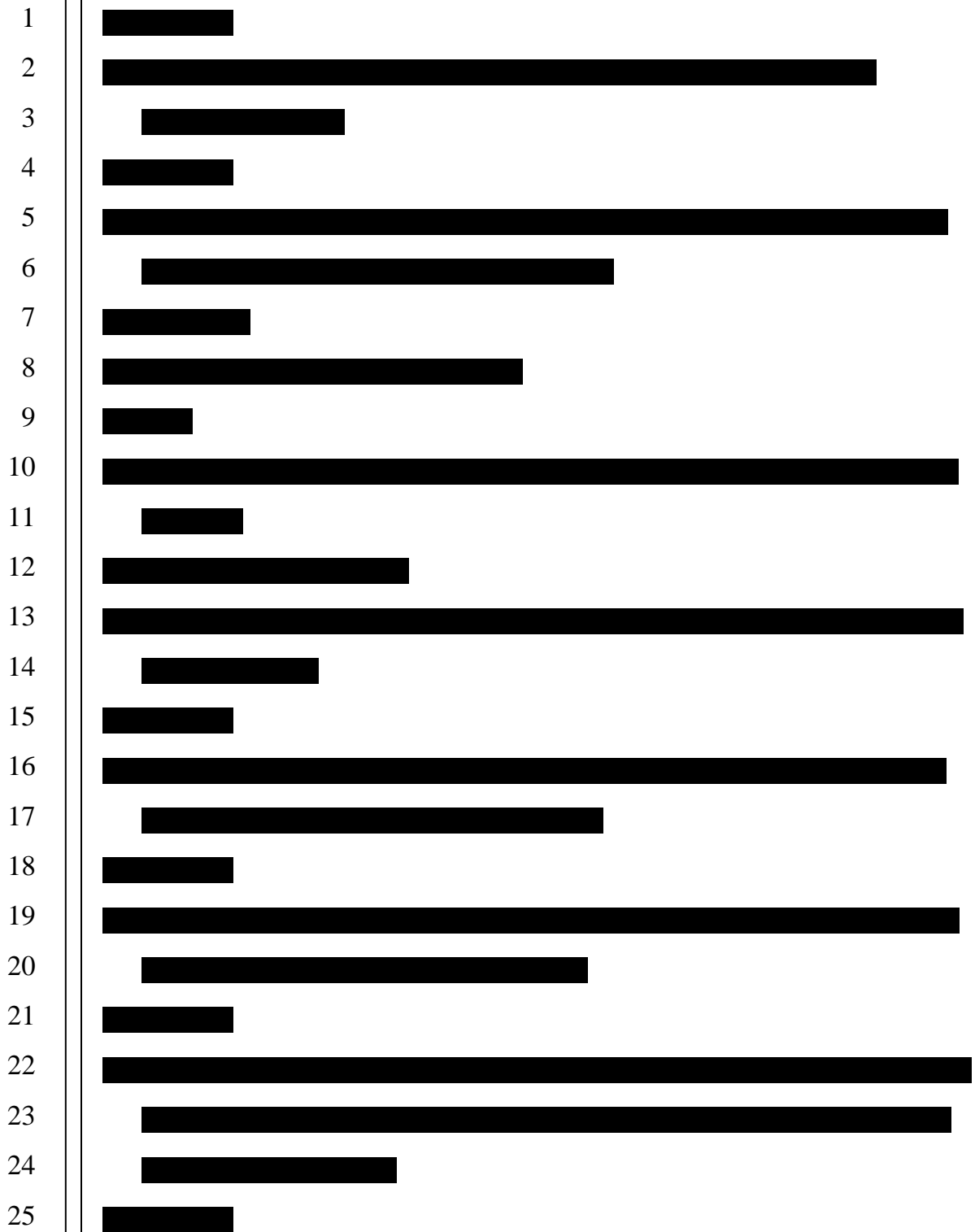
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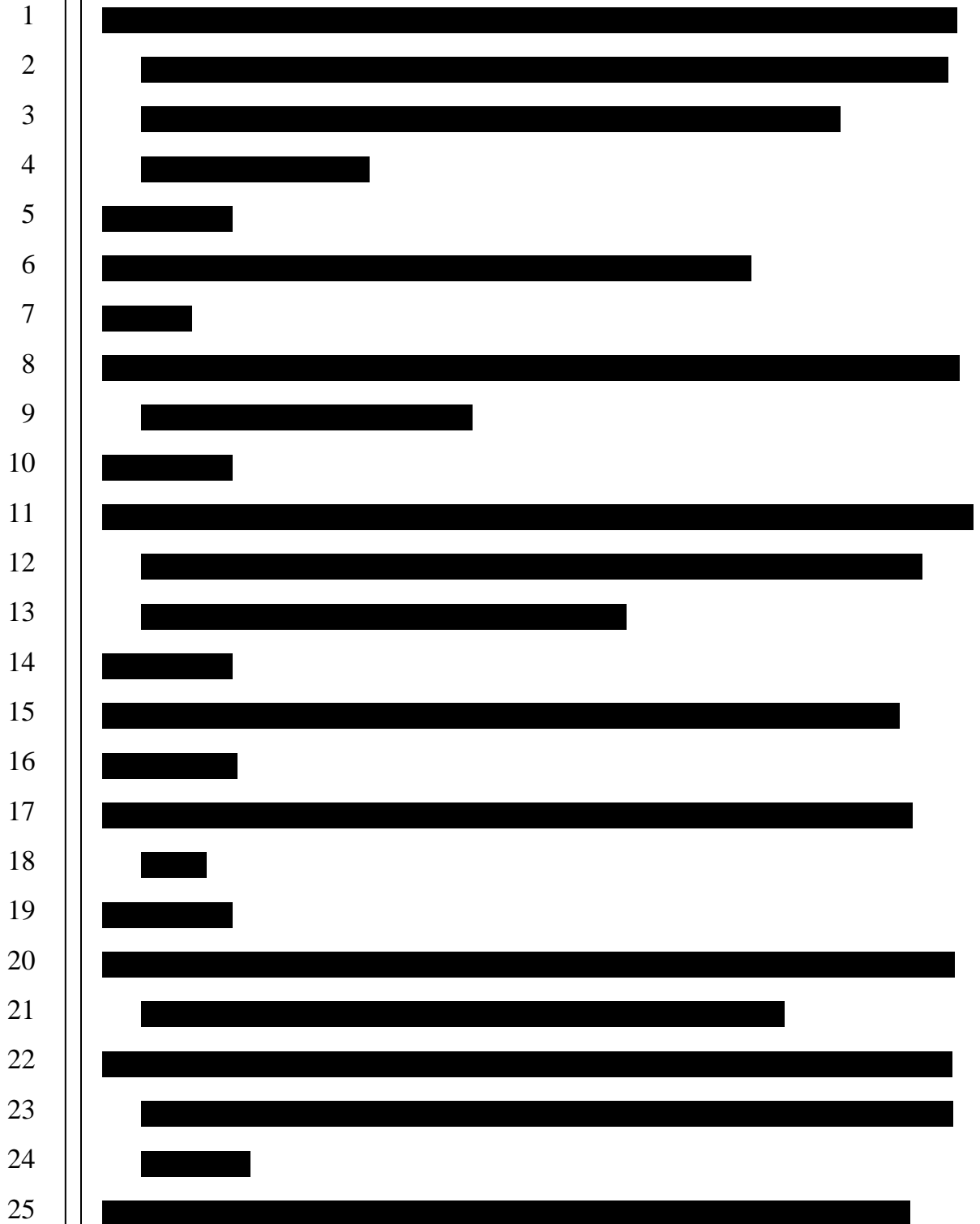
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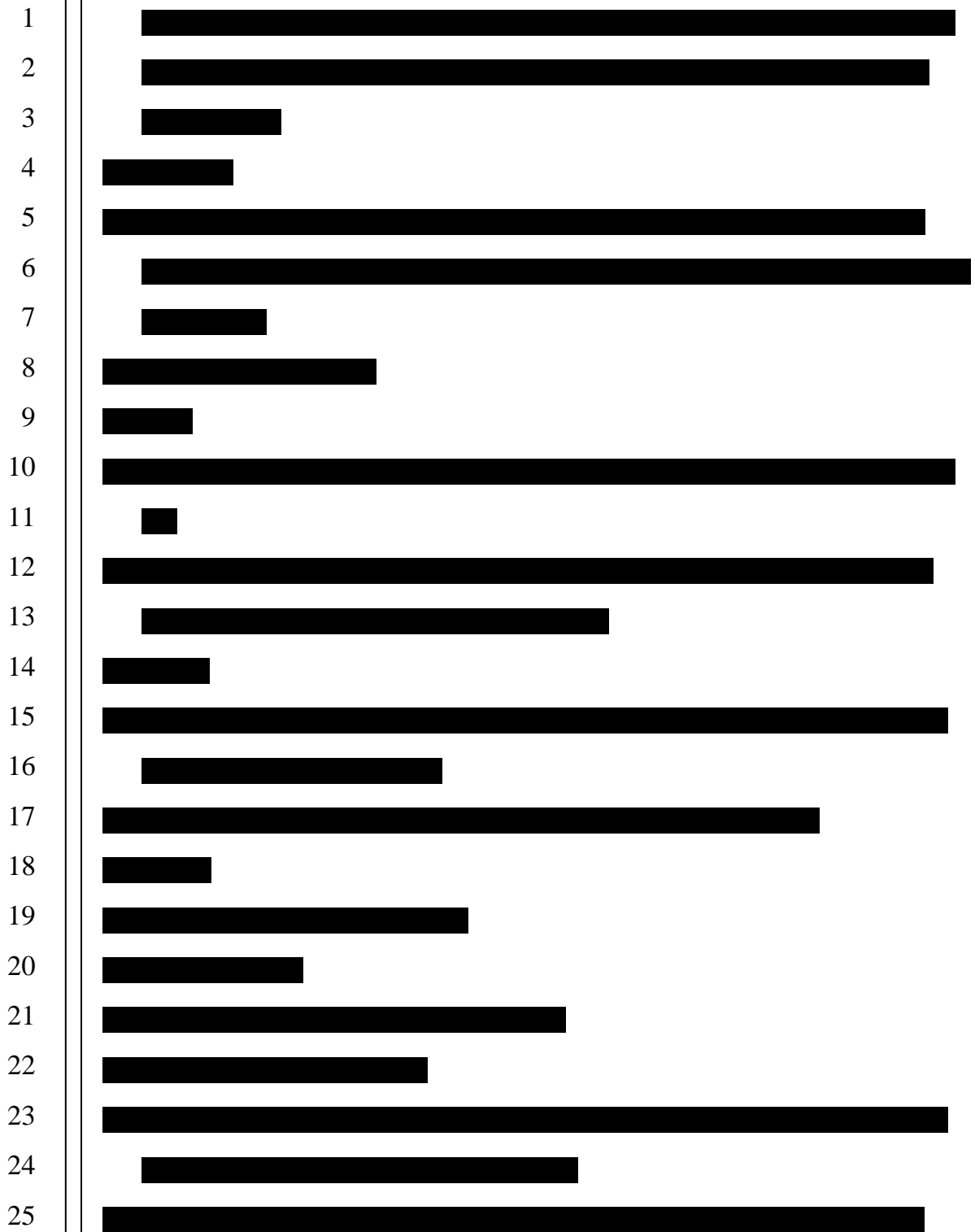
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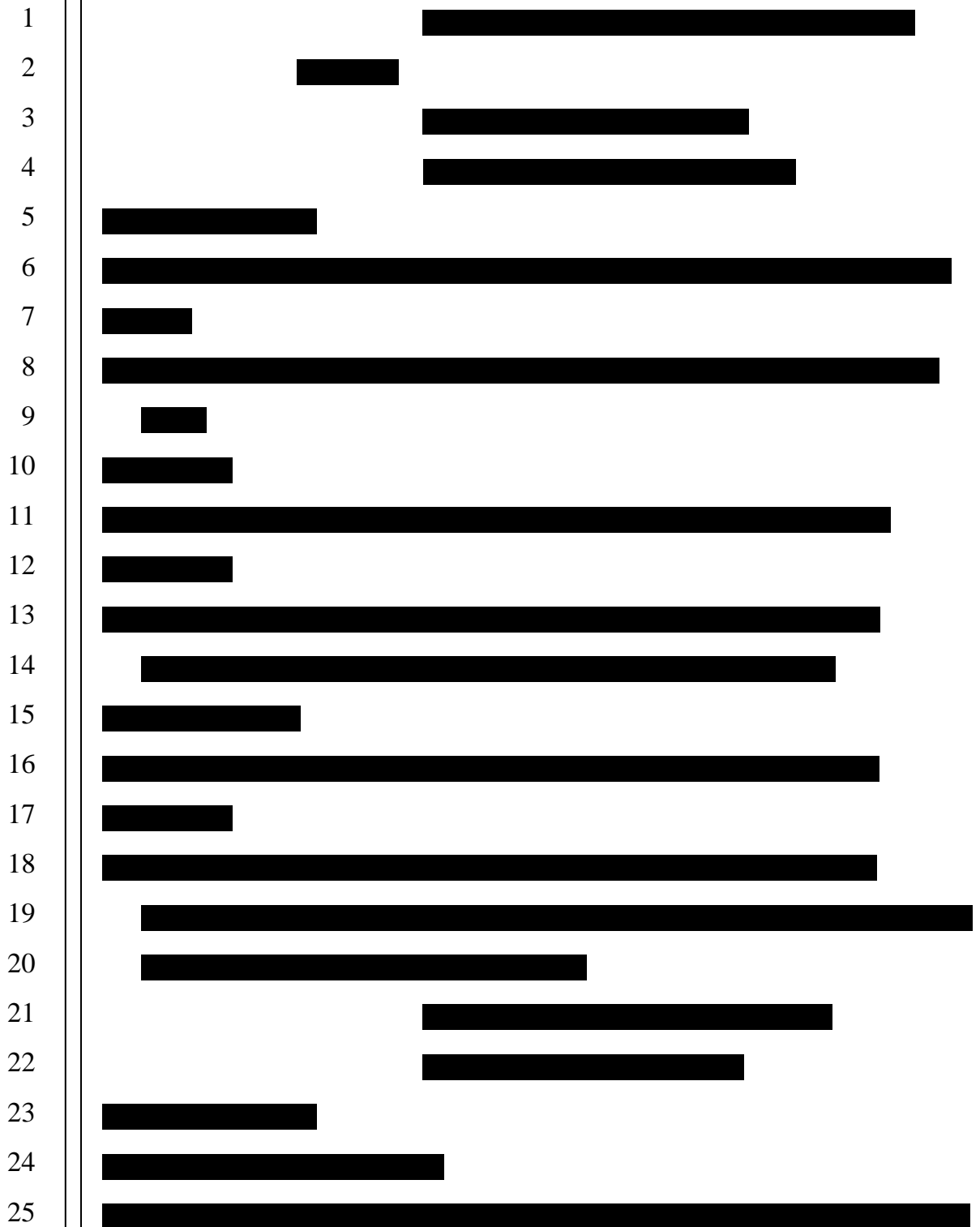
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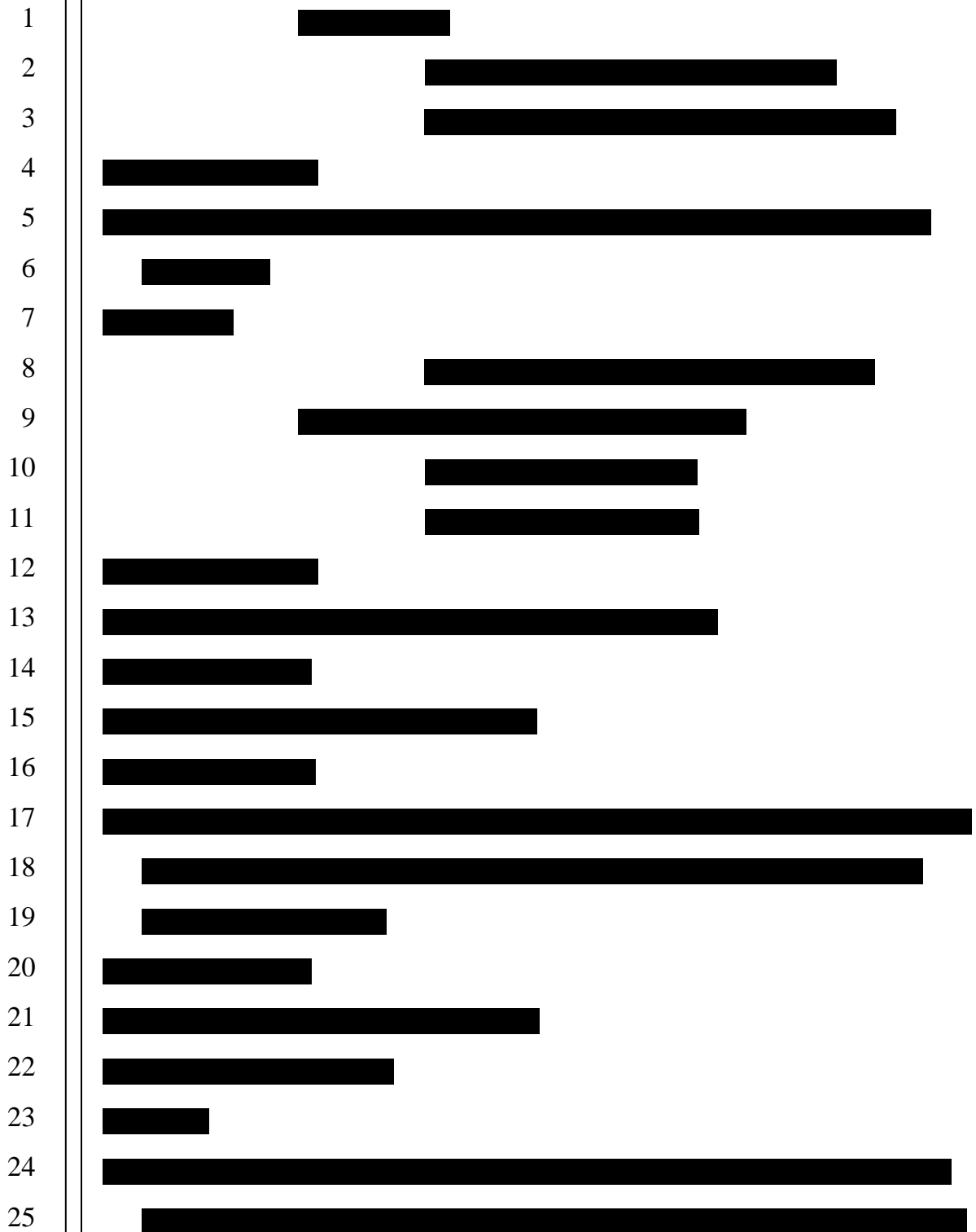


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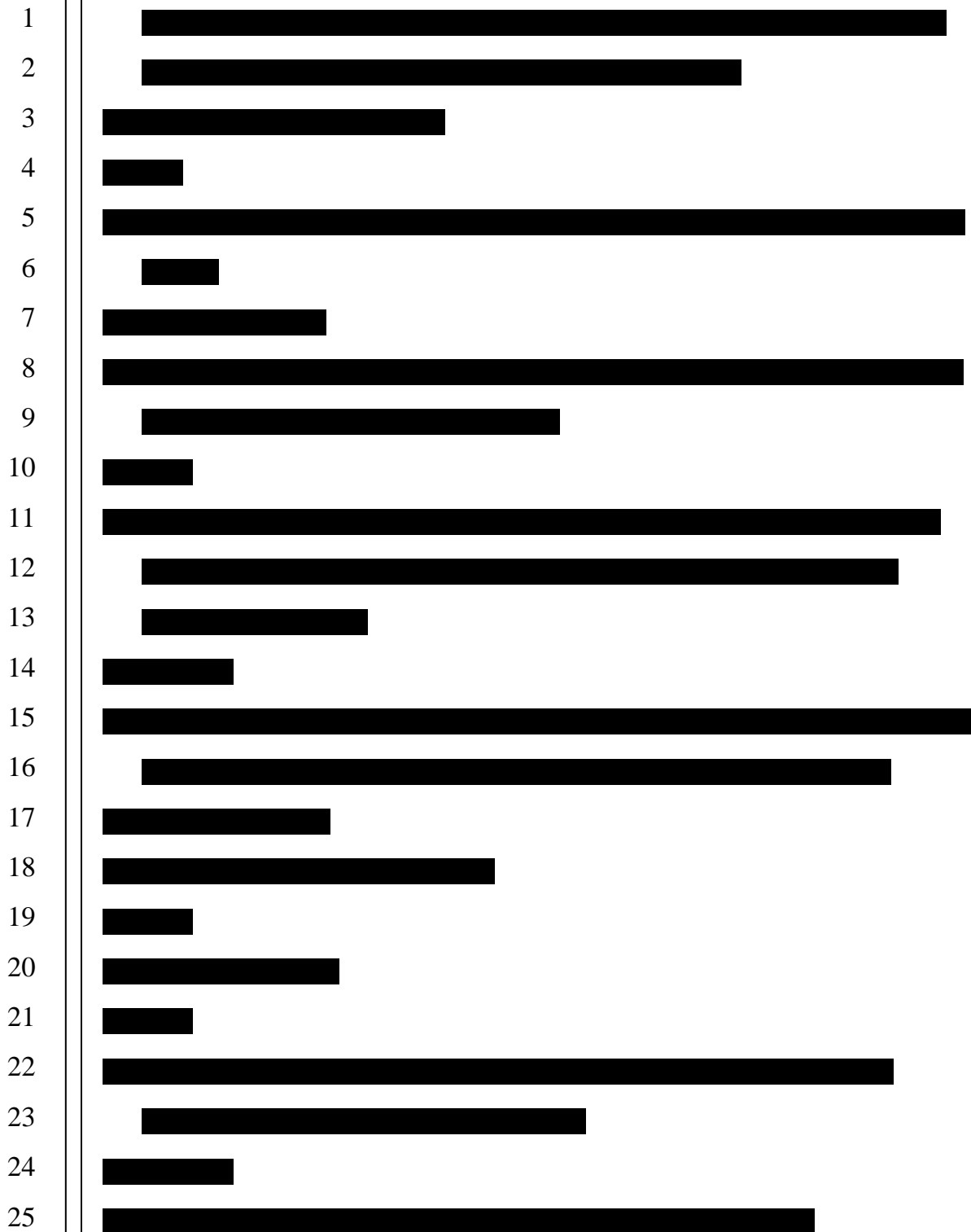
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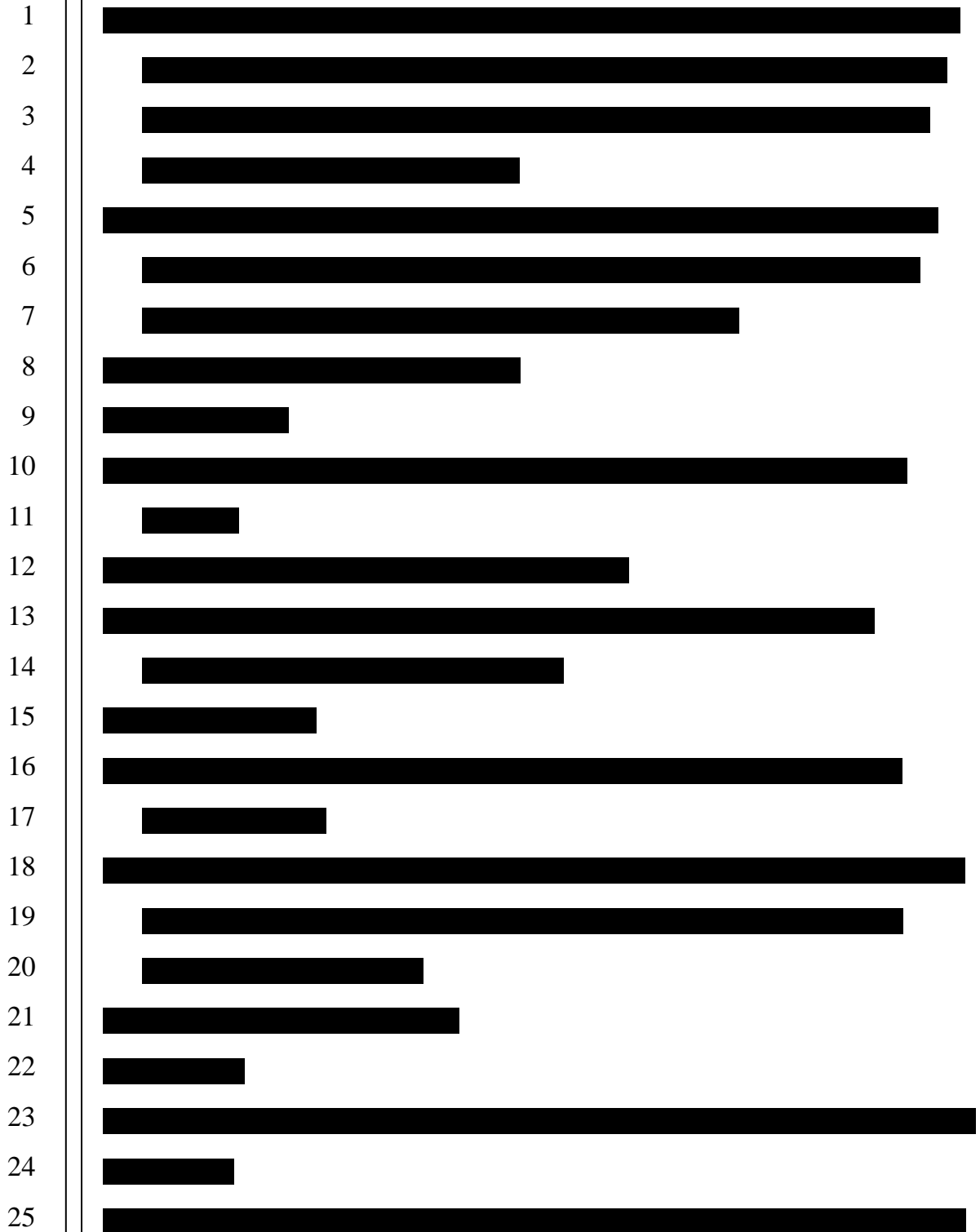
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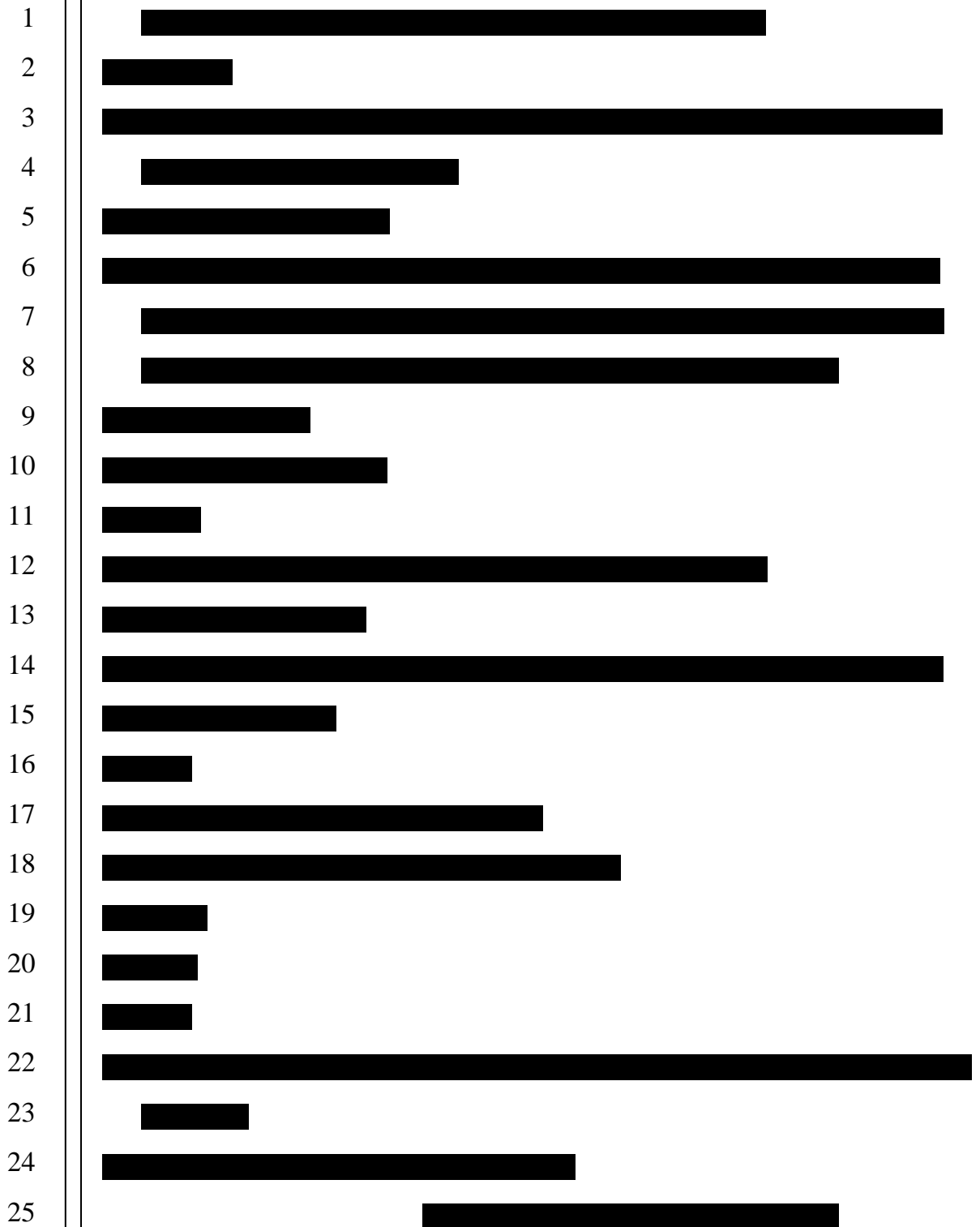


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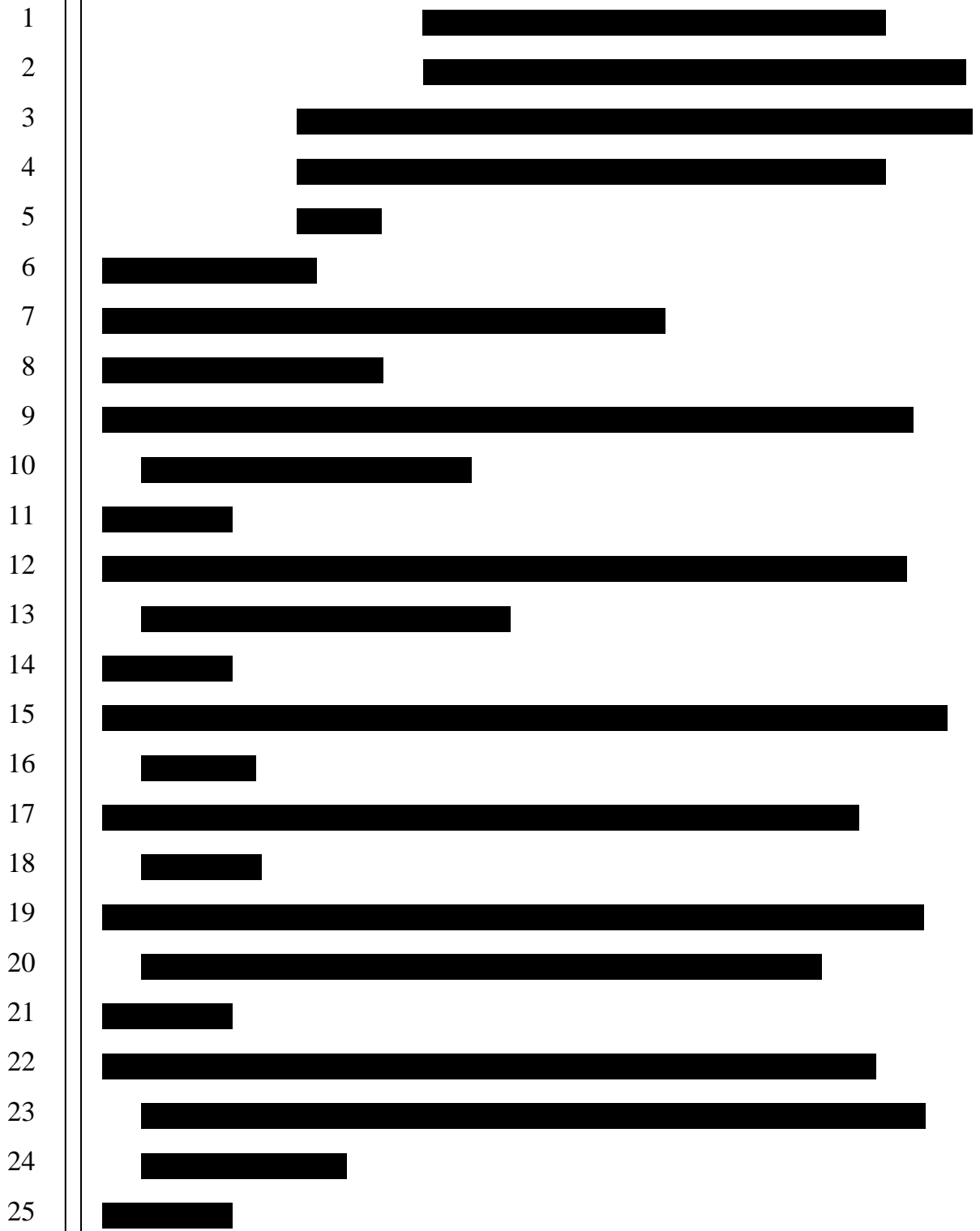
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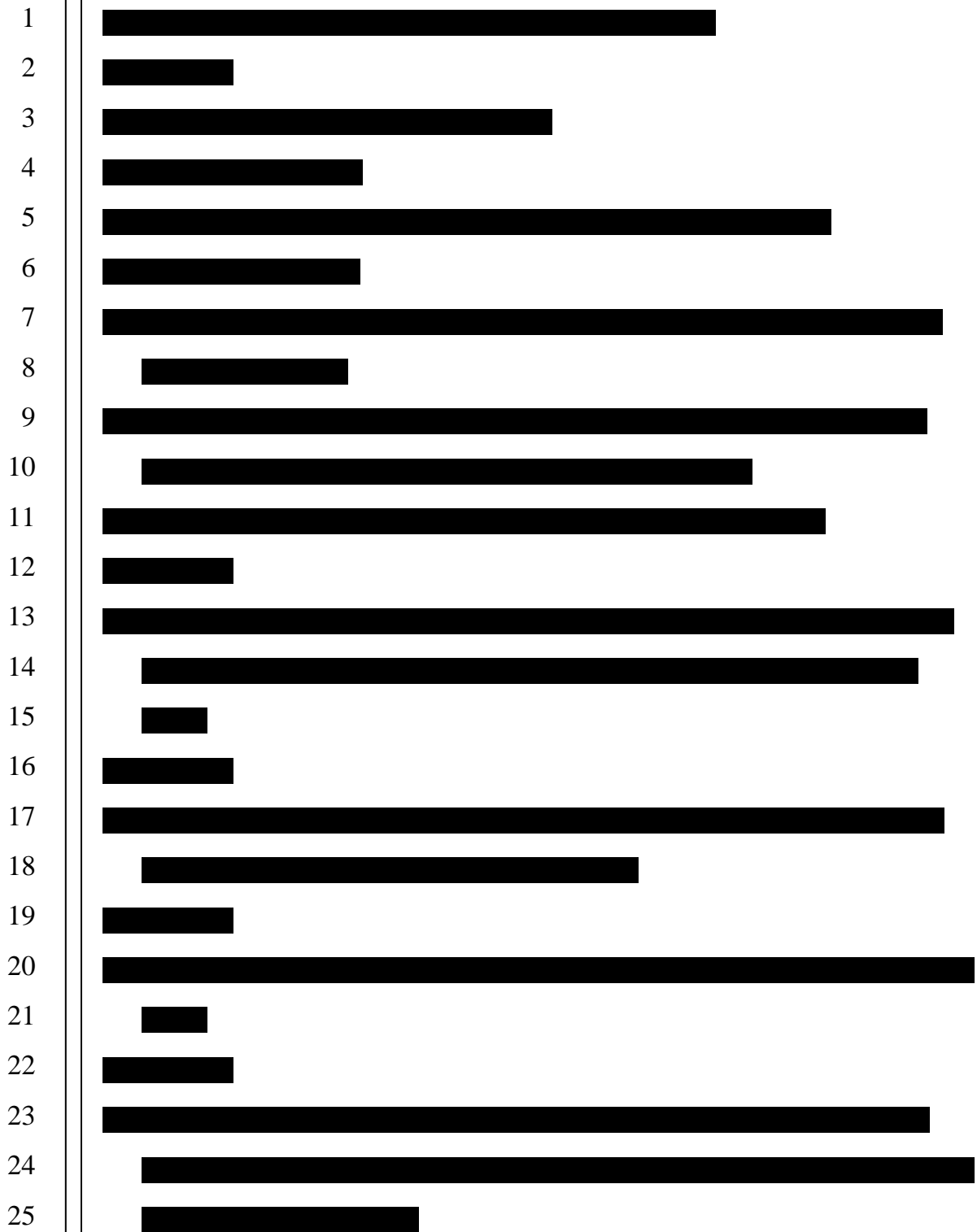
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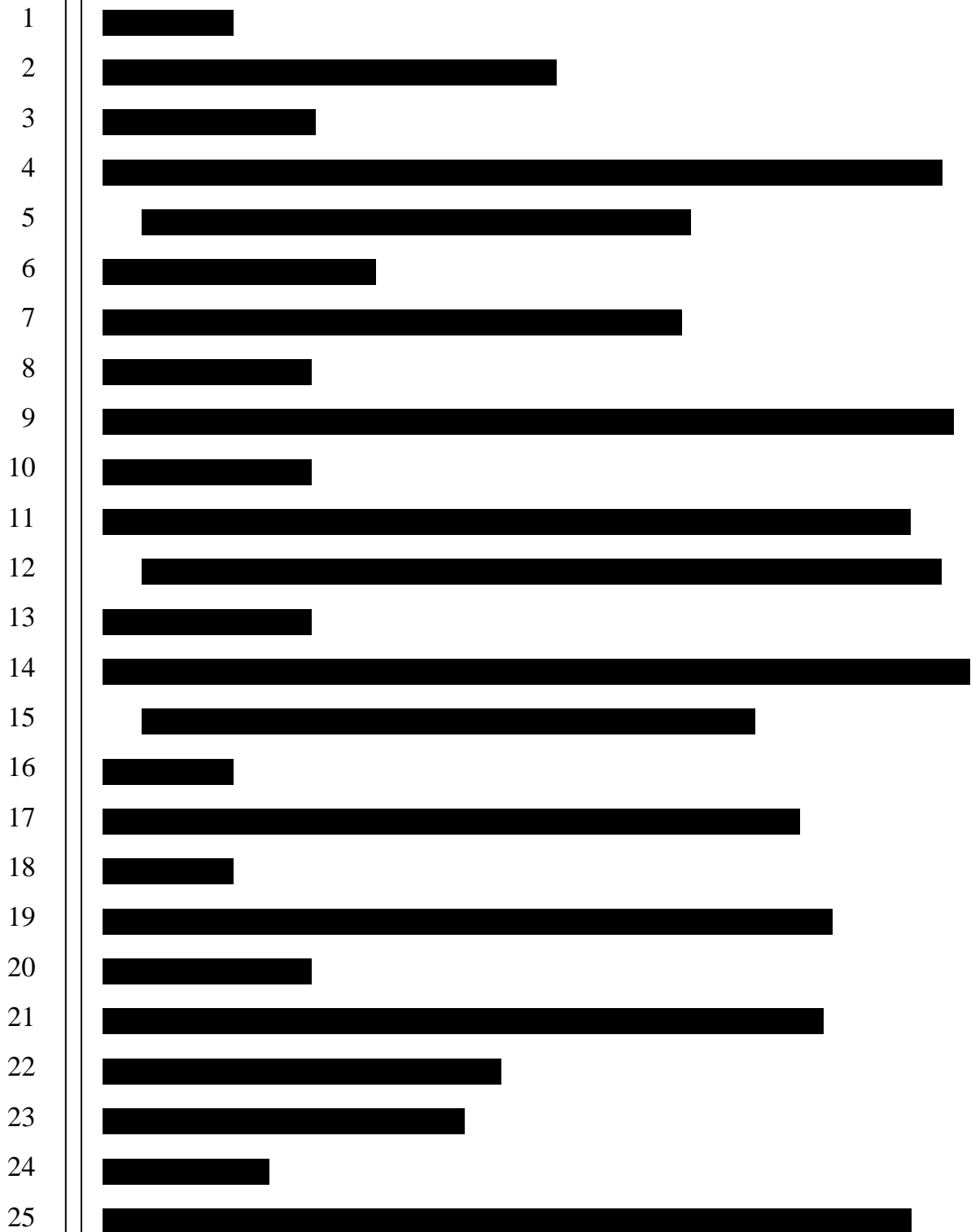
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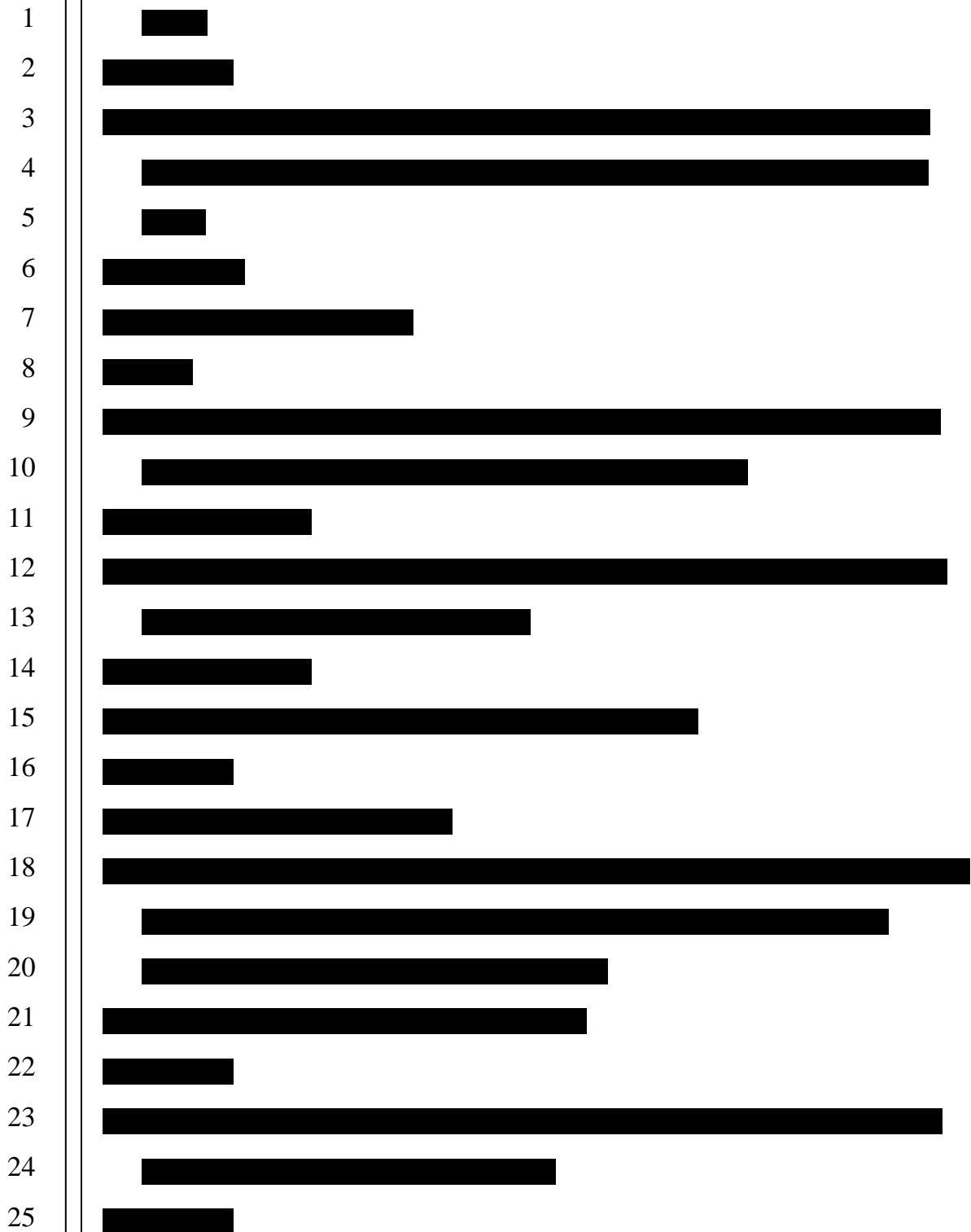
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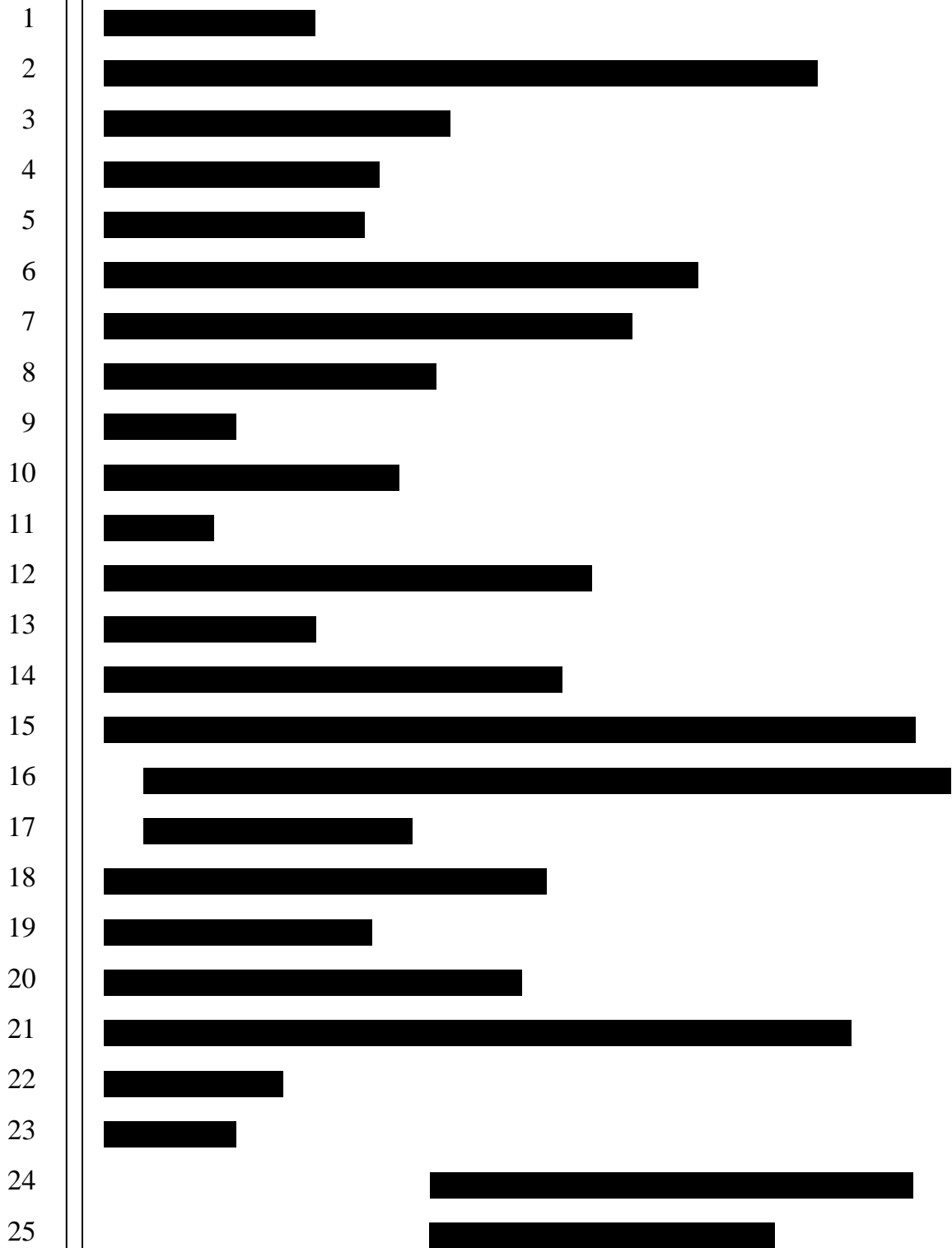
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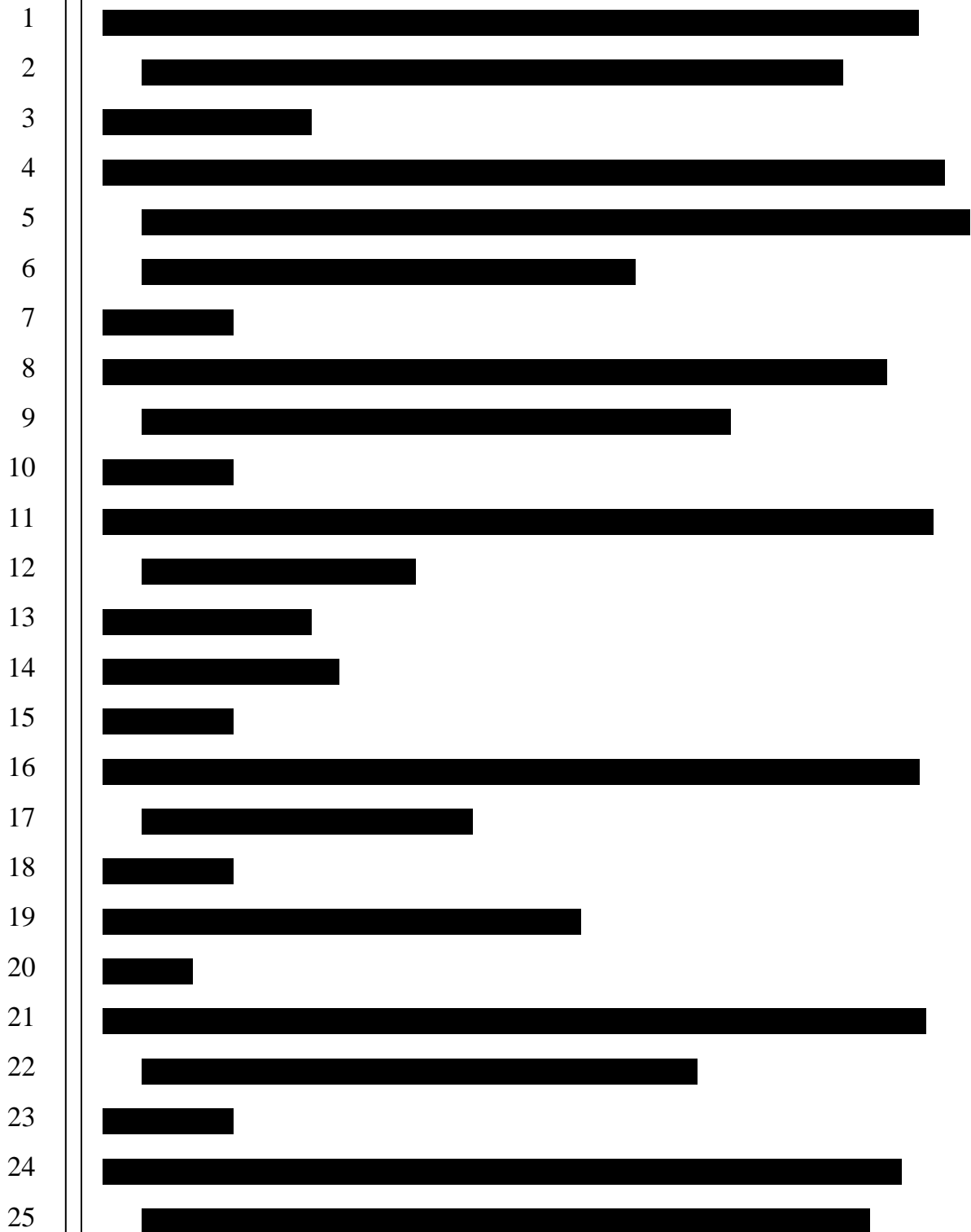


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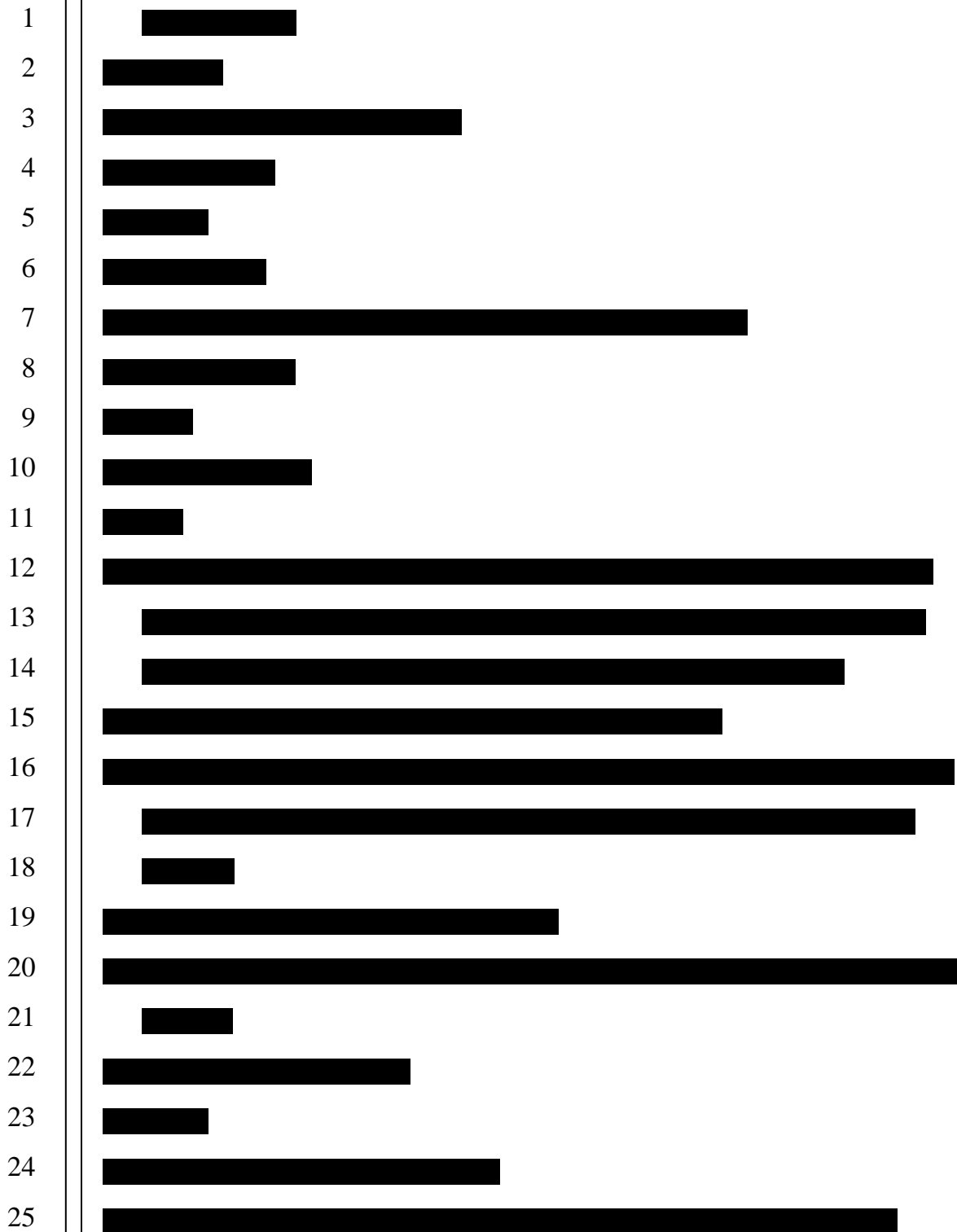
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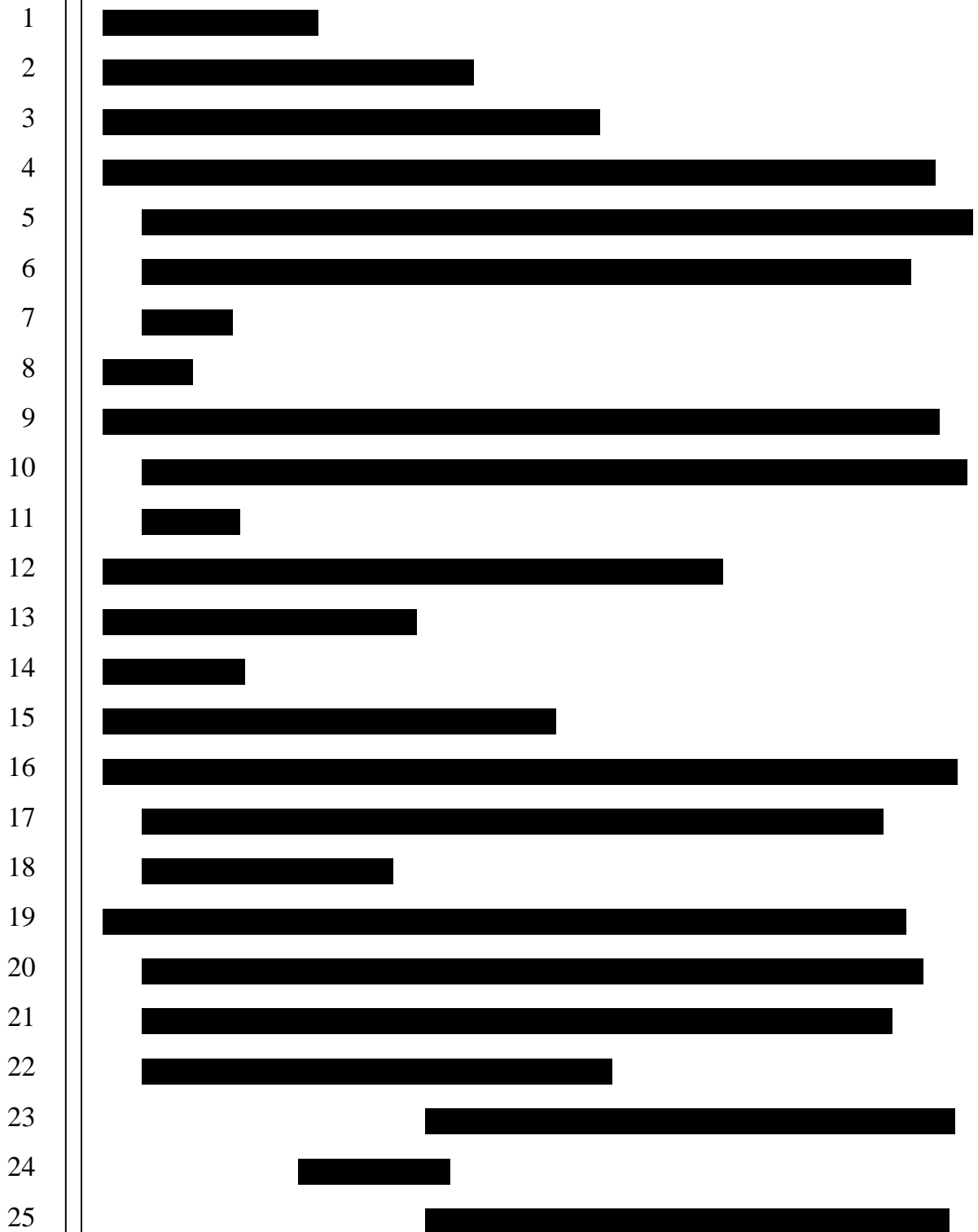


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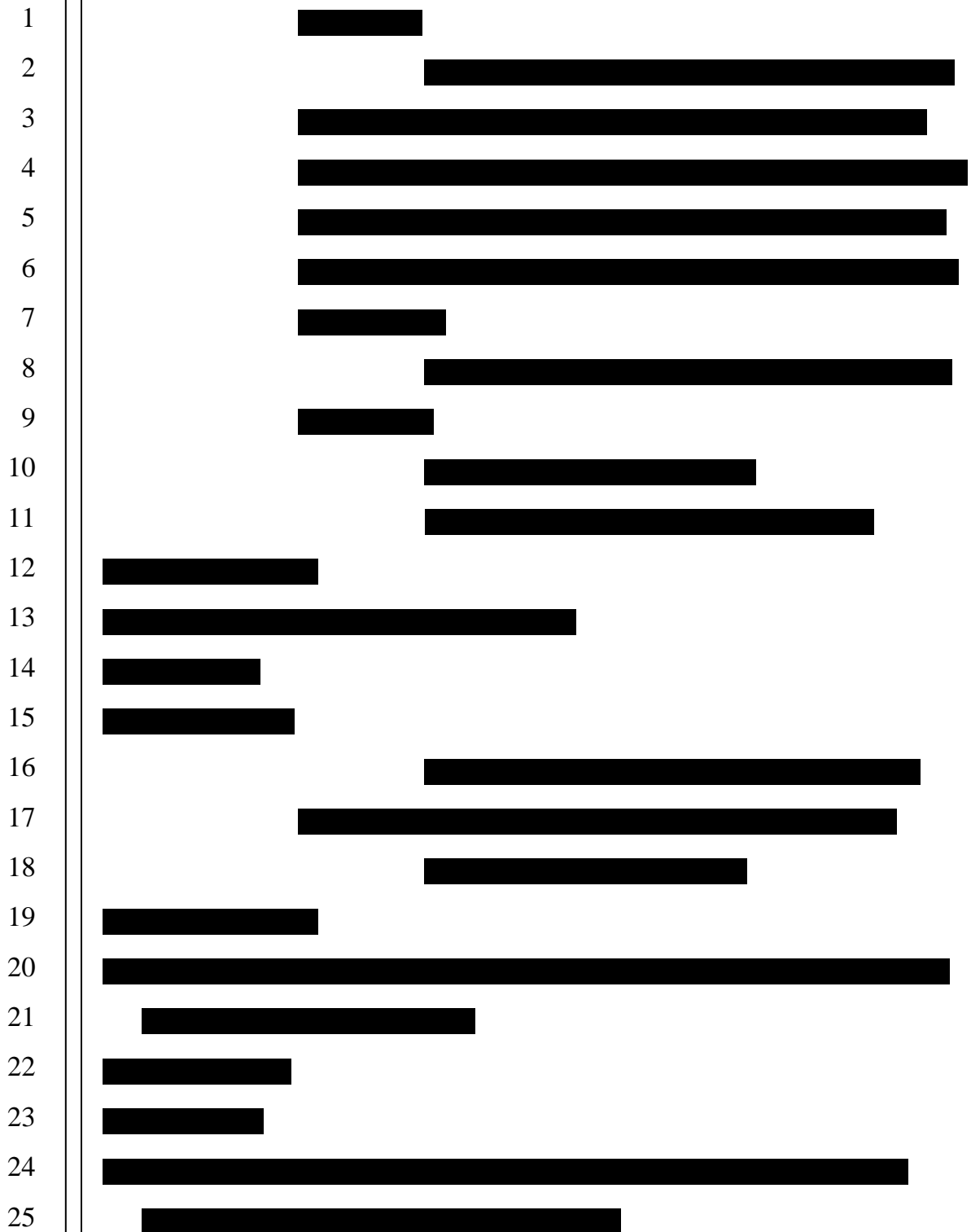
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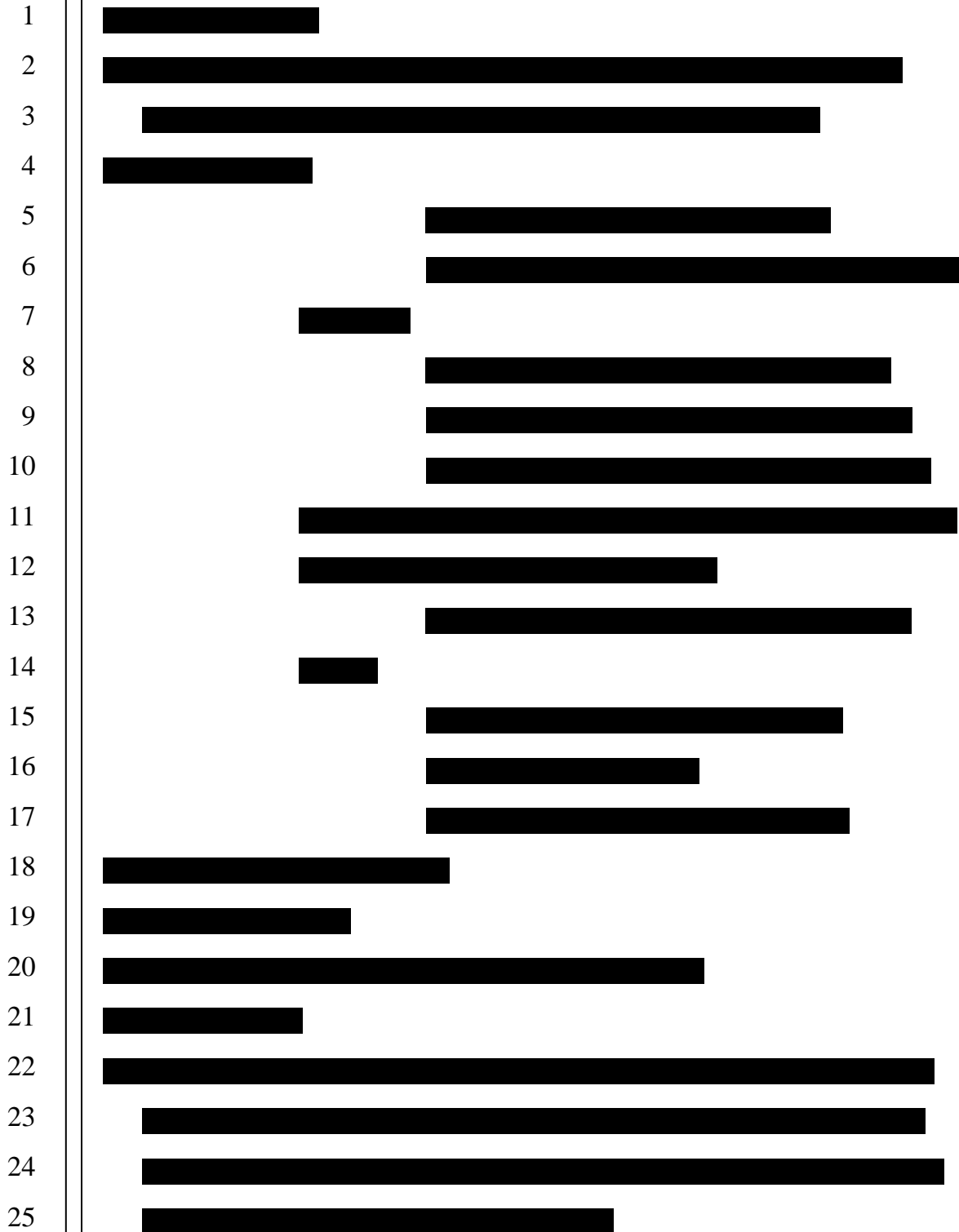


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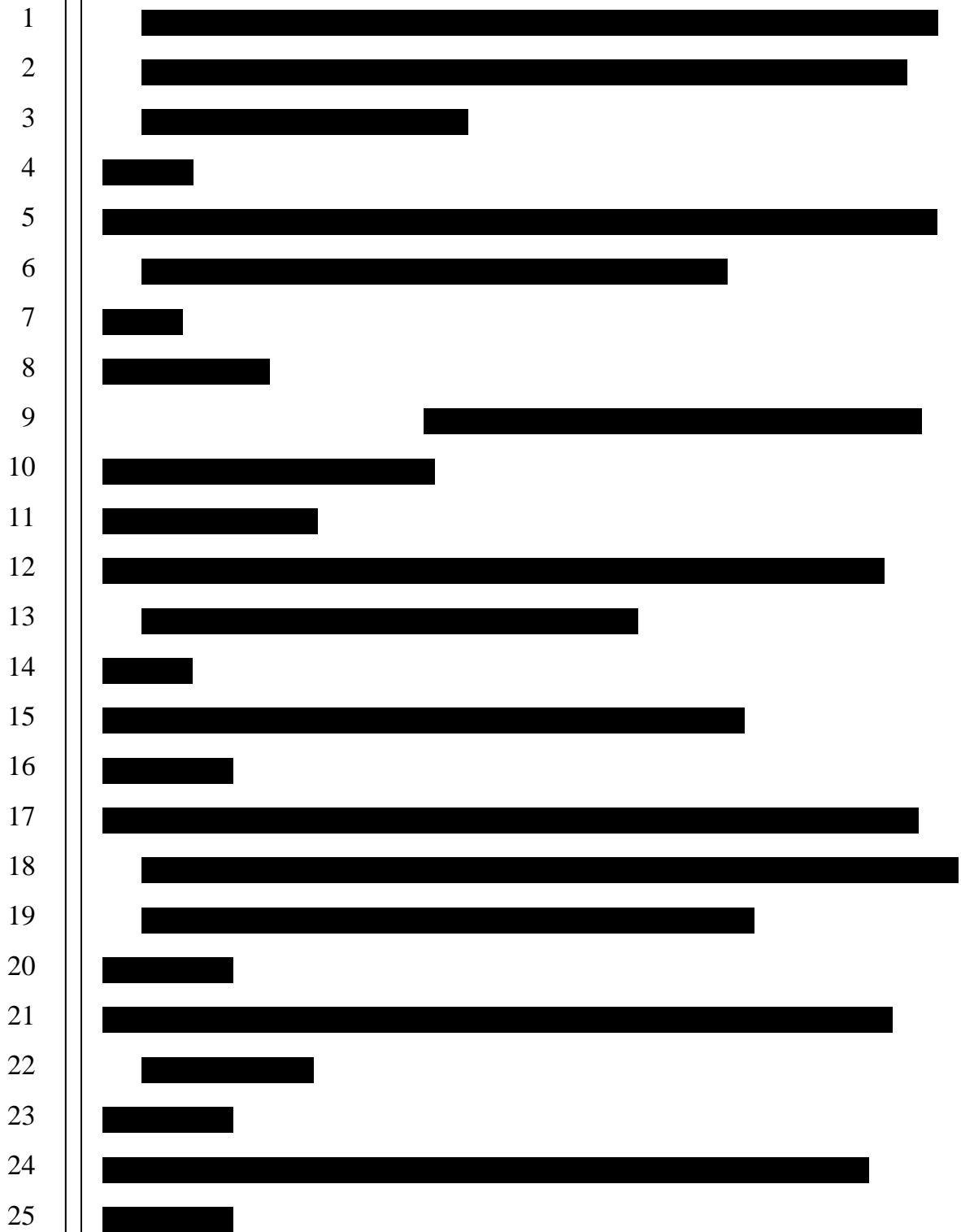


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(Jakob Smidt - Recross)



(Jakob Smidt - Recross)

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20 THE REFEREE: We're done. You're released.
21 THE WITNESS: Okay.
22 THE REFEREE: If you can get your way out of
23 that box.
24 THE WITNESS: It's not like I can go over it.
25 MR. POSTEL: Talk about perfect timing.



(Matter of Mark J. Grisanti - Colloquy)

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THE REFEREE: What's that?

MR. POSTEL: Talk about perfect timing.

THE REFEREE: Yeah.

MS. TRAPANI: Can we go off the record?

THE REFEREE: Off record.

(Proceedings ended at 4:27 p.m.)



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EXHIBITS

COMMISSION

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EXHIBITS

RESPONDENT

	Description	Ident.	In Evid.
AA	Temporary Order of Protection in favor of Linda Chwalinski against Gina Mele, dated August 11, 2014 (1 p)	140	489
BB	Temporary Order of Protection in favor of Victoria Chwalinski against Joseph Mele, dated November 13, 2014 (1 p)	484	488
CC	Temporary Order of Protection in favor of Gerald Chwalinski against Joseph Mele, dated August 31, 2004 (1 p)	485	488
DD	Demonstrative Map of [REDACTED] Avenue (1 p)	76	77
DD-1	Demonstrative Map of [REDACTED] Avenue with marking by Linda Chwalinski (1 p)	474	474
II	Mark Grisanti's Treatment Records from Jakob Smidt, LCSW, from June 24, 2021 through February 11, 2022 (35 pp)	583	
KK	RAP sheet for Gina A. Mele (9 pages)	137	
MM	Written Statement by Gina Mele to Buffalo Police Department dated June 22, 2020 (5 pp)	100	
NN	First Page of Letter of Complaint from Gina Mele to the NYS Commission on Judicial Conduct dated June 29, 2020 (1 p)	106	

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1	OO	Email from Gina Mele to the NYS Commission on Judicial Conduct dated July 7, 2020 (4 pp)	114	
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3	PP	Law360 Article, DA Slams Judge's 'Childish' Street Fight But Forgoes Charges, by Frank G. Runyeon, dated July 8, 2020 (2 pp)	120	
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5	QQ	Buffalo Evening News article, DA eyeing incident over parked car involving State Supreme Court judge, by Maki Becker and Jane Kwiatkowski, June 26, 2020 (2 pp)	123	
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8	RR	Letter from Gina Mele to Governor Andrew Cuomo, dated June 29, 2020 (2 pp)	124	
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10	SS	Gina Mele Interview Memo written by Commission Staff, dated 8/31/2020 (12 pp)	128	
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12	TT	Verbal Statement by Gina Mele to Buffalo Police Department, dated 1/15/2010 (1 p)	138	
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24	ZZ	Complaint Summary Report, 911 Call Response to June 22, 2020 incident, dated October 9, 2020 (1 p)	185	
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	AAA	Lt. Karen Turello Interview Memo written by Commission Staff, dated February 3, 2021 (8 pp)	205	

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3		(5 pp) [highlighted]		
4	CCC	Lt. Karen Turello Interview Memo written	224	
5		by Commission Staff, dated February 3, 2021		
6		(8 pp) [highlighted]		
7	DDD	Ofc. Larry Muhammad Interview Memo written	266	
8		by Commission Staff, dated December 24,		
9		2020 (5 pp)		
10	EEE	Commission Staff's Handwritten Notes	269	
11		regarding the Interview of Ofc. Larry		
12		Muhammad on December 7, 2020 (10 pp)		
13	FFF	Letter from Linda Chawlinski "To Whom	481	
14		It May Concern," dated November 7, 2020 (6 pp)		
15	GGG	BPD Incident Report dated September 29,	495	495
16		2017 (1 p)		
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CERTIFICATION

I, Chandelle Paccione, do hereby certify that the foregoing is a true and accurate transcript of the audio recording described herein to the best of my knowledge and belief.

Dated: July 1, 2022



Chandelle Paccione



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

----- -X

In the Matter of an Investigation :
Pursuant to Section 44, subdivision 4, :
of the Judiciary Law in Relation to :

MARK J. GRISANTI, :

a Judge of the Court of Claims, :
Acting Supreme Court Justice, :
Erie County. :
----- -X

Erie County Family Court, Part 3
One Niagara Street, 7th Floor
Buffalo, New York 14202

June 27, 2022
9:55 a.m.

B e f o r e:

WILLIAM T. EASTON, ESQ.
Referee

P r e s e n t:

For the Commission
JOHN J. POSTEL, Deputy Administrator

DAVID M. DUGUAY, Senior Attorney

For the Respondent
TERRENCE M. CONNORS, Esq.

VINCENT E. DOYLE, III, Esq.

TYLER GATELY, Esq.

A l s o P r e s e n t:

HON. MARK J. GRISANTI, Respondent

KATHRYN TRAPANI, Executive Assistant to the Deputy Administrator

VANESSA MANGAN, Senior Investigator



(Hon. Paula Feroletto - Direct)

1 THE REFEREE: All right. This is now June
2 27 -- is that what it is today? We're resuming testimony in
3 the matter of Mark Grisanti. All parties are present.

4 Is the witness ready to go?

5 MR. DOYLE: Yes. We call the Honorable
6 Paula Feroletto.

7 JUDGE FEROLETO: Thank you.

8 THE REFEREE: Judge, I am William Easton.
9 I'm an attorney in Rochester, and I've been appointed by the
10 Commission to serve as referee finder of fact and law of
11 the -- and submit a report with findings of fact and law in
12 this proceeding. And we're ready to proceed. I have two
13 things to do. First to administer the oath.

14 JUDGE FEROLETO: Okay.

15 THE REFEREE: Do you swear or affirm under
16 penalties of perjury to provide the truth and nothing but the
17 truth at this proceeding?

18 JUDGE FEROLETO: I do.

19 THE REFEREE: Secondly is probably -- the
20 more tricky proposition is there's a mic in front of you --

21 THE WITNESS: Yes.

22 THE REFEREE: -- which is really a recording
23 device. It's not a microphone. It doesn't project your voice
24 at all. So just throw your voice out and -- so ignore the mic
25 for your projection, but speak into it for recording.

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(Hon. Paula Feroletto - Direct)

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THE WITNESS: Okay.

THE REFEREE: Thank you.

THE WITNESS: I'll work on that.

HON. PAULA FEROLETO

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

DIRECT EXAMINATION

BY MR. DOYLE:

Q. Judge, can you tell us a little bit about your educational background,
starting in college?

A. I'm a graduate of Georgetown University. I worked for a year in
Washington, D.C. And then I came to the University of Buffalo School
of Law and graduated with my JD Degree in 1982.

Q. Okay. And did you become an admitted attorney in New York State?

A. I did.

Q. Okay. And can you tell us about your legal employment since becoming
admitted?

A. Once admitted, I became an associate attorney at the law firm of Brown
& Kelly --

Q. Um-hum.

A. -- where I did civil litigation, although I dabbled in some criminal
procedures. But after having someone go to jail at Christmastime, I
decided I would just stick with civil cases.



(Hon. Paula Feroletto - Direct)

1 Q. Okay.

2 A. I then became a partner there until I was elected to State Supreme Court
3 in 2004.

4 Q. Were you, in fact, the first female partner at Brown & Kelly?

5 A. I was.

6 Q. Okay. You were elected to the Supreme Court in the 8th District in
7 2004?

8 A. Yes. I was elected in 2004.

9 Q. All right. And while you were an elected Supreme Court, and I know
10 there's another position we'll talk about before we get there, but what
11 types of cases did you handle?

12 A. I was assigned to Chautauqua County for the years of 2005 and 2006. I
13 handled all of the Supreme Court civil cases in Chautauqua County. I
14 also handled -- the Sex Offender Registry Act came into effect in -- I
15 think it probably was 2004, 2005, so I had to handle a lot of sex offender
16 registrations as well.

17 Q. Okay. You were elected in 2004. Has your reelection come yet?

18 A. It has, and --

19 Q. Yeah.

20 A. -- one would think I could remember that year, but I think it was 2018.

21 Q. Okay. And you were reelected, and you still serve as a Supreme Court
22 judge in the 8th District?

23 A. Correct.

24 Q. Okay. Was there some change in your roll in -- or around 2009?

25 A. Yes. In end of August, early September of 2009, Judge Jonathan

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1 Lippman and Ann Pfau asked me to be the Administrative Judge for the
2 8th Judicial District, which involves roughly 22 court buildings, 850
3 staff, and the number of judges that I supervised varied depending on
4 who was certificated, but it went from about 85 to 94 judges, depending
5 on who was certificated, how many Court of Claims judges were
6 appointed, that type of thing.

7 Q. I think you just answered my question, but I'm going to ask you to speak
8 up just a little bit because --

9 A. Okay.

10 Q. -- we also have some air conditioning over here, so it makes it harder for
11 us to hear. You mentioned, I think, Court of Claims. Were Court of
12 Claims judges under your supervision?

13 A. Some were --

14 Q. Okay.

15 A. -- and some weren't. The ones that just do the claims against the State of
16 New York, Judge Sise strictly supervises them. The ones that do
17 Supreme Court, it's kind of a mix, but I'm generally in charge of all of
18 their assignments, although Judge Sise likes to stay involved with them as
19 well.

20 Q. And when you say you supervise this group of judges, what does that
21 mean? What do you actually do?

22 A. It could be anything. You start with what are you going to do on your
23 annual orders? Who's going to work where? You try to -- when they
24 first get started, they're assigned a mentor judge who hopefully helps
25 them get acclimated to being on the bench. Then, you know, through the

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(Hon. Paula Feroletto - Direct)

1 years, you work with them. You know, I've had judges that have gotten
2 ill and then I need to kind of help with their calendars. Anyone who's
3 having issues -- staffing issues or -- you try to look for what are -- what's
4 the person good at and what can I get them to do and hopefully they're in
5 the right court for what they're doing.

6 Q. Would you say you work closely with the judges that you supervise?

7 A. I would say so, and they probably got sick of getting emails from me.

8 Q. When you say that you would supervise the Court of Claims judges who
9 were acting Supreme Court, would that include Mark Grisanti?

10 A. Yes, it would.

11 Q. All right. And you were supervised -- or pardon me, you were
12 Administrative Judge for the 8th District until when?

13 A. Early July of last year, 2021.

14 Q. Okay. And at that point, what happened in terms of your role?

15 A. I became just a Supreme Court judge.

16 Q. Okay.

17 A. Can you see the smile on my face?

18 Q. So before we leave sort of your background, have you been active in any
19 bar associations or legal groups?

20 A. Oh, sure. The Bar Association of Erie County, the Women Lawyers, the
21 Western New York Trial Lawyers, the New York State Trial Lawyers.

22 Q. Okay. Have you had any leadership role in any of these organizations?

23 A. I was president of the Western New York Trial Lawyers. Oh, I've been
24 on the University of Buffalo Alumni Association. I was the treasurer
25 with the Bar Association of Erie County.

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(Hon. Paula Feroletto - Direct)

1 Q. Okay. Are there any other lawyers in your family?

2 A. My husband, John, is an attorney.

3 Q. Okay.

4 A. And we did not encourage our three children, but they did eventually all
5 practice law.

6 Q. Okay. So I've already mentioned Judge Mark Grisanti, but you know
7 Judge Grisanti?

8 A. Yes.

9 Q. When did you first meet him, if you recall?

10 A. I don't know when I first met him. I would say I more knew who he was.

11 Q. Okay.

12 A. And then, of course, I got to know him better once he became a Court of
13 Claims judge.

14 Q. Okay. Did one of your children have a working relationship with Judge
15 Grisanti before he became a judge?

16 A. My son, Joel, worked -- and I think it was part-time, because I think he
17 was in law school at the time -- as a Senate staffer.

18 Q. Okay. For Judge Grisanti or for the Senate generally?

19 A. For Judge Grisanti.

20 Q. Okay. Other than knowing Judge Grisanti as a judge who was under your
21 supervision while you were Administrative Judge, do you have any other
22 relationship with Judge Grisanti, a personal friendship, anything like
23 that?

24 A. No. We went, ate dinner together. We did nothing socially together. I
25 did see him at a church event where we happened to sit next to each other

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(Hon. Paula Feroletto - Direct)

1 at a St. Joseph's table, but it wasn't something where we would get
2 together.

3 Q. Okay. Judge Feroletto, what were your own experiences with Judge
4 Grisanti as his Administrative Judge?

5 A. All right. I always had positive experiences with him. His first
6 assignment was in Genesee County to handle all the Supreme Court cases
7 there. He never complained about the location of his assignment. He
8 was always willing to take on additional work.

9 Q. Is that something that continued during the entire time you were his
10 supervising judge?

11 A. Yes, always.

12 Q. Okay. In your role as Administrative Judge, did you have occasion to
13 interact with Judge Grisanti from time to time?

14 A. Yes.

15 Q. What can you tell us about that?

16 A. Well, let's see. You know, you'd see him at judges' meetings or -- he
17 didn't usually stay at the Supreme Court Judge's Dinner, but always he
18 would come and socialize, never anything unusual.

19 Q. All right.

20 A. Pleasant.

21 Q. In your role as Administrative Judge, did you have occasion to make any
22 assignments of cases or groups of cases to Judge Grisanti?

23 A. Yes.

24 Q. And what can you tell us about that?

25 A. So he was very good at case management. We had talked long ago, when

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(Hon. Paula Feroletto - Direct)

1 he first came on, I had talked to him about how you really need to
2 schedule trials and have at least two, sometimes three scheduled so that
3 one would actually go, because invariably, they settle --

4 Q. Um-hum.

5 A. -- or someone gets sick or something happens, and he took that to heart,
6 and he was quickly able to dispose of cases. When he came back to Erie
7 County, he got a lot of old cases from judges who had been on the bench.
8 Judge DiFiore was all about standards and goals --

9 Q. Um-hum.

10 A. -- before the pandemic hit, so it was really working on getting old cases
11 cleared, and Judge Grisanti was very good at getting rid of cases.

12 Q. If you remember, were there a group of cases from Niagara Falls that you
13 assigned to Judge Grisanti?

14 A. Right. There came a time -- I think it was 2019 -- I had initially increased
15 the number of Supreme Court judges in Niagara Falls to three back in -- I
16 don't know -- 2012 or '13 because of the number of filings. The number
17 of filings were going down, and I -- we were shorter of judges in Erie
18 County. So instead of having three full-time judges there, I was going
19 down to about two and a half, two and a quarter, so this caused some
20 consternation with the two judge that were left in Niagara, but what I
21 wanted to do was keep the trials that were scheduled for trials scheduled,
22 so rather than trying to have the two full-time judges take those on, I
23 asked Judge Grisanti to take the trial-ready cases that Judge Furlong had
24 from I think January to June, so that they could stay scheduled, because
25 chances are, you could dispose of those cases. So Judge -- I just asked

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1 Judge Grisanti if he would take those cases, and he said he would.

2 Q. Okay.

3 A. And I think he disposed of all of them, except there were a few that were
4 not trial-ready that went back to the judges who were staying in Niagara
5 Falls.

6 Q. Now, at this time, you had a number of judges you could have asked to
7 take these cases, but you asked Judge Grisanti. Why did you ask Judge
8 Grisanti?

9 A. Because I knew he wouldn't get flustered with the extra addition to his
10 trial calendar, and he would get them disposed of instead of adjourning
11 them.

12 Q. Was there also some assignment that you made to Judge Grisanti
13 regarding an order known as CVA cases, the Child Victim Act cases?

14 A. Yes. When that statute first got passed, they asked us to locate a few
15 judges who would get the special training. They're supposed to be
16 handled on a quick manner.

17 Q. Okay.

18 A. I had one lead judge that I was going to use, Judge Chimes, who does our
19 asbestos calendar as well, I knew she would be able to do that. And
20 Judge Grisanti was one of the trial judges that I asked to work with her as
21 well.

22 Q. And was there also a what's known as an MDL or Multi-District
23 Litigation matter that you asked Judge Grisanti to handle?

24 A. Right. The Multi-District Litigation, there's a panel that gets together
25 from across the state, and if there's litigation that involves more than one

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1 judicial district, they can assign it -- they choose which judicial district is
2 going to get it, and then they ask the administrative judge to assign a
3 judge. This case, I think, involved a bus incident on the throughway. I
4 think there were eight to ten cases from around the state, and I asked him
5 to coordinate the discovery, because I knew he would give them
6 deadlines and get it taken care of, and then once the discovery is done, it
7 goes to the various counties for trial.

8 Q. Okay.

9 MR. POSTEL: Could I just ask for
10 clarification?

11 THE WITNESS: Sure.

12 MR. POSTEL: As to dates for these
13 assignments?

14 MR. DOYLE: Sure. Sure.

15 THE WITNESS: Oh, the --

16 MR. DOYLE: The CVA?

17 THE WITNESS: Oh, the CVA cases. Well,
18 let's see. I kind of measure things pre-pandemic. Probably
19 around 2016 or '17, when the Child Victim Act legislation
20 was passed. And the Multi-District Litigation was probably
21 around the same time. I'm sure I have documents in my
22 office somewhere, but that would be my ballpark figure.

23 MR. DOYLE: Okay.

24 THE WITNESS: Pre-pandemic.

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BY MR. DOYLE:

Q. Those assignments that you made to Judge Grisanti that you've told us about, why is it that you made them to Judge Grisanti?

A. Because I knew he would get them done.

Q. Okay. Now, you mentioned the term standards and goals, and just for anyone on the Commission who may not be familiar, could you describe what that is?

A. So we would get case disposition reports every term. We have 13 terms. It would show you how many cases you've disposed of, how many were note of issue cases, how many were pre-note cases, a bunch of other things, with the note of issue filed, how many cases were assigned to a particular judge, and what percentage of those were over standards and goals, which depends on if it's -- the amount of time you have on a case depends on if it's classified as simple or complex. So the time you have to dispose of a case is shorter or longer.

Q. So these case disposition reports, they're produced by who?

A. The Office of Court Administration.

Q. All right. And who gets them?

A. The Administrative Judge gets them, and we usually request our chief clerks to send those out to the judges so they can see how they're doing.

Q. And is that something as an Administrative Judge that you would review?

A. Every term.

Q. And generally when you're reviewing them, what are you looking for as an Administrative Judge?

A. Well, to see how the cases are being disposed. Is there anyone who needs

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1 any help? Who has more cases. You look at the case-type assignments,
2 too. Some people are in specialty courts, so there's different standards for
3 different judges.

4 Q. Okay.

5 A. Do you need to increase or decrease the amount of cases they're getting?

6 Q. Okay. And is there a phrase that's used in connection with these as over
7 standards and goals?

8 A. Right. Percentage over. The last column shows you what your
9 percentage over standards and goals is.

10 Q. All right.

11 A. We were striving for under 10 percent.

12 Q. Okay.

13 A. There's a balance there, too, with the standards and goals, because I tried
14 to tell some judges who might be over-zealous, life happens. That's sort
15 of my standard, you know? Someone might get sick. Someone might
16 die. I mean, there's things that impact cases, so you have to not be over-
17 zealous as well.

18 Q. Okay.

19 A. Zealous is good, over-zealous is not good.

20 Q. I'm going to show you some exhibits that we've marked for identification.

21 MR. DOYLE: Mr. Easton, is it -- I'm going to
22 approach and just hand the book to the -- that has the
23 exhibits?

24 THE REFEREE: You may proceed.

25 MR. DOYLE: Thank you.

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(Hon. Paula Ferroletto - Direct)

1 You can see there's a gap, so I'll just ask you to
2 turn to certain ones.

3 THE WITNESS: Sure.

4 BY MR. DOYLE:

5 Q. If you could turn to what's been marked as Respondent's Exhibit M first.

6 And they're also going to put it up on the screen for us, although some of
7 these might be a little hard to read on the screen.

8 A. Okay.

9 Q. That's not so bad.

10 A. Okay. I'm there.

11 Q. Do you recognize what Exhibit M is for identification?

12 A. Yes.

13 Q. And what is it?

14 A. It's a Report of Dispositions. It's a civil caseload versus criminal -- we're
15 separate --

16 Q. Okay.

17 A. -- and it covered 12, not all 13 terms of 2017.

18 (Respondent's Exhibit M was marked for identification)

19 Q. So it covers 12 of the terms of the year of 2017?

20 A. Yes.

21 Q. And are there statistics in here regarding Judge Grisanti?

22 A. Yes, there are.

23 Q. Okay. And you recognize this as the form that's produced by OCA in the
24 course of its business, correct?

25 A. Absolutely.

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(Hon. Paula Feroletto - Direct)

1 MR. DOYLE: All right. Your Honor, I'd offer
2 Exhibit M into evidence.

3 MR. POSTEL: No objection.

4 THE REFEREE: Received.

5 (Respondent's Exhibit M was admitted into evidence)

6 BY MR. DOYLE:

7 Q. If you could go down to the line regarding Judge Grisanti and his
8 statistics, and maybe just go across and tell us what each of the entries
9 mean?

10 A. All right. So as of that date, he had 358 civil dispositions --

11 Q. And --

12 A. -- which I think put him as number one.

13 Q. Number one meaning the most?

14 A. Yes.

15 Q. Okay.

16 A. He had -- and of those, 280 were before the note of issue was filed.

17 Q. Okay.

18 A. And 78 of those where the note of issue has been filed, which means it's
19 trial-ready. I guess everybody knows that here.

20 Q. Okay. So when you say that he's number one, meaning that he had the
21 most cases in that period of time, those 12 terms of 2017, he had the most
22 cases disposed of as a judge --

23 A. Yes. Yes.

24 Q. -- in the 8th District?

25 A. Yep.

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(Hon. Paula Feroletto - Direct)

1 Q. All right.

2 A. 61 of those note cases were settled, five of them were tried to verdict.

3 Eight trials were started, so three must have settled during trial. It says
4 12 liability verdicts. It's got ex parte applications, which are, like, name-
5 change applications, something you want to have another attorney on.

6 374 motions, and 293 cases pending. I think there was probably some
7 more columns to this, too, because it doesn't show the percentage over
8 standards and goals.

9 Q. We have -- okay.

10 A. And 30 notes of issue pending.

11 Q. Okay. If you could turn to Exhibit L. And I believe that's --

12 A. Yes.

13 Q. -- three pages. Do you recognize what that is?

14 A. Yes. This is the similar report, and it has the extra columns.

15 Q. Okay. And this -- I know it's written at the top, but it's for the year 2018?

16 A. It may be written at the top and that could be 2018.

17 (Respondent's Exhibit L was marked for identification)

18 MR. DOYLE: Okay. I would offer Exhibit L,
19 Respondent's L.

20 MR. POSTEL: No objection.

21 THE REFEREE: Received.

22 (Respondent's Exhibit L was admitted into evidence)

23 BY MR. DOYLE:

24 Q. And again, and I'll -- we'll do this a little quicker for 2018, I'll direct your
25 attention to Judge Grisanti, the total dispositions he had were what?

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1 A. 418.

2 Q. Okay.

3 A. Oh, I'm sorry, 482.

4 Q. All right. And again, does that appear to be in the top one or two?

5 A. Yes.

6 Q. Moving all the way to the end, there's total pending cases? I think it's on
7 the first page -- it's still on the first page.

8 A. Yes.

9 Q. How many total pending for Judge Grisanti?

10 A. 308.

11 Q. And how many -- this looks like it's a number rather than a percentage.
12 How many were over standards and goals?

13 A. 23.

14 Q. All right. And that --

15 A. Yep.

16 Q. -- would be, doing the quick math, less than 10 percent?

17 A. Less than 10 percent, right.

18 Q. And by the way, was that fairly consistent with Judge Grisanti?

19 A. Yes.

20 Q. That he was under standards and goals?

21 A. Yes.

22 Q. If we turn to Exhibit K.

23 A. Okay.

24 Q. This is another OCA -- I'm sorry, you called it a Case Management
25 Report, I think?

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(Hon. Paula Feroletto - Direct)

1 A. Yes.

2 (Respondent's Exhibit K was marked for identification)

3 BY MR. DOYLE:

4 Q. All right. Or Case Disposition Report.

5 MR. DOYLE: And I'd offer Exhibit K.

6 MR. POSTEL: No objection.

7 THE REFEREE: Received.

8 (Respondent's Exhibit K was admitted into evidence)

9 BY MR. DOYLE:

10 Q. And Judge Grisanti had how many -- so the first page, we're looking at K.

11 I think it's only one page. This is for what term or terms?

12 A. This was for the full year of 2019.

13 Q. All right. And the number of dispositions for Judge Grisanti?

14 A. He had 453.

15 Q. And would that put him at or near the top of the dispositions?

16 A. Yes.

17 Q. And how many motions decided?

18 A. 596.

19 Q. How many total pending cases?

20 A. 330.

21 Q. And the number over standards and goals?

22 A. 33.

23 Q. And that would be just --

24 A. 10 percent.

25 Q. -- right at 10 percent, correct?

700.



(Hon. Paula Feroletto - Direct)

1 A. Right.

2 Q. You could turn to Exhibit J. This is another OCA Case Disposition
3 Report?

4 A. Yes.

5 Q. This one is hand-written in, and we'll have some testimony from Judge
6 Grisanti about that, but it says, 12/3/19-10/4/20?

7 A. Yes.

8 (Respondent's Exhibit J was marked for identification)

9 MR. DOYLE: All right. I would offer Exhibit
10 J.

11 MR. POSTEL: No objection.

12 THE REFEREE: Received.

13 (Respondent's Exhibit J was admitted into evidence)

14 BY MR. DOYLE:

15 Q. And for Judge Grisanti, his total dispositions during this period of time
16 was 242?

17 A. Yes.

18 Q. All right. His total pending is 359 cases?

19 A. Yes, but that doesn't seem like the right time frame to me.

20 Q. Okay.

21 A. I don't think that would be -- I think he would have had more if it was
22 that many terms.

23 Q. Okay.

24 A. And it wouldn't start on December 3. It would start -- Term 1 starts
25 January 1 or 2, or December 31, so --

701.



(Hon. Paula Feroletto - Direct)

1 Q. All right. It may be that the copy didn't include what it needed to include,
2 but we'll clarify that. But in any event, on this Exhibit J, the total pending
3 cases is 359, with 27 over standards and goals?

4 A. Yes.

5 Q. Which would -- and this one has a percentage over standards and goals
6 actually printed in, correct?

7 A. Yes, it does. Seven and a half percent.

8 Q. Okay. If you'd turn to Exhibit I, marked for identification. And what's
9 the time period that's reflected there?

10 A. It says it's in 2021 through term 13, so that would be the full calendar
11 year.

12 (Respondent's Exhibit I was marked for identification)

13 MR. DOYLE: All right. I'd offer Exhibit I.

14 MR. POSTEL: No objection.

15 THE REFEREE: Received.

16 (Respondent's Exhibit I was admitted into evidence)

17 BY MR. DOYLE:

18 Q. The total number of dispositions for Judge Grisanti is 487?

19 A. Yes.

20 Q. All right. Which puts him near the top?

21 A. Yes.

22 Q. All right. And we'll just go to the end, the total percentage over standards
23 and goals for 2021 was 9.9 percent?

24 A. Yep. Yes.

25 Q. Okay. And if you could turn to Exhibit H. And what time period is

702.



(Hon. Paula Feroletto - Direct)

1 reflected on Exhibit H?

2 (Respondent's Exhibit H was marked for identification)

3 A. The three terms of 2022.

4 BY MR. DOYLE:

5 Q. All right. And the total number of dispositions is 121?

6 A. Yes.

7 Q. And total pending cases, 474?

8 A. Yes.

9 Q. With 58 over standards and goals?

10 A. Yes.

11 Q. And that's a 12.2 percent over standards and goals, correct?

12 A. Yes.

13 Q. All right. Putting the exhibits to the side, from your knowledge during
14 the time you were supervising Judge Grisanti, was he consistently one of
15 the most efficient judges in terms of standards and goals?

16 A. Yes.

17 Q. And how does that -- sort of a numerical thing, but how does that
18 translate into a person's activities as a judge? What does that mean
19 they're doing?

20 A. That means they know how to schedule. They know how to conduct pre-
21 trials -- meaningful pre-trials -- to get the cases moving towards
22 settlement. They know how to schedule trials. He was one of the few
23 judges that was able to do a civil jury trial during the pandemic.

24 Q. Okay.

25 A. Like, in 2020 when we briefly had a window where we could do jury

703.



(Hon. Paula Feroletto - Direct)

1 trials -- of about four weeks.

2 Q. In between the different outbreaks --

3 A. Yes.

4 Q. -- or waves, yes.

5 A. Yes.

6 Q. Judge Feroletto, as a result of your own experiences with Judge Grisanti,
7 including as an Administrative Judge supervising his performance, did
8 you form an opinion of Judge Grisanti as a judge?

9 A. Yes.

10 MR. POSTEL: Oh, I'm going to object to that.

11 THE REFEREE: Rephrase.

12 BY MR. DOYLE:

13 Q. As an Administrative Judge, was it part of your duties to assess the
14 performance of judges that were under your supervision?

15 A. Yes.

16 Q. All right. And did you make such an assessment of Judge Grisanti during
17 the five years or six years roughly that he was a judge under your
18 supervision?

19 A. Yes.

20 Q. And what was your assessment of Judge Grisanti as a judge?

21 MR. POSTEL: Well, administratively?

22 MR. DOYLE: Yes, administratively.

23 A. Administratively, he was a pleasure to work with because he didn't
24 complain about assignments or what he was doing or case types, and if
25 sometimes you needed help, people were overbooked or over-scheduled,

704.



(Hon. Paula Feroletto - Direct)

1 and he would be willing to help. So administratively, he was an easy
2 judge to work with.

3 BY MR. DOYLE:

4 Q. Okay. Was it also part of your responsibility as Administrative Judge
5 from time to time to deal with complaints that were made about judges by
6 other judges, lawyers, litigants, court personnel?

7 A. Yes, they would all get directed to my attention. Sometimes I could
8 delegate them to a supervising judge. Most of the complaints related to
9 Supreme Court judges came to myself.

10 Q. Okay. And would complaints -- generally speaking -- sometimes involve
11 complaints about a judge's temperament?

12 A. Yes.

13 Q. Okay. During the time that you were the Administrative Judge
14 supervising Judge Grisanti, did you ever receive any complaints from
15 anyone about Judge Grisanti's temperament?

16 A. No.

17 Q. Did you ever receive any complaints from anyone about anything to do
18 with Judge Grisanti other than -- we're going to talk about the incident
19 that involves the neighbors in a second -- other than that, did you ever
20 receive any complaints about Judge Grisanti?

21 A. Correct. So I did get a complaint from the neighbor --

22 Q. Yep.

23 A. -- related to that one. And I think the only time -- I think my law clerk
24 got a call that -- about a trial scheduling issue.

25 Q. Okay.

705.



(Hon. Paula Feroletto - Direct)

1 A. And that got worked out.

2 Q. Okay. So Judge Feroletto, are you aware of an incident in June of 2020
3 involving Judge Grisanti and a dispute with his neighbors and his
4 subsequent interaction between Judge Grisanti and the police?

5 A. Yes.

6 Q. How were you aware of that?

7 A. Judge Grisanti called me the day after the incident to tell me about it.

8 Q. Okay. Can you describe that phone call, anything that he said?

9 A. Well, you know, at first I was surprised that he was calling me to talk to
10 me about a dispute with a neighbor, because I just couldn't understand
11 how it could be a big deal or anything that he was worried about. But as
12 he went on, he was talking about how -- and he had actually called me
13 once before. There had been something with the neighbor -- I think he
14 had to go to small claims court or something, and we had talked about
15 that. But so he was telling me that he had called the police and I
16 remember him telling me it was like a hockey fight. I think the neighbor
17 had pulled his shirt over his head and something with -- definitely his
18 wife was involved, and I think something happened with his wife. And
19 he got put in a patrol car or his wife did. And I'm like, okay, let's just
20 take a deep breath. Let's sort this out and we'll figure out what we need
21 to do going forward.

22 Q. Right.

23 A. And I usually encourage people to talk to -- we have someone who can
24 help you if you're under stress as well.

25 Q. Okay. Can you describe anything about the judge's emotional status

706.



(Hon. Paula Feroletto - Cross)

1 during that phone call?

2 A. Yes, he was very upset, and he just kept saying, "I wish I could take this
3 back. I just can't believe this happened." He was very upset.

4 Q. Okay.

5 MR. DOYLE: And that's all I have. Thank you
6 very much, Judge.

7 THE WITNESS: Okay.

8 THE REFEREE: Mr. Postel?

9 CROSS EXAMINATION

10 BY MR. POSTEL:

11 Q. Feroletto?

12 A. Yes.

13 Q. How are you?

14 A. Good.

15 Q. You and I go back a ways, don't we?

16 A. Yes, we do.

17 Q. You mentioned stress, there was somebody to call for stress. Is that Dan
18 Lukasic you're referring to?

19 A. Yes.

20 Q. And what is his role?

21 A. He does wellness programs. If you needed something, mental health,
22 substance abuse, give him a call. He's overtaxed, because he does
23 everything across the state, but he's a good go-to person to at least start
24 with.

25 Q. And he operates out of Buffalo?

707.



(Hon. Paula Feroletto - Cross)

1 A. He does.

2 Q. And he's an Office of Court Administration employee?

3 A. Yes, he is.

4 Q. Okay. Mr. Doyle mentioned to you about Mele matter and the judge
5 calling you. You were contacted by the Meles sometime thereafter; is
6 that correct?

7 A. Oh, yes, I was.

8 Q. And they were complaining about the judge and asked you to take certain
9 action; is that right?

10 A. Yes.

11 Q. I'd like to have marked, please, as the next Commission exhibit a letter
12 dated July 30, 2020.

13 MR. POSTEL: Mr. Doyle, I see you have the
14 letter right in front of you.

15 MR. DOYLE: Um-hum. Yep.

16 MR. POSTEL: Your Honor, I'm going to
17 approach the witness?

18 THE REFEREE: Sure. What is it, 32?

19 MR. POSTEL: 32. 33, excuse me.

20 THE REFEREE: 33?

21 BY MR. POSTEL:

22 Q. Judge Feroletto, do you recognize that document?

23 A. Absolutely.

24 Q. And is that a letter you sent to the Meles -- to Gina Mele specifically?

25 A. Yes. Gina Mele, yes. Sorry.

708.



(Hon. Paula Feroletto - Cross)

1 Q. In response to her -- did she -- she had communicated with you her
2 discontent about Judge Grisanti, right?

3 A. I believe she wrote me twice.

4 Q. And in that letter, you -- I'm going to -- you recognize the signature?

5 A. Yes.

6 Q. You prepared that letter; is that right?

7 A. I did.

8 (Commission Exhibit 33 was marked for identification)

9 MR. POSTEL: I'm going to offer Commission
10 Exhibit 33, please.

11 MR. DOYLE: No objection.

12 THE REFEREE: Received.

13 (Commission Exhibit 33 was admitted into evidence)

14 BY MR. POSTEL:

15 Q. And in that letter, you said that you would not publicly comment on the
16 matter; is that correct? The last line that I've underlined?

17 A. Right.

18 Q. And point of fact, you were commenting publicly in terms of responding
19 to the Meles, right? This was a member of the public you were
20 responding to?

21 A. Yes.

22 Q. And you said to the Meles that you offered your opinion as to the fact
23 that what had happened to the judge was already detrimental to him; is
24 that correct?

25 A. Yes.

709.



(Hon. Paula Feroletto - Cross)

1 Q. You indicated you weren't going to respond about the allegations or about
2 the matter, but you did indicate that he had already suffered a detriment.

3 Can you explain to us how that resolves?

4 A. How that resolves?

5 Q. Yeah, you said you weren't --

6 A. But --

7 Q. -- going to comment publicly, but you did comment publicly by saying --

8 A. Oh.

9 Q. -- he'd suffered a detriment.

10 A. Because by that point in July, the District Attorney had held a press
11 conference about why he wasn't pressing charges, and the news kept
12 running pictures of him without his shirt on, which I kept telling my
13 superiors that he didn't go out without his shirt on; the gentleman pulled
14 his shirt off.

15 Q. And you considered that detrimental, right?

16 A. I did.

17 Q. All right. You mentioned your superiors. After you sent that letter, did
18 you hear anything from Judge Caruso about having sent the letter?

19 A. I certainly did.

20 MR. DOYLE: Objection to this, Judge.

21 THE REFEREE: Well, first, form as to who
22 Judge Caruso --

23 MR. POSTEL: I'll --

24 BY MR. POSTEL:

25 Q. Do you know who Vito Caruso was at this time?

710.



(Hon. Paula Feroletto - Cross)

1 A. Yes.

2 Q. Who is he?

3 A. The Deputy Chief Administrative Judge for the courts outside of New
4 York City.

5 Q. All right. And after you wrote that letter, did you hear anything from
6 Judge Caruso?

7 A. Absolutely did.

8 MR. DOYLE: Objection, Judge. I don't see the
9 relevance of this.

10 THE REFEREE: I'll overrule.

11 BY MR. POSTEL:

12 Q. Tell us what happened as a consequence of your sending the letter.

13 MR. DOYLE: Again, objection.

14 THE REFEREE: Overruled again.

15 A. He told me I should have left it at the first paragraph.

16 BY MR. POSTEL:

17 Q. Did you follow up with the Meles in any way after sending that letter?

18 A. No.

19 Q. You believed at that time, or is it fair to say you believed at that time that
20 you had an understanding that the Commission on Judicial Conduct was
21 investigating the matter, or involved?

22 A. I did.

23 Q. In fact, you and I'd had conversations about this, right?

24 A. Probably.

25 Q. All right. You wrote in that letter, "I note the incident occurred after

711.



(Hon. Paula Feroletto - Cross)

1 work hours," right?

2 A. Correct.

3 Q. Did that affect your -- the fact that the incident occurred after work hours,
4 did that affect your thinking in terms of whether this was right or wrong?

5 MR. DOYLE: Objection.

6 THE REFEREE: Sustained.

7 BY MR. POSTEL:

8 Q. Did it affect what you wrote in that letter in terms of communicating with
9 the Meles.

10 MR. DOYLE: Objection.

11 THE REFEREE: Overruled.

12 A. It being after work hours, at least in terms of my job as the judge
13 supervising him, yes.

14 BY MR. POSTEL:

15 Q. Did you understand as the judge -- and in terms of the Administrative
16 Judge's role, you would interact with Commission staff on multiple
17 occasions over many years; is that right?

18 A. Yes.

19 Q. And we would work together on matters involving judges over decades,
20 correct?

21 A. Yes.

22 Q. So you knew, did you not, that the Rules Governing Judicial Conduct
23 applied to judges at all times, whether they're on the bench or off the
24 bench?

25 A. Yes.

712.



(Hon. Paula Feroletto - Cross)

1 Q. Now, in terms of what you've talked about in terms of standards and
2 goals, would it be fair to say or would you agree that not every case is
3 created equally; is that right?

4 A. Oh, correct.

5 Q. Some cases are more difficult and complex than others; is that correct?

6 A. Correct.

7 Q. All right. So the standards and goals doesn't represent an absolute
8 reference point in terms of all of the work that any particular judge is
9 doing, is that correct?

10 A. Correct.

11 Q. And in a course of various cases, there may be more or less motions
12 made, right?

13 A. Yes.

14 Q. And there may be more or less hearing days; is that correct?

15 A. Correct.

16 Q. And more or less trial dates; is that correct?

17 A. Yes.

18 Q. For example, let me direct your attention to the matter involving the
19 Clarence Airline Crash, the Continental Airline crash, right?

20 A. Right.

21 Q. Judge Marshall, Phil Marshall was --

22 A. Fred.

23 Q. Fred, excuse me. Fred, who's now departed, was assigned to that case; is
24 that correct?

25 A. Yes, he was.

713.



(Hon. Paula Feroletto - Cross)

1 Q. That was intensely complex litigation, right?

2 A. Yes.

3 Q. And that took many years; is that correct?

4 A. It did.

5 Q. So how would that be reflected solely in terms of standards and goals?

6 That one case, as compared to any other one case on these sheets?

7 A. That one case probably had a lot of motions with the Beltz office, but the
8 motions would be reflected and then it's settled during trial.

9 Q. Okay. And in terms of how you -- have you heard the expression "gains
10 standards and goals"?

11 A. I don't know how you would do it, but I suppose.

12 Q. In terms of what qualifies as moving a case or doing something in a case,
13 anything in a case, that would get it so that it would not be -- you could
14 report it and it not be over the standards and goals?

15 A. Oh, well, if somebody files a note of issue, that resets the standards and
16 goals clock.

17 Q. In terms of the motions, could -- you referred to Judge Grisanti -- Mr.
18 Doyle asked you, and you used the word "number one." Would it be fair
19 to say that you don't rank judges -- or as Administrative Judge, you didn't
20 rank judges in terms of their abilities or qualifications or in terms of their
21 work in -- in terms of 1 through 94; is that right?

22 A. Correct.

23 Q. So if I were to ask you if Judge Grisanti was the number one judge in the
24 8th Judicial District from 2015 until the present time, you couldn't say
25 that he was -- you wouldn't say that he was; is that correct?

714.



(Hon. Paula Feroletto - Cross)

1 A. No. No.

2 Q. You have respect for -- of the 94 judges -- a whole lot of them, right?

3 A. Absolutely.

4 Q. And a whole lot of them do a whole lot of work, don't they?

5 A. Yes, they do.

6 Q. Now, you talked about the Excellence Initiative from Judge DiFiore.

7 You remember when that was put into place? You can't forget it, correct?

8 A. Correct.

9 Q. All right. And Judge DiFiore, who's the Chief Judge and also the Chief
10 Administrator of the Courts, right?

11 A. Correct.

12 Q. Took this as a personal project, would that be fair to say?

13 A. Yes.

14 Q. And she pushed the administrative judges throughout the district to go
15 and meet standards and goals, right?

16 A. Yes.

17 Q. That was part of your life?

18 A. Supreme Court, Family Court, Surrogates Court. Absolutely. City
19 Courts.

20 Q. So the listings would come out how often?

21 A. Every term, which there's 13 terms, so a little less than month -- you
22 know, quicker than monthly.

23 Q. All right.

24 A. Four weeks.

25 MR. POSTEL: Could I get Exhibit H, please?

715.



(Hon. Paula Feroletto - Cross)

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BY MR. POSTEL:

Q. So we've looked at this and you talked about Judge Grisanti having 121 total dispositions, right?

A. Correct.

Q. Of that 121, the over standards and goals was 12.2; is that correct??

A. Yes.

Q. Was he the lowest judge in terms of standards and goals? Was he number one in standards and goals that month -- for that period?

A. I don't know.

Q. Look at Judge Licata.

A. Right. He was brand new to the bench in January.

Q. 10.4, right?

A. Right.

Q. And look at Judge Colaiacovo -- how do you pronounce that?

A. Colaiacovo.

Q. Colaiacovo?

A. Yes.

Q. What was Emilio's number? 10.5?

A. 10.5.

Q. So those were lower; is that right?

A. Yes.

Q. In terms of days on hearing, for example, Judge Grisanti had two days on hearing, correct?

A. Hang on, I'm looking at -- oh, days on hearing. Yes.

Q. And a judge name Feroletto had 24, didn't she?

716.



(Hon. Paula Feroletto - Cross)

1 A. That's because I do the mental hygiene cases two days a month. Yes.

2 Q. And in terms of --

3 MR. POSTEL: You can turn it back over to the
4 bottom.

5 BY MR. POSTEL:

6 Q. Judge Wojtaszek had 173, right? Excuse me, 22? I got the numbers --

7 I'll withdraw that. Looking at the total number of days on trial, Judge
8 Grisanti had 10 days on trial; is that correct?

9 A. Yes.

10 Q. Judge Panepinto had more than that, didn't she?

11 A. She did.

12 Q. She had 16; is that correct?

13 A. Yes.

14 Q. Judge Furlong, how many did he have? 22?

15 A. He's got 22.

16 Q. All right. Looking at Commission Exhibit I, please.

17 THE REFEREE: Is that Respondent? Oh,
18 yeah --

19 MR. POSTEL: Respondent. I'm sorry,
20 Respondent Exhibit I. Thank you.

21 BY MR. POSTEL:

22 Q. And you got that?

23 A. Yes.

24 Q. All right. Is that the one with the 9.9? I can't read it on the screen. It's
25 pretty bad on the screen, isn't it? That screen is impossible to read. Can

717.



(Hon. Paula Feroletto - Cross)

1 we --

2 A. 9.9.

3 Q. 9.9. Was he the lowest standards and goals that month?

4 A. I bet Judge Chimes was lower.

5 Q. You would be right. In fact, Judge Chimes was more than half of that; is
6 that correct?

7 A. She's quite amazing.

8 Q. And again, Emilio, Judge Colaiacovo, I'm never going to get that right,
9 was also lower; is that correct?

10 A. Yes.

11 Q. And in terms of days on trial for that period, Judge Grisanti was on trial
12 25 days; is that correct?

13 A. Yes.

14 Q. And Judge Furlong, for example, was on trial for 111, wasn't he?

15 A. Yes.

16 Q. So Judge Grisanti wasn't number one in that category, was he?

17 A. That seems like a very high number, but I'm -- no, correct.

18 Q. And again, Judge Colaiacovo was on trial for 45 days; is that right?

19 A. Yes.

20 Q. And Judge Chimes was on trial for more days than Judge Grisanti; is that
21 right?

22 A. Yes.

23 Q. Judge Fred Marshall as well; is that correct?

24 A. Yes.

25 Q. And you had a supervising judge at that point, and was he Supervising

718.



(Hon. Paula Feroletto - Cross)

1 Judge then, Mark Montour?

2 A. No. He does -- he supervises the Town and Village Courts.

3 Q. All right.

4 A. I didn't have a supervising judge for civil. Judge --

5 Q. No, I'm just saying -- but he had a supervising judge role?

6 A. Oh, Judge Montour --

7 Q. Yeah, Judge Montour --

8 A. -- had a supervising judge role?

9 Q. -- was a supervising judge of the Town and Village Courts --

10 A. Yes.

11 Q. -- in Erie County --

12 A. Yes.

13 Q. -- is that correct?

14 A. Yes.

15 Q. And he was on trial for 70 days?

16 A. Yes. I think a lot of those are matrimonials, nonjury. It doesn't
17 distinguish -- just --

18 Q. And Judge Nowak, how many trial days did he have?

19 A. 35.

20 Q. Judge Panepinto?

21 A. 43.

22 Q. Again, Judge Wojtaszek on the -- moving down, next page, I believe. 60,
23 would that be fair?

24 A. No, I think that's Judge Ward is 60.

25 Q. That's Judge Ward? Oh, yes, you're right.

719.



(Hon. Paula Feroletto - Cross)

1 A. I think Judge Wojtaszek is 14.

2 Q. No, I think it's the second one up. Judge Zambito is the --

3 A. Trial --

4 Q. Oh, you're right. It is Judge Ward. Thank you. So Judge Grisanti again
5 was not number one for that period of time as indicated on Exhibit I; is
6 that correct?

7 A. Correct.

8 Q. Okay. Now, as Administrative Judge, were you diligent in terms of
9 providing notification --

10 MR. POSTEL: Well, isn't that mine? No, I
11 think that's the exhibit.

12 THE WITNESS: Oh, sorry.

13 THE REFEREE: Is that 33?

14 MR. POSTEL: 33, yes.

15 THE REFEREE: Can I see that?

16 MR. POSTEL: Yes.

17 THE REFEREE: Thank you.

18 THE WITNESS: Don't think I caught all your
19 question. As Administrative Judge, was I -- oh.

20 THE REFEREE: Okay. You can proceed.

21 THE WITNESS: Sorry.

22 MR. POSTEL: I have no further questions.

23 THE WITNESS: Okay.

24 //

25 //

720.



(Hon. Paula Feroletto - Redirect)

1 REDIRECT EXAMINATION

2 BY MR. DOYLE:

3 Q. If you could take a look at 33?

4 A. Probably know it by heart by this point. Yes, sir?

5 Q. In the second paragraph, it's in evidence, I just want you to -- ask you
6 about the second sentence. It says, "I have never had any complaints
7 against Judge Grisanti related to his work ethic or interaction with
8 attorneys or litigants in court." So I think I asked you on direct about
9 specifically the interaction with attorneys or litigants, the temperament
10 issue. You say you never received any complaints relating to his work
11 ethic. What did you mean by that in this letter?

12 A. I didn't get complaints from attorneys saying, "This judge won't schedule
13 things" or "Where are the decisions?" over decision reports, things like
14 that.

15 Q. Okay. And Mr. Postel asked you some questions about some specific
16 statistics in some of the exhibits, number of days on trial, number of days
17 on hearing. The overall impression, though, as his administrative judge,
18 did you take away any overall impression from the standards and goals
19 reports regarding Mark Grisanti in terms of his effectiveness as a judge?

20 A. He was effective as a judge.

21 Q. Okay. Thank you.

22 MR. POSTEL: Nothing further.

23 THE REFEREE: May I ask one question? Can
24 I refer to 33?

25 THE WITNESS: Sure.

721.



1 THE REFEREE: Judge, when you responded to
2 Ms. Mele by letter --

3 THE WITNESS: Right.

4 THE REFEREE: -- in Exhibit 33, was it
5 precipitated by a letter from Ms. Mele to you?

6 THE WITNESS: I think she wrote me twice.

7 THE REFEREE: Uh-huh. Do we have those
8 letters, or is it --

9 MR. POSTEL: I think -- I believe we can dig
10 them out.

11 THE REFEREE: All right. Were the letters --
12 was she voicing her complaints against Judge Grisanti?

13 THE WITNESS: Right. That he -- something
14 along the lines of, "he shouldn't be a judge," I shouldn't
15 have him doing any cases, what am I doing, and I -- yes.

16 THE REFEREE: Fair to say on characterizing
17 the letters, were they irate, angry letters or were they --

18 THE WITNESS: Well --

19 THE REFEREE: -- civil, dispassionate letters?

20 THE WITNESS: I'd say they were irate and
21 angry, and I recall she had called one of our chief clerks in
22 Genesee County, who contacted me that she had heard from
23 this woman, and she didn't know what was going on, and
24 she wanted to talk to her supervisors, and she should know
25 how to handle things better, and so she was calling people,

(Hon. Eugene Pigott - Direct)

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too.

THE REFEREE: Okay.

THE WITNESS: Not just --

THE REFEREE: I have nothing further, but either side can follow up.

MR. DOYLE: Nothing further.

THE WITNESS: Thank you. Thank you.

MS. TRAPANI: Would you like to go off the record, Mr. Easton?

THE REFEREE: Yes.

THE WITNESS: Thanks.

(Recess from 10:48 a.m. to 10:50 a.m.)

MS. TRAPANI: We're on the record.

THE REFEREE: Judge, as you know, I'm William Easton from Rochester and I've been appointed by the Commission as a referee to hear testimony and report proposed findings of fact and law. Two things. First, I have to administer the oath. Do you swear or affirm under penalties of perjury that the testimony you're about to give is truth, the whole truth, and nothing but the truth?

JUDGE PIGOTT: I do.

THE REFEREE: The second, which is a little trickier is that microphone in front of you is a recording device. It doesn't project your voice at all. So you have to throw your voice across the courtroom at the same time that

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1 you speak into the mic.

2 MR. POSTEL: I don't anticipate any difficulty
3 in that regard.

4 MR. CONNORS: No, I don't think that will be
5 a problem.

6 THE REFEREE: Okay. You may proceed.

7 MR. CONNORS: This air conditioning kills my
8 throat.

9

10 HON. EUGENE PIGOTT

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

12

13 DIRECT EXAMINATION

14 BY MR. CONNORS:

15 Q. Good morning, Judge.

16 A. Good morning, Mr. Connors.

17 Q. Are you an attorney admitted to practice in the state of New York?

18 A. Yes.

19 Q. When were you admitted to practice?

20 A. 1974.

21 Q. Tell me about your education leading up to your admission to practice as
22 an attorney.

23 A. Well, I went to high school in Rochester, New York at McQuaid. I went
24 to college at Le Moyne College in Syracuse. And then I went to law
25 school at the University of Buffalo. So I've covered the Appellate

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1 Division Fourth Department educationally. Law school at University of
2 Buffalo.

3 Q. What year did you graduate from Le Moyne?

4 A. 1968.

5 Q. What did you do upon your graduation from college?

6 A. Well, I started law school, but then I got drafted.

7 Q. What happened then?

8 A. Well, I was drafted into the into the Army and I spent a year in Vietnam.

9 Q. Well, what was your -- what did your tour of duty in Vietnam consist of?

10 A. I was an interpreter. I was trained by the Defense Language Institute in
11 Vietnamese, and then when I went over, I was assigned to the 2nd Civil
12 Affairs Company, which was attached to, at that time, to the 3rd Brigade
13 of the 9th Division in what was called III Corps, and what we were doing
14 in that area was rebuilding that section, that part of Vietnam, that at that
15 point was relatively in peace. So I was dealing with the provincial and
16 village chiefs, getting what they needed and getting them rebuilt.

17 Q. What branch of the service were you in?

18 A. Army.

19 Q. After you complete your tour of duty, what did you do next?

20 A. I went back to law school, and I started again. I had started. I got about
21 six weeks in and then the Army called. So I restarted my career and
22 earned my education.

23 Q. And did you complete law school?

24 A. Yes.

25 Q. What year did you finish law school?

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1 A. 1973. I was admitted in 1974.

2 Q. Admitted to practice in the state of New York?

3 A. Right.

4 Q. Tell me a little bit about your employment history.

5 A. I worked at the law firm of Offermann Fallon Mahoney & Adner as a law
6 clerk throughout my law school career. At that time, the law school was
7 downtown and so it was easy to work as a law clerk and go back and
8 forth to school. And I did that, and at the end of my three years in law
9 school, they hired me as an associate. Then I stayed with that firm from
10 then on, essentially.

11 Q. Did you eventually become a partner in that law firm?

12 A. I did.

13 Q. What was the nature of your practice with Offermann Fallon?

14 A. Mostly personal injury work on the plaintiff side, but it was a general
15 practice and, you know, we did closings, matrimonials, whatever -- as an
16 associate, whatever the partner said, "go do," we did.

17 Q. Did any of your partners become judges?

18 A. Yes. In fact, the firm was originally called Doerr, Lawless, &
19 Offermann, and it's kind of a circuitous thing, but the "Doerr" in that was
20 John Doerr, who was a state senator and then became a judge, went to the
21 Appellate Division. And in fact, he is the judge that I replaced on the
22 Appellate Division when I went there, but that was Doerr. Bill Lawless
23 was also a partner in the firm. He became a judge and then became the
24 Dean at the Notre Dame Law School later on. Then Leo Fallon became a
25 judge and ultimately went to the Appellate Division. Dave Mahoney

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1 became a judge and stayed in the Trial Part. And then I became a judge
2 and another former partner, Jerry Whalen, became a judge and is now the
3 Presiding Justice of the Appellate Division.

4 Q. The judges that you mentioned, they all became judges in the Supreme
5 Court of the State of New York?

6 A. Right and all State Judges.

7 Q. After you finished your -- well, not finished, but after you became a
8 partner, did you then move laterally to another position?

9 A. Yes. I was very active in politics, and in 1982, the then county executive
10 Ed Rakowski asked me to be the County Attorney, and I served in that
11 position from '82 until '86 when Judge Fallon won election, and my firm
12 called me and said, "It's now or never. If you're coming back, come back
13 now, because we're losing Leo as our trial judge." And that's the place I
14 take, so I went back to the firm.

15 Q. What was your experience as County Attorney? In other words, what
16 type of cases did you handle?

17 A. The County Attorney, obviously, is the chief legal adviser for the entire
18 county and I had a staff of about 25, if I recall. And you know, we
19 covered everything from the -- you know, the Highway Department to
20 Social Services to our medical malpractice. We owned the Erie County
21 Medical Center at that time, and I kind of oversaw all of these lawyers
22 and what they were doing.

23 Q. Were you actually a working County Attorney? Did you appear in court,
24 handle cases?

25 A. I did for a period of time until the County Executive said, "I'm not paying

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1 you to go to court. I'm paying you to be available when I call." So I
2 stopped doing that, and we had other lawyers, of course, who handled all
3 of that stuff.

4 Q. When did you return to Offermann, at that time, Cassano, I think it was?

5 A. At that time it was Offermann Cassano and -- because Fallon had gotten
6 elected. And that was in 1986.

7 Q. And the name of the firm at that time was Offermann, Cassano, Pigott &
8 Greco?

9 A. Correct.

10 Q. Were you at that time the chief trial attorney?

11 A. I was.

12 Q. What would you do in terms of your practice at that point?

13 A. By then we'd grown a little bit. I don't think we were ever more than a
14 dozen lawyers, but I would oversee our trial calendar. Jerry Whalen, I
15 mentioned him because he's now the Presiding Justice, was one of our top
16 associate judges at the time. And we had two or three others. And the --
17 my job was to pick the ones I wanted to try and assign to other judges --
18 other lawyers, excuse me, to handle those. Of course, the depositions,
19 you know, and everything else that goes into putting a trial together.

20 Q. You might have made it more than dozen lawyers if they didn't stop
21 ascending to the -- if they stopped ascending to the bench.

22 A. That was the problem. They all kept going for that fixed income.

23 Q. I want to talk about your judicial experience. You were appointed to the
24 New York State Supreme Court in 1997?

25 A. Right.

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1 Q. And then you were elected to a full term?

2 A. Yes.

3 Q. Who appointed you?

4 A. Governor Pataki.

5 Q. And how long was it that you were appointed before you ran for election?

6 A. I think I was appointed -- I want to say in May. I could be wrong about
7 that, but I took the place of a judge who had retired and then served from
8 that time until the end of the year and that point, but in November that
9 year, I was elected.

10 Q. So you ran, were elected to a full term for Supreme Court?

11 A. Yes.

12 Q. How long did you stay on the Supreme Court?

13 A. I was assigned in '98 to Niagara Falls. I served up there until about the
14 middle of February, I think. And then I was designated to the Appellate
15 Division.

16 Q. Who appointed you to the Appellate Division?

17 A. Governor Pataki.

18 Q. Okay. And when you were appointed, you were appointed as an
19 Associate Justice?

20 A. Right.

21 Q. But in a matter of time, you soon became the Presiding Justice for the
22 Appellate Division, Fourth Department?

23 A. That's right. Two years later, Dolores Denman was our Presiding Justice,
24 and she passed away. She passed away shortly after -- she announced her
25 retirement at the end of 2000 and then not too long after that, she passed

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1 away.

2 Q. What does that mean to be the Presiding Justice of the Appellate

3 Division, Fourth department?

4 A. Well, the PJ, the Presiding Justice it's quite a -- it's more than sitting in

5 the middle. You know, you've got a five-judge panel on any given day,

6 and as the Presiding Justice, you're usually sitting in the middle, but the

7 big job is simply you're the Administrative Judge for the Fourth

8 Department, which is, of course, I think, most people in this room know,

9 has three Judicial Districts. The Fifth, which is Syracuse; the Seventh,

10 which is Rochester; and the Eighth, which is Buffalo. Each one of those

11 has an Administrative Judge, which handles the day-to-day operations of

12 those Parts. In fact, the Administrative Judge at the time, when I took

13 over and shortly thereafter built this building. This Family Court

14 building was constructed under Judge Doyle's supervision back in 2001.

15 But that's the kind of thing that the Administrative Judge, the AJs do, and

16 they're in charge of in the Eighth Judicial District, it's eight counties, in

17 the Seventh, it's eight counties, and in the Fifth it's six. And they do the

18 administration of assigning judges where they go and things like that. In

19 addition, the Presiding Justice is part of the Administrative Board of the

20 State of New York. There are five members of that. The Chief Judge of

21 the Court of Appeals and then the four Presiding Justices. We would

22 meet on a regular basis on matters involving the entire court system,

23 starting with the most minor things of jury selection, to the biggest things

24 of construction, and taxes, and assessments, and budgets, and things of

25 that nature.

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1 Q. Did that panel -- that board panel set policy for the State of New York?

2 A. Yes.

3 Q. In what respect?

4 A. Things would come up. I'll give you a good example. Our Chief Judge
5 Judith Kaye, and another -- and the Chief Judge of the Office of Court
6 Administration -- that's a separate post. So the Chief Judge of OCA, as
7 we call it, is really the Chief Operating Officer. So I always remember
8 with Judith, she, for example, would say, "I think we got to have
9 problem-solving courts." And she had the most capable Chief Judge of
10 OCA in Jonathan Lippmann, and they would do that. They would create
11 those kinds of courts, and they had all that -- and, of course, the
12 Administrative Board approves those things. And they put them into
13 practice. It's remarkable.

14 The thing about it -- I know I'm going beyond the question, but the
15 difference between the First Department and the Fourth Department is
16 dramatic. As it is with the Third Department. People forget the Fourth
17 Department, the most populous department of the four is the Second.
18 They've got all of Long Island and a little bit of the north. But the second
19 most populous is the Fourth. It's not the First. And in terms of territory,
20 the largest is the Third Department. Second largest is the Fourth. So we
21 are second in both of those areas and therefore formed a very important
22 part of the whole court system.

23 Q. As an Associate Justice of the Appellate Division and as eventually the
24 Presiding Justice, did you become familiar with a process known as the
25 attorney grievance process?

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1 A. Oh, yes. We --

2 Q. What is that?

3 A. I'm sorry?

4 Q. What is that?

5 A. Well, obviously, it's overseeing lawyer discipline. Each one of the
6 departments -- each, excuse me, each one of the districts, the Fifth, the
7 Seventh, and the Eighth have their own Grievance Committee. The PJ
8 appoints those, including the chairman. They had the obligation, the duty
9 to oversee complaints about lawyers. Those complaints, if they're
10 founded by a vote of those of the committees -- the disciplinary
11 committees would come in front of the Appellate Division on what we
12 would call Black Tuesday, which is the second Tuesday of every session,
13 and handle the disciplines of the various lawyers that would come before
14 us.

15 Q. What role would the court play in connection with the discipline of
16 attorneys in the Fourth Department?

17 A. Well, we would listen to them. And I hate to tell you, I guess it wasn't a,
18 you know, tremendous flood of them, but a fair number of lawyers.
19 Usually neglect and things of that nature. And we would listen to the
20 arguments, much like this, you know? It would be confidential. On
21 Tuesdays, we would close the courtroom and the lawyers and their
22 attorneys would come in and present their case and the other side would
23 talk about what was wrong. And then we would meet -- five of us and
24 discipline the judge or not -- or excuse me, the lawyer or not, depending
25 on the facts.

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1 Q. Did that experience cause you to become familiar with the criteria for
2 discipline for attorneys in the State of New York?

3 A. Very much so. Very much so. And talented lawyers helped us a lot.

4 Q. You were appointed to the Court of Appeals in 2006?

5 A. Yes.

6 Q. How long did you serve on the Court of Appeals?

7 A. Ten years; until I was 70 and that's a mandatory retirement.

8 Q. So when you were appointed to the Court of Appeals, you were
9 appointed as an Associate Justice?

10 A. Correct.

11 Q. Eventually, you rose to Senior Associate Justice?

12 A. Right.

13 Q. And if I'm correct, you served as Acting Chief Judge of the State of New
14 York for a period of time.

15 A. Five weeks.

16 Q. Tell us about that.

17 A. Very proud of that. All it was, is that obviously, Judith Kaye had
18 reached -- no, I'm sorry, Jonathan Lippman had reached the end of his
19 term and it takes time to pick a new one. Janet DiFiore was in the
20 process of going through that, you know. She had to get nominated by
21 the governor. Goes to the Senate Judiciary Committee. I assisted her in
22 getting through this maze. And then obviously on to the Senate. And at
23 the time, there was some controversy within the Senate over
24 appointments. So it took a little longer than it should have. So for five
25 weeks, I'm the Acting Chief Judge of the Court of Appeals.

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1 Q. How does that come about? Who determines that you would be the
2 Acting Chief Judge for that period?

3 A. I was a senior lawyer -- senior judge at the time.

4 Q. Now, after you retired from the Court of Appeals, did you continue in our
5 judicial system?

6 A. I did. For two years, I was doing Alternative Dispute Resolution, ADR,
7 here in the Eighth Judicial District.

8 Q. Let me take you back to the Court of Appeals for a moment if you don't
9 mind. When you were sitting as a judge on the Court of Appeals, did you
10 have occasion to hear cases brought by the State Commission on Judicial
11 Conduct?

12 A. Yes.

13 Q. Did you have occasion to participate in the analysis of the fitness to be a
14 judge, according to the criteria of the State of New York?

15 A. Yes, I did.

16 Q. Do you know roughly about how many cases you would have heard from
17 the State Commission when you were sitting as a judge in the Court of
18 Appeals?

19 A. I don't. It wasn't common. I mean, there were enough. But quite often,
20 and of course, we knew what the JCC was doing, and we got their annual
21 report, and we would keep track of that. Most of them, if there was a
22 problem, was handled before it ever got to us. In other words, the judge
23 would accept whatever suggestion, penalty was recommended and that
24 was the end of it. On occasion they would -- they would come up to us
25 and we would then determine them.

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1 Q. What would be the process when they would -- these cases would rise to
2 the Court of Appeals?

3 A. Much like this. We would have some representative -- a lawyer for the
4 Judicial Conduct Commission appear in front of us with the attorney,
5 sometimes pro se, sometimes with their own lawyer. And they would
6 argue the case much like any other case that came before us. Of course,
7 we would have in front of us the -- you know, the record, you know, the
8 transcripts, et cetera, and we would make a *de novo* determination with
9 respect to those.

10 Q. Would you write?

11 A. Pardon me?

12 Q. Would you write?

13 A. Sometimes. Yes.

14 Q. Now, those experiences, would that cause you to become familiar with
15 the criteria in connection with evaluating the fitness of a judge to remain
16 on the bench in the State of New York?

17 A. That's right.

18 Q. And there's a rumor that you retired in 2018?

19 A. Yes. The second time.

20 Q. Do you know Judge Grisanti?

21 A. I do.

22 Q. How long have you known Judge Grisanti?

23 A. I knew Judge Grisanti when he was a lawyer. I knew him when he was a
24 senator. And I knew him when he was a judge. I don't know how far
25 back that goes, but he was practicing in the general practice back when I

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1 was a lawyer, I think, and certainly when I was a judge.

2 Q. How did you meet him? How did you come to know him?

3 A. Just through the course of practicing law in this community. He was
4 obviously a very busy lawyer, as was his dad. I knew his father very
5 well. And then when he became a senator, he was my senator. I lived in
6 in his senatorial district and I knew him from his conduct there of course,
7 and then, of course, he became a judge, and I knew him as a judge.

8 Q. Would you say that you became familiar with his career as a lawyer, as
9 an elected official, and then as a judge?

10 A. Yes.

11 Q. Are you social friends with the judge?

12 A. No.

13 Q. Are you familiar with his work as a judge?

14 A. I am. Yes.

15 Q. How did you gain that familiarity?

16 A. Well, I -- as you've laid out, you know, I've been a judge for quite a while
17 now about 25 years and I stayed active. When I was a judge, I didn't, you
18 know, what we did -- I was assigned to Niagara Falls for a period of time
19 and then on the Appellate Division. You see the work of almost every
20 judge in the Fourth Department at one point or another. And then I
21 stayed active with judge's associations because I like to know what's
22 going on in the courts, and particularly in here in Buffalo when I was PJ
23 in Rochester and Syracuse as well. So I got to know Judge Grisanti when
24 he became a judge and then through talking to other judges, et cetera
25 know what he did, where he did it, and how he did it.

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1 Q. As a result of what you described in your familiarity with Judge Grisanti
2 and your following of his career, have you formed certain opinions
3 regarding his fitness to be a member of our judiciary?

4 A. Yes.

5 MR. POSTEL: (Unintelligible).

6 THE REFEREE: Do you ensure Mr. --

7 MR. POSTEL: At this point I have no objection
8 to that question. I anticipate an objection to the next
9 question.

10 THE REFEREE: Proceed Mr. Connors.

11 MR. CONNORS: I will.

12 BY MR. CONNORS:

13 Q. First of all, I'd like to know, you've established you have some opinions
14 with respect to his fitness as a judge, but based upon your more than 40
15 years of experience as an attorney, your experience as a judge, including
16 the Presiding Judge of the Appellate Division Fourth Department, and as
17 an Associate Judge and Senior Associate Judge from the Court of
18 Appeals, as well as your knowledge and your interaction of Judge
19 Grisanti, do you have an opinion with respect to Judge Grisanti's integrity
20 to be a member of our judiciary?

21 A. Yes.

22 Q. What is your opinion?

23 A. Well, I found Judge Grisanti to be outstanding, and I'll tell you why. As
24 PJ, people forget that the Fourth Department's more than five judges
25 sitting in judgment on particular cases. In addition, we have mental

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1 hygiene legal services. We have the attorneys for the children. We have
2 assigned counsel, and as you -- attorney grievance. And in dealing with
3 those, you find out -- I'll use mental hygiene as an example.
4 Each one of the departments has, or the judicial districts, has a mental
5 hygiene component to it. And there are people who -- everyone who's
6 confined for mental health purposes has a right to a hearing every year.
7 They're advised of it and if they choose to exercise it, they're entitled to
8 become -- to appear in front of a judge. One of the nettlesome problems
9 in handling that was judges didn't want to do it. And they didn't want to
10 do it for a number of reasons. Some of it was that it was scheduled
11 poorly. Some of it, they just didn't want to handle these things. Some of
12 it was, they weren't good at it. So in fact, I had on more than one
13 occasion, go visit a judge and say, "Will you stop treating these lawyers
14 and these litigants so poorly. I mean, you just can't throw them out. You
15 can't treat him any less than anyone else." I noticed when I spoke with
16 Judge Feroletto about this, that Judge Grisanti was one of those that took
17 these, I don't want to say eagerly, but handled them with the sympathy,
18 the concern that they deserved. I'll give you an example. This didn't
19 involve this this judge, but --

20 MR. POSTEL: I'm going to object to examples
21 as beyond reputation testimony. This is specific examples
22 relating to the matters that form the basis for his reputation
23 testimony.

24 THE REFEREE: Does this specific example
25 involve Judge Grisanti?

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1 THE WITNESS: No.

2 THE REFEREE: Okay. Then I'll sustain.

3 BY MR. CONNORS:

4 Q. You are entitled to give us some specific examples if you have them with
5 respect to the judge, but using the same criteria, we've talked about
6 integrity, using the same criteria that I asked you before, have you formed
7 an opinion with respect to his judicial independence?

8 A. Absolutely. And in fact, I could take --

9 Q. What is that opinion?

10 A. Pardon me?

11 Q. What is that opinion?

12 A. That he is beyond reproach. Another one of the areas that's difficult are
13 CVAs, Child Victim Act cases. To my knowledge, and I'm not -- and I
14 talk to a lot of judges, but I could be wrong. I think Judge Grisanti took
15 the first CVA trial in the Eighth Judicial District. And these things are
16 difficult. Another judge, Judge Jerry Gorski, who served with me on the
17 Fourth Department did a lot of mediations with respect to the ones
18 involving the Catholic Church and he said, "You know, you just want to
19 throw up." I mean, they are so difficult. I had resolved a case in
20 Chautauqua County involving this type of thing, and they're just horrible.
21 And from what I understand, Judge Grisanti handled this thing with
22 aplomb, and has done so in resolving many others. Difficult and they
23 take a lot of independence and integrity.

24 Q. So based on your more than 40 years' experience as an attorney, your
25 experience as a judge, as a Presiding Judge of our Appellate Division, as

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1 a senior member of our Court of Appeals, and your knowledge and
2 interaction with Judge Grisanti, do you have an opinion regarding his
3 ability to maintain the high standards of conduct required to be a judge in
4 the State of New York?

5 A. I do.

6 Q. What is your opinion?

7 A. I think he not only has done it but will continue to do it. Based upon
8 what I've told you and the other cases that he's handled in the course of
9 his tenure as a judge.

10 Q. What is your basis for that opinion, Judge?

11 A. Speaking with other judges. I've talked to Mark -- well, that brings up
12 another interesting situation. Judge Grisanti got on the court, I think in
13 '15, if I'm not mistaken. And by then I was in the last two years of my
14 tenure on the Court of Appeals. I got more phone calls from Judge
15 Grisanti on issues of evidence and things of that nature during the course
16 of trials than any six judges in my career. To the point where I'd say,
17 "Mark, you know, you can make the decision. You're a judge. You have
18 certain latitude in the course of the trial. Just do the best you can." But
19 he was so intent on making sure that what he did was correct, and I
20 suppose so he wouldn't get reversed on appeal, that he was very active in
21 talking to me about these things. It was great. It was refreshing.

22 Q. So using the same criteria that we have discussed. Do you have an
23 opinion with respect to whether or not Judge Grisanti has the ability to
24 promote confidence in the judiciary?

25 A. Absolutely, I do.

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1 Q. What is your opinion and what is the basis for that?

2 A. The basis is what I've just described to you about his actions as a judge.

3 And I think, speculation here counsel, lawyers like being in front of

4 Judge Grisanti. They know he's going to be fair. They know --

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

6 THE REFEREE: I'll overrule it.

7 A. -- that he's going to be timely. When you know, as a practicing lawyer,

8 and so many of us are, when you get judge fill-in-the-blank, all of a

9 sudden, all kinds of things go through your mind as to, you know, am I

10 going to get -- is it going to be timely, am I going to get, you know, a fair

11 shake, and it's good news when you're assigned Judge Grisanti because

12 you know all of those things are going to fall into place.

13 BY MR. CONNORS:

14 Q. Now, you've given us some of your own personal opinions based upon

15 your experience as a judge, as a lawyer, and also your interactions with

16 Judge Grisanti. I want to ask you some questions about his reputation

17 within the legal community. First of all, in addition to your own

18 knowledge, have you had discussions with other people in the legal

19 community about Judge Grisanti?

20 A. Other judges, yes. And other lawyers, sure.

21 Q. And have you spoken to people such as lawyers, judges, and court

22 personnel with respect to Judge Grisanti?

23 A. Yes.

24 Q. And have you been part of that conversation with people both inside and

25 outside the legal community?

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1 A. Yes.

2 Q. As a result of those conversations, had you become aware of Judge
3 Grisanti's reputation in the community?

4 A. Yes.

5 Q. Based on what you've learned about Judge Grisanti from his reputation in
6 the community, what is his reputation with respect to his fitness to be a
7 judge in the state of New York?

8 A. He's a pillar. And let me tell you one of the reasons why. You know, I
9 didn't go asking people that. What happens is in the course of talking,
10 you know, having coffee as I do, still do often with other judges and other
11 lawyers, if his name comes up, it's exactly that, you know? That this is a
12 solid judge. This is what judging is supposed to look like. That's, you
13 know, the way I form the basis of it.

14 Q. Are you aware of the incident that occurred on June 22, 2020 involving
15 Judge Grisanti and his family?

16 A. Yes.

17 Q. Have you actually seen the video?

18 A. Yes.

19 MR. CONNORS: And can we pull it Exhibit 2,
20 please? And can we play it, and I may, Kate, ask you to
21 stop it at some point.

22 [Video was played.]

23 MR. CONNORS: Okay. I think you can stop it
24 there.

25 //

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1 BY MR. CONNORS:

2 Q. Now, we've just shown you the first few minutes of Exhibit 2, which is in
3 evidence, Your Honor. And you've seen what purports to be a fight in the
4 middle of the street. An altercation, an argument between two families.
5 You've seen that?

6 A. Yes.

7 Q. And you've seen it before, haven't you?

8 A. Yes.

9 Q. It's not a very judicial appearance for Judge Grisanti, is it?

10 A. No, that's true.

11 Q. And regardless of the fault, the fighting in the middle of the street is not
12 something that would promote the confidence in the judiciary, would it?

13 A. No, I think that's rough, yeah.

14 Q. Yeah. Let me ask you this. Having seen this and having known about
15 this video, does it alter your opinion in any way with respect to what you
16 testified here this morning regarding Judge Grisanti?

17 A. No.

18 Q. Why not?

19 A. Well, when I saw this, and of course, it was the topic of a lot of
20 conversation, I wondered what I would do if my wife were in that
21 situation. And as you pointed out, I've held almost every position there is
22 in the judiciary and I would hope, but I would not -- I couldn't promise
23 that my conduct would be much different. It's just a very, very tough
24 situation.

25 Q. Having seen this video and having provided us these opinions with

(Hon. Eugene Pigott - Direct)

1 respect to the judge's fitness to remain on the judiciary, does it alter your
2 opinion with respect to integrity, independence, or high standards of
3 conduct of a judge?

4 A. No, not at all.

5 Q. Why?

6 A. And in fact his conduct since just reinforced that.

7 MR. CONNORS: Can we go to Exhibit 12 for a
8 second, Kate, please and pull that up, please? Exhibit 12.

9 MS. TRAPANI: (Unintelligible).

10 BY MR. CONNORS:

11 Q. I'm showing you what's been marked into evidence as Exhibit 12, which
12 is the body camera of one of the officers. This actually has some audio
13 that you can hear. I want you to take a look at this judge.

14 [Video was played.]

15 MR. CONNORS: Geez, the one thing they ask
16 you to do, Jay.

17 MR. POSTEL: I don't get paid for this.

18 MR. CONNORS: That's okay. I want to get to
19 the part where the judge is talking. Okay. Turn it up then.

20 [Video was played.]

21 MR. CONNORS: I think that's enough, Kate.

22 BY MR. CONNORS:

23 Q. Judge, what we've shown you is Exhibit 12, which is in evidence, a body
24 camera of one of the officers. What I wanted you to see was Judge
25 Grisanti's reaction and his comments, the language that he used, and I

(Hon. Eugene Pigott - Direct)

1 want to ask you, does that appear to be judicial to you?

2 A. No. Sorry, it doesn't.

3 Q. And you've seen him interacting with police officers as well in this body
4 cam?

5 A. Yes.

6 Q. And does that appear to you to be something that is judicial?

7 A. No.

8 Q. Does this video, as well as the other video that you've seen, Exhibit 2,
9 does it change your opinion with respect to his fitness to remain as a
10 judge in the State of New York?

11 A. No, it doesn't. As I said, it's obviously a rough patch, and I don't know
12 the whole circumstance, and you know, I've heard stories. I've heard --
13 you know, I've seen this, you know, more than once, and as I say, it's
14 very unfortunate, but it doesn't change my opinion of this judge at all.

15 Q. Why not?

16 A. Because he wasn't acting as a judge. And what you just showed me when
17 he's talking to the police officers, as rude as that was, I could see a
18 defense lawyer saying that to cops, you know? Saying, "take the cuffs
19 off," et cetera, et cetera. It's not violent. It's certainly troublesome, Judge
20 Grisanti being a judge, but I didn't hear him say, "I'm a judge" and, you
21 know, treat me differently.

22 Q. And I want you to assume that at no point in time is there any evidence
23 that he ever said he was a judge?

24 A. All right.

25 MR. CONNORS: I think that's all I have.

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(Hon. Eugene Pigott - Cross)

1 Thank you.

2 THE WITNESS: Thank you.

3 THE REFEREE: Cross examination, Mr.

4 Postel?

5 MR. POSTEL: Just a few questions. I mean,
6 just a few.

7 CROSS EXAMINATION

8 BY MR. POSTEL:

9 Q. Were you present in this courtroom on June 21st?

10 A. Of this year?

11 Q. Of this year.

12 A. I don't think so.

13 Q. You would know, right?

14 A. I would.

15 Q. And so the answer is no?

16 A. The answer is no. Yeah, I wasn't under any indictment.

17 Q. Were you present in this courtroom on June 15th of this year?

18 A. No.

19 Q. Were you present in this courtroom on June 14th of this year?

20 A. No.

21 Q. Were you present in this courtroom on June 13th of this year?

22 A. No.

23 MR. POSTEL: No further questions.

24 //

25 //

(Hon. Eugene Pigott - Redirect)

1 REDIRECT EXAMINATION

2 BY MR. CONNORS:

3 Q. But you do have some basic knowledge about the events from the media
4 reports, correct?

5 A. Yes.

6 Q. Both broadcast and print media reports?

7 A. Right.

8 MR. POSTEL: Now, I'm going to object to that
9 unless he provides specifically what he's referring to.

10 MR. CONNORS: Well --

11 THE REFEREE: Rephrase it. Bookend it with
12 times of these.

13 MR. CONNORS: I will. I will.

14 BY MR. CONNORS:

15 Q. When this event of June 22, 2020 occurred, were you privy to some news
16 media reports?

17 A. Yes.

18 Q. Were you privy to both broadcast and print reports regarding the events
19 of June 22, 2020 on ██████ Avenue?

20 A. Yes.

21 Q. And did you also have some conversation with Judge Grisanti regarding
22 these events?

23 A. I did.

24 Q. Were there any other sources of information provided to you prior to the
25 time you testified here today?

(Hon. Eugene Pigott - Redirect)

1 A. No.

2 Q. And as you said, I think earlier in your direct, you did see the video?

3 A. Yes.

4 Q. So while you weren't in the courtroom for the testimony of the witnesses,
5 you did have some knowledge and basic understanding of the events of
6 June 22, 2020?

7 A. Yes.

8 Q. And is that the basis of the opinions that you provided us here today?

9 A. Yes.

10 MR. CONNORS: Thank you.

11 MR. POSTEL: No further questions.

12 THE REFEREE: You may leave, Judge.

13 THE WITNESS: You don't have, "You are
14 discharged?"

15 MR. CONNORS: Discharge the Court of
16 Appeals judge, how's that?

17 THE REFEREE: Right. Treasure that moment.

18 MR. POSTEL: It could be the highlight of your
19 career.

20 MR. CONNORS: Push.

21 (Recess from 11:33 a.m. to 11:45 a.m.)

22 MS. TRAPANI: We're on the record.

23 THE REFEREE: Ready to proceed with the
24 next witness?

25 MR. DOYLE: We are. We call our next

(Nelson Schule - Direct)

1 witness, Nelson Schule, Jr.

2 THE REFEREE: Over on the side, yeah.

3 Closer to us.

4 MR. POSTEL: You're on video.

5 MR. SCHULE: Just hop it, Judge.

6 THE REFEREE: Somebody told me there. It's
7 like a left-handed.

8 MR. SCHULE: I'm used to hopping the boards
9 anyway.

10 THE REFEREE: I'm William Easton. I'm an
11 attorney in Rochester, and I've been appointed by the
12 Commission to sit as a referee in this matter and issue,
13 ultimately, a proposed findings of fact and law.

14 MR. SCHULE: Okay.

15 THE REFEREE: Your testimony will be part of
16 that. Two things before we begin is, one, is I have to
17 administer the oath to you. Do you swear or affirm under
18 penalties of perjury that the testimony you're about to give
19 is the truth, the whole truth, and nothing but the truth?

20 MR. SCHULE: Yes, I do.

21 THE REFEREE: The other thing and that it
22 relates to the door issue is there's a mic in front of you,
23 which is a recording device. It won't project your voice at
24 all. So remember that when you're speaking into the mic,
25 it's not projecting. You've got to project it across the room

(Nelson Schule - Direct)

1 because we have an air conditioner.
2 THE WITNESS: Okay.
3 THE REFEREE: And people can't hear.
4 THE WITNESS: Okay. Will do. Thank you,
5 Judge.
6 THE REFEREE: Okay.
7 THE WITNESS: Yep.
8 THE REFEREE: You can proceed.
9 MR. DOYLE: Thank you.

10
11 NELSON SCHULE

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

13
14 DIRECT EXAMINATION

15 BY MR. DOYLE:

16 Q. Mr. Schule, are you an attorney admitted to practice in New York State?

17 A. Yes, I am.

18 Q. And when did you become admitted?

19 A. February of 1990.

20 Q. Okay. Can you tell us your educational background starting with
21 college?

22 A. I graduated from Colgate University in 1986 and I graduated from the
23 University at Buffalo Law School in 1989.

24 Q. And in terms of your employment, what did you do after graduating from
25 law school?

(Nelson Schule - Direct)

1 A. I began employment at a law firm known as O'Shea, Reynolds &
2 Cummings in March of 1990, and I worked there for 13 years. After that,
3 I took an opportunity at Kenney Shelton Liptak and Nowak, and I have
4 been there ever since, but for a three-and-a-half-year hiatus at Brown
5 Chiari, LLP where I sought my fortune. That did not work as expected,
6 and I returned to Kenney Shelton and where I am to the present day.

7 Q. And what's your position at -- and I'll call it Kenney Shelton?

8 A. Okay. A Senior Trial Attorney Partner at Kenney Shelton.

9 Q. What type of law do you practice, Mr. Schule?

10 A. It's all civil litigation. My practice right now is about 99 percent
11 insurance defense litigation, but over the years, I do have experience with
12 the plaintiff practice as well.

13 Q. Plaintiff in terms of a personal injury civil?

14 A. Yes.

15 Q. What courts have you appeared in in New York?

16 A. I've actually, in preparing this morning, I took a look at a map. I've tried
17 cases, I think, in 13 or 14 counties in New York State. I've tried cases out
18 Buffalo, Syracuse, Rochester, Utica, Albany, New York. I've tried cases
19 in the United States Western District of New York Federal. And I've had
20 appellate experience. I'm not a paper lawyer, but I have had occasion to
21 go to the Fourth Department. And I've actually had an opportunity and a
22 privilege to argue at the Court of Appeals.

23 Q. The New York Court of Appeals?

24 A. Yes.

25 Q. Can you give any estimate as to the number of trials that you've started

(Nelson Schule - Direct)

1 and/or completed?

2 A. I believe that I have had at least 100 jury verdicts in my career.

3 Q. Mr. Schule, are you a member of any legal associations or groups?

4 A. Well, I am a past president of the Defense Trial Lawyers of Western New
5 York and have maintained an affiliation there. I am the current president
6 of the Western New York Trial Lawyers Association and my term has
7 been extended because of COVID. I'm trying to transition out, but I am
8 still there. I have been a member of a group called ABOTA, which is a
9 trial advocacy group. The dues were too expensive, so I let that go. And
10 over the years, I've served on the board of directors at the St. Thomas
11 More Guild.

12 Q. And ABOTA, you mentioned, that's the American Board of Trial
13 Advocates?

14 A. Yes, it is.

15 Q. And what is the St. Thomas Moore Guild?

16 A. It's a group of Catholic lawyers and it's a group that at least has a couple
17 of luncheons a year. The Board meets every month. They sponsor
18 scholarships for high school students. And it's Thomas Moore, a man for
19 all seasons. That's the group.

20 Q. And you mentioned that you're a member, but you've also been on the
21 board of that group?

22 A. Yes, I have.

23 Q. The Western New York Defense Lawyers Association, can you tell us
24 what that is?

25 A. That's a group of primarily -- it's insurance defense trial lawyers. It's a

(Nelson Schule - Direct)

1 group that gets together. It's a networking group. We get together.
2 When lawyers get together, they talk about judges and lawyers. It's an
3 active group. It's very social. And I think the most recent event that I
4 have attended would have been in December of 2021 when they redid
5 their holiday party.

6 Q. You also mentioned the Western New York Trial Lawyers Association,
7 that's a different group?

8 A. That is a separate group and that encompasses both the plaintiff bar and
9 the defense bar, and we facilitate continuing legal education. It's a great
10 networking organization for people going through the same life
11 experience. So it's an outstanding group, as you know.

12 Q. Mr. Schule, do you know Judge Mark Grisanti?

13 A. I know him on a professional basis.

14 Q. Okay. How long have you known him?

15 A. I've known him since, I believe, he took the bench in 2015.

16 Q. Are you social friends with Judge Grisanti?

17 A. I am not.

18 Q. What experiences have you had personally with Judge Grisanti?

19 A. I have had dozens of cases in front of Judge Grisanti since he took the
20 bench. From trials, motions, conferences, all aspects of civil litigation I
21 have conducted cases in front of Judge Grisanti since he took the bench.

22 Q. And you mentioned trials, have you had actual trials that started and or
23 completed in front of Judge Grisanti?

24 A. Yes, I have. I think I counted two that I can definitely think of as I sit
25 here today.

(Nelson Schule - Direct)

- 1 Q. Have you been at Kenney Shelton since 2015? I'm trying to --
- 2 A. I returned to Kenney Shelton in February of 2016. Prior to that, I worked
3 at Brown Chiari from 2012 to 2016.
- 4 Q. All right. So my question was going to be, in addition to your own
5 personal experiences of Judge Grisanti, have others at your firm, Kenney
6 Shelton, had experiences, trials, motions, conferences with Judge
7 Grisanti?
- 8 A. Multiple people on our trial team have had experiences with Judge
9 Grisanti. I speak with them every week. In fact, I know we'll get into
10 this a little bit more, but last Tuesday, I mentioned that I had been asked
11 to testify in this case and three people immediately raised their hands and
12 said, "I want to testify. I want to get over there." So they've all had
13 experiences in his part.
- 14 Q. And I think you answered this, but you've talked to those at your firm
15 who have had experiences with Judge Grisanti about their experiences?
- 16 A. We've talked about Judge Grisanti since the day he took the bench. So
17 we know him before, and we know him after.
- 18 Q. When you say you knew him before and you know him after, are you
19 talking about the incident in 2020?
- 20 A. I mean, I don't know what year -- the event that gives rise to this
21 proceeding.
- 22 Q. Okay. And we'll talk about that in a second.
- 23 A. Yeah.
- 24 Q. Apart from lawyers at your firm, have other lawyers that you know in the
25 community had experiences personally with Judge Grisanti that they've

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(Nelson Schule - Direct)

1 shared with you?

2 A. Many, many times in the professional organizations that I have been
3 involved with. You know, and every lawyer in this room knows that
4 when lawyers get together --

5 MR. DUGUAY: Objection.

6 A. -- they talk about --

7 MR. DUGUAY: Objection.

8 MR. DOYLE: (Unintelligible).

9 A. Yeah.

10 THE REFEREE: Sustained.

11 BY MR. DOYLE:

12 Q. In addition to other lawyers, have you talked with others, such as judges,
13 court personnel, and laypeople about Judge Grisanti?

14 A. I don't think I've spoken to other judges or the deputies. It's more of a --

15 MR. DUGUAY: Objection. Nonresponsive.

16 A. But other --

17 MR. DOYLE: Hold on.

18 THE REFEREE: Overruled. Proceed.

19 A. Deputies outside his part, of course, yes. And then, in my common
20 experiences with regular everyday people, I mentioned what I'm doing,
21 mention Judge Grisanti, and then professionally as well, probably most
22 important, I work primarily for insurance companies, and as the first start
23 and they want to know who's the judge? What's he like? What do you
24 do? So I am constantly --

25 MR. DUGUAY: Objection.

(Nelson Schule - Direct)

1 A. -- telling --

2 MR. DOYLE: Hold on. Hold on.

3 MR. DUGUAY: I'm objecting to where he is
4 going to testify about his personal opinion. I'm going to tell
5 them --

6 A. No, I'll --

7 THE REFEREE: You may proceed. I'm
8 overruling the objection.

9 A. On multiple occasions, I would talk to businesspeople that I deal with on
10 a daily basis about Judge Grisanti, and we do it about all the judges we're
11 assigned to.

12 BY MR. DOYLE:

13 Q. And as a result of the conversations that you just mentioned, that you've
14 had with others about Judge Grisanti, have you become aware of any
15 reputation that Judge Grisanti has in the community?

16 A. Yes, I have.

17 Q. What is his reputation?

18 A. He --

19 MR. DUGUAY: Objection. Form of the
20 question.

21 THE REFEREE: Define community -- sustain
22 to the form. Define community.

23 MR. DOYLE: Okay.

24 BY MR. DOYLE:

25 Q. Have you become aware of any reputation that Judge Grisanti has in the

(Nelson Schule - Direct)

1 legal community of Western New York?

2 A. Yes, I have.

3 Q. What is that reputation?

4 A. He has the highest, best reputation in our legal community of all the
5 judges we deal with.

6 Q. And this may sound repetitive, but how are you aware that he has that
7 reputation?

8 A. It is -- I guess you would define it as temperament, okay? His ability to
9 talk with regular people, with medical professionals --

10 MR. DUGUAY: I'm just going to object to sort
11 of the basis. I don't -- there's a foundation made for what
12 Mr. Schule's testifying about.

13 THE REFEREE: I'll overrule. I think he's
14 established a foundation for character. His opinion.

15 MR. DOYLE: Thank you.

16 A. The reputation is that he could talk to anybody, the most brilliant
17 neurosurgeon, the layman on the jury. He is incredibly, and this is by
18 reputation, courteous. He treats everybody with a fair shake. He is -- I
19 think he knows what it's like to be a lawyer. So he doesn't embarrass the
20 lawyers ever. He knows the law. He is always prepared, and he is
21 always on time and in the community, that is well known. And the
22 people that I have spoken to in the legal community feel that it would be
23 an incredible loss to our legal community --

24 MR. DUGUAY: Objection. Objection.

25 A. -- if something happened to Judge Grisanti.

(Nelson Schule - Direct)

1 THE REFEREE: I'll sustain to that portion.

2 MR. DUGUAY: Can I -- if I can just ask Mr.
3 Easton to have Mr. Schule stop testifying after you -- there's
4 been an objection. It's happened three times, so I'd ask that
5 he refrain from --

6 THE WITNESS: I'm sorry, counsel, I'm usually
7 on the other side of the bench.

8 MR. DUGUAY: It's a little different. Thank
9 you.

10 THE REFEREE: Yeah, just you --

11 THE WITNESS: I get it. I get it.

12 THE REFEREE: You get it. All right.

13 THE WITNESS: I get it, Judge. Thank you.

14 BY MR. DOYLE:

15 Q. You mentioned that Judge Grisanti, from your conversations that you've
16 had with people in the western New York legal community has a good
17 reputation in terms of his temperament. Could you explain that a little bit
18 more?

19 A. Okay. The way I would define that is that he is always calm and cool,
20 and he never flies off the handle, and he treats people with courtesy.
21 That's how I would define that.

22 Q. Okay. Now, you've told us that you've had personal experiences yourself
23 with Judge Grisanti, dozens of cases, and motions, and trials, and things
24 that you mentioned, correct?

25 A. Yes, I have.

(Nelson Schule - Direct)

1 Q. As a result of that, have you yourself come to an opinion about Judge
2 Grisanti's temperament?

3 A. Yes, I have.

4 MR. DUGUAY: Objection. Objection. It's
5 outside the scope of reputational evidence. It's a personal
6 opinion. He can't express his personal opinion.

7 MR. DOYLE: Your Honor, I'd like to --

8 THE REFEREE: Sure.

9 MR. DOYLE: -- address that. This is not a
10 criminal case where the only issue before you is guilt or
11 innocence. This is a disciplinary case where there's a
12 number of issues that are before you and the Commission,
13 not just fact finding, but also potential discipline, and
14 mitigation. One of the factors of mitigation is the character
15 of and past work, and habits, and the experiences of
16 lawyers who've been in front of Judge Grisanti. So I think
17 more so than in a criminal case, which is where most of the
18 case law comes from, we should be entitled not only to get
19 into reputational evidence, but the witness' own personal
20 experience in front of the judge to the extent that the
21 Commission may consider it or not consider it towards
22 issues of, again, discipline mitigation. So we offered --
23 with that, you know, with those purposes in mind,

24 THE REFEREE: How many tried jury trials in
25 front of Judge Grisanti -- or presided by Judge Grisanti?

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THE WITNESS: Two.

THE REFEREE: Okay. I'm going to allow the evidence.

MR. DUGUAY: If I could just be heard?

THE REFEREE: I'll hear it, yes.

MR. DUGUAY: (Unintelligible). Number 1, the law does apply. It doesn't matter that this is not a criminal trial, okay? He's here for reputational evidence, number 1. Bringing up collateral instances of personal -- we're going to get into -- we would call rebuttal witnesses then -- if everything he testifies about? I mean, this is collateral. He's testified to the background in the community, which is fine, but now can't be allowed to get into personal instances and specific instances of his experience.

THE REFEREE: But I do think that in a criminal trial, the character traits at issue are integrity, honesty, and whatever the criminal trial may involve. An assault trial, peace ableness, and I think that because this involves the upholding of judicial standards and principles and the rules, he has personal experience, so I'm going to allow that in for that purpose.

MR. DOYLE: Sure. And that was my question was specifically as to temperament, which is one of the elements of the very charges here. So let me rephrase the

(Nelson Schule - Direct)

1 question, Mr. Schule.

2 BY MR. DOYLE:

3 Q. In addition to what you've already told us about in terms of reputation,
4 have you as a result of your experiences formed an opinion as to Judge
5 Grisanti in terms of his temperament as a judge?

6 A. Yes.

7 Q. What is your personal opinion about his temperament as a judge based on
8 your experiences?

9 A. Well, temperament is -- I'm going to define it as a few things. I mean, he
10 has always been balanced with me. He's been very fair. He doesn't rule
11 in my favor very often, but I don't hold that against. He knows the law.
12 He is prepared beyond preparation. And I've had many motions,
13 summary judgment, labor law, motor, whatever premises in his part. He
14 is always on time. He is fair to the attorneys and the people that come in
15 his room, and in terms of temperament, I think that he is at the very
16 highest of our profession in this jurisdiction.

17 Q. And Mr. Schule, in addition to what you told us about his reputation, do
18 you personally as a result of your experiences have an opinion as to Judge
19 Grisanti's integrity as a judge?

20 A. Yes, I do.

21 Q. And what is your opinion?

22 A. He has the very highest integrity in our jurisdiction in my opinion.

23 Q. Mr. Schule, are you aware of an incident involving Judge Grisanti and
24 some neighbors of his and a subsequent interaction with the police?

25 A. Yes, I am.

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(Nelson Schule - Direct)

1 Q. All right. And we've already heard evidence that that occurred in June of
2 2020. How did you hear about that?

3 A. On the news.

4 Q. Okay. And did you see some video that was on the news as well?

5 A. I watched a portion of the clip.

6 Q. Okay. The conversations that you told us about that formed the basis of
7 what you told us as Judge Grisanti's reputation, were those conversations
8 all before that incident, or after that incident, or both before and after?

9 A. Those conversations came up before and they came up after. And there is
10 no change in that reputation or opinion --

11 MR. DUGUAY: Objection.

12 A. -- in this jurisdiction.

13 MR. DUGUAY: Just beyond the scope of the
14 question.

15 THE REFEREE: I'll overrule it.

16 MR. DOYLE: Okay. Just one minute. That's
17 all I have. Thank you, Mr. Schule.

18 THE WITNESS: Okay.

19 THE REFEREE: Cross examination?

20 MR. DUGUAY: Yeah, thank you.

21 CROSS EXAMINATION

22 BY MR. DUGUAY:

23 Q. Good afternoon, Mr. Schule.

24 A. Good afternoon, sir.

25 Q. Am I pronouncing that name correctly, by the way?

(Nelson Schule - Cross)

1 A. Yes, you are.

2 Q. Great. Mr. Schule, you are Kenney Shelton Liptak Nowak, LLP, correct?

3 A. Yes, I am.

4 Q. You're a partner, correct?

5 A. Yes, I am.

6 Q. Is it true that, as we sit here today, that your firm has at least four pending
7 matters under Judge Grisanti, correct?

8 A. I have --

9 Q. Your firm. I'm asking about your firm.

10 A. I can only -- I can't -- I don't know for certain. I know that I have at least
11 one, maybe two.

12 Q. Again, I'm going to ask you about your firm not yours.

13 THE REFEREE: Listen to the question. It's
14 cross examination. Just answer the question.

15 BY MR. DUGUAY:

16 Q. But your --

17 A. I do not know the total number --

18 Q. Okay. But you know that there are several cases at least, pending before
19 Judge Grisanti, as you testify here today, correct?

20 A. Yes, I am aware.

21 Q. And you personally have five cases pending before Judge Grisanti as we
22 sit here today, don't you?

23 A. I was not aware of that number. I can think of two as I sit here.

24 Q. Anthony Grisati -- or Rosati, R-O-S-A-T-I, that's you?

25 A. Yes, it is.

(Nelson Schule - Cross)

1 Q. Robert Viniar, V-I-N-I-A-R, you also?

2 A. Yes, it is.

3 Q. Marx-Blake, Calypso G L, if I'm getting that -- there's a series of people.

4 That's you?

5 A. That's my case. I didn't know it was with Judge Grisanti.

6 Q. And how about Douglas Adamczak? That's your case.

7 A. I don't know if that's a pending case or not, but that is my case as well.

8 Yes, it is.

9 Q. All right. But it's open right now, right?

10 A. As I sit here without my computer in front of me, I probably have about

11 150 active litigation files right now.

12 Q. John Vasilou ring a bell?

13 A. Yes, it does.

14 Q. That's also your case pending in front of Judge Grisanti --

15 A. I was --

16 Q. -- as you testify today, correct?

17 A. I was not aware of that.

18 Q. All right.

19 MR. DUGUAY: I have no further questions.

20 REDIRECT EXAMINATION

21 BY MR. DOYLE:

22 Q. Mr. Schule, did I advise you that as a result of coming to testify here that

23 Judge Grisanti would have to recuse himself from all of your cases?

24 A. You did not.

25 Q. Okay.

(Nelson Schule - Redirect)

1 MR. DOYLE: Nothing further.

2 MR. DUGUAY: Nothing.

3 THE REFEREE: You may leave, if you can
4 figure out that door.

5 THE WITNESS: Thank you, judge. If I can
6 hop -- I'm going to have to hop over.

7 THE REFEREE: If you hit -- nice to meet you.
8 Thank you.

9 (Recess from 12:06 p.m. to 12:21 p.m.)

10 MS. TRAPANI: We're on the record.

11 THE REFEREE: Mr. Elmore, it's a little
12 redundant, but I'll give you the same introduction I give all
13 witnesses. I'm William Easton. I'm an attorney in
14 Rochester. I'm appointed by the Commission to sit as
15 Referee here and issue a finding of proposed -- findings of
16 fact and law. Two things before we start. The first is
17 routine, I like to administer the oath.

18 So then you swear -- do you swear or affirm
19 under penalties of perjury to give the truth, the whole truth,
20 and nothing but the truth in your testimony?

21 MR. ELMORE: I'll swear.

22 THE REFEREE: And the second thing is a
23 little -- is a little trickier. Is there's a mic in front of you. It
24 doesn't -- it's a recording device.

25 THE WITNESS: Understood.

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1 THE REFEREE: But it does not project your
2 voice at all.

3 THE WITNESS: Okay. So I'll speak -- I'll
4 speak loud.

5 THE REFEREE: You got it.

6 THE WITNESS: All right. Thank you very
7 much.

8 THE REFEREE: You may proceed.

9
10 JOHN V. ELMORE,
11 having been duly sworn, was examined and testified as follows:

12
13 DIRECT EXAMINATION

14 BY MR. CONNORS:

15 Q. Mr. Elmore, are you an attorney admitted to practice in the State of New
16 York?

17 A. Yes, I am.

18 Q. When were you admitted to practice?

19 A. February of 1985.

20 Q. I want to ask you a little bit of -- about your educational background.
21 High school?

22 A. Olean High School, Class of 1975.

23 Q. Incidentally, when you were in high school, you had some academic and
24 athletic achievements?

25 A. Yes. I was captain of the track team, captain of the basketball team. I

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1 was the first athlete ever inducted into the Olean High School Wall of
2 Fame, and I'm also a member of the Olean High School Academic Wall
3 of Fame. I was the fastest quarter miler in Western New York out of 80
4 public high schools.

5 Q. Did that help you get into the college of your choice?

6 A. I was recruited by several major colleges. My track coach told me,
7 "Well, you're good, but you're not good enough to be Division One, even
8 though they're recruiting you." So I ended up going to Mansfield State
9 College in Pennsylvania, where I was captain of the track team there.

10 Q. How long did you -- when did you graduate from Mansfield?

11 A. 1979.

12 Q. What did you do upon graduation from college?

13 A. Well, I always wanted to be a lawyer, but I didn't have any lawyers in my
14 family. So I took the New York State Police Exam. That was my
15 intention for my gap year. And I think out of 18,000 people, I scored in
16 the top 200, and I was a member of -- I went to State Police Academy. I
17 was a New York State Trooper for three years before entering law school.

18 Q. What did you do when you were a New York State Trooper?

19 A. Everything. I was the first African American State Trooper ever assigned
20 to Onondaga County, in Syracuse. And I spent time in Baldwinsville,
21 Syracuse, and Sylvan Beach. I did road patrol. I made arrests for
22 anything from DWIs to double homicide, investigated burglaries. And
23 then when I received a scholarship to Syracuse University of Law School,
24 I resigned to attend law school first time, and that was in my plans.

25 Q. So did that stint with the State Troopers reinforce your desire to become a

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1 lawyer?

2 A. It did. Again, I had no lawyers in my family. The only lawyers I ever
3 met growing up were lawyers I caddied for at the Bartlett Country Club.
4 So when I started going to court and testifying, I started realizing that
5 these guys aren't -- they're not much sharper than me, and I felt like I had
6 what it takes.

7 Q. Why did you choose Syracuse Law School?

8 A. A scholarship. I was accepted at several law schools, including Cornell
9 University, University of Buffalo, and others, but I received a very nice
10 scholarship to attend Syracuse University.

11 Q. What year did you graduate from Syracuse?

12 A. 1984.

13 Q. And did you then become admitted to the practice as an attorney in the
14 State of New York?

15 A. Yes. I was sworn in the Fourth Department in February of 1985. I
16 passed the bar on the first try.

17 Q. I want to find out a little bit about your employment history. Will you
18 tell me where you started and what you were doing?

19 A. I was fortunate enough to get hired, I believe, by the best prosecutors
20 office in the United States. I was an Assistant District Attorney in
21 Manhattan. I stayed there for my commitment of three years. And then I
22 wanted to come back to Western New York --

23 Q. Let me hold you up for a moment there --

24 A. -- sure.

25 Q. -- to ask you a little about your experience with the Morganthau Office in

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1 New York City. What type of work did you when you were with the
2 DA's Office in New York?

3 A. I was, the first year, in the misdemeanor trial unit. And then my second
4 and third year, while I was in Trial Bureau 60, we had a vertical
5 prosecution system where every assistant would be on intake for one
6 eight-hour period. It was called ECAB. There was a complaint room that
7 was open for 24 hours, so when the police officers made an arrest, if it
8 was a felony arrest, for the last two years, and during that eight-hour
9 shift, I would write up the felony, present it to the Grand Jury, and take it
10 all the way through trial.

11 Q. Did you have some partners in the DA's Office, as assistants, who later
12 went on to become notable figures in their career?

13 A. Well, actually, my office mate was Dan Rather Jr. I met Governor
14 Cuomo; he was in my class. We ended up playing basketball together.
15 Governor Eliot Spitzer was there. Cyrus Vance, who was the last District
16 Attorney, in there was also -- there at the same time, and I knew him as
17 well.

18 Q. Why did you leave in 1987?

19 A. Because I grew up in a little small town, Olean, New York. I had a
20 family. I wanted a back yard. I wanted to be able to have a garage, I
21 wanted a short commute to work. And quite frankly, living in New York
22 City on \$32,000 a year was very tough. So when I came back to Buffalo,
23 you know, it was like, I can live a middle-class life.

24 Q. Where did you practice when you came back to Buffalo in 1987?

25 A. I was hired by, then, New York State Attorney General, Robert Abrams,

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1 where I was an Assistant New York State Attorney General. I was
2 assigned to the Environmental Crimes Bureau. Environmental crimes
3 were a really big thing back in the 80s because of Love Canal. And
4 myself and, now, Judge Sheila DiTullio were the two lawyers in the
5 Environmental Crimes Unit. We investigated corporations for the legal
6 storage, and hazard -- and disposal of hazardous waste.

7 Q. How long did you stay with the New York Attorney General's Office?

8 A. I stayed there for approximately two and a half years.

9 Q. And what did you do with your next move from an employment
10 standpoint?

11 A. From then on I went to private practice. I was with a small firm at the
12 time, Morris, Cantor and Barnes, where I did criminal defense work
13 almost exclusively. Then I separated more to be on my own for a number
14 of years. I was partners with Debra Givens who left to become a Buffalo
15 City Court Judge. I was partners with Craig Hannah, who left to become
16 a Buffalo City Court Judge, who rose to become Chief of The Buffalo
17 City Court, and now I believe he was -- he's going to be soon appointed
18 to be a Supreme Court Judge here. I spent a brief period of time at a law
19 firm called Harter & Secrest, where I did employment discrimination and
20 some criminal defense there, which was white collar. And two years at a
21 law firm called Brown Chiari, where I transitioned to become a plaintiff's
22 personal injury lawyer. From 2014 to the present, I've exclusively done
23 personal injury work. I have a partner now, I'm proud to say, is my
24 youngest daughter, and we're located at Main and Hertel.

25 Q. Now, you told us that you did some work in the field of criminal defense,

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1 as well as personal injury. Did you become what's known as a death
2 qualified defense lawyer?

3 A. Yes. I was asked by some of the judges to apply to be a death qualified
4 lawyer when New York State had the death penalty under Governor
5 Pataki, and I went through training. Part of the training I went through
6 was through Hearing Officer Bill Easton, who was in charge of the
7 Defender's Office. But I -- and then I was -- there's only one trial in
8 Western New York, a death penalty trial. Jim Harrington was the lead
9 attorney. I was second chair. And we were able -- successful in getting a
10 life without parole sentence to Jonathon Parker, who shot and killed a
11 police officer and injured another one. And that was -- I think there were
12 only five death penalty cases that went to trial in the State of New York,
13 and that was the first one ever, and only one ever, in Western New York.

14 Q. And presently, you're in private practice with your daughter?

15 A. Yes.

16 Q. What type of practice is your current practice?

17 A. We have a boutique personal injury practice. We, to our knowledge, are
18 the only multi-generational African American owned law firm in the
19 State of New York.

20 Q. In addition to working in the private practice and for some public entities,
21 have you also become a member of any bar associations or legal groups?

22 A. Yes, I'm a former president of the Minority Bar Association of Western
23 New York, I'm a former board member and Treasurer of the Erie County
24 Bar Association, I'm a member of New York State Trial Lawyers
25 Association, Trial Lawyers' Academy, and a former member of National

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1 Association of Criminal Defense Lawyers, and the New York State
2 Defenders Association, and the New York State Association of Criminal
3 Defense Lawyers.

4 Q. Have you also had some experience in connection with the evaluations of
5 grievances that were potentially filed against attorneys in the 8th Judicial
6 District?

7 A. I have. I have served as Chairperson of the Fourth Department Attorney
8 Grievance Committee. I was -- I think Judge Pigott was the first one to
9 give me the appointment. And then I followed up -- I did a seven-year
10 term, first as a member, and then four years as Chairperson.

11 Q. What did you actually do as a member and as Chair of the Attorney
12 Grievance Committee for the 8th Judicial District?

13 A. Mr. Connors, it was a lot of work. Every complaint in the 8th Judicial
14 District of attorney misconduct -- this was volunteered, no pay for me --
15 but I would have to meet with the committee staff, review every single
16 complaint, and then make a determination, initially, where that file went.
17 Some I would direct the staff to do more investigation. Others I felt
18 would be unfounded, and we would send the person a complaint, that this
19 really didn't measure up to a violation of the code of ethics. Other were
20 referred to the Committee. And when there was a committee, I would
21 serve almost -- I would lead the meeting. Attorneys would present their
22 cases, and then we would charge the lawyers as to what the law was, and
23 then there would be a vote. The case would either be referred to the
24 Appellate Division for further prosecution, or it could have been resolved
25 at our level with a letter of caution. It would depend on what the

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1 Committee voted.

2 Q. During your tenure with the Attorney Grievance Committee for the 8th
3 Judicial District, did you have occasion to familiarize yourself with the
4 criteria to evaluate lawyers and their fitness to practice in the state?

5 A. I did.

6 Q. Did you also have occasion to familiarize yourself with what sanctions
7 might be appropriate given the fact that a certain attorney may have
8 violated the Rules of Professional Conduct?

9 A. I did. That was the primary focus. Yes.

10 Q. Have you served on any selection committees for any Federal Court
11 positions?

12 A. I have, several times. I've been appointed by Judge Acara, the current --
13 currently I'm on the Magistrate Selection Committee, reviewing Judge
14 McCarthy. I think I've probably been on maybe four or five Magistrate
15 Selection Committees as a member. Not as a chair, but as a member.

16 Q. Now, you've told us a little bit about your experience as a lawyer, and
17 about your employment as a lawyer. I want to, at the risk of
18 embarrassing you a little bit, ask you about some honors and awards
19 you've received over the course of your career.

20 A. Certainly.

21 Q. Erie County Lawyer of the Year?

22 A. In 2020, yes, sir.

23 Q. What was that for?

24 A. You know, I don't know. Somebody nominated me. But I do a lot of
25 volunteer work. I've, you know, served on bar committees. I've been a

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1 lecturer at continuing legal education seminars. I've served on a board of
2 trustees at Erie Community College by appointment of Governor Cuomo.
3 I guess, I'm the type of lawyer that believes that we are part of a
4 profession, and we have a strong obligation to society to make sure that
5 our legal system is -- that it works, that there are competent lawyers, that
6 there are competent judges, that the poor have access to the legal system.
7 And so if I get asked to volunteer on a committee, you know, I'll do so.
8 I've served on the Judicial Redress Committee of the NAACP. You
9 know, I speak to youth when I can. I was -- I guess maybe some people
10 just took notice of it, and one day I received a call from the Bar President,
11 acknowledging me that I was going to be a recipient of the award.

12 Q. Outside of the profession, have you also been awarded Citizen of the
13 Year by the Buffalo News?

14 A. 1994, yes, sir.

15 Q. What was that for?

16 A. You know, 1994 was a terrible year in Buffalo. That was the most
17 number of homicides I think we ever had. I think there were like over 90
18 homicides here, and a group of African American lawyers, we wanted to
19 do something about it. So we started Buffalo's first midnight basketball
20 league. It was called the African American Lawyers League. We all
21 contributed \$600, each one of us coached the team. We brought in
22 mentors and speakers every Friday night. We went from 6:00 to
23 midnight, and -- you know, with the goal of giving these kids an
24 alternative and a safe place to be on Friday nights. And I think that the
25 Buffalo News took notice of that.

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1 Plus I was the author of a book. It was called "Fighting for Your Life, the
2 African American Criminal Justice Survival Guide." That was -- sold
3 over 20,000 copies. It was the nation's first book designed for the
4 African American community telling them the pitfalls of the criminal
5 justice system, how to avoid it, how to hire a lawyer, plea bargaining, and
6 things of that nature. And I think that may have contributed. I'm not
7 sure. But you know, they tell you that they're going to award you
8 something, and you just accept it. You don't ask "How did I get this?"

9 Q. You've told us about your activity in connection with the Minority Bar
10 for our community. Have you also received community service awards
11 from the Minority Bar Association?

12 A. I have.

13 Q. What type of an award?

14 A. It's probably just for some of the things that I describe in my activities in
15 the Bar and the community.

16 Q. So Ebony Magazine and Parents Magazine have provided you with
17 awards on the basis of your Good Neighborhood Service and your
18 Phenomenal Parenting; do you recall those?

19 A. Yeah. I think the Good Neighbor Award was for -- it was a magazine.
20 They took notice of the basketball league that we started. And Ebony
21 Magazine, I was doing a national book tour speaking, and I spoke at a
22 place, at the McCoy Center in -- and it was in Chicago. I think there
23 were probably over 100,000 people that attended that event. But I was --
24 I was in a -- I was one of the guest speakers there. I was a paid speaker.
25 It was really -- it was, like, awesome. I mean, Diahann Carroll was there,

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1 and Vivica Fox, and folks like that. And the editors of Ebony Magazine
2 heard me speak, and then one day I received a call. They said that I
3 would -- that I was going to receive a Father of the Year Award, and they
4 were going to fly a photographer up. I guess a lot of it had to do with the
5 fact that I wrote the book, but also -- then, I was a widower raising three
6 children of my own who became very successful. One is a medical
7 doctor, one is my law partner, and the other is a commercial airline pilot.

8 Q. The last one is? The last --

9 A. A commercial airline pilot. Yes.

10 Q. You were awarded a very significant award for the NAACP; were you
11 not?

12 A. Medgar Evers Civil Rights Award, yes.

13 Q. Is that the highest award at the NAACP?

14 A. Yes.

15 Q. What was that for?

16 A. You know, probably for years of serving as a Board Member, and Chair
17 of their legal trust committee. But the year that I did receive it was right
18 around the time that I was doing death penalty work. I was doing a lot of
19 speaking engagements in the community about the death penalty, and I
20 think that got -- that got people's attention, because the NAACP had for
21 years, and years, and years, fought against the death penalty.

22 Q. Our local business publication in Western New York, called Business
23 First, awarded you 40 Under 40 recognition, a number of years ago, but
24 nevertheless was a significant award.

25 A. I'm 65, so I guess maybe I was recognized as an up-and-coming lawyer,

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1 like yourself.

2 Q. And we talked about Olean -- in Mansfield University, actually, you
3 were -- received the Distinguished Alumni Award from that school,
4 correct?

5 A. I did.

6 Q. When was that, John?

7 A. Wow. I think I -- it might have been around the time I was an Assistant
8 District Attorney in Manhattan. Very few -- Mansfield is a type of state
9 school where first-generation college students go to, you know. People
10 from the inner city, Philadelphia, Pittsburg, or rural Pennsylvania. For
11 them to have one of their graduates become an Assistant DA was - they
12 had a lot of pride in that and the fact that I was in Manhattan.

13 Q. Now, you told us about your role on the Attorney Grievance Committee.
14 But I want to ask you about a role that you played in connection with
15 Statewide New York Judicial Screening; do you recall that appointment?

16 A. Yeah. Probably about 10 years ago, I received a call from Governor
17 Cuomo's office asking me if I would be on Governor Cuomo's Judicial
18 Screening Committee. I started out as a member of the Fourth
19 Department Judicial Screening Committee. At one time, I became
20 Assistant Chairperson, and then Chairperson. And as Chairperson, I also
21 served on the Statewide Judicial Screening Committee.

22 Q. In fact, is it true you actually did the screening of Mark Grisanti with
23 respect to his appointment to the Court of Claims?

24 A. I did.

25 Q. What did that consist of?

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1 A. Well, Judge Grisanti submitted an application to be appointed to the
2 Court of Claims, and I had to take his application, review it, interview
3 every single one of his references, and then do an off investigation as
4 well, which included interviewing lawyers that I felt would know him,
5 judges that he appeared in front of, of him. At the time, he was a State
6 Senator. He had a small practice, and then when he lost his election, he
7 was practicing law as well. So I interviewed, in his application, every
8 lawyer that he had any interaction with, any judge that he was in front of,
9 and people that I knew in the community that I felt would know a lot
10 about him. So I probably interviewed between 30 and 40 people.

11 Q. Now you used the term "off investigation" -- and I assume you mean off
12 the application?

13 A. Yeah. It's people that are not on the application. When somebody
14 submits an application, typically you're going to find people that they
15 think are going to say good things about them. So we look to also find
16 the people that he's not going to -- the candidate doesn't necessarily think
17 we're going to interview to see if there's anything that can be exposed.

18 Q. So would you interview opponents in litigation?

19 A. Yes.

20 Q. Would you interview people from different political parties?

21 A. Yes.

22 Q. And when it's the off the application, and the on the application
23 committed for your Screening Committee, do you then report to the entire
24 Committee?

25 A. I had to give a verbal report. I had to fly to New York City, catch a

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1 JetBlue at 5:45 in the morning, catch a train to the subway in Jamaica, all
2 the way to mid-town Buffalo -- I mean mid-town New York City, and we
3 interviewed him as well as probably seven or eight other candidates for
4 the Court of Claims across the state. There was a panel of somewhere
5 between eight to ten lawyers that thoroughly questioned him. I had to
6 give a report before he came in. And then when he came in, I had to
7 question him in front of the panel. And then the panel had questions, and
8 then after that, there was a vote as to whether or not the Committee felt
9 that he was highly qualified to be appointed to the New York State Court
10 of Claims.

11 Q. So there -- are there actually several ratings that you can apply after you
12 complete this comprehensive evaluation?

13 A. Yeah. Either how he qualified or not.

14 Q. And what was the final decision of the entire Committee with respect to
15 Mark Grisanti?

16 A. We thought he'd be highly qualified.

17 Q. Now, you've also participated in the Fourth Department Screening
18 Committee?

19 A. Yes.

20 Q. What's the difference between that and the statewide committee?

21 A. Well, the Fourth Department, any time there's an appointment to the
22 Appellate Division, or reappointment to the Appellate Division, the
23 Committee does the same process that I described with Mark Grisanti
24 earlier. And then -- and then we make a recommendation to the judge
25 whether that Appellate Division candidate, or somebody reapplying to be

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1 recertified, is highly qualified. And also, if there are other vacancies in
2 the Fourth Department where the Governor could make an appointment,
3 would be at Supreme Court, Family Court, or County Court. Under the
4 Cuomo administration, pretty much, he limited us to the Appellate
5 Division. But under the Hochul administration, she is having us
6 interview candidates for other -- other positions.

7 Q. Have you served as the Chair of that Committee?

8 A. I am -- I am the current Chair, and I've served as Chair for a long period
9 of time.

10 Q. In connection with your role evaluating judicial candidates both from the
11 statewide perspective and a local Fourth Department perspective, have
12 you gained familiarity with the standards required of a judge in the State
13 of New York to be fit to -- to be fit to serve on the bench?

14 A. Oh. Absolutely.

15 Q. When you're assessing the qualifications for a judge, for either the
16 statewide committees or the Fourth Department, do you look to see, in
17 your determining their rating -- do you look to see things such as
18 intellect, temperament, judgment, work habits?

19 A. Yes.

20 Q. How do you go about assessing those particular characteristics of a
21 judge?

22 A. Well, the interview means a lot. Their writing samples mean a lot. The
23 interview that we conduct about people that are familiar with their
24 representation all mean a lot and it all factors in together. And there's a
25 collective of highly qualified seasoned lawyers that take part in that

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1 evaluation process. It's not just me, but there are other lawyers
2 throughout the Fourth Department, on the Fourth Department Judicial
3 Screening Committee, from Onondaga, Monroe County, Buffalo, and you
4 know -- and in the statewide committee, you know, a lot of down state
5 lawyers.

6 Q. Was that the process you followed in connection with the evaluation of
7 Judge Grisanti in 2014, was it?

8 A. Yes.

9 Q. Do you know Judge Grisanti?

10 A. I've known him probably since the first day he walked in Buffalo City
11 Court.

12 Q. Approximately when was that?

13 A. 1994.

14 Q. How did you meet?

15 A. I knew his father. His father was a graduate of St. Bonaventure, New
16 York -- St. Bonaventure University, which is where my hometown is.
17 And so I knew his father from City Court, from Night Court, and I recall
18 that his father introduced him to me as his -- as his son.

19 Q. Are you social friends with Judge Grisanti?

20 A. You know, I've never socialized with him. But if I see him, which is rare,
21 at a -- at an event, we'd certainly talk. But I've never socialized with him.
22 I mean, I've never had lunch with him, or dinner with him, or anything
23 like that.

24 Q. Have you appeared before him in his capacity as an acting Supreme
25 Court Justice?

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1 A. Often, very often.

2 Q. Tell me the types of matters you would have appeared before Judge
3 Grisanti to resolve?

4 A. I think every case that I've appeared in front of him has been an
5 automobile accident case where I represented a victim, and as a plaintiff.

6 Q. What has been your experience with him as a judge on the cases that you
7 have handled?

8 A. Well, I -- as a judge -- okay, I can tell you this, that for me, as a minority
9 attorney, I'm really concerned about the integrity of the judiciary in that
10 we have good, qualified judges that are fair. And as a judge, I would
11 rank Judge Grisanti as one of the hardest working, as one of the most
12 competent judges that knows how to move a calendar. He probably has
13 the most settlements of any judge in this area.

14 You know, because of COVID, the court system is just overflowing with
15 cases. And so when you represent somebody that has an accident, and
16 they're worried about getting their house foreclosed, or their car
17 repossessed, you want a judge that is going to move the cases along. And
18 so what I -- when I say that he's hard working, he works hard at
19 settlements. He works hard to get lawyers to compromise, to move the
20 cases along.

21 It's -- it might be very -- it's very uncommon -- no, it's very common I
22 could be on my way to work at 8:30. My cellphone rings, he says, "Hey
23 John, this is Mark. How are you on such-and-such a case? Where are
24 you with settlement? I'm getting ready to call Martha. Okay. I'll call
25 you back at ten o'clock after I talk to Martha." And he moves -- he

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1 moves case along, because he actively tries to promote settlements. And
2 I think that most plaintiff's lawyers all really appreciate that.
3 When cases don't settle in his courtroom, and then they go to ADR,
4 where there's a court assigned lawyer to try to resolve the case, he'll -- it
5 might be a month and nobody's reported back to him, all of a sudden,
6 8:30 in the morning, "Hey John, this is Mark. How are things going in
7 ADR? Do I need to call the ADR court lawyer, you know, to try to get
8 things moving?"
9 And then, when it comes to scheduling, I found him to be very -- very
10 sympathetic if you have a problem. It's like -- like, I had a recent case
11 that was problematic, where one person -- a person had two accidents. In
12 one accident --

13 MR. DUGUAY: I'm going to object at this
14 point. Not really responsive, and now he's offering --

15 THE WITNESS: Oh. That's fine.

16 MR. CONNORS: It's his personal experience.

17 THE REFEREE: And it's a Judge Grisanti case?

18 THE WITNESS: Yeah. It was one that he
19 handled. That was the basis of my opinion.

20 THE REFEREE: Overruled.

21 A. So it -- I mean, it was a case where it was complicated. My client had
22 two accidents. I filed one lawsuit involving two accidents. And then in
23 the first accident, the person died, so there was a whole bunch of service
24 issues. In the second accident, one of the insurance companies was
25 denying coverage because the car was stolen and the person that was

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1 driving the car was in jail, and that created some service problems, some
2 coverage issues, and everything like that.

3 And so cases like that can just, kind of like, be -- nothing's moving, the
4 lawyers aren't together. But he would get everybody on the phone, and
5 say, "Okay. We've got to get things resolved," you know -- you know,
6 "can insurance company -- can you accept service on this one?" You
7 know, "Okay. We've got to make --" you know, "-- I'll sign an order so
8 that you can do service by publication," and thinks like that, to just help
9 things move along. Because insurance company lawyers, to them
10 sometimes delay is good. When you're a plaintiff's lawyer and you
11 represent a victim, and you want to make sure that they get justice -- and
12 you just want -- you just want -- they just want their day in court.
13 And most cases should settle. They'll settle once depositions are
14 complete, once there's an independent medical exam, and you file a
15 notice or issue for trial, they'll settle. So if you have a judge that can
16 move things along and clear the calendar, that's a good thing. And I think
17 that's why a lot of layers like him. I mean, you know, I don't know him
18 to hang out with. I can just tell you, you know, my experience in front of
19 him, and my experience investigating, and what my opinion is of him.

20 BY MR. CONNORS:

21 Q. I want to ask you just a few opinions about -- your personal opinions
22 about some characteristics of Judge Grisanti that are the subject of this
23 particular proceeding. Mr. Elmore, based on your more than 40 years as
24 a practicing attorney, your involvement in judicial screening committees,
25 both at the state level and local level, and the organizations, legal

784.



(John V. Elmore - Direct)

1 organizations, that you've described; do you have an opinion with respect
2 to Judge Grisanti's judicial temperament?

3 MR. DUGUAY: I'm going to object, just again,
4 as I have been, to personal opinions.

5 THE REFEREE: Yeah. I'm going to -- I'm
6 going to allow it.

7 A. I rate -- I rate it as the highest.

8 BY MR. CONNORS:

9 Q. Why do you do that?

10 A. Well, when I'm in front of him, he's calm. He brings parties together. I
11 never see him treat a lawyer in a very unkind way. When you have -- I
12 mean, some judges, it might go to their head and they think that they're
13 above everybody else, but you know -- I mean, he's like, if you're in a
14 formal setting in the courtroom, you have to call him Your Honor, but if
15 he calls you on the phone, you know -- you know, "Call me Mark," you
16 know? And he's like that with everybody. And so lawyers are very
17 comfortable with him, the way that he keeps people calm, that he can take
18 people who have opposing positions, and come to a compromise. I mean,
19 I've never had a trial in front of him, but I think when most lawyers can
20 get a settlement, then everybody can walk out of the courtroom happy.

21 Q. Using the same criteria that we discussed earlier, do you have an opinion
22 with respect to Judge Grisanti's integrity and independence?

23 A. Oh. I know he's very independent. And to my knowledge and in my
24 experience with him, he's honest. And when I talk about independence, if
25 I may? If it's responsive?

785.



(John V. Elmore - Direct)

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THE REFEREE: Sure.

THE WITNESS: Okay.

A. You know, one of -- as a member of the Judicial Screening Committee, we looked at the judge as somebody who's qualifications were nontraditional, okay? I mean, as a lawyer, he wasn't the guy -- you know, he wasn't in law review in college, you know. His law credentials were probably average. The type of practice that he had was a basic, you know, misdemeanor City Court, traffic ticket, house closing, Family Court, custody lawyer, but no really heavy lifting stuff, okay? And that's -- that wasn't really the type of background that you see most judges that have.

But then, he became a State Senator, and he really showed his independence as a State Senator, and I think he grew by being in Albany, part of a legislature, compromising on bills, bringing back things to his constituents. And then when he -- when he really stuck his neck out and gave the Governor his word that he would sign the bill so that gay people could get married, knowing that he was putting his -- he gave his word, and he was doing what he felt was right for society, even though it may cost him to lose his job, that rated -- that's about as high in the integrity that you can get. I mean, he told the Governor -- he gave the Governor his word, came back to Buffalo, and people in the Republican Party said, man, we're going to turn against you, and -- but he stuck to his word. I -- you know, when you give up your job like that, that's about as honest and highest-level integrity that you can -- you can have. And so that meant a lot to the Committee. And to me.

786.



(John V. Elmore - Direct)

1 BY MR. CONNORS:

2 Q. And finally, with respect to your personal opinions, using the same
3 criteria that we've established, do you have an opinion with respect to the
4 work ethic of Judge Mark Grisanti?

5 A. He's the only judge that's ever called me at 8:30 in the morning, and he
6 works hard. He -- he knows every case when he calls you. He knows
7 what happened the last time; he knows the facts; he knows where you
8 were in negotiations. A very hard-working judge.

9 Q. Now, we talked about your personal opinions, and I want to just complete
10 the record by asking you some questions about his reputation in the legal
11 community. So using that same criteria though, you told us that you've
12 been involved in Bar Association groups, correct?

13 A. Yes.

14 Q. You've been involved in Judicial Screening?

15 A. Yes.

16 Q. You've been involved in both the Minority Bar and the Erie County Bar
17 Association?

18 A. Yes.

19 Q. I take it in those settings, you've had occasion to discuss Judge Mark
20 Grisanti among those who were in the legal community?

21 A. Yeah. Yeah. I mean, when lawyers get a case in front of Judge Grisanti,
22 they're happy, because they know it's going to move, that there's --

23 MR. DUGUAY: I'm just going to object to this
24 statement.

25 THE WITNESS: Okay.

787.



(John V. Elmore - Direct)

1 THE REFEREE: I'm overruling. It's reputation
2 for work ethic.

3 A. Work ethic, yeah. That he's going to be a hard-working judge, and your
4 case is going to move. But yeah, I mean, he's on top of things. He -- he'll
5 initiate the call. He'll initiate a scheduling order. He'll contact the lawyer
6 and say, "What do you" -- "What do we need to get this case resolved?";
7 "What do we need to get this case ready for trial?" He'll -- he'll initiate it.
8 And if the other side needs a little bit of push, he's willing to call them
9 and say, "Okay. You know, you're dragging your feet a little bit. Let's
10 get things moving."

11 BY MR. CONNORS:

12 Q. So we've talked about your personal opinions, and now I want to move
13 into reputation. You've given us reputation evidence with respect to his
14 work ethic. Can you tell us what his reputation in the legal community is
15 with respect to integrity and independence?

16 A. The highest.

17 Q. And how about with respect to the high standards of conduct required of
18 a judge? What is Judge Grisanti's reputation on that criteria?

19 A. High. High. Really high.

20 Q. Why do you say that?

21 A. Well -- okay. You know -- I mean, are you referring to the incidents that
22 were --

23 Q. I'm going to go --

24 A. -- publicized? Okay.

25 Q. -- just right now I'm talking about --

788.



(John V. Elmore - Direct)

1 A. Okay. Other than those instances, the highest. Yeah.

2 Q. Okay.

3 A. Yeah.

4 Q. Okay. So let's talk about that. You know that we're here because there's
5 some allegations that have been made against him, arising out of an
6 incident on June 22, 2020?

7 A. Yes.

8 Q. And some other allegations, that I provided you with the copies of the
9 charges, with respect to some of his disclosure requirements --

10 A. Yeah.

11 Q. -- under the Canons of the Judicial Ethics?

12 A. Yes.

13 Q. And have you seen the actual video of the events of June 22, 2020?

14 A. I saw it on television. I saw it on -- you know, on the news on television,
15 and social media. And I did review one for the first time last night. Yes.

16 Q. So taking all of that information into consideration, and using the criteria
17 that you've applied to your other opinions, my question to you is, with
18 that knowledge, does that change your opinion with respect to what
19 you've told us about Judge Grisanti?

20 A. I can tell you that I was extremely disappointed in the behavior, but not to
21 the point where I believe that he's not fit to be a judge. I mean, I can tell
22 you that it is hard to find judges that can run the courtroom like he does.
23 He's a fine judge. He's a fine human being. People are entitled to
24 mistakes. As Chairperson of the Attorney Grievance Committee, you
25 know, there have been lawyers that have made mistakes, you know, that

789.



(John V. Elmore - Direct)

1 have been still allowed to practice law. And you know, whether it be
2 counseling, a letter of reprimand, or anything, he strongly should be on
3 the bench. Yeah, I have the highest opinion of him.

4 Q. Well, given the fact that you observed some conduct that disappointed
5 you, why doesn't that change your opinion about his fitness to be a judge?

6 A. Listen, I'm looking forward. He does a -- it hasn't affected his ability in
7 the courtroom at all. After that happened, I've been in front of -- I'm in
8 front of him once or twice a month. It has not affected his ability to run
9 his courtroom the way that he's always run it, and that's efficiently, and
10 timely, and cases are moving.

11 Q. Thank you.

12 MR. CONNORS: That's all I have.

13 THE WITNESS: Okay.

14 THE REFEREE: Cross examination?

15 MR. POSTEL: Can we have a minute?

16 THE REFEREE: Sure.

17 MR. POSTEL: Thank you.

18 MR. DUGUAY: I'm ready to proceed, Mr.

19 Easton.

20 MR. CONNORS: I'm sorry?

21 THE REFEREE: Are you ready? Are we on?

22 MR. DUGUAY: Yeah. I'm ready to proceed at
23 this time.

24 THE REFEREE: Okay.

25 CROSS EXAMINATION

790.



(John V. Elmore - Cross)

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BY MR. DUGUAY:

Q. Good afternoon, Mr. Elmore.

A. Good afternoon.

Q. Mr. Elmore, how many settlements have you had before Judge Grisanti?

A. How many?

Q. Yeah.

A. Wow. Maybe -- maybe three a year?

Q. Okay. Now, you're a plaintiff's attorney, correct?

A. I'm a plaintiff's attorney.

Q. Supreme Court?

A. Yeah. Yes.

Q. So the minimum amount \$25,000 and up for awards, correct?

A. Yeah. Most of my cases are smaller ones.

Q. But that's got to be at least \$25,000 to get into his court, though?

A. That's correct.

Q. And is there any cap on the awards in his court?

A. The -- no, the cap is in the insurance policy limits. Most of my cases are automobile cases. So the limit would be like on a -- the typical case in Erie County would be, somebody gets rear ended by a car with a GEICO insurance policy of \$25,000. Those are the majority of the cases that, you know -- 50, maybe 100.

Q. All right. Currently you have how many cases pending in front of Judge Grisanti?

A. Now?

Q. As we sit here.

791.



(John V. Elmore - Cross)

1 A. Maybe two.

2 Q. Yeah. Nakiyah Holman is one of them, correct?

3 A. Yeah.

4 Q. And also Keith Griffin?

5 A. The Griffin case just settled. And the Holman case, one of those settled,
6 and the other is close to settlement.

7 Q. Now, you practice out of the Law Offices of John V. Elmore at this time,
8 correct?

9 A. That's correct.

10 Q. With your daughter?

11 A. That's correct.

12 Q. You've been affiliated before with Steve Boyd; is that correct?

13 A. Yes.

14 Q. Do you currently have an affiliation with Mr. Boyd?

15 A. Steve Boyd and I own a building. Our law practices have been separate.
16 But -- but we own a building, and we refer cases to each other.

17 Q. Is it the Hertel Building in north --

18 A. That's correct.

19 Q. -- okay. Is that recent?

20 A. We purchased the building two years ago during the heat of the
21 pandemic, and then spent a year renovating the case, and we actually
22 moved in there in January.

23 Q. There have been cases filed, though, underneath Law Offices of Steve
24 Boyd and John Elmore, right?

25 A. My cases are filed under Law Offices of John Elmore. Steve Boyd's

792.



(John V. Elmore - Cross)

1 cases are filed under his name. I have no financial interest in any of the
2 Steve Boyd cases. And now that I -- my -- our practices are separated.
3 He has no financial interest in mine.

4 Q. Okay. So your name is not still on his sign?

5 A. No. If you look at my billboards -- my billboards will say, "Law Office
6 of John Elmore, BPC." I have a photo of myself and my daughter on it.
7 The building has a sign on it. It says, "Law Offices of Steve Boyd, P.C.,
8 and Law Office of John Elmore, P.C."

9 Q. Since when?

10 A. The signs changed January 1st. I'm sorry, the billboards changed January
11 1st, and the sign on the building was put up maybe six to eight weeks
12 ago.

13 MR. DUGUAY: I have no further questions.

14 THE WITNESS: Okay. Thank you.

15 THE REFEREE: You may leave Mr. Elmore.

16 THE WITNESS: Okay. Bye.

17 (Recess from 1:08 p.m. to 1:09 p.m.)

18 MS. TRAPANI: We're back on the record.

19 THE REFEREE: Any more witnesses for
20 today?

21 MR. CONNORS: No. Working through lunch
22 seemed to clear the calendar. We have -- that was our
23 fourth witness for today.

24 THE REFEREE: So we can go off.

25 MR. POSTEL: Oh no, I --

793.



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THE REFEREE: Oh.

MR. POSTEL: We, again, have the issue of the audio tape, which I'd like to mark as Commission Exhibit 34, and the offer.

(Commission Exhibit 34 was marked for identification)

MR. CONNORS: And I promise I'll listen to it this afternoon.

THE REFEREE: All right. Why don't we -- we'll reserve on that until you have your position, and then resume in the morning.

MR. CONNORS: Yes. We have a -- we have tomorrow -- as I mentioned earlier to Counsel, we have Russell Buscaglia, who is a contemporary of the judge. They were both nominated to the Court of Claims around the same time, so it's mostly character. We have Chris Frigon, who is a licensed clinical social worker, who was consulted to do an evaluation. And Josh Morra, who is a psychiatrist, who is part of the evaluation that was done at Horizon Human Services. I don't expect that their direct will be as long as Jakob Smidt's direct, but hopefully, we'll be able to finish them in the same speed as we did today.

MR. DOYLE: And there's a potential fourth, which is another character witness, James (sic) Shur.

THE REFEREE: Okay.

MR. POSTEL: You think you're going to get

1 more from character witness based on (unintelligible).

2 I know I'm on the record. I (unintelligible) talk
3 to Mr. Connors. Thank you.

4 You think you're going to get more on another
5 character witness? I mean, at a certain point, I don't think
6 you can establish more than they have.

7 MR. CONNORS: So we have had the
8 unfortunate task of narrowing character witnesses, because
9 we've had 20 or more volunteers to come in. And we're
10 trying to do that and narrow it as best we can. Of course,
11 we would much rather submit affidavits or testimonials --

12 MR. POSTEL: Maybe an affidavit
13 (unintelligible). When we take a look, if it's not
14 objectionable, we'll agree.

15 MR. CONNORS: Thank you.

16 THE REFEREE: That relates primarily to Shur.
17 Is it Joe Shur -- Joseph Shur?

18 MR. DOYLE: Yes. Yeah. I misspoke.

19 THE REFEREE: Yes.

20 MR. DOYLE: I think I said Jim.

21 THE REFEREE: All right.

22 MR. DOYLE: Yeah. Sorry.

23 THE REFEREE: He's an attorney in
24 Rochester --

25 MR. DOYLE: Exactly.

1 THE REFEREE: -- that just -- yeah. I have
2 passing familiarity with him. And I think Shur -- his
3 testimony, you can call him. But I think it's going to --
4 again, it's you've -- you've submitted evidence of character
5 in abundance.

6 MR. POSTEL: Our response would be
7 cumulative and repetitive.

8 THE REFEREE: Well, if it (unintelligible) -- as
9 of now, we have different facets, and I don't know if Mr.
10 Shur is going to give a facet different than the character
11 witnesses that we have. But if so, it's --

12 MR. CONNORS: We'll take a look.

13 THE REFEREE: -- he can certainly testify. So
14 we can proceed tomorrow, and then the schedule is to July
15 6th --

16 MR. POSTEL: And 7th.

17 THE REFEREE: And 7th.

18 MR. CONNORS: So the 6th and 7th, things
19 could change, but it looks as though we would put Maria
20 Grisanti on, and Mark Grisanti on, as our final witnesses.
21 There's a little bit of a health issue with Maria. Her -- has
22 had some surgery. But I think we can work around that.
23 And if we add anyone else, we will of course let counsel
24 and the Court know.

25 THE REFEREE: Okay. And that will be

(Matter of Mark J. Grisanti - Colloquy)

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scheduled for -- or projected to be on the 7th of July. And then we'll probably need an overflow after that, another date after that.

MR. POSTEL: I don't think --

MR. DOYLE: Well, the 6th. We're starting on the 6th --

MR. CONNORS: It's on the 6th.

MR. POSTEL: 6th. And then --

THE REFEREE: -- and the 7th.

MR. POSTEL: 7th.

MR. CONNORS: We should get it --

MR. POSTEL: We should get everything done.

THE REFEREE: We should get everything done.

MR. CONNORS: I think so too.

THE REFEREE: Okay. Excellent. So we'll reconvene tomorrow at 10:00.

(Proceedings concluded at 1:13 p.m.)

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CERTIFICATION

I, Kimberly Knowlton, do hereby certify that the foregoing is a true and accurate transcript of the audio recording described herein to the best of my knowledge and belief.

Dated: July 10, 2022

Kimberly Knowlton

Kimberly Knowlton



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

-----X

In the Matter of an Investigation :
Pursuant to Section 44, subdivision 4, :
of the Judiciary Law in Relation to :

MARK J. GRISANTI, :

a Justice of the Court of Claims, :
Acting Supreme Court Justice, :
Erie County. :

-----X

Erie County Family Court, Part 3
One Niagara Street, 7th Floor
Buffalo, New York 14202

June 28, 2022
10:01 a.m.

B e f o r e:

WILLIAM T. EASTON, ESQ.,
Referee

P r e s e n t:

For the Commission
JOHN J. POSTEL, Deputy Administrator

DAVID M. DUGUAY, Senior Attorney

For the Respondent
TERRENCE M. CONNORS, Esq.

VINCENT E. DOYLE, III, Esq.

TYLER GATELY, Esq.

A l s o P r e s e n t:

HON. MARK J. GRISANTI, Respondent

KATHRYN TRAPANI, Executive Assistant to the Deputy Administrator

VANESSA MANGAN, Senior Investigator



(Christopher Frigon - Direct)

1 MS. TRAPANI: Okay. We're on the record.

2 THE REFEREE: Yes. It's June 28th, at ten
3 o'clock. We'll resume. Call your next witness, Respondent.

4 JUDGE GRISANTI: He's the first one that got
5 that right.

6 MR. CONNORS: I trained him.

7 MR. FRIGON: Good morning.

8 THE REFEREE: Good morning. Could you
9 state your name and spelling for the record?

10 MR. FRIGON: Sure. Christopher Frigon. Last
11 name F-R-I-G-O-N.

12 THE REFEREE: And you can keep your mask
13 on or off at your decision. Two things I have to do to start.
14 One is administer the oath to you.

15 MR. FRIGON: Yes.

16 THE REFEREE: But before I do that, I'll
17 introduce myself. I'm William Easton. I'm an attorney
18 from Rochester and sitting as a finder of fact for the
19 Commission for this proceeding. And at the conclusion of
20 it, I will issue proposed findings of fact and law. Your
21 testimony will be part of it.

22 So with that in mind, do you affirm or swear
23 under -- do you swear or affirm under penalty of perjury
24 that the testimony you're about to give is the truth, the
25 whole truth, and nothing but the truth?

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1 MR. FRIGON: I do.

2 THE REFEREE: Second thing, you navigated
3 that door very well, but there's one other thing is there's a
4 mic.

5 THE WITNESS: Here?

6 THE REFEREE: There, yeah. And that's a
7 recording device for the digital recording, and make sure
8 you speak into that so it records, but at the same time, it
9 doesn't serve as microphones usually do, project your voice.
10 So you have to do that yourself. There's that and so
11 especially through a mask, push the voice out.

12 THE WITNESS: Very good.

13 THE REFEREE: All right. You may proceed.

14 MR. CONNORS: Thank you. Mr. Frigon,
15 would you pull your chair up just a little so I can see you
16 clearly? That's good. Thank you.

17

18 CHRISTOPHER FRIGON

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

20

21 DIRECT EXAMINATION

22 BY MR. CONNORS:

23 Q. What is your profession, sir?

24 A. I am a licensed clinical social worker.

25 Q. What is a licensed clinical social worker?

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(Christopher Frigon - Direct)

1 A. That is an individual with a two-year Master's Degree in social worker --
2 in social work from an accredited university, followed by the passing of a
3 licensure exam, and completion of approximately three years of
4 supervised direct clinical experience.

5 Q. What do you do as a licensed clinical social worker?

6 A. A variety of roles really. The primary would be individual counseling,
7 family counseling, couples counseling. There's supervisory roles,
8 training, leadership, but the primary would be the clinical role itself.

9 Q. When you say, "the clinical role," what do you mean by that?

10 A. This is the direct care aspect of meeting with individuals face to face or,
11 you know, virtually these days to provide their therapy services. It's like
12 talk therapy services.

13 Q. Where do you work?

14 A. I work for Horizon Health Services.

15 Q. What is Horizon Health Services?

16 A. Horizon Health Services is one of the handful of community mental
17 health agencies that opened in 1970s as a function of
18 deinstitutionalization of the mentally ill. So the local area was broken up
19 into what's called catchment areas and Horizon Health Service had a
20 primary mission to serve one of these segments of the Buffalo area,
21 operating outpatient mental health and outpatient substance use clinics.
22 And over the years, the agency has evolved to really become the largest
23 in the area. The catchment area model isn't so much what we rely on
24 anymore. It's more about where is the population in need and what levels
25 of care. So we've opened up a long-term rehab facility. That would be

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1 Horizon Village in Sanborn. We have Terrace House in downtown
2 Buffalo, which is a detox center and a 28-day roughly rehabilitation
3 program for substance use.

4 MR. POSTEL: Can I just interrupt for a
5 moment? I apologize. As a consequence of the mask,
6 some of the words are a bit unclear. Specifically, in this
7 instance, whether it was the institutionalization or
8 deinstitutionalization in the '70s. I couldn't decide. My
9 point is for the purpose of the recording it may not be clear.
10 Was it de-institutionalization?

11 MR. CONNORS: Yes. De --

12 THE WITNESS: De-institutionalization. I'll
13 work better on the diction. Sorry.

14 BY MR. CONNORS:

15 Q. What services do you provide at Horizon Health Services?

16 A. I currently provide outpatient individual counseling for couples,
17 individuals, families. This would be mental health and co-occurring
18 disorders, meaning substance use disorders, and mental health concerns.

19 Q. Why did you choose to work at Horizon Health Services?

20 A. Initially, while I was in graduate school, I was an intern in one of their
21 programs, got exposed to the agency model, which I very much
22 appreciated. It is the only one of the community mental health center
23 agencies that is a non-deficit funded agency. To mean, they do not take
24 state funding to operate their programming. It's all insurance private fee.
25 And I respected that model. So I hung around and over the years, the

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(Christopher Frigon - Direct)

1 agency grew. It started very small, family, and they've maintained that
2 family atmosphere. The call it -- I don't know, like, morale benefits.
3 Like, there's so many, but I can just speak to a very recent example of
4 opening my mailbox last Friday, and in there is a unexpected letter from
5 the agency. Open the envelope, there's a, like a nine-piece puzzle. I don't
6 know what this is. You just put the puzzle together, and there's a
7 message on there, basically saying thank you for all you do. Everybody
8 in the agency is receiving an unexpected raise. And things like this are
9 not uncommon. The agency treats its people very well. Trains its people
10 very well. Offers plentiful opportunities to promote, to try different
11 things in the community. I've had the luxury of not just doing the
12 counseling, but supervision, program management. I've been into pretty
13 much all the local jails to do what are called mental health evaluations to
14 see if a person would be better served by engaging in treatment as
15 opposed to being in jail, just because they can operate these programs,
16 and then staff them.

17 Q. Have you maintained a private practice over the years as well?

18 A. I had a private practice from 2005 until the week of lockdown and I
19 simply never reopened it. So that's about 15 years, right?

20 Q. What was the nature of your private practice?

21 A. This was my way of practicing without the encumbrance really of the
22 insurance business, you know? So I just go and see the population I
23 wanted to work with, and it was fee for service. I'd write my note and go
24 home. So this was really more about my clinical growth, professional
25 development, and I just -- I have a passion for the work. So to me, the

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1 more I could do the work, the happier I was going to be. And over the
2 years, it really became a source of satisfaction because I was much more
3 involved in management roles. So you know, developing programs,
4 supervising staff, and had less and less day-to-day opportunity to do the
5 talk therapy. So it really became the thing I looked forward to on the
6 weekends was to get out there and see people, and I needed that less and
7 less with the program I'm in now, which I co-developed with our
8 executive staff. It is a private practice model. So I get all the benefits of
9 the work I had always done out in the south end, and with none of the
10 headaches of the overhead of operating a truly independent practice.

11 Q. So would you tell us what you do on a regular basis? In other words,
12 what's your routine day and I'd like you to take it from 2020 up to the
13 present?

14 A. 2020 to present. This has been entirely home-based work. And it's -- as
15 a function of adjusting and adapting to COVID, obviously. And through
16 that, all the work has been virtual. There has been opportunity to do a
17 little bit of office work, but it was just to push pull given how things
18 would open close, so I just always kept it based out of my home.
19 Generally speaking Monday, Tuesday, Thursday, Friday I'm seeing
20 clients from 11:00 am to 9:00 pm. There's some variation in there
21 depending on client need. Wednesdays are earlier in the morning as a
22 function of twice a month I run a clinical supervision group for social
23 workers who are getting their supervision hours in. So I run that group.
24 That starts at 8:30. So I will start seeing people after that, which is
25 roughly 10:30. I'll go to maybe 2:00 or 3:00. And then last week two --

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(Christopher Frigon - Direct)

1 as an example, I did two half-day trainings for the agency on -- I was
2 presenting on personality disorders. The assessment and treatment of that
3 particular behavioral health concern. So it's a mix. It's a nice mix of
4 direct care with individuals, couples, families, supervising staff,
5 providing trainings.

6 Q. As part of your regular practice as a licensed clinical social worker, do
7 you also do comprehensive client evaluations?

8 A. Yes, I do. That would be the Comprehensive Behavioral Health
9 Assessment is what our agency calls it, or CBHA.

10 Q. What is a Comprehensive Behavioral Health Assessment? What does it
11 consist of?

12 A. This is a multi-part assessment tool that will start with what's called the
13 presenting problem, meaning, "What brings you in today?" So it is the
14 client perspective on why they are coming in. This opens the door then
15 to beginning to ask some questions relative to their behavioral health,
16 which would include mental health. It would include substance use
17 disorders, and in some cases, developmental disabilities as well. That is
18 not on my radar, but other people do assess that in a broad way. So it is,
19 generally speaking, mental health, substance use, and then as a function
20 of the story. The client will bring me their narrative. I'm listening for
21 clues to start asking about connections to their past family life, present
22 family life, their living environment, any legal issues they have going on,
23 how's your finances. Basically looking for the psychosocial stressors that
24 could be exacerbating symptoms and the strength. Like, what are the
25 things in this person's life that are supportive of them in recovery from

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1 whatever symptoms they might be having.

2 Q. Would a comprehensive evaluation of a client be considered a standard
3 part of your practice?

4 A. It is a standard. And for example, there's really two versions of this tool.
5 One is someone who will call and say, "Hey, I've been referred for an
6 evaluation," and that referral could be from any number of sources.
7 Number two is everybody that calls, regardless of the reason why they
8 say they're coming in, they are going to go through what's called an
9 assessment process. This could be two, three, four visits. On occasion, it
10 could be one visit. It really depends on the complexity of the person.
11 But in other words, in order for folks like myself to arrive at a treatment
12 plan, we need to fully assess the person as they are today in their
13 environment, their past, their present, and then establish with them
14 treatment goals relative to why they're coming in. So everybody that I
15 work with, and that social workers work with, will receive, as long as
16 they complete the process, a full, comprehensive behavioral health
17 evaluation.

18 Q. So how do you go about performing this type of an evaluation? What's
19 the process?

20 A. This would be a combination of really open and closed style questions.
21 So the initiation, whether it's in the hallway, in the waving, "Hi, how are
22 you? My name is Chris. Come on in." Or if that's on a video, fine, same
23 idea. It's awkward, but I always say, "What brings you in today?" I don't
24 know, it's just habit, you know, like, it's the engagement piece of tell me
25 who you are. And then the person will generally start telling me their

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1 story about what brings them in. As they're telling their story, again, I'm
2 thinking about the outline of the sections of the assessment that I have to
3 address. So I don't force the conversation to go in a linear fashion
4 through the assessment. I am typing or making notes as the person is
5 talking, and I will fill it into the section where it belongs. If there are
6 areas that are being touched on and I want more detail, I will often, just in
7 a conversational way, say something like, "Hey, you know, back me up to
8 that thing you said about so-and-so. Let me get some more details." So
9 this is based on me identifying potential risk factors, or areas of clinical
10 interest that could be part of a treatment plan for the person. And then
11 really, once the -- the initial kind of story is out, if there's leftover areas, I
12 will just find a way to address them. So any issue with money, you
13 know, is that causing any -- nope, all good. Okay. So then I document
14 their response to all of those.

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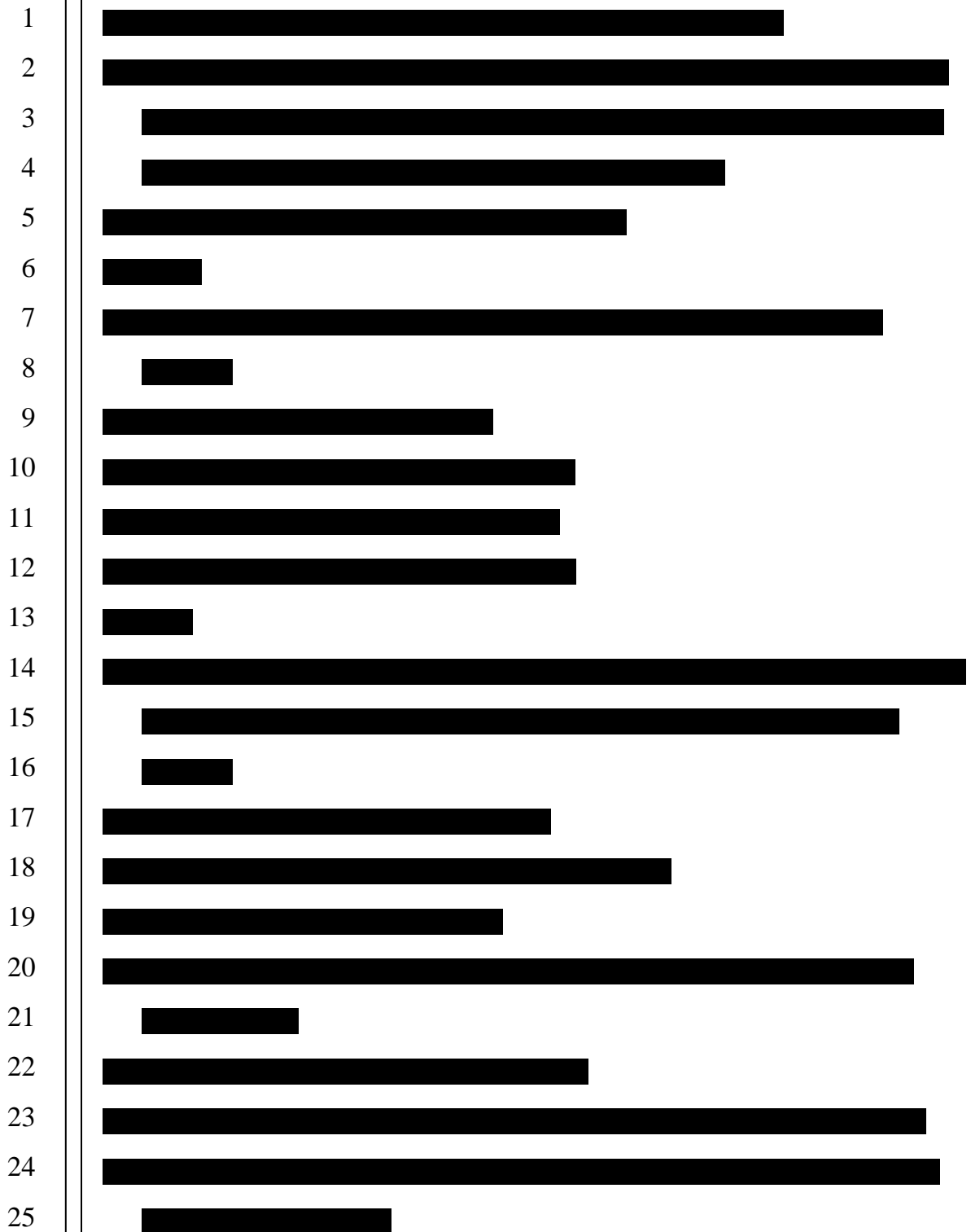


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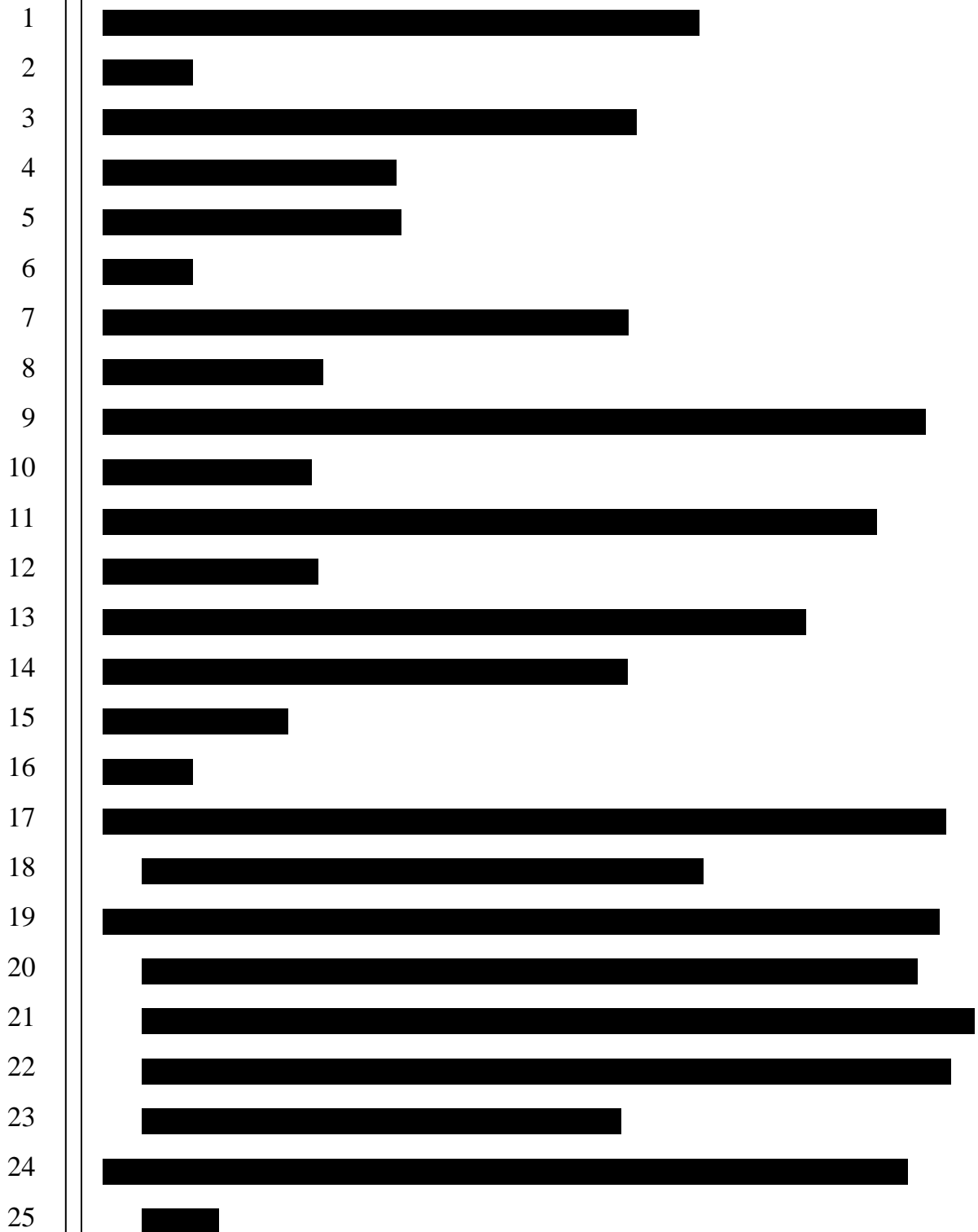
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(Recess from 12:13 p.m. to 12:15 p.m.)

MS. TRAPANI: Okay, we're back on the record.

THE REFEREE: Good afternoon.

JUDGE BUSCAGLIA: Good afternoon.

THE REFEREE: First, could you state and spell your name for the record.

JUDGE BUSCAGLIA: First name, Russell, R-U-S-S-E-L-L; middle initial, P; last name, Buscaglia, B-U-S-C-A-G-L-I-A.

THE REFEREE: I'm William Easton. I'm an attorney from Rochester and I'm appointed as a finder of fact by the Commission for this proceeding, and will be issuing a proposed findings of fact and law at the conclusion of it. Your testimony is part of that.

But before we proceed, I have two things to mention with you. First is the administration of the oath.

Do you swear or affirm under penalties of perjury that the testimony you're about to give is the truth, the whole truth, and nothing but the truth?

JUDGE BUSCAGLIA: I do so swear.

1 THE REFEREE: Second is a little trickier.
2 There's a mic in front of you.

3 THE WITNESS: I see the light lit, but I'm not
4 sure it's on.

5 THE REFEREE: It -- well, it's a recording
6 device, so it's not -- it looks like a microphone, but it's not
7 going to project your voice, So just project your voice, but
8 speak into the recording device so the record can be made.

9 THE WITNESS: Fine.

10 THE REFEREE: That in mind, we'll proceed.

11 THE WITNESS: Thank you.

12 THE REFEREE: Thanks.

13

14 H O N. R U S S E L L P. B U S C A G L I A

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

16

17 DIRECT EXAMINATION

18 BY MR. DOYLE:

19 Q. Judge Buscaglia, you're an -- an admitted attorney, admitted in New York
20 State.

21 A. I am.

22 Q. All right. And you're a retired judge?

23 A. I did leave the bench in 2020.

24 Q. Could you tell -- tell us about your education, starting with college.

25 A. Starting with college -- well, even prior to college --

(Hon. Russell P. Buscaglia - Direct)

1 Q. Yeah.

2 A. -- I went to public schools in the City, School 45, Lafayette High School.

3 I went to undergraduate school at the State University of New York at

4 Buffalo, as well as the law school at Buffalo.

5 Q. Okay. And when did you graduate from the University of Buffalo Law
6 School?

7 A. 1975.

8 Q. What did you do after graduation?

9 A. After graduation, I worked for a brief period of time with a sole
10 practitioner, and then began work in the Erie County District Attorney's
11 Office. I worked there for a period of over 11 years. Various times, I
12 was Chief of the City Court Bureau, of the Narcotics Bureau, and when I
13 left, I was Chief of the Homicide Bureau.

14 I left that office and worked for the United States Attorney's Office for
15 the Western District of New York prosecuting mostly criminal cases, also
16 civil cases; criminal cases being public corruption cases, money
17 laundering cases by foreign agents, things of that nature.

18 I then left the U.S. Attorney's Office and began work at the New York
19 State Attorney General's Office, and I worked there for two-and-a-half
20 years. And during that period of time, was a trial counsel and director of
21 the Medicaid Fraud Control Unit for the State of New York.

22 Q. Okay.

23 A. Thereafter, I was appointed to the bench -- well, I left out one small part.

24 I lost a race for Erie County District Attorney. And then I was appointed
25 to the bench, and -- to the Court of Claims, and acting Supreme Court

(Hon. Russell P. Buscaglia - Direct)

1 Justice, doing predominantly criminal work, but also civil work of -- until
2 I left the bench on December 31st of 2020.

3 Q. You were appointed to the New York Court of Claims in 1999?

4 A. 1997.

5 Q. Okay.

6 A. By Governor Pataki. Reappointed in 2006 by Governor Pataki. And
7 reappointed again in 2015 by Governor Cuomo.

8 Q. And you mentioned that you were -- you were named or designated as an
9 acting Supreme Court Judge, correct?

10 A. Yes.

11 Q. Was that here in the Eighth Judicial District?

12 A. For that entire period of time, yes.

13 Q. Okay. And you left the bench and went on permanent vacation in 2020?

14 A. Extended vacation, I like to call it.

15 Q. Do you know Mark Grisanti?

16 A. I do.

17 Q. How long have you known Mark Grisanti?

18 A. I've known Mark since prior to the time he was appointed to the bench,
19 and that as I recall is 2015. Prior to that time, he had a practice. And in
20 that practice, it was civil and criminal. I had him for numerous criminal
21 cases in front of me.

22 Q. And did you have any impressions of Mark as a lawyer who appeared in
23 front of you?

24 A. First and foremost, how he was always prepared for his cases. Prepared,
25 I -- and I don't mean only factually with the necessary witnesses if a

(Hon. Russell P. Buscaglia - Direct)

1 hearing was required or a trial was required, but also with legal
2 arguments relative to the issues that were involved in the matter. And --
3 and also very prompt to appear in court which I appreciate.

4 Q. Were you aware that Mark was appointed to the Court of Claims and --
5 and subsequently designated as an acting Supreme Court Judge in 2015?

6 A. I was.

7 Q. Did you continue to have contact with him then after he was named to the
8 bench and to -- as an acting Supreme?

9 A. Yes, I did. The contact changed somewhat. And by that, I mean, it
10 changed since he was now a colleague on the bench. We went to Court
11 of Claims seminars. While there's an annual seminar, all the time --

12 Q. Um-hum.

13 A. -- every year, obviously, that's why they call it --

14 Q. Um-hum.

15 A. -- an annual seminar, and -- but also socially --

16 Q. Um-hum.

17 A. -- after he was appointed to the bench. He and his wife, and myself and
18 my wife, would go out to dinner. We'd go out to certain events, social
19 events --

20 Q. Um-hum.

21 A. -- in the community, as well as the professional events I referred to.

22 Q. Okay. There -- in addition to yourself and Judge Grisanti, there are other
23 Court of Claims judges who -- in the Eighth District, correct?

24 A. Yes, there are.

25 Q. All right. And you mentioned that there are -- there's an annual

(Hon. Russell P. Buscaglia - Direct)

- 1 conference. Who is that conference of? Who goes to that?
- 2 A. It is of all the Court of Claims judges in the state of which at the present
- 3 time, there's approximately 93 or 94 of us.
- 4 Q. Okay. And --
- 5 A. And it's attended by not only the judges, but oftentimes by their spouses
- 6 or significant others.
- 7 Q. And you mentioned that you would see him at these events. Were the
- 8 other local Eighth District Court of Claims Judges there, as well?
- 9 A. Yes. And we had a reputation, if you will. The reputation being we
- 10 usually sat together and were known to be from Buffalo because we
- 11 directed a lot of the activities that occurred at the conference.
- 12 Q. So you would socialize with Mark during these events. And on other
- 13 occasions, you would socialize with Mark and/or his wife, as you
- 14 mentioned?
- 15 A. Yes.
- 16 Q. Okay. During the times that you've socialized with Mark, what if
- 17 anything did you observe about his behavior?
- 18 A. Mark is the type of person who enjoys life.
- 19 Q. Um-hum.
- 20 A. The type of person who -- what's most important to him, though, and this
- 21 is not to say that his work is not important to him, but what's --
- 22 Q. Um-hum.
- 23 A. -- most important to him is his family.
- 24 Q. Um-hum.
- 25 A. A lot of his social activities surround his family life or involve his family

(Hon. Russell P. Buscaglia - Direct)

1 life, where they've got their genesis in their -- in his family life. And it's
2 those types of activities in his social life that I'm aware of.

3 Q. Judge, I want to ask you some questions about any reputation that Judge
4 Grisanti may have. So begin in the legal community of this area, have
5 you come into contact with others who know and are familiar with Judge
6 Grisanti?

7 A. I think as we all know here, judges and lawyers talk about other judges,
8 talk about other lawyers. Oftentimes, I have heard in a court situation,
9 from other court personnel, whether it be a court clerk, whether it be a
10 court reporter, whether it be a court officer, or whether it be another
11 judge, about his -- the manner in which he conducts his courtroom and
12 his -- not only the manner in which he conducts it, but the way he
13 conducts it personally in the courtroom.

14 Q. Okay. As a result of these conversations that you've mentioned, have you
15 become aware of any reputation that Judge Grisanti has in the legal
16 community of Western New York?

17 A. First and foremost, a reputation as one of the hardest workers in the
18 courthouse. Now I know there's statistics, and I'm aware of all the
19 statistics. I used to read them on a term basis. There's 13 terms and --
20 court terms, of course, and his numbers --

21 Q. You're talking about standards and goals numbers?

22 A. Those numbers --

23 Q. Yeah, okay.

24 A. -- yeah. Again, I did mostly criminal cases --

25 Q. Yeah.

(Hon. Russell P. Buscaglia - Direct)

1 A. -- but I also am aware of the civil numbers. Those numbers are always
2 the highest for Mark --

3 Q. Um-hum.

4 A. -- of the civil judges. Now, let me say this. I'm aware that certain times
5 the numbers, the statistics, don't accurately reflect the hard work someone
6 is doing.

7 Q. Right.

8 A. Or the time a judge is putting in to cases. On the other hand, as far as
9 Mark's concerned, they're accurate.

10 Q. Um-hum. So you mentioned, in terms of Judge Grisanti having a
11 reputation that you're aware of from the conversations you mentioned,
12 you mentioned that he's hardworking.

13 Are you aware of any reputation he has regarding his temperament?

14 A. Let me expand on that.

15 Q. Yeah.

16 A. Not only hardworking, but as far as integrity is concerned --

17 Q. Um-hum.

18 A. -- as far as his judicial temperament is concerned, not someone to display
19 any temperament other than what is expected of any judge in the New
20 York State Court System.

21 Q. Um-hum.

22 A. Not someone who would -- anyone would ever believe that he lacks
23 integrity for the work he does and the manner in which he performs that
24 work.

25 And again, that is not only -- that is in large part from my -- what I hear

(Hon. Russell P. Buscaglia - Direct)

1 in the community for -- in the legal community, from the people I
2 referred to.

3 Q. Um-hum.

4 A. And let me mention one, in particular. And I'm doing this because -- to
5 clarify that answer even more. When I left the bench, my law clerk, who
6 I had had for -- she was my law clerk for approximately five or six -- six
7 years before I left --

8 Q. Um-hum.

9 A. -- she then went to clerk for Judge Grisanti.

10 Q. Um-hum.

11 A. And she also called me a lot still. We kept in contact still, and still do.
12 We are not only colleagues, but also personal friends. And she has --
13 again, the discussion in the community of how he works, she has given
14 more insight into that.

15 Q. And what is her name?

16 A. Kelly Vacco.

17 Q. Okay. So Judge, the -- the reputation that you've told us about that Judge
18 Grisanti has in terms of his integrity, is that consistent with your own
19 personal experiences having socialized and been together with Judge
20 Grisanti?

21 A. Yes.

22 Q. Um-hum.

23 A. And if I may say, like, for example, we'd be out to dinner. And there's
24 never an instance where -- and let me get to the judicial temperament
25 aspect of it.

(Hon. Russell P. Buscaglia - Direct)

1 Q. Okay.

2 A. There's never an instance where there'd be anything which would indicate
3 he didn't display calmness. Again, he's very -- he enjoys life. But
4 calmness, straightforwardness --

5 Q. Um-hum.

6 A. -- which is also what I hear a lot about him on the bench. In expressing
7 himself on issues, and having a collegial debate on issues.

8 Q. Um-hum. Now, Judge Buscaglia, are you aware of an incident that Mark
9 was involved in also involving some neighbors of his and a subsequent
10 interaction that he had with the police in June of 2020?

11 A. I have seen the video on television, and have read -- I don't recall how
12 many, but at least a couple of news stories about it.

13 Q. Okay. Did you ever talk to Judge Grisanti about it?

14 A. Judge Grisanti called me once with regard to that to indicate that there
15 may be a hearing --

16 Q. Okay.

17 A. -- referring to this hearing. And that he may want me to be a witness at --

18 Q. All right.

19 A. -- at that hearing -- or at this hearing, I should say.

20 Q. We subsequently subpoenaed you; is that correct?

21 A. Well, you asked me to appear, asked me if I wanted a subpoena. And I
22 didn't --

23 Q. Oh --

24 A. -- want one, so I did not --

25 Q. Thank you.

(Hon. Russell P. Buscaglia - Direct)

1 A. Don't have one. And I don't need one.

2 Q. The --

3 MR. POSTEL: Not anymore.

4 BY MR. DOYLE:

5 Q. When you're on vacation, you don't need one.

6 The knowledge of the incident that you obtained and seen the video,
7 did -- how did that affect your opinion of Judge Grisanti?

8 A. Well, let me answer that this way. Having been a trial judge for so many
9 years, and a trial prosecutor for so many years, we all know there's a lot
10 more to what occurs than may initially meet the eye. In particular, there's
11 a lot more as to why something occurred, how it occurred, than you're
12 sometimes aware of by one particular aspect of it.

13 And I say that because I don't know what happened beforehand. I don't
14 know what happened before that video that I saw. I don't know what
15 happened with the neighbors, if you will, before that day occurred, or
16 what the background or the history was that may be relevant to what
17 happened.

18 If you're asking me what I think about that, what I saw, in my view, was
19 inappropriate behavior. I will say that. But I will add to that, that there is
20 nothing that I know in Mark's character, or have heard in -- in Mark's
21 character -- and excuse me for calling him Mark, Judge --

22 Q. Um-hum.

23 A. -- Grisanti -- Judge Grisanti's character from what I know, or what have
24 heard -- everything I know and have heard is inconsistent with anything I
25 saw on that video.

888.



(Hon. Russell P. Buscaglia - Direct)

1 Q. Okay. Thank you.

2 MR. DOYLE: I have nothing further, Mr.

3 Easton.

4 THE REFEREE: Cross?

5 MR. POSTEL: No questions.

6 THE REFEREE: You are discharged.

7 JUDGE BUSCAGLIA: Thank you, sir.

8 MR. POSTEL: Push out with your right hand.

9 JUDGE BUSCAGLIA: Yes, sir.

10 MR. POSTEL: Right there. Push.

11 MR. DOYLE: Push. Yeah, push.

12 (Recess from 12:32 p.m. to 2:32 p.m.)

13 MS. TRAPANI: Okay. We're on the record.

14 THE REFEREE: It's June 28th, the afternoon
15 session. We'll resume again. I think there's a witness in the
16 courtroom for the Respondent.

17 MR. DOYLE: Just before we do that Judge, I'd
18 mentioned during the break that we were going to offer
19 Exhibit HHH, Respondent's HHH, which for the record, is
20 an affidavit from an attorney named Joseph Shur, S-H-U-R.
21 (Respondent's Exhibit HHH was marked for identification)

22 MR. POSTEL: No objection.

23 THE REFEREE: Received.

24 (Respondent's Exhibit HHH was admitted into evidence)

25 MR. CONNORS: We'll call Dr. Morra, Your

(Dr. Joshua Morra - Direct)

1 Honor. This is a tricky door.

2 THE REFEREE: You can keep you mask on or
3 off, it's your choice. Could you just please, for the record,
4 state you name, and spell it for the record.

5 DR. MORRA: Sure. My name is Joshua
6 Morra, spelled M-O-R-R-A.

7 THE REFEREE: I'm William Easton. I'm an
8 attorney from Rochester --

9 DR. MORRA: Hi.

10 THE REFEREE: -- and I've been appointed as
11 the trier of fact for this proceeding. It's a proceeding
12 conducted by the Commission on Judicial Conduct. And
13 you're a witness, and I'd like to advise you of two things.
14 The first is I'd like to administer the oath to you.

15 DR. MORRA: Of course.

16 THE REFEREE: All right. So do you swear, or
17 do you affirm, under penalties of perjury that the testimony
18 you're about to give is the truth, the whole truth, and
19 nothing but the truth?

20 DR. MORRA: Yes.

21 THE REFEREE: Secondly, is a sort of tricky
22 thing, is there's a mic in front of you which is a recording
23 device for the digital record. And so you have to speak into
24 that. But at the same time, the mic doesn't operate as
25 microphones usually do. That doesn't project your voice at

890.



(Dr. Joshua Morra - Direct)

1 all. So you have to project your voice, so everyone can
2 hear it with the air conditioning on.

3 THE WITNESS: I can do that. Yes.

4 THE REFEREE: Great. You may Proceed

5 MR. CONNORS: Thank you.

6

7

D R. J O S H U A M O R R A

8

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

9

10 DIRECT EXAMINATION

11 BY MR. CONNORS:

12 Q. Good afternoon, Doctor.

13 A. Good afternoon.

14 Q. What is your profession?

15 A. I'm a psychiatrist.

16 Q. And what is the nature of your practice?

17 A. I see patients at Horizon Health Services. I'm also their Medical Director
18 of Psychiatry.

19 Q. Do you have a private clinical practice?

20 A. No. All of my practice is through Horizon Health.

21 Q. Now, you say you're the Director of Psychiatry for Horizon Human
22 Services?

23 A. Medical Director for outpatient behavioral health.

24 Q. And what does that require you to do? What are your job duties?

25 A. Well, in addition to seeing patients, I help to supervise all of our

891.



(Dr. Joshua Morra - Direct)

1 psychiatric medical professionals. I'll meet with them on a one-on-one
2 basis, I'll meet with them as groups to help discuss the cases that they are
3 seeing, discuss clinical, and topics in the field. Those are the main
4 responsibilities.

5 Q. Do you also do clinical evaluations?

6 A. Yes.

7 Q. What is a -- excuse me, what is a clinical -- strike that. Do you use the
8 term psychiatric evaluations or --

9 A. Yes.

10 Q. -- okay. And do you do those?

11 A. Yes.

12 Q. What is a psychiatric evaluation?

13 A. A psychiatric evaluation is meeting with a person where you collect a
14 medical and psychiatric history, determine if there is a psychiatric
15 diagnosis, or more than one psychiatric diagnosis that might pertain to
16 that client, and then if there are treatments may be helpful, you can make
17 recommendations for medical treatment.

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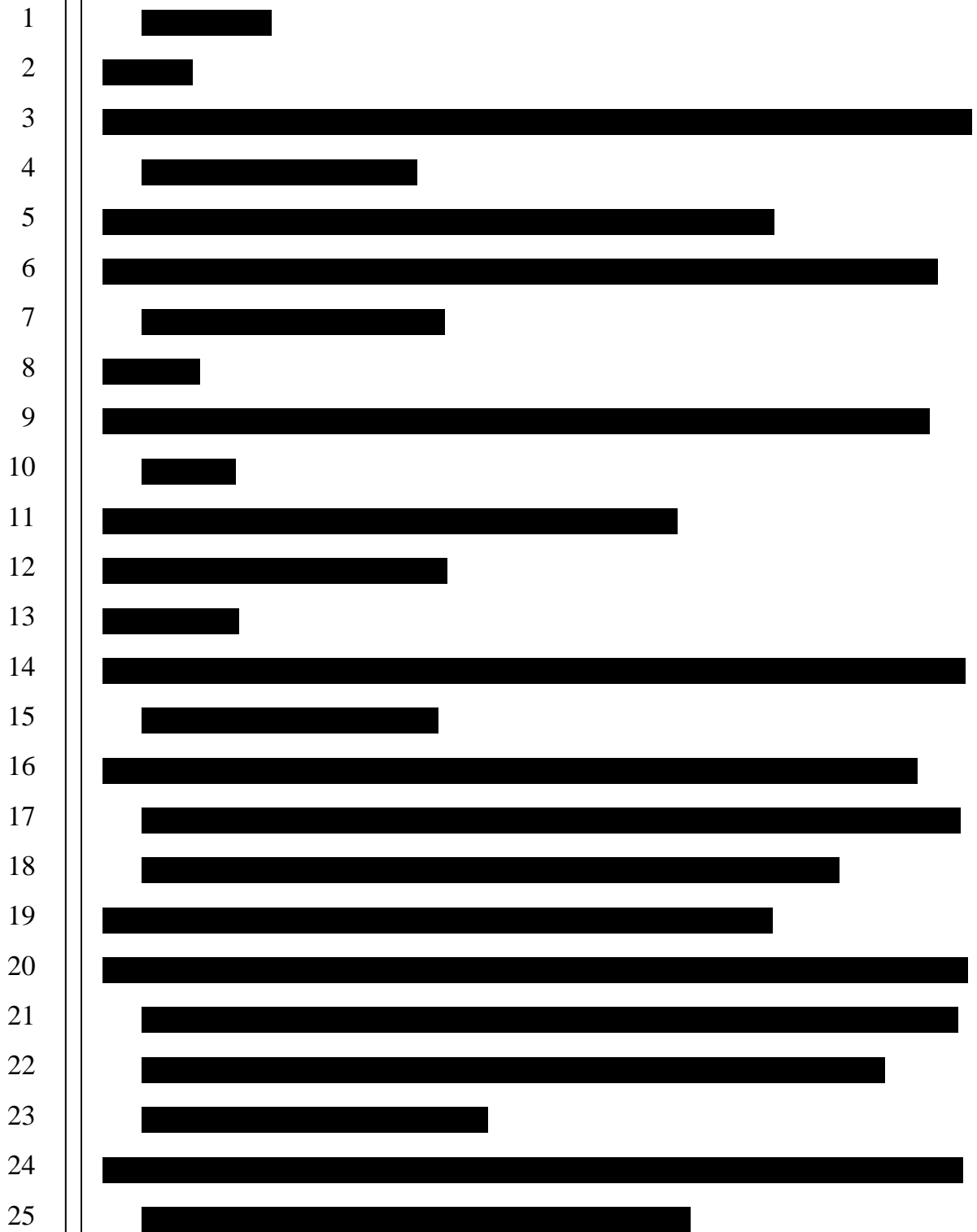
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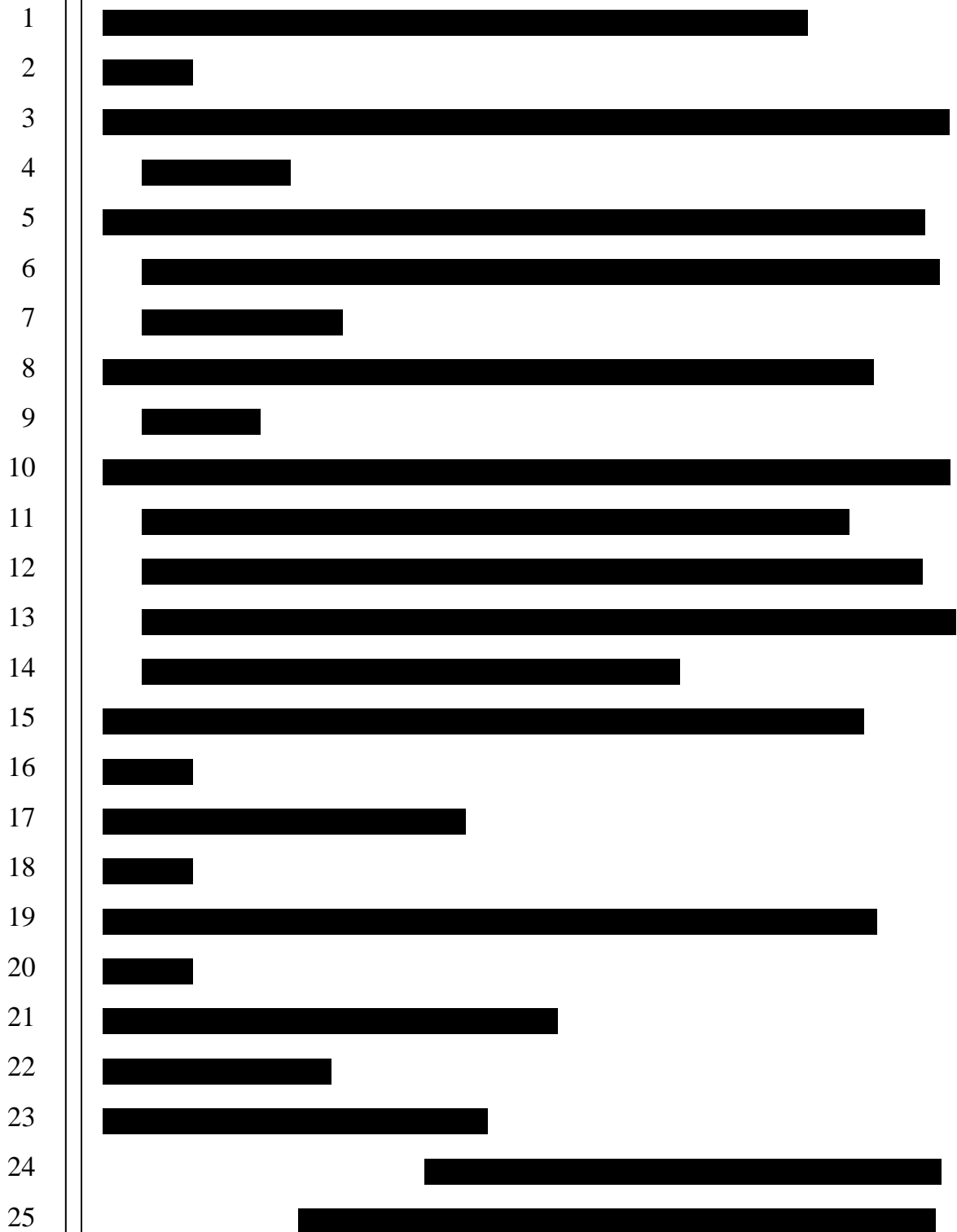
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- 25 A. Yes.

(Dr. Joshua Morra - Direct)



(Dr. Joshua Morra - Direct)

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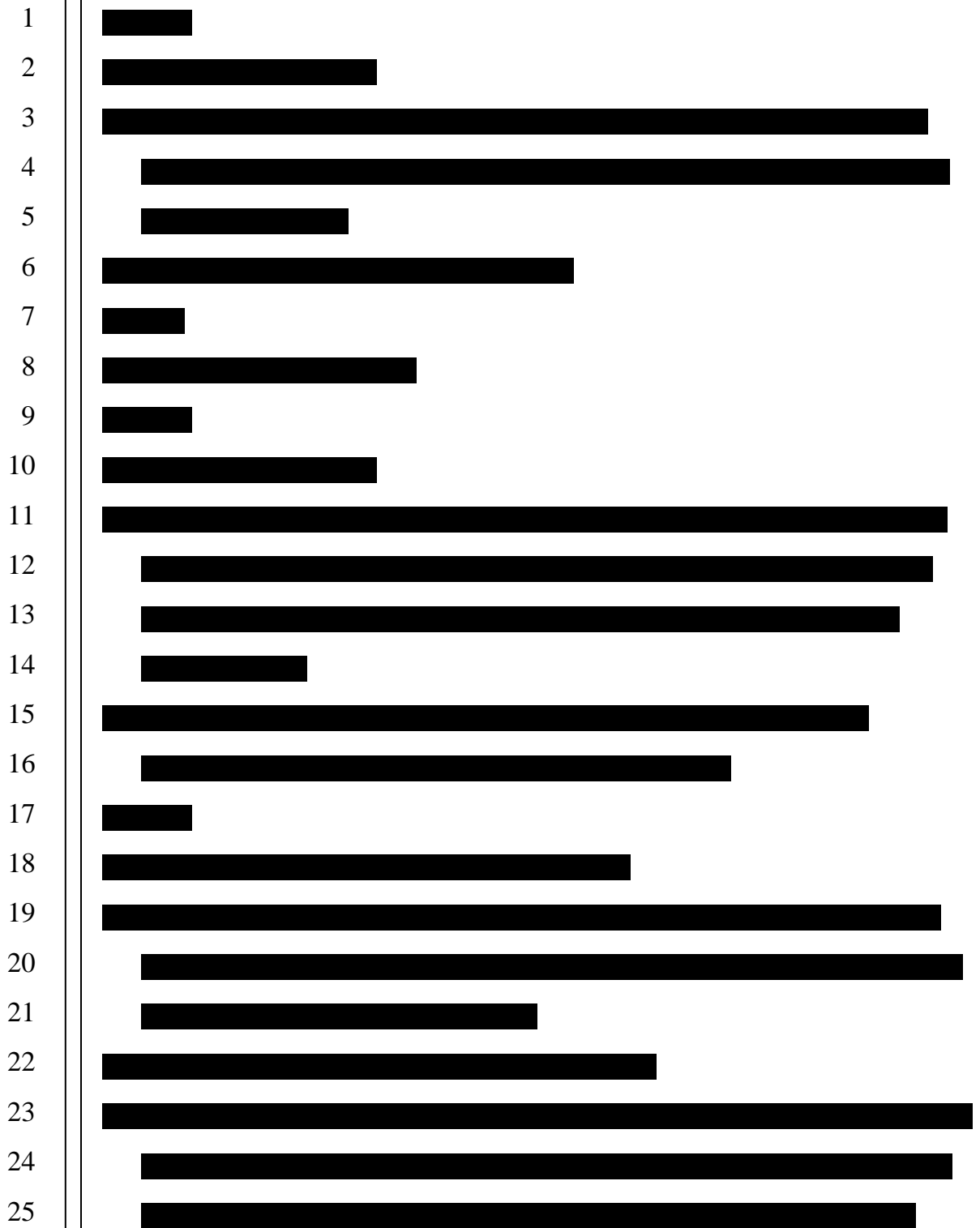


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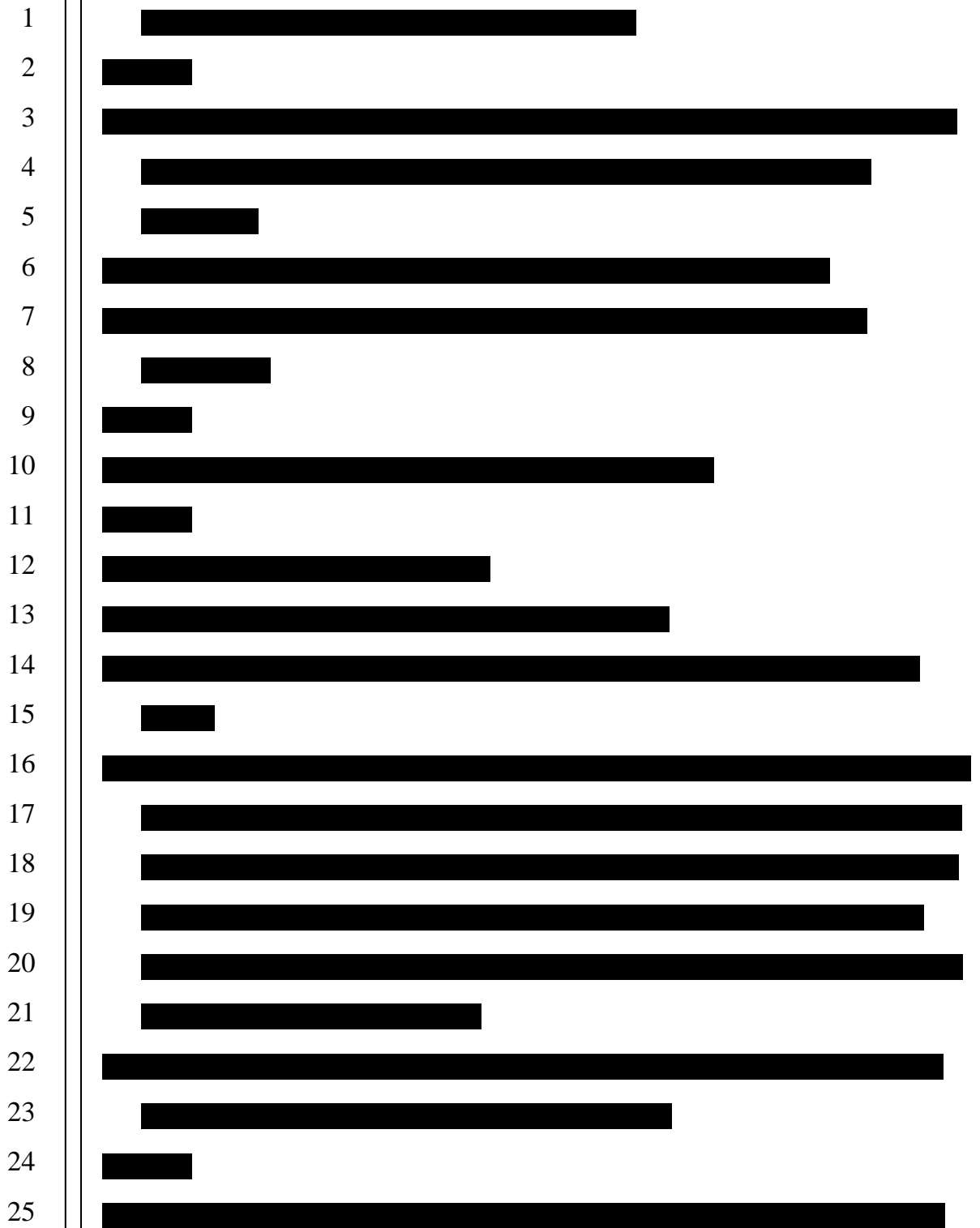


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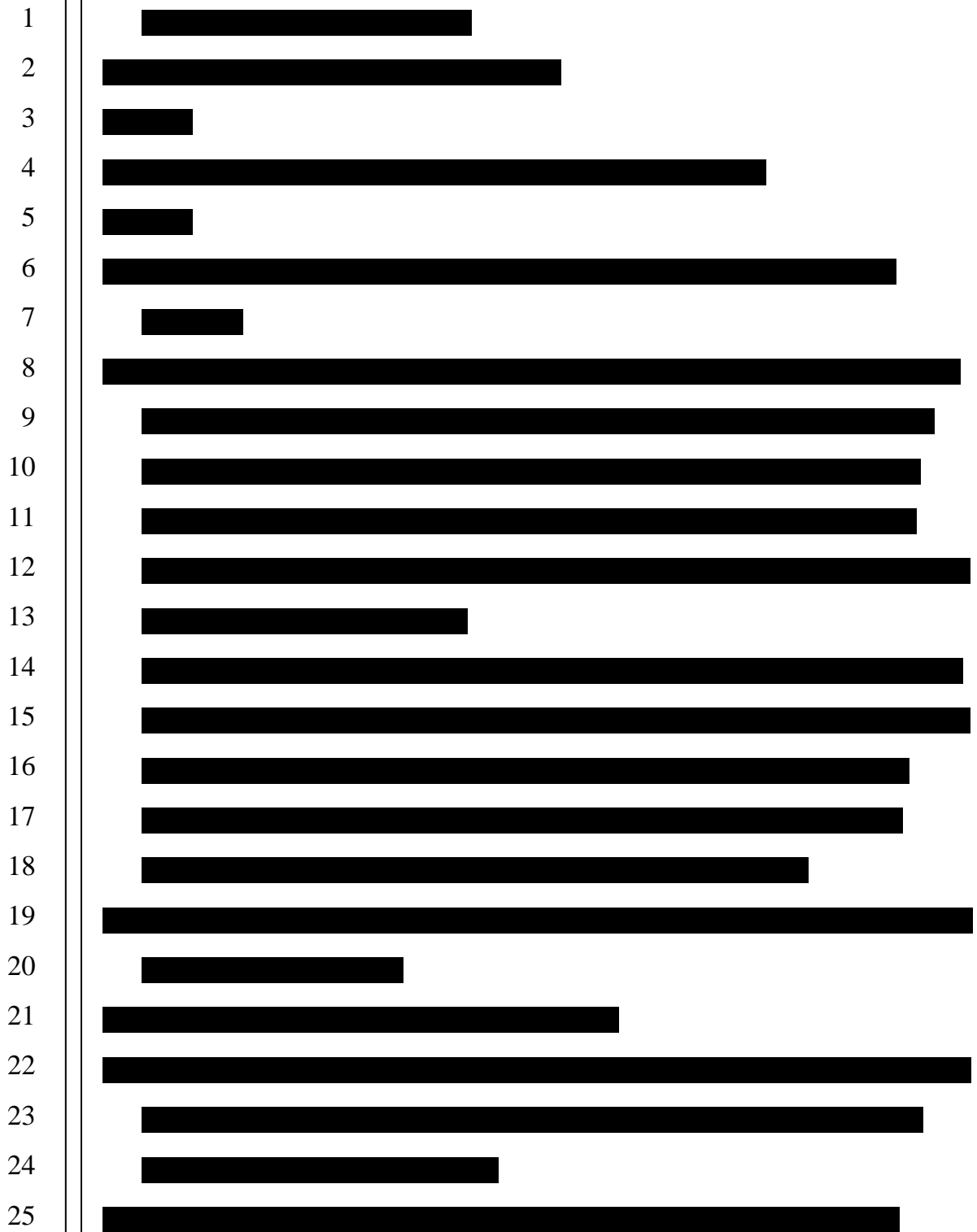


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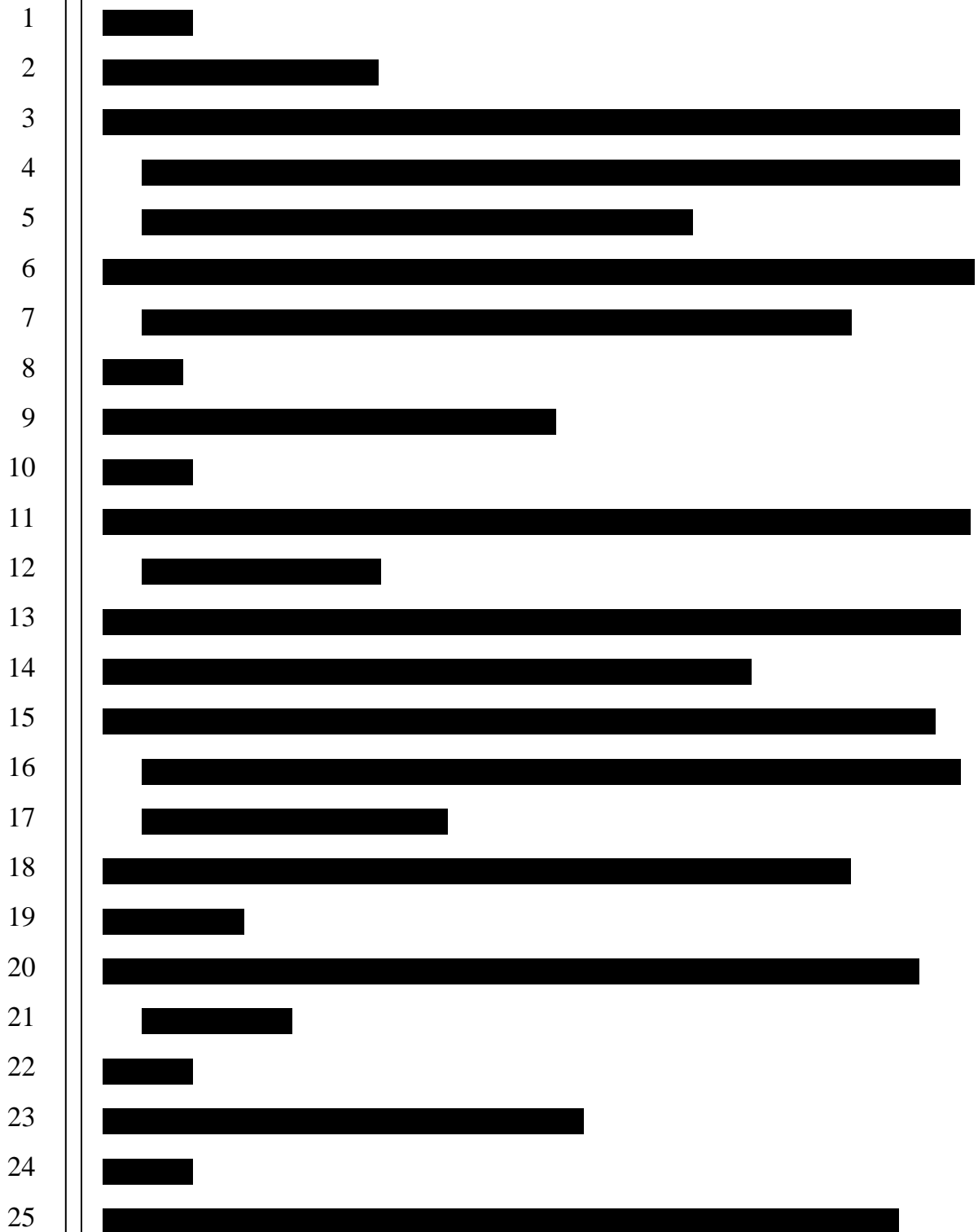


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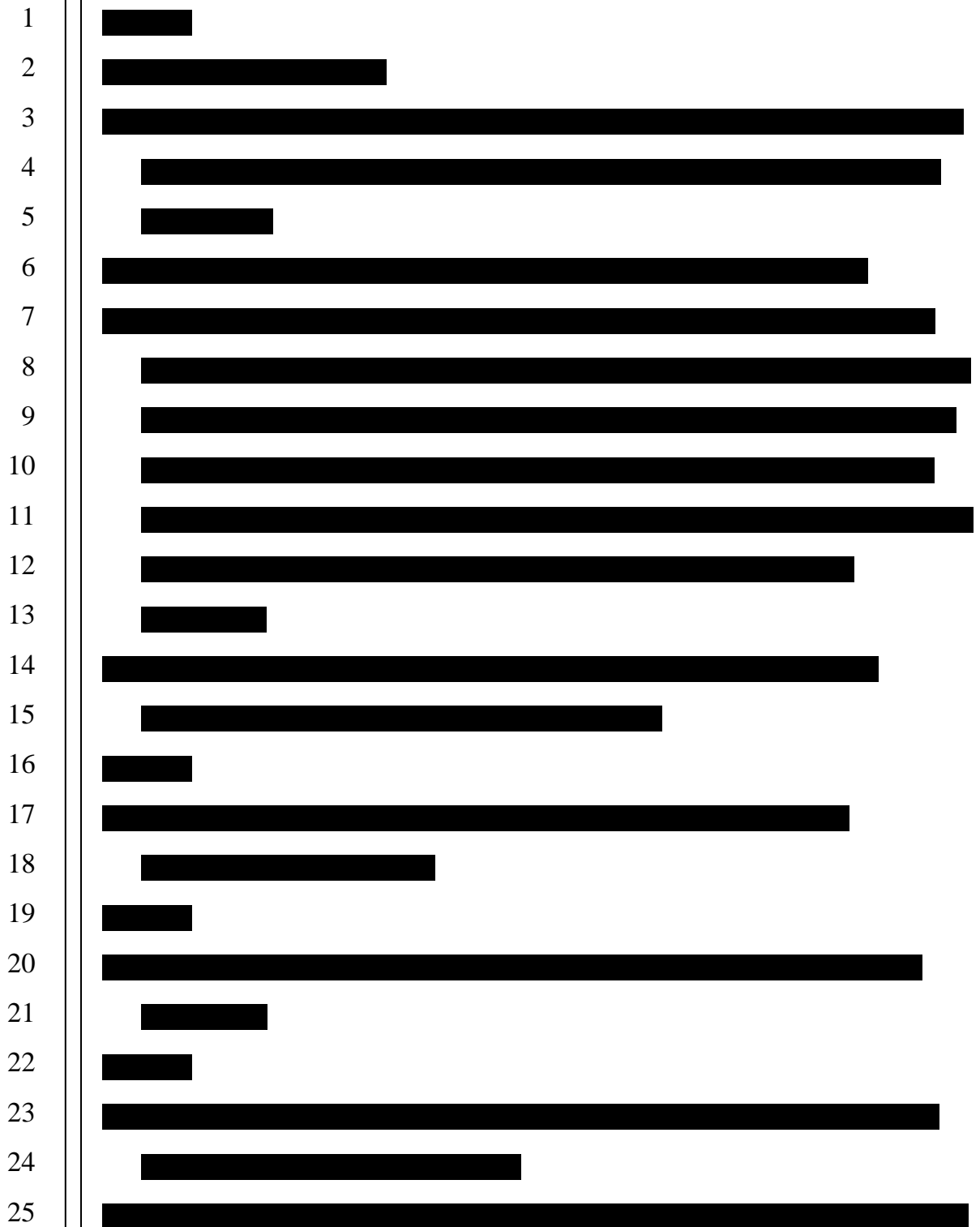


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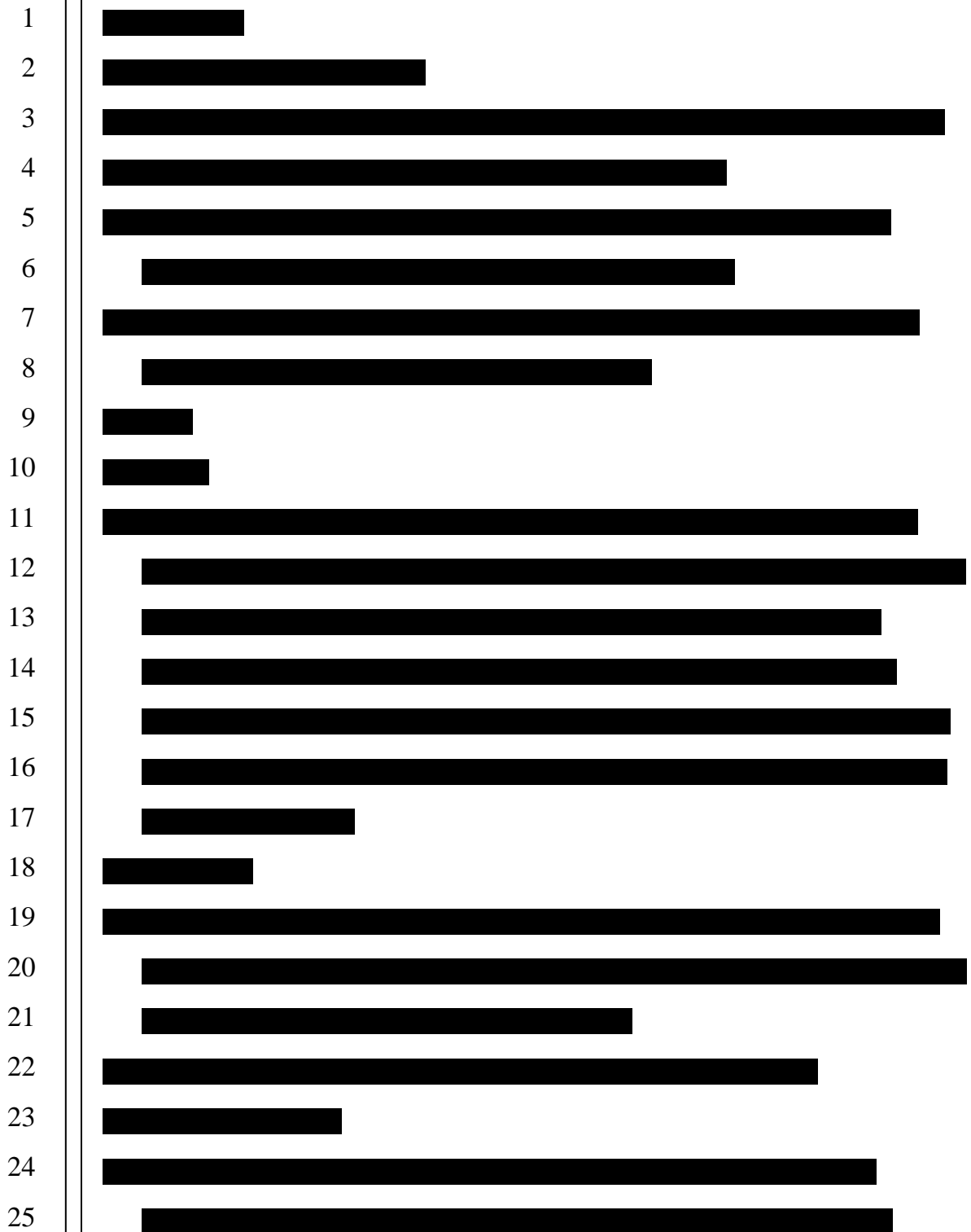
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25 current psychotropic MAT medication; do you see that?

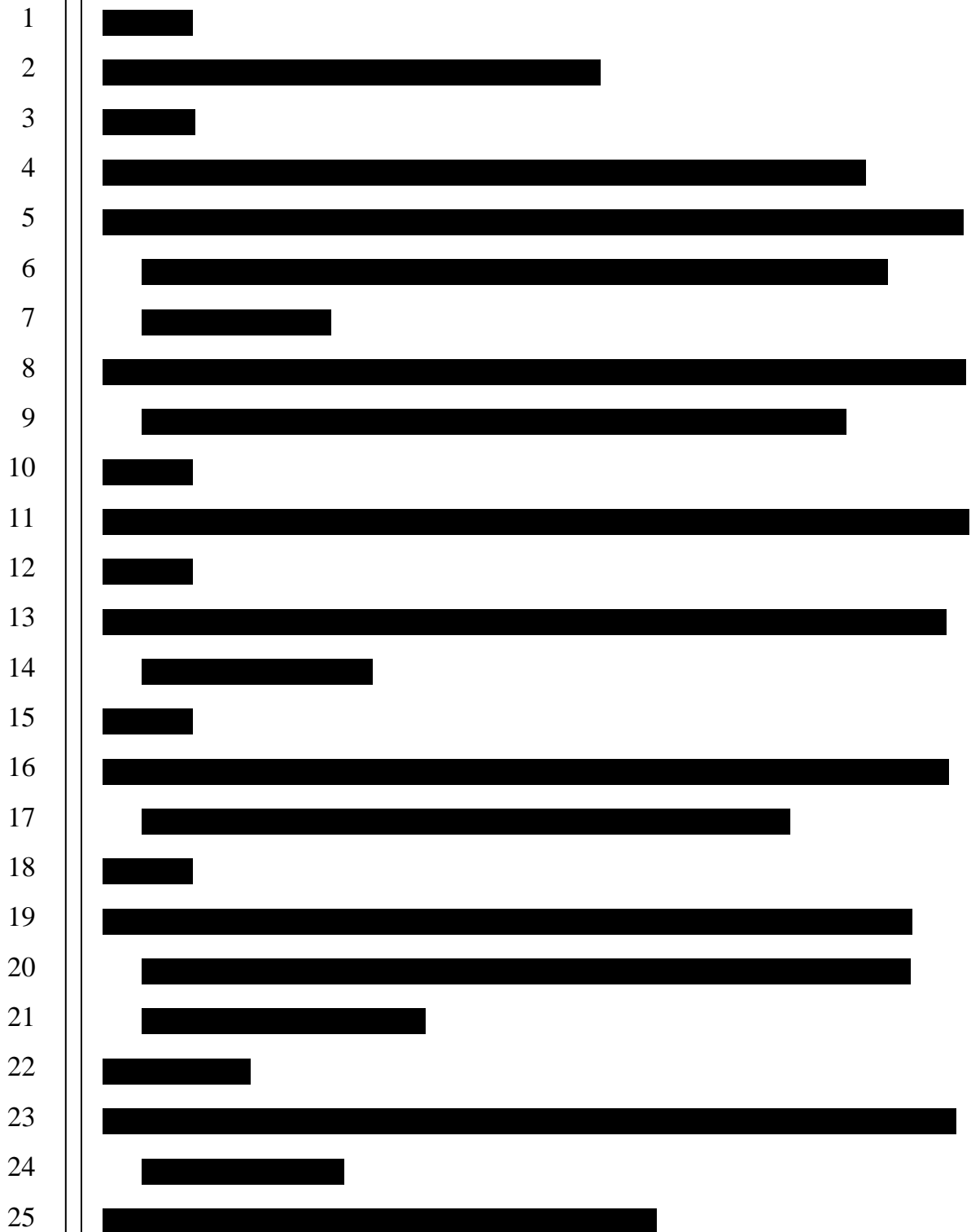
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MR. CONNORS: That's all I have.

MR. POSTEL: Can we take a short recess,
please?

THE REFEREE: Sure. Take ten minutes.

(Recess from 3:33 p.m. to 3:45 p.m.)



(Dr. Joshua Morra - Cross)

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MS. TRAPANI: Okay. We're back on the record.

THE REFEREE: We'll resume testimony. It's about 3:45.

Doctor, you're still under oath, and we can proceed with cross-examination.

MR. POSTEL: Thank you, Your Honor.

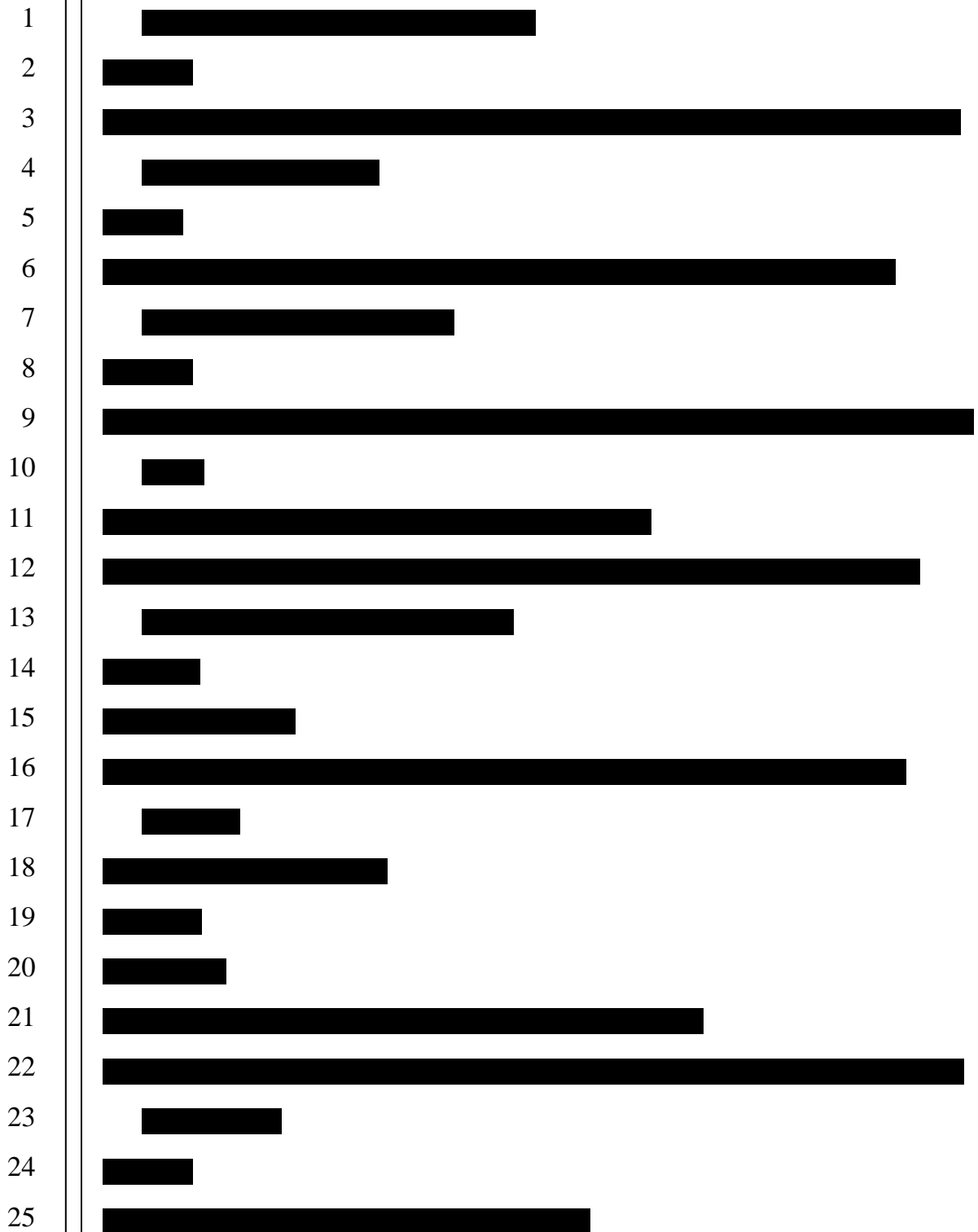
CROSS EXAMINATION

BY MR. POSTEL:

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(Dr. Joshua Morra - Cross)



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(Dr. Joshua Morra - Cross)

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(Dr. Joshua Morra - Cross)

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(Dr. Joshua Morra - Cross)

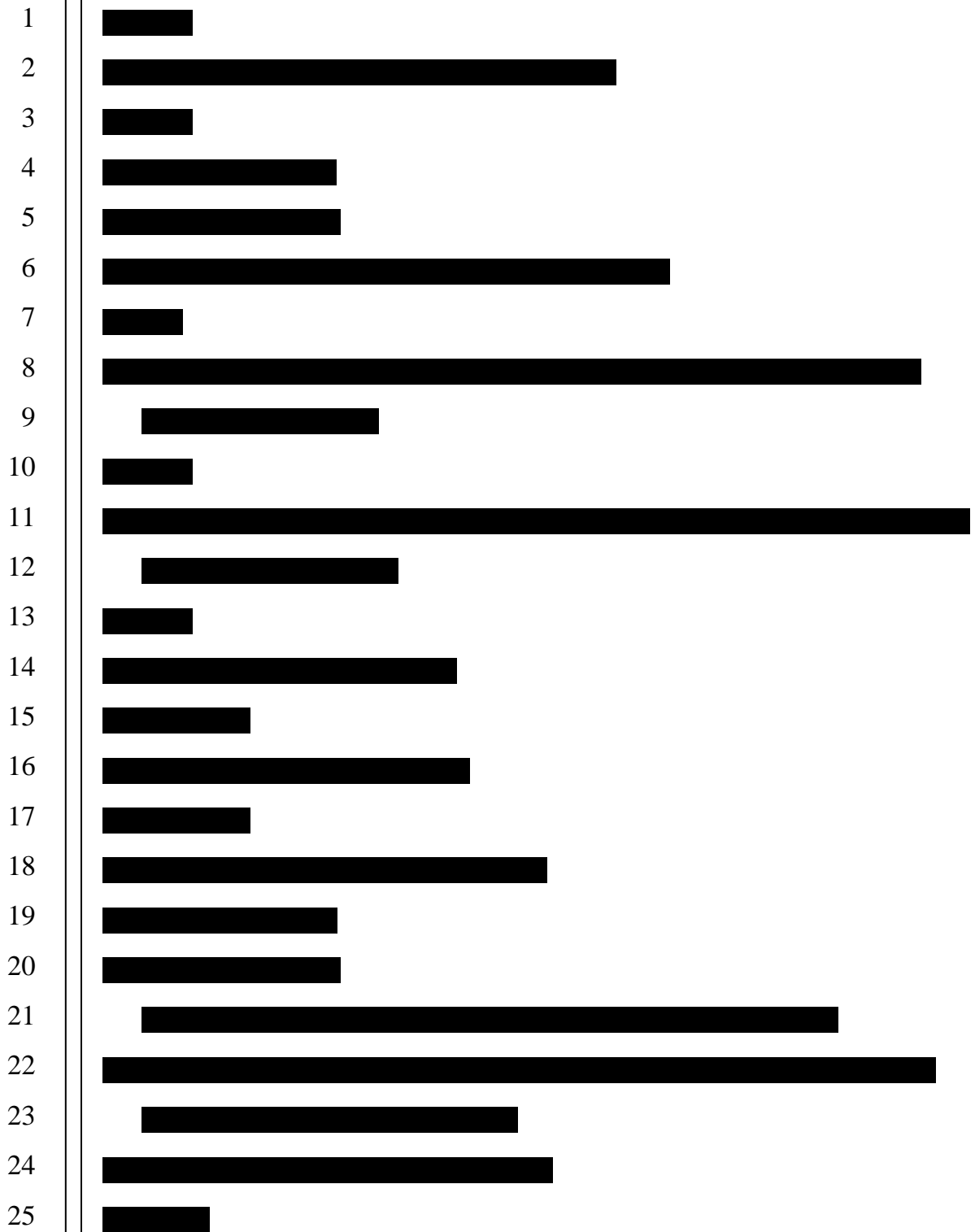
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(Dr. Joshua Morra - Cross)



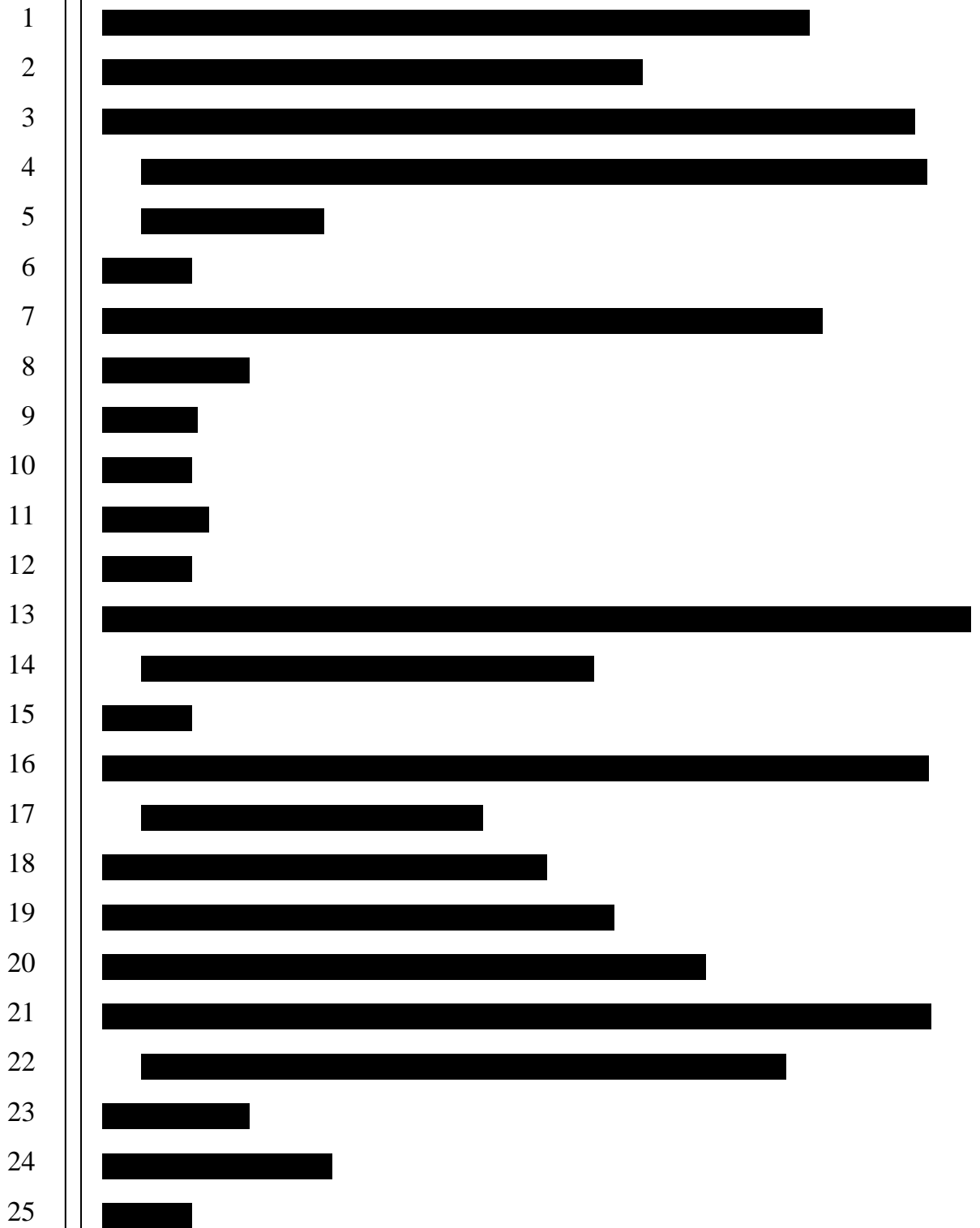
(Dr. Joshua Morra - Cross)



(Dr. Joshua Morra - Cross)

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(Dr. Joshua Morra - Cross)



(Dr. Joshua Morra - Cross)

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(Dr. Joshua Morra - Cross)

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(Dr. Joshua Morra - Cross)

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(Dr. Joshua Morra - Cross)

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(Dr. Joshua Morra - Cross)

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(Dr. Joshua Morra - Redirect)

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(Dr. Joshua Morra - Redirect)

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16 [REDACTED]. CONNORS: That's all I have.
17 MR. POSTEL: I have nothing further.
18 THE REFEREE: You may leave, thank you.
19 THE WITNESS: Thank you.
20 MR. CONNORS: Right to your right.
21 (Recess from 4:24 p.m. to 4:25 p.m.)
22 MS. TRAPANI: We are on the record.
23 THE REFEREE: What was the number for the
24 audiotape?
25 MR. POSTEL: 34.



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THE REFEREE: 34 is offered.

(Commission Exhibit 34 was marked for identification)

THE REFEREE: What's your response?

MR. CONNORS: My position on the audiotape which I listened to yesterday afternoon after court is that I did not use earphones, but I could not determine that it was any different in quality than the one that's already in evidence.

And so I think that -- I think it's duplicative. If it does come into evidence, there's got to be some type of a caveat with respect to this document -- this audio file. And you know, I think it's got very little probative value under those circumstances.

THE REFEREE: Is the -- is 34, is it enhanced in anyway, or is it just --

MR. POSTEL: No.

THE REFEREE: -- a different version?

MR. POSTEL: It's -- it's -- it's a stripped-down version. If you'd like, I'll bring in the technician from the -- our tech department who did this.

And I understand Mr. Connors' objection. And -- but I would add this caveat, as well. It's best listened to, as is the original, with headphones.

And you can ascribe to it any weight you -- you decide. But I still believe that it's relevant and probative. It

1 goes to the scene.

2 THE REFEREE: So the gravamen of your
3 objection, Mr. Connors, is that it's duplicative of a -- of
4 something that's already in evidence. And if there's
5 inconsistencies with it; those inconsistencies are troubling.

6 MR. CONNORS: And the quality of it doesn't
7 assist the trier of fact, as well.

8 MR. POSTEL: That's for you to determine.
9 And there can't be any consistencies, but it's not duplicative
10 because it's another -- it's no -- conceptually, it's not
11 different from the transcripts. It's an aid to the trier of fact
12 to determine what went on based upon the recording. You
13 can ascribe little or some or more to it. But it's relevant to
14 the proceeding. And if you -- it's probative for what --
15 whatever value you decide.

16 THE REFEREE: Yeah.

17 MR. CONNORS: But that's what makes it
18 duplicative, the fact that it's already in evidence.

19 THE REFEREE: Yes. And I understand the
20 objection. But if the harm is it's duplicative, we've got the
21 conditions of how it was obtained. It is the same exhibit.
22 I'll overrule the objection, and receive it.

23 (Commission Exhibit 34 was admitted into evidence)

24 MR. CONNORS: And we would just move the
25 JJJ Exhibit and the III Exhibit into evidence which are the,

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basically, two resumes of the experts who testified.

(Respondent's Exhibit JJJ was marked for identification.)

MR. POSTEL: No objection.

THE REFEREE: Triple J and Triple I are received.

(Respondent's Exhibits JJJ, III were admitted into evidence)

MS. TRAPANI: If I can clarify. Did you say you are receiving 34?

THE REFEREE: Yes.

MS. TRAPANI: Thank you.

THE REFEREE: Now we off?

MS. TRAPANI: One moment.

MR. POSTEL: Thank you, Your Honor.

THE REFEREE: Okay. Resume on July 6th?

MR. POSTEL: Wednesday.

(Proceedings concluded at 4:28 p.m.)

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EXHIBITS

COMMISSION

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13	17	Matter of Application of M [REDACTED] F [REDACTED] (53 pp)	288	289
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EXHIBITS

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14		by Commission Staff, dated February 2, 2021		
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GGG	BPD Incident Report dated September 29, 2017 (1 p)	495	495
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CERTIFICATION

I, Chandelle Paccione, do hereby certify that the foregoing is a true and accurate transcript of the audio recording described herein to the best of my knowledge and belief.

Dated: July 10, 2022



Chandelle Paccione



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

-----X

In the Matter of an Investigation :
Pursuant to Section 44, subdivision 4, :
of the Judiciary Law in Relation to :

MARK J. GRISANTI, :

a Justice of the Court of Claims, :
Acting Supreme Court Justice, :
Erie County. :

-----X

Erie County Family Court, Part 3
One Niagara Street, 7th Floor
Buffalo, New York 14202

July 6, 2022
10:01 a.m.

B e f o r e:

WILLIAM T. EASTON, ESQ.
Referee

P r e s e n t:

For the Commission

JOHN J. POSTEL, Deputy Administrator
DAVID M. DUGUAY, Senior Attorney

For the Respondent

TERRENCE M. CONNORS, Esq.
VINCENT E. DOYLE, Esq.
TYLER GATELY, Esq.

A l s o P r e s e n t:

HON. MARK J. GRISANTI, Respondent
KATHRYN TRAPANI, Executive Assistant to the Deputy Administrator
VANESSA MANGAN, Senior Investigator



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MS. TRAPANI: We're on the record.

THE REFEREE: It's July 6th about 10:00 a.m.
We'll resume testimony in this matter and Respondent.

MR. DOYLE: The Respondent will be calling
Maria Grisanti. I'll just get her from outside the courtroom.

MR. CONNORS: Judge, just before we start,
we did send over a number of exhibits in the last couple of
days. I'm hoping that everything went in smoothly. There
should have been even one coming this morning that
awards -- that's MMM or something like that. Okay.

MR. DOYLE: Thank you. If you have to leave,
just pushes up too, okay?

MS. GRISANTI: Okay.

MR. DOYLE: Okay? Yep. Let me get it for
you right now.

MS. GRISANTI: Okay. Hi.

THE REFEREE: Ms. Grisanti, I'm William
Easton, and I'm an attorney from Rochester, and I've been
designated to sit as the trier of fact for this procedure. And
at the end of it, I'll issue a proposed findings of fact and law
and submit onwards, and your testimony will be a
component of what I consider for the findings of fact and
law. There are two things I'd like to discuss with you
before you testify.

The first is administer the oath. Do you swear

(Maria Grisanti - Direct)

1 or affirm under penalties of perjury to give the truth, the
2 whole truth, and nothing but the truth at this proceeding?

3 MS. GRISANTI: Okay. Nice to meet you.

4 THE REFEREE: Okay.

5 MS. GRISANTI: I'm sorry under these
6 circumstances.

7 THE REFEREE: And the second thing is there's
8 a mic in front of you. And it's a recording device that
9 captures what you say on a audio recording. We have to
10 make a record of this, so you have to speak into the mic, but
11 the mic does not operate as a usual microphone. It doesn't
12 project your voice at all. So at the same time, try to project
13 your voice so everyone in this courtroom can hear you.

14 MS. GRISANTI: Okay.

15 THE REFEREE: Okay?

16 MS. GRISANTI: Yes.

17 THE REFEREE: With that, you may proceed.

18 MS. TRAPANI: Excuse me, Mr. Easton, I did
19 not hear the witness's response to the oath.

20 THE REFEREE: Okay, the oath, you have to --
21 when I -- do you swear or affirm under penalties of perjury
22 to give the truth, the whole truth, and nothing but the truth
23 at this proceeding?

24 MS. GRISANTI: Yes, I do.

25 //

954.



(Maria Grisanti - Direct)

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M A R I A G R I S A N T I

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

DIRECT EXAMINATION

BY MR. DOYLE:

Q. Good morning, Mrs. Grisanti. I'm going to ask you to keep your voice up and if you can just plan to make sure you talk loud enough so even Mr. Gately can hear you?

A. Okay.

Q. There's a little air conditioning over on this side, so it's tough for us to hear, okay?

A. Is this loud enough?

Q. Yes.

A. Okay.

Q. That should be fine. If it's not, we'll let you know as we go. Could you state and spell your full name for the record?

A. Yes. Maria Grisanti. M-A-R-I-A G-R-I-S-A-N-T-I.

Q. And you are married to Judge Mark Grisanti?

A. I am.

Q. Can you tell us your date of birth?

A. [REDACTED].

Q. So that makes you 62 this year?

A. Yes.

Q. Okay. And what name were you born with? In other words, what's your maiden name?



(Maria Grisanti - Direct)

- 1 A. I was born -- my maiden name is Calandra. C-A-L-A-N-D-R-A.
- 2 Q. And where were you born?
- 3 A. In Buffalo, New York.
- 4 Q. Any particular part?
- 5 A. The west side of Buffalo.
- 6 Q. Okay. Do you have any siblings?
- 7 A. I do. I have --
- 8 Q. How many?
- 9 A. -- one brother and three sisters.
- 10 Q. Did you go to high school locally?
- 11 A. Yes, I did.
- 12 Q. Where did you go?
- 13 A. I went to Bishop McMahon and then transferred out to Grover Cleveland.
- 14 Q. And did you graduate from high school?
- 15 A. I did.
- 16 Q. In what year?
- 17 A. 1978.
- 18 Q. What did you do in terms of employment after graduating from high
19 school?
- 20 A. I went -- I immediately went to Erie Savings Bank which was acquired
21 by the Empire of America Savings Bank.
- 22 Q. Okay. What did you do there?
- 23 A. I started as a bank teller and went on to be a sales and service
24 representative, which sat at the desk and helped people with their
25 financial --

956.



(Maria Grisanti - Direct)

1 Q. How long were you there?

2 A. I was there approximately -- maybe to '84, '83, '84. It was '83.

3 Q. In terms of your personal life, did something happen in 1983?

4 A. I was married.

5 Q. Okay. Who did you marry?

6 A. John Amoia, Sr.

7 Q. And did there come a time when your marriage to Mr. Amoia ended?

8 A. Yes.

9 Q. When was that?

10 A. In 1990.

11 Q. All right. And you were formally divorced from Mr. Amoia in 1990?

12 A. Yes.

13 Q. Is Mr. Amoia -- John Amoia, Sr. still alive?

14 A. No. He's deceased.

15 Q. When did he pass?

16 A. He passed in the year 2012.

17 Q. And what children, if any, did you have with Mr. Amoia?

18 A. I have a daughter Ashlee and a son John.

19 Q. What's Ashlee's last name?

20 A. Amoia.

21 Q. Okay. Is she married?

22 A. No, she's not.

23 Q. All right. Does she have any children?

24 A. She does. She has a son.

25 Q. And what's his name?

957.



(Maria Grisanti - Direct)

- 1 A. [REDACTED] (phonetic).
- 2 Q. How old is [REDACTED]?
- 3 A. He'll be seven tomorrow.
- 4 Q. What does Ashlee do for a living?
- 5 A. She's a Buffalo Police Officer.
- 6 Q. And is she the older of your two children?
- 7 A. Yes, she is.
- 8 Q. You mentioned you also have a son John. Is that John, Jr.
- 9 A. It's John, Jr., yes.
- 10 Q. And what does John, Jr. do for a living?
- 11 A. He's a Buffalo firefighter.
- 12 Q. Is he married?
- 13 A. No, he isn't.
- 14 Q. Does he have any children?
- 15 A. No, he does not.
- 16 Q. Okay. Go back to your employment. You told us about the Erie Savings
- 17 Bank, and you were there for a number of years. What happened after
- 18 that?
- 19 A. After Erie Savings, I was married, and I had children. I had my daughter.
- 20 It was about 16 months after being married --
- 21 Q. Okay.
- 22 A. -- became a full-time mom.
- 23 Q. Okay.
- 24 A. The bank position had resolved -- it had dissolved and became a mom
- 25 and waited a couple of years before I went back to banking.

958.



(Maria Grisanti - Direct)

1 Q. Okay. And where was that?

2 A. That was at Gold Dome.

3 Q. And did Gold Dome eventually become known as something else?

4 A. Yes. It became known as KeyBank.

5 Q. All right. And how long were you there?

6 A. I was there approximately ten years or so.

7 Q. Okay. And what happened after that in terms of your employment?

8 A. I went back to -- well, I -- the banks were taken over, so positions were
9 eliminated.

10 Q. Okay.

11 A. And I worked for Erie County.

12 Q. What did you do for Erie County?

13 A. I worked in the child -- I didn't -- it was a -- I worked in the Rath
14 Building for -- it was a position where we would get paperwork ready for
15 the family counselors to go into family homes to see where their children
16 would be placed.

17 Q. Okay. So a child placement worker?

18 A. Pretty much.

19 Q. All right. Now, you told us you're married to Mark Grisanti. When did
20 you meet?

21 A. Mark and I met in 1993.

22 Q. Do you know the date?

23 A. October 20th.

24 Q. Okay. Why do you remember the date?

25 A. It was the day before Mark's birthday.

959.



(Maria Grisanti - Direct)

1 Q. How did you meet?

2 A. Well, we went to -- I went out with a couple of -- well, actually my sister
3 and my cousin. We tried that new place called Jim Kelly's Sports Bar.

4 Q. Where was that?

5 A. It was in downtown Buffalo. And I went in and there was two bars
6 actually. There was a little bar and a bigger bar, and I hadn't been out in
7 a while. So Mark and I -- I mean, I didn't even see Mark. I actually did
8 see him. I'm going --

9 Q. All right.

10 A. Let's be honest here. I did see him. He had a suit jacket over his
11 shoulder, and he walked over to me and told me that he's an attorney.
12 Some people say he looks like JFK.

13 Q. This is what he said to you?

14 A. Yes.

15 Q. Okay.

16 A. He's an attorney and "would you like to dance?" And I said, "No. Thank
17 you."

18 Q. Okay. Did you have any further conversation with him that night?

19 A. Yeah. My sister's, like, "Dance with him. He's cute. Dance with him."
20 So I said, "Okay." So we are dancing, and he said, "Tomorrow's my
21 birthday." He goes, "Would you like to go to dinner?" And I said, "Oh,
22 JFK. You're an attorney. Are you sure you want to go to dinner? You
23 don't have a date?" And it just was history from there, so --

24 Q. How long did you date?

25 A. We dated three years before we were married.

960.



(Maria Grisanti - Direct)

- 1 Q. All right. And did you learn about his family situation?
- 2 A. Yes.
- 3 Q. What did you learn?
- 4 A. That he had a daughter.
- 5 Q. Okay.
- 6 A. He was divorced. Ironically, we were divorced approximately the same
- 7 time. The same time frame and we wanted to make sure our families
- 8 were blended, and the children got along --
- 9 Q. And you --
- 10 A. -- before we did any --
- 11 Q. You mentioned he had a daughter. What's his daughter's name?
- 12 A. Theresa.
- 13 Q. Okay. And what does Theresa do?
- 14 A. She's a stay-at-home mom.
- 15 Q. Is she married?
- 16 A. Yes, she is.
- 17 Q. And what's her husband's name?
- 18 A. David Cole.
- 19 Q. And what does David do?
- 20 A. He's a Buffalo Police Officer.
- 21 Q. Do David and Theresa have any children now?
- 22 A. They do. They have two daughters, [REDACTED] and [REDACTED].
- 23 Q. Okay. You mentioned that you and Mark dated for three years before
- 24 you married and what was the date of your wedding?
- 25 A. July 21, 1996.

961.



(Maria Grisanti - Direct)

1 Q. Where did you live together after you married?

2 A. On Sterling in the north side of Buffalo.

3 Q. Sterling is the name of street?

4 A. Sterling Avenue. Yes.

5 Q. How long did you live on Sterling?

6 A. We lived there from '96 until 2004.

7 Q. What happened in 2004?

8 A. We bought our house on [REDACTED] Avenue.

9 Q. And that's 21 [REDACTED] Avenue?

10 A. 21 [REDACTED]

11 Q. How did you come to buy 21 [REDACTED] Avenue? How did that come about?

12 A. My daughter's -- my children's cousin was in town from California and it
13 was over the Christmas holiday. She had left a gift. Her stepdad lives
14 next-door to, I believe it's 23 [REDACTED]

15 Q. Okay. What's his name?

16 A. His name is Rick France.

17 Q. Okay.

18 A. And --

19 Q. Is that France, like the country?

20 A. Yes.

21 Q. Okay.

22 A. And Charlene, who's my children's cousin, left the gift, had asked my
23 daughter to bring Ricky his Christmas gift. And it seemed to stay at our
24 house until March.

25 Q. Okay.

962.



(Maria Grisanti - Direct)

1 A. So finally, Mark and I had gone to Kostas for a salad and it was pretty
2 snowy out that day. So we said let's take this gift over to Rick. So you
3 know, we could give him his Christmas gift from Charlene.

4 Q. Okay.

5 A. So when we got there, there was -- it was a lot of snow and there was a
6 for sale sign kind of sticking out of the snow.

7 Q. A for sale sign in front of what house?

8 A. In front of 21 [REDACTED]

9 Q. Okay.

10 A. So we immediately loved the way the house looked on the outside.
11 Obviously, we didn't see the inside. So we saw that the realtor and when
12 we called, I discovered it was my cousin, Sal Perillo who was the realtor
13 for the house.

14 Q. Okay. Were the two of you looking for a house at the time?

15 A. Yes. We were actively looking for quite some time.

16 Q. Where were you looking?

17 A. In the north side of Buffalo.

18 Q. Is there a reason you stayed in Buffalo?

19 A. We did. We stayed in Buffalo because Mark wanted to become a judge,
20 and --

21 Q. At the time, what job did Mark have?

22 A. He was an attorney at the time.

23 Q. Okay. How did you know you wanted to become a judge?

24 A. He talked about it all the time. He talked about it continuously and as far
25 as the -- I was ready and willing to move outside of Buffalo for the

963.



(Maria Grisanti - Direct)

1 schools. For the -- you know, the kids at the time, and Mark was like,
2 "No. I want to be a judge. I'm going to be a judge and I want to stay in
3 Buffalo." So we made a pact that if we can find the house that we both,
4 you know, agreed on, and it was a nice area, we would stay.

5 Q. Did Mark ever tell you or mention why he wanted to be a judge?

6 A. He loved working with the public, the community. He felt that he's fair.
7 And he loved doing what he did. And it was his aspiration since he was a
8 little boy. We talked about that several, several times.

9 Q. And just to wrap up your employment, did there come a time when
10 something different happened in terms of your employment? Your
11 occupation?

12 A. I went back to school.

13 Q. Okay. For what?

14 A. To become a paralegal. I always wanted to be a lawyer, and I settled as
15 an older adult.

16 Q. So where did you go?

17 A. I went to Bryant & Stratton.

18 Q. And that's a school here in Buffalo?

19 A. It is. It was actually in Williamsville. It's in Williamsville. I soared at
20 the top of my class. I graduated *Summa Cum Laude*, which I didn't even
21 realize it was the highest at the time, so --

22 Q. With a -- what type of degree?

23 A. A Paralegal Degree.

24 Q. Okay. Was that an Associate's Degree?

25 A. Yes, it is.

964.



(Maria Grisanti - Direct)

- 1 Q. What did you do then in terms of your employment?
- 2 A. I immediately started working for Russell Friedman & Associates.
- 3 Q. I'm sorry, when did you graduate from Bryant and Stratton?
- 4 A. In 20 -- I was just talking about this. Let me see. I believe it was 2016 or
- 5 2017. I'm not quite sure.
- 6 Q. Okay. So then you -- I'm sorry. You said you went to work for Russell
- 7 Friedman & Associates?
- 8 A. Yes.
- 9 Q. And that's a law firm?
- 10 A. Yes, it is.
- 11 Q. And what type of work do you do for them?
- 12 A. No-fault insurance.
- 13 Q. As a paralegal?
- 14 A. Yes.
- 15 Q. Now, I want to ask you some questions about the neighbors on [REDACTED]
- 16 other than the Meles. I'll put them to the side for the second. Other than
- 17 the Meles, how do you get along with the other neighbors on [REDACTED]
- 18 Street?
- 19 A. We get along well. I get along with all of the neighbors.
- 20 Q. Okay.
- 21 A. From one corner to the other, honestly, but our immediate neighbors,
- 22 we're friends. We'd help each other. You know, if it's --
- 23 Q. What do you mean you help each other?
- 24 A. Well, if somebody needs help with, say, gardening, you know? You go
- 25 over and help them. Somebody needs to borrow your trimmers or your

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(Maria Grisanti - Direct)

1 hedgers. If, say it's snowing, Mark would have no problem -- I don't
2 snow blow. I don't even know how to start it. So if, say it's snowing,
3 Mark would take the snowblower and go from the corner of St. Lawrence
4 and [REDACTED] because we're three -- two houses. We're the third house. So
5 he would snow blow all the way to where a mom and her young daughter
6 lives. Which is Ricky -- probably two or almost three houses past us
7 because she's -- [REDACTED]

8 Q. What disputes have you had with any of your neighbors, other than the
9 Meles since you moved to [REDACTED] in 2004?

10 A. Never had any.

11 Q. Have you had disputes with the Meles?

12 A. Yes.

13 Q. Okay. Can you tell me about that?

14 A. Well, the initial dispute was when I witnessed Gina Mele telling my next-
15 door neighbor, Linda, that she was going to effing kill her. And that --

16 Q. Okay. You were there? Sorry.

17 A. Yes, I was. I was there.

18 Q. When did that happen?

19 A. That happened in 2014. Approximately, maybe May 2014.

20 Q. Can you tell me the circumstances around that?

21 A. Mark and I were expanding our driveway. We had taken out some dead
22 bushes and we got a permit to make sure it was legal, and we had some
23 concrete done in our driveway. Several times before that, we were being
24 surveilled by the -- it seemed like somebody from the city to make sure
25 that we weren't, I guess, cutting a curb or whatever.

966.



(Maria Grisanti - Direct)

1 Q. Okay.

2 A. So we basically -- we're doing our concrete work. At that point, Linda
3 and Jerry next-door had a little -- like a -- it was, like, it would get muddy
4 when it would rain or Jerry would run over it or Linda would have run
5 over it, because it was just like a little portion of dirt. So she had asked
6 us if we wouldn't mind giving a little bit of concrete when our concrete
7 guy was over and to fill it in and we said, "Sure, no problem." You
8 know? So they filled that in. So Gina's pulling out of her driveway
9 and --

10 Q. Okay. So Gina is Gina Mele.

11 A. Gina Mele pulls out of her driveway and she -- Linda and I -- I had -- can
12 I back up a second?

13 Q. Yeah.

14 A. I had surgery, so I had my little niece with me, and I had crutches and
15 Linda kind of was helping me outside. We were --

16 Q. Okay. You were outside, in front of your house?

17 A. In front of my house, yes.

18 Q. Okay.

19 A. So Gina looked at Linda. She didn't say it to me. She said it to Linda, "I
20 hope you have a permit for that," and Linda said, "Don't worry. I have a
21 permit, Gina." And she said -- Gina looked at her. She goes, "I'm going
22 to --" she goes, "F-you, Linda. I'm going to effing kill you." So --

23 Q. Gina said that to Linda?

24 A. Yes.

25 Q. In front of you and your niece?

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(Maria Grisanti - Direct)

- 1 A. And my seven-year-old niece, yes.
- 2 Q. Okay. What happened then?
- 3 A. So I just kind of told Linda, "Let's just ignore. Let's go in your yard.
- 4 Let's don't say anything," and that's what we did.
- 5 Q. Okay.
- 6 A. The police, I believe, were called that day. And I was probably out only
- 7 for about an hour in Linda's yard. We walked back and Joe -- Linda
- 8 walked back to her house. She was in her driveway. Joe pulls in her
- 9 driveway --
- 10 Q. Joe is who?
- 11 A. Joe Mele.
- 12 Q. Okay.
- 13 A. -- pulls in her driveway. She's standing in her driveway, and he almost
- 14 ran her over, and I saw it.
- 15 Q. Okay. So as Joe pulled into Lin -- and this is -- we mentioned Linda and
- 16 Jerry -- this is the Chwalinskis?
- 17 A. Chwalinskis. Yes.
- 18 Q. All right. So Joe Mele pulled into Linda Chwalinski's --
- 19 A. Into her driveway. Which he would do a lot.
- 20 Q. Okay. So what happened then?
- 21 A. He almost ran her over and she literally had to, like, jump out of the way.
- 22 Q. Okay.
- 23 A. And I saw it. Police were once again called, and they wanted a statement
- 24 from me, and I told the truth --
- 25 Q. Okay.

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(Maria Grisanti - Direct)

1 A. -- from what I saw.

2 Q. So you gave a statement to the police?

3 A. I did.

4 Q. All right. Did you ever have any discussion about that statement or that
5 incident with either Gina or Joe Mele?

6 A. About that incident?

7 Q. Yes.

8 A. I never talked to them about it.

9 Q. Okay.

10 A. Their daughters called my kids and basically said, you know, "We hate
11 your mother. I can't believe she did that to my dad," because I believe
12 Joe was arrested that night.

13 Q. Okay. All right. Did there come a time where there was a next incident
14 that happened between the Meles and you or you and Mark?

15 A. There was a time -- well, they would start parking their cars on top of our
16 driveway, and she had a problem -- Gina had a problem that we took
17 away green space, she said. So they would park all the way up to our
18 driveway every -- Thursday is -- it's alternate parking in North Buffalo.
19 So on Thursdays she would park -- they would park -- both of them
20 would park their cars to make sure they were right up to our driveway, if
21 not pretty much blocking it and they would leave space in the middle
22 next -- in front of Linda and Jerry's house, they have like a double -- it
23 looks like you could park two cars there. At least two. So they would
24 pull all the way up to our driveway and back all the way up to Linda and
25 Jerry's driveway --

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(Maria Grisanti - Direct)

1 Q. Okay.

2 A. -- then they'd -- in front of our house, they would back all the way up into
3 our driveway and we would be sandwiched in, and they would do the
4 same on the other side of Linda's house, in front of the other house.

5 Q. Now, when you say they would pull all the way up. Who are you talking
6 about?

7 A. Gina and Joe Mele.

8 Q. Okay. And is this something you saw?

9 A. Yes. I would witness it a lot.

10 Q. Okay. What would you witness?

11 A. I would -- okay, so they would pull up. First of all, alternate parking is at
12 six o'clock. It would be 5:15, like clockwork, they would move their cars
13 to the other side of the street. They would pull up. If they didn't get
14 pulled up far enough, Gina mostly, would get out of the car, look to see
15 how close up she is to the driveway, get back in, pull up some more, get
16 out, pull up some more. Make sure they're right on top of the driveway.

17 Q. How many times did you see Gina Mele do this?

18 A. Several times. I mean, for years I've seen it.

19 Q. And when she would do this, would there be room in front of her car or
20 her truck before the next driveway?

21 A. What she would do -- say she's parking her -- say the front of her car is in
22 front of Linda and Jerry's house --

23 Q. Okay.

24 A. -- and the back of their car is in front of our house. It would be
25 sandwiched in.

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(Maria Grisanti - Direct)

1 Q. Right.

2 A. So she would -- they would make sure they're pulled all the way. So it
3 would give us -- we would actually have to swing out to pull in our
4 driveway. Every single Thursday.

5 Q. You mentioned Gina. Did you see Joe Mele do the same thing?

6 A. He wouldn't get out of his car, but he would definitely park to sandwich
7 us in. To make it very difficult and, you know, at the time, my kids were
8 living at home too, and I was nervous that they were going to, you know,
9 hit their cars. Which --

10 MR. DOYLE: Would you pull up LLL?

11 MS. TRAPANI: (Unintelligible).

12 MR. DOYLE: Okay. We can do it later. Okay.

13 This is fine, yeah. Okay.

14 BY MR. DOYLE:

15 Q. So Mrs. Grisanti, we have up on the screen what we've marked for
16 identification as Respondent's LLL and this is a screen capture from the
17 body cam footage of Officer Muhammad, which is in evidence as Exhibit
18 12. By the way, have you seen the videos of the incident on June 22,
19 2020?

20 (Respondent's Exhibit LLL was marked for identification)

21 A. Yes, I have.

22 BY MR. DOYLE:

23 Q. Does that include the -- what we'll call the Mele's Ring doorbell camera
24 video?

25 A. Yeah, it's their camera. I don't think it's a Ring doorbell though.

971.



(Maria Grisanti - Direct)

1 Q. Okay. So their camera. You've seen that video?

2 A. I have. Yes.

3 Q. Have you seen the body cam footage from Officer Ryan Gehr?

4 A. I have.

5 Q. And have you seen the body cam footage of Officer Muhammad?

6 A. I have.

7 Q. Okay. And do you recognize this? What's up in front of you, LLL as a
8 still photo from the body cam footage of Officer Muhammad?

9 A. Yes.

10 Q. Okay. Does this LLL in front of you fairly and accurately show how the
11 truck that belonged to Theresa Mele [sic] was parked on the evening of
12 June 22, 2020?

13 A. Yes, it is.

14 Q. All right.

15 MR. DOYLE: We'd offer Exhibit LLL into
16 evidence.

17 MR. POSTEL: As a demonstrative
18 representation?

19 MR. DOYLE: Yes.

20 MR. POSTEL: No objection.

21 THE REFEREE: Received.

22 (Respondent's Exhibit LLL was admitted into evidence)

23 BY MR. DOYLE:

24 Q. So you were just talking about how the Meles would park and park right
25 up against, if not blocking sometimes, your driveway -- the entrance to

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(Maria Grisanti - Direct)

1 your driveway?

2 A. Yes.

3 Q. Does LLL -- does that demonstrate the type of position that they would
4 park cars and trucks in, in front of your house?

5 A. Pretty much. Yes.

6 Q. Okay. Looking from the front of the truck that's depicted there, there
7 appears to be some distance. There's a tree, but then there's some
8 distance to the next driveway of your next-door neighbor, correct?

9 A. Yes. There's --

10 Q. Do you have an estimate of how many feet that is?

11 A. Maybe 10, 12.

12 Q. Okay.

13 A. I don't know. I don't know. I'm not good with that, but it looks --

14 Q. Okay.

15 A. -- there's a lot of room to pull up.

16 Q. Okay. And is that, again, where that truck is, is that representative of
17 how they would park their vehicles?

18 A. Yes.

19 MR. DOYLE: Okay. You can take that down.

20 Thanks.

21 BY MR. DOYLE:

22 Q. In addition to the parking issues, were there any other issues or disputes
23 that you had with the Meles in the time leading up to June 22, 2020?

24 A. There was several times when -- well, one in particular was when Gina
25 dumped her garbage, which she would do every single Thursday. She

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(Maria Grisanti - Direct)

1 would take -- I feel like she would wait till Thursday to dump her garbage
2 out from her car onto our property.

3 Q. Did you ever see her do that?

4 A. I did.

5 Q. How many times?

6 A. I saw her several times and the one time I was just -- I saw her actually --
7 she would just dump it and it would be on the -- not on the inside of our
8 sidewalk, on the outside. You know, we have grass, like, on the outside
9 near the curb.

10 Q. Okay.

11 A. This time, she -- the one time, she kicked all her garbage over to make
12 sure it was on our front lawn. So I happen to be looking out the window
13 and I saw it --

14 Q. So let me stop you just so I understand.

15 A. Okay.

16 Q. You said that other times she had done it, she would drop garbage from
17 her car, and you saw her do this?

18 A. I did.

19 Q. And it would be between the curb and your sidewalk?

20 A. Between the -- yes. On the grass --

21 Q. Right.

22 A. You have grass on the -- between the curb and sidewalk.

23 Q. Right. And there's a tree there from the photograph?

24 A. There's a tree, right.

25 Q. Okay. But this one time, and can you give us a date or a range for this

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(Maria Grisanti - Direct)

1 one time that you saw where something different happened?

2 A. It was probably in the month of May, June. Everybody's cleaning up
3 their fronts.

4 Q. What year?

5 A. 2015.

6 Q. Okay. And what did you see her do?

7 A. She dumped her garbage once again and kicked her garbage, you know,
8 kicked it over to the sidewalk and to -- we have bushes -- like, into our
9 front lawn. Like, on our property.

10 Q. Okay. What happened?

11 A. I went outside, and I kicked the cup into the middle of the street.

12 Q. Okay.

13 A. She came out and said, "What's your effing problem?" And I said I was
14 sick of her throwing her garbage on our property.

15 Q. What did she say?

16 A. Joe comes out at that point and wanted to see us have a physical fight.
17 He said, "Girl fight. Girl fight."

18 Q. This is Joe Mele?

19 A. Yes.

20 Q. Said, "Girl fight."

21 A. Girl fight.

22 Q. To you and Gina?

23 A. Yes. We had words back and forth. I was sick of her throwing her
24 garbage. And then she told me my husband is cheating on me and I take
25 Prozac.

975.



(Maria Grisanti - Direct)

1 Q. So she told you, Maria Grisanti --

2 A. That I'm nuts.

3 Q. -- that Mark was cheating on you?

4 A. Yes.

5 Q. And she -- what did you say about Prozac?

6 A. She said that I was nuts and I take -- she knows all about me taking
7 Prozac.

8 Q. Okay. So she told you that you, Maria, were taking Prozac?

9 A. Yes.

10 Q. What happened then?

11 A. I think we just kind of went in and just called, you know, just picked -- I
12 probably picked up the garbage because I have picked up the garbage
13 several times from them. And I just probably went in the house and that
14 was it.

15 Q. Did you end up telling your husband about that incident?

16 A. Yeah. We used to talk about the incidences a lot together. Like, what
17 happened today? You know, as far as Joe coming out spitting. I'd be
18 outside doing some yard work, picking up twigs or whatever from -- it's
19 usually always in the summertime when all this stuff takes place. Joe
20 would come out and say, "Oh, look at her. She's on steroids." Picking
21 up -- like, I'd pick up branches or clean up the front. He'd spit. "Go on
22 look at her. She thinks she's..." you know, just -- he would just make --
23 always have something, like, not nice to say.

24 Q. When you say he would spit. Can you describe what you mean by that?

25 A. He would just make a real loud noise and spit.

976.



(Maria Grisanti - Direct)

1 Q. Spit down on the ground?

2 A. Spit on the ground. Just like knowing we were -- like, he would -- it's
3 funny because he would walk out. He would stand in his driveway, like
4 at the end of his driveway and just, like, look over and spit, so --

5 Q. The comments about you were taking steroids. Is it something you --
6 first of all, you heard Joe Mele say that?

7 A. Oh, yeah, he said it a lot of times. Because I used to personal train for
8 Terrie's Fitness Center in North Buffalo and they'd probably see me going
9 in out of the house a lot of times during the day because I would meet at
10 the gym if I was training somebody. And --

11 Q. How many times do you think you heard him say that to you?

12 A. To me?

13 Q. Yeah.

14 A. I try not to -- I try to ignore them mostly. So I would just get in my car. I
15 mean, he'd say it, I would get in my car, and just go. I mean --

16 Q. It was more than once.

17 A. -- I can't really give -- oh, absolutely. I just wouldn't give him the time of
18 day.

19 Q. Did there come a time where there was an incident that involved your son
20 John and a car?

21 A. Yes.

22 Q. Okay. Tell us about that.

23 A. So my son just bought a new Acura, and it was his dream car.

24 Q. When did this happen?

25 A. This happened in -- I want to say 20 -- gosh. I'm trying to think. It was

977.



(Maria Grisanti - Direct)

1 after. Oh, no, it was before. This happened in 2019, I believe.

2 Q. Okay.

3 A. Yeah. This happened in 2019. He bought a car. And he -- once again, it
4 was alternate parking day. My son's getting ready to leave. Joe zooms
5 up. Hits Johnny's car, I was told, and -- because I didn't witness it, but
6 my son did, Mark did, and Joe obviously did. So I came down. I heard
7 the little raucous. I came downstairs and I go, "What happened?" You
8 know, I was just waiting for -- I knew an accident was going to end up
9 happening with the whole, like eventually, with the whole parking thing.
10 And I initially thought my son hit him. And it wasn't. And Joe admitted
11 that he was at fault, because we said, "Do you want us to call the police to
12 get a police report?" And they were like, "No. We'll just exchange
13 insurance. We'll call tomorrow."

14 Q. Who said that?

15 A. Joe.

16 Q. Okay.

17 A. And Gina actually came over with him. She was very shaken up. And I
18 actually told her, I said, "Listen, it was an accident. Don't worry about it.
19 We'll get it resolved. And that's why we have insurance."

20 Q. When you said Joe Mele admitted that the accident was his fault.

21 A. Yes.

22 Q. To who?

23 A. In front of Mark, myself, and my son, and Gina.

24 Q. All right. What happened after that regarding this accident?

25 A. The next day, I believe Mark called the insurance company and they said

978.



(Maria Grisanti - Direct)

1 that they're not paying. That it was not the other side's fault. It was our
2 fault. Like, my son's fault. They weren't paying any of the insurance.
3 They were going to -- they charge --

4 Q. Did they say that the Meles had said that it was not their fault?

5 A. Yes.

6 MR. POSTEL: I'm going to object. This is
7 clearly hearsay and outside the scope.

8 THE REFEREE: It is --

9 MR. POSTEL: I mean we've got wide latitude,
10 but at some point.

11 THE REFEREE: Yeah. I assume it's not
12 coming in for its truth. It's coming just --

13 MR. DOYLE: It is not coming in for its truth.

14 THE REFEREE: And on that proviso, I'd
15 overrule the objection.

16 MR. DOYLE: Thank you.

17 BY MR. DOYLE:

18 Q. What ended up ultimately happening. Just the end result of the accident?

19 A. We ended up going to Small Claims Court and my son was awarded not
20 at fault.

21 Q. You mentioned that Joe, while you were out at your house, at various
22 times, would spit or say things about taking steroids or other comments.

23 Did Gina ever make comments to you or about you while you were
24 outside in front of your house?

25 A. While I was outside?

979.



(Maria Grisanti - Direct)

1 Q. Yes.

2 A. Like, if we were just outside?

3 Q. Yeah.

4 A. Not really. I mean, she -- we basically ignored each other for a long time.
5 I mean, I would -- at one time I went across the street to see Jeanne and Joe's
6 backyard and she squirted me.

7 Q. Is that Jeanne and -- I'm sorry. Jeanne and Joe --

8 A. Jeanne and Joe Contino.

9 Q. Okay.

10 A. And I was squirted from her yard.

11 Q. By who?

12 A. Well, when I walked out of my house I saw -- because I had a chain link
13 fence at this time.

14 Q. Okay.

15 A. So I saw Gina and Joe Mele in their yard doing probably gardening. I
16 don't know. I kind of walked -- if I -- I never really walked straight
17 across the street because their yard is to my driveway. So as I was
18 walking out, I saw them in the yard, and it was a beautiful day, and I
19 thought it was raining. And I looked at Jeanne Contino and I was like,
20 "Where the heck is that coming from," and it was Gina or Joe squirting
21 the hose over the fence.

22 Q. When did that happen?

23 A. That happened probably in 2019 as well.

24 Q. In addition to incidents that you yourself had with the Meles, did you talk
25 to neighbors, who themselves had incidents or disputes with the Meles?

980.



(Maria Grisanti - Direct)

1 A. Yes, I --

2 Q. Just yes or no.

3 A. Yes.

4 Q. Okay. All right. Was there an incident that occurred involving a July 4th
5 party?

6 A. There was.

7 Q. What year was that? Do you recall?

8 A. 2016.

9 Q. Okay.

10 A. I believe.

11 Q. And did you directly observe what occurred?

12 A. I didn't.

13 Q. Okay. The next day, did something happen in follow-up to what had
14 happened at the July 4th party?

15 A. Yes.

16 Q. What happened that you witnessed?

17 A. Mark was outside squirting down the driveway. I was outside helping
18 him. Sweeping up. And Joe comes out and says --

19 Q. Joe Mele?

20 A. Joe Mele comes out and tells Mark, "Come on tough guy. I'll turn the
21 cameras off. Show me what you got. Want a shot at the title?" And --

22 Q. This is Joe speaking to your husband Mark?

23 A. To my husband. To Mark.

24 Q. And what happened?

25 A. Mark didn't say a thing.

981.



(Maria Grisanti - Direct)

1 Q. In the transcript and video of the incident with the Meles on June 22,
2 2020, there is some reference to your son John, and we'll talk about
3 specifically what you said. But at some point in time, did you become
4 aware that your son John had some involvement with the Meles?

5 A. Yes.

6 Q. Okay. Tell us about that.

7 A. After the accident, my son had saw Joe Mele standing outside and --

8 Q. So sorry -- so this is your son, John --

9 A. My son --

10 Q. -- telling you that something happened?

11 A. -- telling me this. Yes.

12 Q. Okay. And when was this, approximately?

13 A. This was about a year prior to the June 2020 incident.

14 Q. Okay.

15 A. He told me that he's --

16 MR. POSTEL: Objection. This is offered for
17 the truth.

18 MR. DOYLE: This is not being offered for the
19 truth. It's being offered to explain a comment that's made
20 during the incident where she refers to her son, Johnny and
21 some interaction he had with Mr. Mele.

22 MR. POSTEL: Relating to her state of mind
23 and is based upon crediting what her son told her, which
24 would be the truth.

25 THE REFEREE: Well --

982.



(Maria Grisanti - Direct)

1 MR. DOYLE: It's offered to explain why she
2 said what she said. That's what it's offered for.

3 THE REFEREE: Yeah. Independent of its
4 truth, if she heard it then, independent of its truth, it would
5 have some effect on her perception. So I'll overrule the
6 objection.

7 MR. DOYLE: Thank you.

8 THE REFEREE: On that basis, that it's not
9 coming in for its truth.

10 MR. DOYLE: Absolutely. Thank you.

11 BY MR. DOYLE:

12 Q. Go ahead.

13 A. Okay. Lost my train of thought for a second. So my son told me after
14 this happened, he approached --

15 Q. After the car accident happened?

16 A. After the car accident. Because he knew there was some friction with --

17 Q. Well, not what he knew --

18 A. Me and Joe.

19 Q. -- just tell us what he said to you.

20 A. Okay. So my son told me that he saw Joe outside -- Joe Mele outside,
21 and my son told me he went over to Joe, made a gentleman agreement.

22 "You stop taunting and, you know, leave -- please leave my parents
23 alone. I'll tell them the same. I want this over. Let's have a gentleman's
24 handshake on it and let bygones be bygones. Let's just call it a day."

25 And that was it.

983.



(Maria Grisanti - Direct)

1 Q. And did your son John tell you how Joe Mele responded to that -- that he
2 said.

3 MR. POSTEL: I'm going to object to that.
4 That's double hearsay.

5 THE REFEREE: Just what she was told --

6 MR. DOYLE: Yes.

7 THE REFEREE: I overrule the objection. Just
8 what she was told.

9 BY MR. DOYLE:

10 Q. Go ahead. What did your son say, if anything, Joe Mele responded either
11 in words or actions to what John said?

12 A. He told me that Joe said he was good with that. That was -- that he
13 would stand by those words, so --

14 Q. All right. Mrs. Grisanti, I want to ask you about some events leading up
15 to what happened on June 22, 2020. In the year 2020, obviously the
16 world was dealing with COVID?

17 A. Yes.

18 Q. Okay. How did that affect you and Mark, your work, anything like that?

19 A. Well, I had to work from home, probably along with a lot of other people.
20 I ended up doing my -- using all my work, you know, taking all my work,
21 my computer, everything, bringing it home.

22 Q. Did Mark continue to work?

23 A. Yes, he did.

24 Q. Did he work from home, or from the office, or both?

25 A. He was back and forth. When it was completely shut down, he couldn't

984.



(Maria Grisanti - Direct)

1 go to work, but when they would reopen here and there, he was going to
2 work.

3 Q. Okay. We've heard something from prior testimony of witnesses about
4 the family dog back in June of 2020. What was the dog's name?

5 A. Fredo.

6 Q. And what kind of dog was Fredo?

7 A. Excuse me. Bichon.

8 Q. When did you get Fredo?

9 A. 2004.

10 Q. Okay. When you moved to [REDACTED]

11 A. Yes.

12 Q. Do you need a tissue? Is that --

13 A. I'm okay.

14 MR. DOYLE: Is that okay, Your Honor, if I --

15 THE REFEREE: Sure.

16 A. I'm sorry.

17 BY MR. DOYLE:

18 Q. It's okay.

19 A. It's just that that day, it just brings back bad memories because --

20 Q. Okay, well, let --

21 A. -- Fredo was walking by himself --

22 Q. Okay.

23 A. -- after it. I'm sorry.

24 Q. So you got Fredo in 2004.

25 A. 2004. Um-hum.

985.



(Maria Grisanti - Direct)

1 Q. All right. And June 2020, was he having some health issues?

2 A. Yes. He had kidney failure and congestive heart failure.

3 Q. Was he getting some type of treatment?

4 A. He was getting dialysis.

5 Q. How often?

6 A. Every other day.

7 Q. How long did that last for that he was getting dialysis every other day?

8 A. A couple of months.

9 Q. Where was he getting dialysis?

10 A. At Cheektowaga Veterinary Hospital.

11 Q. Who was taking him?

12 A. Either Mark or myself.

13 Q. As of June 22nd, the day of the incident we're going to talk about, how
14 was his health? How was Fredo's health?

15 A. It wasn't good.

16 Q. Also in 2020, were there some health issues for your mother?

17 A. Yes.

18 Q. Okay. And what is your mother's name?

19 A. Dee. Marie -- her name's -- we call her Dee. Dee Calandra.

20 Q. And tell us about her health issues in 2020.

21 A. Well, on and off into the hospital up until March 9th, when she had a
22 major surgery and ended up in the hospital 11 weeks after that.

23 Q. So she was in the hospital following her -- what type of surgery was it?

24 A. She had severe [REDACTED] and she ended up getting an [REDACTED] put
25 on.

986.



(Maria Grisanti - Direct)

- 1 Q. So she went in for surgery on March 9, 2020?
- 2 A. Yes. March 9th and she was in the hospital until the end of May.
- 3 Q. Okay. And that's right when COVID was starting, correct?
- 4 A. Yes.
- 5 Q. What was visitation like in terms of someone visiting your mother?
- 6 A. They would only allow one person in. They kind of didn't know what
- 7 was going on, so they only would allow one person and that one person
- 8 that went in had to be the same person each and every time you'd visit.
- 9 So I was mostly familiar with everything that was going on with her, so it
- 10 was me.
- 11 Q. So you were the one who was visiting your mother?
- 12 A. Yes.
- 13 Q. How often during that time?
- 14 A. Every day.
- 15 Q. Okay. Did she come home eventually?
- 16 A. She came home and at the end of May with 24-hour care. Seven days a
- 17 week care.
- 18 Q. Who was providing that?
- 19 A. Between myself and my sister. And they would have nurses come in and
- 20 out, but not stay overnight.
- 21 Q. Was that -- the amount of care that your mother needed in the months
- 22 leading up to June 2020, was that a --
- 23 A. I would --
- 24 Q. -- stressful situation for you?
- 25 A. Yes. Absolutely. Yeah, I would have to sleep -- my sister and I would

987.



(Maria Grisanti - Direct)

1 take turns sleeping overnight, and just caretaking her. You know, trying
2 to get her back to health.

3 Q. In addition to that, at the same time, were there health concerns for
4 Mark's mother?

5 A. Yes.

6 Q. And what's Mark's mother's name?

7 A. Angie Becker.

8 Q. What health issues did she have in June of 2020?

9 A. She had [REDACTED]. She had [REDACTED]. [REDACTED]
10 [REDACTED].

11 Q. Where was she at the time in May and June of 2020?

12 A. She was in and out of the hospital.

13 Q. And who was caring -- visiting her, caring for her in terms of the family?

14 A. Mark.

15 Q. How often did Mark go to care for her or visit her either at the hospital
16 or --

17 A. Every day.

18 Q. So we talked about COVID. The health of family members. The
19 situation with the family dog. I want to ask you about your children.

20 You mentioned that your daughter Ashlee is a police officer --

21 A. Yes.

22 Q. -- and so is your son-in-law, David.

23 A. Right.

24 Q. Okay. In June of 2020, were there any concerns that you had for your
25 family members who were involved in police work?

988.



(Maria Grisanti - Direct)

1 A. Yeah. At that time, when all this was going on, it was the timeline on the
2 whole George Floyd, the Mr. Gugino. There was a ton of protesting.

3 There was -- you know, I guess they were throwing, like, firebombs and
4 those -- whatever you call those. I don't know what they're called.

5 Q. Molotov cocktails?

6 A. Yes. Into buildings and, you know, the police were getting really, you
7 know? Like, I was afraid for my -- you know, for my children.

8 Q. Just to go back. You mentioned a couple things. You mentioned George
9 Floyd and that was sort of a national news incident.

10 A. Yes.

11 Q. A person who died after being --

12 A. Brutally --

13 Q. -- put in custody by --

14 A. Right.

15 Q. -- the police, correct?

16 A. Yes.

17 Q. You also mentioned Gugino, and just so our Referee and the Commission
18 members are familiar. What are you referring to when you talk about the
19 Gugino incident?

20 A. Well, in Buffalo, I think that made national news too. But in Buffalo, the
21 police officer, according to the news, pushed the Mr. Gugino and the
22 police were under a lot of duress and stress, and I was afraid. Well, they
23 were just being attacked by the public pretty much with all the protests,
24 so --

25 Q. All right. And the last thing before we get to the incident on June 22nd is

989.



(Maria Grisanti - Direct)

1 I just want to ask you about your physical condition in June of 2020. Did
2 you have any medical or physical problems at that time?

3 A. Yes. I have a cervical spine issues and lumbar spine issues.

4 Q. Have you had treatment for those?

5 A. Yes, I have. I've had injections for those.

6 Q. All right. Anything else?

7 A. I --

8 Q. You mentioned something about your knee before regarding one of the
9 prior incidents.

10 A. I had a tear in my left knee in 2014, and then I just had a tear on my right
11 knee three weeks ago. I just had surgery.

12 Q. In June of 2020, can you give us your best estimate of what your height
13 was?

14 A. My height?

15 Q. Yes.

16 A. Five-one.

17 Q. All right. And your weight?

18 A. About 110 pounds.

19 Q. So Maria, I want to now turn to June 22, 2020. Do you recall that day?

20 A. I do.

21 Q. What day of the week was it?

22 A. A Monday.

23 Q. What did you do during the day? Do you recall?

24 A. I worked earlier that day and then went to my mom's, which is what I
25 would do every day.

990.



(Maria Grisanti - Direct)

1 Q. Okay.

2 A. So --

3 Q. Did you get home at some point?

4 A. I probably got home about maybe five o'clock, 5:30-ish.

5 Q. What did Mark do, if you know?

6 A. Mark worked that day as well.

7 Q. Did he work from home or from the office, if you know?

8 A. No, I believe he was at the office that day.

9 Q. Where was his office in June of 2020?

10 A. In downtown Buffalo.

11 Q. What time did he come home?

12 A. Probably around the same time as me. Maybe at, like, 5:00, 5:30.

13 Q. What did you do then?

14 A. We probably changed our clothes, freshened up. We decided to go get
15 some stuff for the lawn, some flowers. We heard about Aldi's that week.
16 So we went to Aldi's to get some -- I never was in Aldi's yet and I wanted
17 to check it out. I heard they had really good produce. And we went to
18 Aldi's and then we were hungry.

19 Q. Okay. So first of all, you're at home and you decided you're going to go
20 out and do some errands.

21 A. Right.

22 Q. And I didn't ask you this before, I'm sorry. In June 22, 2020, besides
23 yourself, Mark, and Fredo, does anyone else live in the house at 21

24 [REDACTED]?

25 A. No.

991.



(Maria Grisanti - Direct)

1 Q. So you and Mark go out. Fredo stays home, I assume?

2 A. Yeah.

3 Q. Okay. And the first place you go is Aldi's?

4 A. Yes. Aldi's. It was Aldi's.

5 Q. And for the record that's a grocery store?

6 A. It's a grocery store.

7 Q. All right. In North Buffalo?

8 A. Yes.

9 Q. All right. And did you purchase some things there?

10 A. We did.

11 Q. All right. And where's the next place you went?

12 A. To Home Depot.

13 Q. And what, if anything, did you purchase at Home Depot?

14 A. We purchased some mulch, I think, some flowers, just a couple gardening
15 items.

16 Q. Okay. What did you do then?

17 A. Then we decided to go have some food.

18 Q. Okay. Where did you go?

19 A. To North End. It's a place in Buffalo. Well, actually, it's in Kenmore.

20 Q. Is it near your house?

21 A. Yeah. It's about maybe two miles away.

22 Q. And what type of place is North End? You said it's a restaurant.

23 A. It's just a little restaurant. It has, you know, like chicken fingers and
24 sandwiches, salads.

25 Q. Did you eat there?

992.



(Maria Grisanti - Direct)

- 1 A. I did.
- 2 Q. Did you have anything to drink there?
- 3 A. I did.
- 4 Q. What did you have?
- 5 A. I had two glasses of wine over the time that we were in there. One while
- 6 we were waiting for our table and one at the table --
- 7 Q. Okay.
- 8 A. -- which I'm not even quite sure if I finished it or not. Typically I don't.
- 9 Q. Did you see whether Mark had anything to drink?
- 10 A. I did.
- 11 Q. What did he have to drink that you --
- 12 A. He had a couple glasses of wine as well and I think a rum and coke.
- 13 Q. What did you -- did you finish your meal?
- 14 A. Yes.
- 15 Q. And what did you do next?
- 16 A. Then we went to get ice cream.
- 17 Q. Where?
- 18 A. At Dairy Queen.
- 19 Q. In North Buffalo?
- 20 A. Yes. Well, it's in Kenmore too, I think.
- 21 Q. Okay. And what did you get there? You each got some type of ice cream
- 22 dish?
- 23 A. I got a ice cream cone, which I usually get, and Mark got a ice cream
- 24 sundae and then we got a pup cup.
- 25 Q. A pup cup?

993.



(Maria Grisanti - Direct)

- 1 A. It's called a pup cup for Fredo.
- 2 Q. Is that for Fredo? Where did you -- did you then leave Dairy Queen?
- 3 A. Yeah. Then we --
- 4 Q. Where did you go?
- 5 A. Home.
- 6 Q. And what, if anything, happened when you were approaching the house?
- 7 A. Well, once again, we saw a truck in front of our house that was blocking
- 8 the driveway. It was kind of sticking out somewhat.
- 9 Q. What do you mean sticking out?
- 10 A. It wasn't, like, close to the curb. So you know, we kind of knew we had a
- 11 lot of stuff in our trunk, you know, in the back of the car to carry. So I
- 12 was like, ah, once again, here we go. Had to weasel our way in our
- 13 driveway. You know? So it was little aggravating, you know?
- 14 Q. And what happened?
- 15 A. I pulled in. Started taking stuff out of the car. Mark says, "You know
- 16 what? I'm getting sick of this too." So he called -- I think he called D-
- 17 District first. And they told him he has to call the 911. So you know, I
- 18 knew he was on the phone. He was calling and, I'm trying to think, first
- 19 I -- first thing that I'm in the house to let the dog out. I'm trying to
- 20 remember this. Anyway, I know he called -- that he had to call 911. He
- 21 called 911 and I knew the police were called, but he said it wasn't urgent.
- 22 We don't want, you know, them to take time out of their busy day to
- 23 come and worry about a car.
- 24 Q. What happened next?
- 25 A. So we hear, "What's your effing problem?"

994.



(Maria Grisanti - Direct)

1 Q. Okay. Just before we get there, you mentioned something about the dog.

2 A. Well, I went to take Fredo. I believe the first thing we did is went in the
3 house and got Fredo, because we knew he was home, you know, alone.

4 Q. Okay.

5 A. And I was actually home most of the day that day because I worked
6 from -- they -- our office was closed down. So I went to let the -- I got
7 the dog out. Then we started taking stuff out of our car. And Fredo, he
8 was so slow at this point he couldn't get on a -- you know, I didn't even
9 put a leash on him anymore.

10 Q. At a certain point, you can see on the video that Mark appears to be
11 holding something white in his hand. Do you know what that was?

12 A. Yeah, it was dog poop.

13 Q. Okay. So Fredo had gone out, done his business, as they say, and Mark
14 had cleaned it up --

15 A. Cleaned it up, yeah.

16 Q. -- into a plastic bag?

17 A. Yes.

18 Q. And Mark had that in his hand during the incident?

19 A. He did.

20 Q. Okay. All right. So you mentioned then that you heard something.

21 Where did you hear something from?

22 A. Well, from across the street.

23 Q. Okay. From where?

24 A. Gina and Joe Mele's house.

25 Q. Okay. What did you hear?

995.



(Maria Grisanti - Direct)

- 1 A. "What's your effing problem?"
- 2 Q. Okay.
- 3 A. And then I heard, "Yeah, what's your problem? What's your problem? F
- 4 you, Maria. You're an effing c-word."
- 5 Q. Who said those things?
- 6 A. Gina Mele.
- 7 Q. Okay. What happened next?
- 8 A. And Joe says, "Come on, Mark. Come on, you C S-er." He was like,
- 9 "Come on you chicken shit." And then Gina laughing and cackling and
- 10 making chicken noises. She would do that a lot, you know?
- 11 Q. She would do what a lot?
- 12 A. Make -- like cackle at us. You know, I'm sitting here thinking about all
- 13 the things like pre this and just the -- I don't know. Just them -- all the
- 14 mocking and all that stuff, so --
- 15 Q. So just go back for a second. Before the Meles start saying anything.
- 16 Were you outside by the truck that was in front of your house?
- 17 A. Yeah, I was. I was measuring to see if --
- 18 Q. What were you measuring?
- 19 A. I was kind of, like, doing with my feet to see how far, like, they were in
- 20 our driveway.
- 21 Q. Okay.
- 22 A. You know, because I was assuming the police were going to come at
- 23 some point, and I wanted to -- I didn't know if they were going to come
- 24 out move it or not or whatever, but I just was, you know.
- 25 Q. Did you ever kick the Mele -- the truck --

996.



(Maria Grisanti - Direct)

1 A. Never.

2 Q. -- that was in front of your house?

3 A. No.

4 Q. Did you spit on it?

5 A. No.

6 Q. Did you touch it in any way?

7 A. No.

8 Q. So I think we're at the point you said where Joe was saying something
9 along the lines of "Come on, chicken shit" to --

10 A. We were -- I was -- we were saying don't worry.

11 Q. Hold on. Let me finish.

12 A. Oh, I'm sorry.

13 Q. Okay. It's okay.

14 A. I'm sorry.

15 Q. Only one of us can talk at once. Let me finish my question. So just to
16 put us back in time, you were saying that Joe Mele is saying to Mark
17 something along the lines of "come on, chicken shit." And Gina Mele is
18 making chicken noises, correct?

19 A. Yes.

20 Q. Okay. What happened next as best you can recall?

21 A. I was -- I just was, like, don't even look over there. You know? Don't
22 worry. Don't worry. The police were called.

23 Q. Okay.

24 A. So at that point.

25 Q. What were you -- what did you mean by that? What were you trying to

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(Maria Grisanti - Direct)

1 communicate?

2 A. That we are going to ticket their car. You know? They were going to get
3 ticketed.

4 Q. Okay.

5 A. You know, we had enough of it. They've been doing this constantly and
6 we're done. We've never called police on them ever before this incident.

7 Q. All right. So what happened next?

8 A. Next, were trying to -- well, they were -- Joe and Gina -- well, they get --
9 when they said that to us, they were coming out of their house, and we
10 were trying to explain, "Look it. You guys have all this footage. Why do
11 you have to pull all the way back in our driveway? We can't get in."
12 You know, we couldn't get in. So we were walking toward them as they
13 were walking toward us simultaneously, and we ended up in the approach
14 of their driveway, and I immediately stepped in between Joe and Mark --

15 Q. Why?

16 A. -- facing Joe. Because at that point, I just felt like I saw the hostility
17 [sic] and I didn't think Joe would hit a girl. So I stood in between
18 because I didn't want a physical altercation at all. I just figured, you
19 know? And --

20 Q. Okay. What happened?

21 A. Joe reached over me, pushed Mark, I pulled back, and I was assaulted
22 by --

23 Q. What do you mean you were assaulted?

24 A. I was assaulted by Gina and her sister, immediately after that.

25 Q. We heard testimony or her sister's name is Theresa?

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(Maria Grisanti - Direct)

1 A. Theresa.

2 Q. Did you know her to be Gina Mele's sister?

3 A. Well, I knew of her. I didn't really know if it was her. I found out after
4 that it was Theresa, but I knew she had a sister, that her name is Theresa.

5 Q. And when you say you were assaulted, describe physically what
6 happened as best you can.

7 A. Physically, I was being choked, and beat up, and then choked again. So
8 at first, I believe Theresa had me like this, and --

9 Q. When you --

10 A. -- and like choked like this.

11 Q. -- when say this, you're gesturing -- you're putting your arm around --

12 A. My --

13 Q. -- your neck --

14 A. -- right. She had her -- what is this, your forearm here, around my neck
15 and Gina's hitting me, pulling hair, punching, and choking. At one point
16 of the choking, I don't really remember too much. And I know that -- it
17 was kind of weird because I know that when I was being choked, I felt
18 somebody holding me back, and then I also felt somebody yanking me
19 from behind, which I later saw, you know?

20 Q. Okay. You later saw the video?

21 A. The video.

22 Q. Okay.

23 A. And saw how, you know, Joe had his arm in front of me like this --

24 Q. Okay.

25 A. -- restraining me. I was -- my head was kind of down like this and

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(Maria Grisanti - Direct)

1 Mark's yanking me from behind to get me out of this melee things, or
2 whatever, melee.

3 Q. You mentioned that you believe Theresa had her arm around your
4 neck --

5 A. Yes, she did.

6 Q. -- with her elbow at the base of your --

7 A. Throat. Right here.

8 Q. -- your neck?

9 A. Yeah. And I felt like somebody was choking like this, too. Like,
10 choking me out like. Like, I couldn't breathe. I was --

11 Q. So you -- so in addition to that arm around your neck, you also felt that
12 there were hands -- you're gesturing with your hands towards your neck?

13 A. Yes.

14 Q. Okay. And then you also said that you -- Joe Mele -- or you felt him --
15 sorry. I take that back. You also felt an arm that was at your face?

16 A. Yes.

17 Q. Okay.

18 A. So I couldn't move. I was stuck -- like stuck. They had me -- I don't -- I
19 was, like, down like that. Like almost, I was -- can I show you? Am I
20 allowed to show? I don't know.

21 Q. Try to describe it as best you can.

22 A. Well, folded over.

23 Q. Okay.

24 A. Like leaned over. Like my head was down, you know, down.

25 Q. Okay.

1000.



(Maria Grisanti - Direct)

1 A. And you know, that's pretty much --

2 Q. Was that -- what physical effect was that having on you, if any?

3 A. Well, I couldn't breathe.

4 Q. Okay.

5 A. I was fearing for my life at that point.

6 Q. Okay. How long did that go on for that you couldn't breathe?

7 A. It was -- it felt like a while, and then I believe I passed out. Like seconds.

8 Until I heard that the police were coming, and they let go.

9 Q. Okay. When you say you heard the police were coming, what do you
10 mean by that?

11 A. I didn't see them, but I did hear "the cops were called. They're coming."

12 So --

13 Q. Do you know who said that? Did you recognize their voice?

14 A. I think it was Linda Chwalinski.

15 Q. Okay. And what happened then? You said they let go?

16 A. They let go.

17 Q. Okay.

18 A. And then --

19 Q. You could breathe at that point?

20 A. Yeah.

21 Q. And what happened next?

22 A. So the police finally got there, and I felt safe.

23 Q. All right. We'll come back to the police coming there.

24 A. Okay.

25 Q. At any point, up until this point where the police come, at any point did

1001.



(Maria Grisanti - Direct)

1 you ever punch or strike Joe Mele in the face?

2 A. No.

3 Q. Okay. At any point up, until this time when the police come, did you
4 ever see your husband, Mark, throw any type of punch at Joe Mele?

5 A. No.

6 Q. Or anyone else for that matter?

7 A. No.

8 Q. Did you see him kick Joe Mele?

9 A. No.

10 Q. Now, I keep calling it the Ring camera, but it's not the Ring camera, but
11 you've seen the video from the Mele's house?

12 A. I did.

13 Q. Okay. I want to ask you some questions about that. When you -- you
14 described that you and Mark and Joe at some point met and you got
15 between Mark and Joe, correct?

16 A. Yes.

17 Q. Where were you when that happened?

18 A. We are on the -- it looked like their approach of their driveway. On the
19 corner where the curb is, there's like a little corner. Their driveway
20 comes out and there's, like, a little corner part of the -- where their
21 driveway is. It seemed like it was on, like, on a curb. I don't really recall
22 going all the way on their driveway, which I could've been.

23 Q. Okay.

24 A. I did see the video, so it's really hard to tell.

25 Q. All right. In addition to watching the video itself, have you also seen

1002.



(Maria Grisanti - Direct)

1 some still shots that have been taken from that video?

2 A. Yes.

3 Q. All right. And that video is Exhibit 2, which is in evidence.

4 MR. DOYLE: Could we pull up the KKK?

5 BY MR. DOYLE:

6 Q. I'm showing you -- we marked a series of still shots from Exhibit 2 --

7 A. All right.

8 Q. The Mele's security video. It's Exhibits KKK 1 through KKK 12. And
9 you've seen these before?

10 (Respondent's Exhibit KKK was marked for identification)

11 A. Yes.

12 BY MR. DOYLE:

13 Q. All right. And are they accurate depictions of portions of the video?

14 A. Yes.

15 Q. Okay. And we've already had testimony about this. The date that's on
16 these is incorrect and the time is likely incorrect, but the time does run
17 forward, correct?

18 A. Yes.

19 Q. All right. And KKK 1 through 12, they are in -- from your review, they
20 are in sequence, in other words, 1 happens before 2; 2 happens before 3?

21 A. Yes.

22 Q. Okay.

23 MR. DOYLE: Your Honor, again, for
24 demonstrative purposes, we already have the video in, but I
25 would offer KKK 1 through 12 in for demonstrative

1003.



(Maria Grisanti - Direct)

1 purposes.

2 MR. POSTEL: Could we see them on the
3 screen, please?

4 MR. DOYLE: Yes. I have physical copies if
5 you'd like.

6 MR. POSTEL: No objection.

7 THE REFEREE: Received.

8 (Respondent's Exhibit KKK was admitted into evidence)

9 BY MR. DOYLE:

10 Q. So Mrs. Grisanti, looking at KKK 1, just --

11 MR. DOYLE: Well, that's 5. Can we go back
12 to 1? Sorry.

13 THE REFEREE: Which exhibit are they --

14 MR. DOYLE: 2.

15 THE REFEREE: -- excerpted from? Okay.

16 MR. DOYLE: Yeah. They're excerpts from
17 Exhibit 2. The Mele home security video.

18 BY MR. DOYLE:

19 Q. So KKK 1, can you tell us -- there's a driveway there. That's the Mele's
20 driveway?

21 A. Yes.

22 Q. And there's two people that are depicted in the --

23 A. It looks like myself and my husband.

24 Q. And you're wearing what color?

25 A. Salmon.

1004.



(Maria Grisanti - Direct)

1 Q. Okay. And Mark is wearing a white top?

2 A. Yes.

3 Q. Okay. So if you look in the Mele's driveway, you're familiar with the fact
4 that later on, the Meles, and we'll come to this, but the Meles claimed to
5 the police that there's some article of clothing that's in their driveway?

6 A. Yes.

7 Q. Okay. Do you -- in the KKK 1, do you see any article of clothing in the
8 driveway?

9 A. No.

10 Q. Okay.

11 A. I can't see it. It's near that big round thing? That -- is that -- looks like oil
12 spot or something there.

13 Q. Yeah.

14 A. Is it an oil spot?

15 MR. DOYLE: So if we could go to KKK 2?

16 BY MR. DOYLE:

17 Q. And you and Mark are depicted there?

18 A. Yes.

19 Q. And there's a figure you just see partial with a sort of white and red
20 striped shirt, horizontally striped shirt?

21 A. I think that's Joe. That looks like Joe.

22 Q. Okay.

23 A. Yes. I could see.

24 Q. And who's behind Joe, closer to the camera?

25 A. That looks like Gina.

1005.



(Maria Grisanti - Direct)

1 Q. Okay.

2 MR. CONNORS: Can you enlarge that at all?

3 MR. DOYLE: Can you enlarge that a little bit?

4 Okay.

5 BY MR. DOYLE:

6 Q. There was some testimony earlier about a scarf that you may have been
7 wearing. Were you wearing a scarf that night?

8 A. No.

9 Q. Okay. If we go --

10 MR. DOYLE: Is there any way you can put

11 KKK 2 and 3 up at the same time?

12 MS. TRAPANI: I think it would be very small.

13 MR. DOYLE: Okay.

14 BY MR. DOYLE:

15 Q. If we go to KKK 3 --

16 MR. DOYLE: Well, I'm sorry. Go back to 2 for
17 a second.

18 BY MR. DOYLE:

19 Q. Does 2 depict where the four of you actually sort of came together
20 physically?

21 A. Yes.

22 Q. And where are you and Mark standing?

23 A. We're facing them and that looks like on the approach of their driveway.

24 Q. Okay.

25 MR. CONNORS: Hey Vince?

1006.



(Maria Grisanti - Direct)

1 MR. DOYLE: Yes.
2 MR. CONNORS: There's a zoom button on top.
3 MR. DOYLE: Okay.
4 MS. TRAPANI: I can make it full screen. I just
5 can't go back and forth between them on full screen.
6 MR. DOYLE: Okay.
7 MS. TRAPANI: You want this just bigger on
8 the screen?
9 MR. GATELY: Yes, please.
10 MR. CONNORS: Yeah.
11 MS. TRAPANI: Got you.
12 MR. DOYLE: Thanks. So if we -- maybe a
13 little bigger.
14 BY MR. DOYLE:
15 Q. Maria, just the area -- I'm going to ask you to look at the area that's
16 around --
17 A. Okay.
18 Q. -- your feet and Mark's feet. Do you see anything there on the ground, on
19 the either driveway or the sidewalk?
20 A. No.
21 Q. Okay. So if we go to KKK 3. Okay.
22 A. Okay.
23 Q. And it looks like the four of you have now moved --
24 A. Right.
25 Q. -- away from that original position, correct?

1007.



(Maria Grisanti - Direct)

1 A. Yes.

2 Q. All right. And if we look at that same area we were just looking at,
3 where your and Mark's feet were, is there something now that's on the
4 ground?

5 A. Yes.

6 Q. And from your review of this photo, and your review of the video, where
7 is that item; whatever it is?

8 A. It looks like it's in there -- it looks like it's on, like, on a sidewalk

9 Q. Okay. So the sidewalk cuts across the photo from left to right, correct?

10 A. Yes.

11 Q. All right. And it appears it's within the parameters of the sidewalk,
12 correct?

13 A. Yes.

14 Q. Okay. If we go to KKK 4, the people have moved over to your side of
15 the street in your driveway, correct?

16 A. Yes.

17 Q. All right. And do you see the same object?

18 A. I do.

19 Q. That again is in the sidewalk?

20 A. Yes. Looks like it is.

21 Q. Okay. If we go to KKK 5. What do you see in that photo? Do you see
22 Joe?

23 A. I can see Joe, yes.

24 Q. And where is Joe?

25 A. He's walking back, it looks like up toward his house.

1008.



(Maria Grisanti - Direct)

1 Q. All right. So walking towards the camera?

2 A. Yes.

3 Q. Okay. And the item, whatever it is, is still in the sidewalk parameters?

4 A. Yes.

5 Q. Okay. If we go to KKK 6. Okay. What do you see in terms of the item?

6 A. I see Joe looking down at it.

7 Q. Okay. And has it moved?

8 A. In the same -- it looks like it's, like, on the line now.

9 Q. Okay.

10 A. It's hard to tell. It looks like it's on the line.

11 Q. Does it look like it's in the same position it was in KKK 5 and the prior
12 ones?

13 A. It looks like it's up a little bit.

14 Q. Okay.

15 MR. DOYLE: We could go to -- actually if
16 you'd jump to KKK 9.

17 BY MR. DOYLE:

18 Q. What do you see in that?

19 A. I see Gina standing on it.

20 Q. Okay. And from your review of the --

21 A. It looks like it's on their driveway.

22 Q. Okay.

23 MR. DOYLE: And if we can go to KKK 12?

24 BY MR. DOYLE:

25 Q. What do you see in that?

1009.



(Maria Grisanti - Direct)

1 A. It's definitely on their driveway.

2 Q. Okay. And do you see Gina doing something with her --

3 A. She's pointing down at it. Like, showing, like --

4 Q. Okay.

5 A. -- that object is on her property.

6 Q. By the way, that day did you ever physically go past the sidewalk up into
7 the Mele's driveway?

8 A. No.

9 Q. Okay. You're familiar with the transcripts that have been made of the
10 various videos?

11 A. Yes.

12 Q. Including transcript of Officer Gehr's --

13 A. Yes.

14 Q. -- body cam footage?

15 A. Yes, I am.

16 MR. DOYLE: Can we have Exhibit 11 brought
17 up, please?

18 MS. TRAPANI: 11 (unintelligible).

19 MR. DOYLE: 11. Gehr's transcript.

20 MS. TRAPANI: 11-A?

21 MR. DOYLE: Yes. It only marked on the one
22 side. Sorry.

23 MS. TRAPANI: It's okay.

24 BY MR. DOYLE:

25 Q. And if we go to page 11 of Exhibit 11-A. I'm sorry. Page 13. I

1010.



(*Maria Grisanti - Direct*)

1 misspoke. Down in line 18. The Meles are talking to Officer Gehr and at
2 line 18, Mrs. Mele says, "And there's evidence because they came over
3 here." Officer Gehr says, "Yeah, their stuff is here. I see that." Mr. Mele
4 says, "That's their stuff. This is theirs." Mrs. Mele says, "Her scarf and
5 his cigar." So first of all, I asked you if you were wearing a scarf and
6 you said here were not?

7 A. No.

8 Q. Okay. Was Mark smoking a cigar that night?

9 A. No. No.

10 Q. Okay.

11 A. He had poop in his hands. I mean, I don't think he had time to have a
12 cigar.

13 THE REFEREE: Keep your voice up, Miss.

14 A. I said I don't think he had time to have a cigar there at that point.

15 BY MR. DOYLE:

16 Q. During the altercation -- the physical part of the altercation with the
17 Meles, what, if anything, did Mark have in his hand?

18 A. He had dog -- the bag of dog poop from Fredo.

19 Q. Okay. He had that whole time?

20 A. The whole time.

21 Q. Okay.

22 MR. DOYLE: Mr. Easton, I was just about to
23 move to a different area. Is this a good time for a
24 convenience break?

25 THE REFEREE: Yes.

1011.



(Maria Grisanti - Direct)

1 MR. DOYLE: Is that okay? Just for a bathroom
2 break? Thank you.

3 (Recess from 11:25 a.m. to 11:31 a.m.)

4 THE REFEREE: We can resume.

5 THE WITNESS: Okay.

6 THE REFEREE: Ms. Grisanti, you're still under
7 oath.

8 THE WITNESS: Okay.

9 RESUMED DIRECT EXAMINATION

10 BY MR. DOYLE:

11 Q. So we've pulled up another screen capture marked for identification as
12 NNN from Officer Gehr's body cam. Do you recognize this, Maria?

13 (Respondent's Exhibit NNN was marked for identification)

14 A. Yes.

15 BY MR. DOYLE:

16 Q. Okay. And you've seen this in the --

17 A. I don't know if I've --

18 Q. -- video itself?

19 A. -- seen this --

20 Q. No, I'm asking if you recognize the photo?

21 A. Oh, yes.

22 Q. Okay. And is this -- for demonstrative purposes -- accurate in terms of
23 what's shown on the body cam footage?

24 A. Yes.

25 Q. Okay.

1012.



(Maria Grisanti - Direct)

1 MR. DOYLE: I would offer NNN for
2 demonstrative purposes.

3 MR. POSTEL: No objection.

4 THE REFEREE: Received.

5 (Respondent's Exhibit NNN was admitted into evidence)

6 MR. DOYLE: All right.

7 BY MR. DOYLE:

8 Q. And if you look down at Gina Mele's feet, there's the -- whatever that
9 article is, correct?

10 A. Yes.

11 Q. And that is not in the driveway -- or pardon me -- not in the parameters of
12 the sidewalk, but in the Mele driveway, correct?

13 A. Yes.

14 Q. Okay. All right. Now --

15 MR. DOYLE: Thank you. You can take that
16 down.

17 BY MR. DOYLE:

18 Q. All right. I think when we left off talking about the incident, we left off
19 when the police came. What happened when the police came?

20 A. Well, I was still pretty upset at that time. I had just been pretty much beat
21 up. And I felt safe when the police came, and I wanted to tell what
22 happened before they did because --

23 Q. And why?

24 A. I wanted -- I wanted them to know, like, what happened. And I felt that
25 they were listening to them, and they always play victim, and --

1013.



(Maria Grisanti - Direct)

1 Q. Who always plays victims?

2 A. -- Gina and Joe pretty much -- they come, you know, they basically
3 played the blame game, and Officer Gehr was listening to them. And I --
4 and I -- and I was -- I was very upset. I was -- I just was choked. I was
5 nervous and scared, and I basically -- you know, I just felt so safe when
6 they came, because I just wanted to let them know what happened before
7 they did, I guess.

8 Q. So you felt safe when the police came. What do you mean by that?

9 A. Because the fight kept going. It seemed like -- it ended up in -- or in my
10 side of the -- you know, in our side of the street in our driveway. And
11 you know, at some points, I -- we were like, "Just get out of here. Go."
12 And they weren't leaving. And I just felt like once the police came, it
13 was just going to stop.

14 Q. All right.

15 A. You know, it was just going to stop, and they were -- I didn't care if they
16 got arrested either --

17 Q. Yeah.

18 A. -- but I just wanted it to stop. I just was upset, and I just wanted to get
19 my side out and I was upset with the fact that they -- there was, you
20 know, the two girls on me, and Joe restraining me. I was just -- I was
21 hysterical, really. I was just, like, I was scared.

22 Q. According to the tape and the transcript, at a certain point in time after the
23 police arrived, you make some reference to your son, Joe?

24 A. John.

25 Q. Sorry, John.

1014.



(Maria Grisanti - Direct)

- 1 A. That's okay.
- 2 Q. That's right. What do you remember saying, in words or substance?
- 3 A. I remember clearly telling them, "Wait until my son finds out, Joe. Wait
- 4 till my son finds out."
- 5 Q. Okay. And --
- 6 A. And I was upset, you know? I was, like --
- 7 Q. What were you referring to when you said, "Wait till my son finds out"?
- 8 A. That they made an agreement, and you know, Johnny was gentleman
- 9 enough to go over to you and pretty much, "Let's make -- let's make
- 10 amends to this" and you know, I was -- I was upset because he broke his
- 11 agreement with John. I didn't think we were going to have any more
- 12 issues at that point. Nor -- nor did my son or Mark or any of us. We
- 13 were just ignoring each other. That was it.
- 14 Q. So at the time you said this, or you yelled this about, "Wait till my son
- 15 finds out," where were you?
- 16 A. I was on my side of the street.
- 17 Q. Okay. And where were the Meles?
- 18 A. I think on their side of the street, I believe.
- 19 Q. Okay. And what happened after you said this?
- 20 A. The police officer yelled at me to --
- 21 Q. Which one?
- 22 A. Officer Gehr.
- 23 Q. The one who was across the street with the Meles?
- 24 A. With the Meles.
- 25 Q. Okay.

1015.



(Maria Grisanti - Direct)

1 A. And he told me I better shut the F up, I believe. And I said -- I said,

2 "You're not listening to me. You're not listening to me."

3 Q. Okay.

4 A. You know, I was -- I wasn't --

5 Q. And what happened?

6 A. Pardon?

7 Q. And what happened?

8 A. And I -- and I said -- I -- I think he -- I -- he -- he said to shut -- if I don't

9 shut up. I said, "Why? You're not going to arrest me." And he said,

10 "The F I'm not." And --

11 Q. So let me stop you. So he said something about "shut up" or "stop

12 talking" or something and you say, "You're not going to arrest me."

13 What did you mean by that when you said --

14 A. Because I was --

15 Q. -- "You're not going to arrest me."

16 A. Because I was talking. I was -- I mean, I was -- I was yelling. I was

17 upset. I was yelling. I'm -- in my mind, I'm trying to -- I wasn't

18 threatening, I wasn't -- I didn't -- I didn't verbally abuse him. I was trying

19 to tell him what happened. I just -- I -- I wanted to -- I was yelling. I

20 wanted him to hear me.

21 Q. Okay.

22 A. And I basically didn't think I -- you could get in trouble for talking and --

23 or yelling.

24 Q. So what happened then?

25 A. And then he said, "The F I'm not," ran after me. I -- I was, like, natural

1016.



(Maria Grisanti - Direct)

1 reaction was I, like, ran. You know, I ran. I was like --
2 Q. Um-hum.
3 A. -- "Oh my God, he's coming after me. I'm going to get beat up again."
4 And I got thrown to the ground.
5 Q. Okay. By -- by who?
6 A. By Officer Gehr.
7 Q. Okay.
8 A. And --
9 Q. And what happened?
10 A. I think -- I think Mark couldn't believe it either.
11 Q. Okay. Well --
12 A. You know, he was standing there --
13 Q. -- don't tell us what other people --
14 A. Okay.
15 Q. -- are thinking.
16 A. All right.
17 Q. Just what did you do --
18 A. So I --
19 Q. -- and what'd you see?
20 A. -- got -- I got brought down to the floor -- to the ground.
21 Q. Okay.
22 A. Got handcuffed.
23 Q. Okay.
24 A. I told him, you know, I was like, "I'm okay. I'm okay." I just wanted to
25 get out of there because of everything that just happened, and I couldn't

1017.



(Maria Grisanti - Direct)

1 believe --

2 Q. Okay.

3 A. -- that I ended up in the handcuffs after all.

4 Q. Okay. And what happened then, after you were put in handcuffs?

5 A. I was pretty much put in the car.

6 Q. Okay.

7 A. And he shut the door.

8 Q. All right.

9 MR. DOYLE: Could you pull up Exhibit F
10 from Respondent's FF?

11 BY MR. DOYLE:

12 Q. Maria, we've put up for identification -- I believe there are two
13 photographs. I think there are two pages to this, but the first page is up,
14 and it says Case Images, and it says -- it has your name, Maria Grisanti
15 on that. Do you see that?

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

17 A. Yes.

18 BY MR. DOYLE:

19 Q. Have you --

20 A. Kind of.

21 Q. -- seen this before?

22 A. Yeah. Yes, I --

23 Q. What is this?

24 A. Looks like the -- my arm.

25 Q. Okay.

1018.



(Maria Grisanti - Direct)

1 A. The bruises on my arm.

2 Q. It's a photograph of your arm?

3 A. Yes. Looks like my --

4 Q. And when was it taken?

5 A. Okay. It looks like -- I believe it was at -- I don't know if it was that day
6 or the day after.

7 Q. Okay.

8 A. I think it was that night.

9 Q. And when was it --

10 A. Was that a police -- is that the police --

11 Q. I was just going to ask you, do you know where --

12 A. Oh.

13 Q. -- the pictures were taken?

14 A. I don't. I don't remember.

15 Q. All right. Were you taken to the police station?

16 A. Yes.

17 Q. From the scene? And were you interviewed there?

18 A. I was.

19 Q. And do you recall if photographs were taken of your injuries there?

20 A. I can't really remember.

21 Q. Okay.

22 A. To be honest with you.

23 MR. POSTEL: We'll stipulate.

24 MR. DOYLE: Thank you. I would offer

25 Exhibit FF into evidence.

1019.



(Maria Grisanti - Direct)

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THE REFEREE: Received.

(Respondent's Exhibit FF was admitted into evidence)

MR. DOYLE: Okay.

BY MR. DOYLE:

Q. So this page and the next page show your arms. Were there injuries to your arms, Maria?

A. It looked like bruises on them.

Q. Okay.

A. Like, black and blue.

Q. All right. And the next page of Exhibit FF shows your face?

A. Yeah, my lip.

Q. Okay.

A. I know I remember my lip got --

Q. Okay.

A. I don't know if it was punched or --

Q. You're indicating the --

A. A bruise --

Q. -- side of your lip?

A. Uh-huh.

Q. Okay. And what happened to it?

A. I don't know if I was punched or what happened.

Q. Okay.

A. I -- something. I --

Q. Okay.

A. It looked like maybe -- I don't know if it was a punch --

1020.



(Maria Grisanti - Direct)

1 Q. Okay.

2 A. -- or a scratch or something.

3 Q. Okay.

4 A. It looks like, you know.

5 Q. During the incident with the Meles on June 22, 2020, at any time either
6 before or after the police came, did you ever hear Mark refer to himself as
7 a judge or tell anyone he was a judge?

8 A. No.

9 Q. Did he say it to the Meles?

10 A. No.

11 Q. Did he say it to the police officers?

12 A. No.

13 Q. During the physical incident with the Meles, what did you see Mark do, if
14 anything?

15 A. The physical?

16 Q. Yeah. What physically did he do? You said he didn't throw any punches.

17 A. No.

18 Q. What was he doing physically?

19 A. Trying to get me away from --

20 MR. POSTEL: Objection as to state of mind.

21 THE REFEREE: Sustained.

22 BY MR. DOYLE:

23 Q. Just physically, what was he doing?

24 A. Physically?

25 Q. Yes.

1021.



(Maria Grisanti - Direct)

1 A. During the --

2 Q. Yes.

3 A. -- the physical -- I -- it was hard for me to tell, honestly.

4 Q. Okay. All right.

5 A. Like, I couldn't -- I couldn't tell.

6 Q. Okay.

7 A. I have no idea.

8 Q. Okay. So the last thing, Maria, is I want to ask you some questions about
9 some comments that are in the transcript of some of the tapes. So if we
10 could turn to Exhibit 2-A, please, which is the transcript of the Meles'
11 home security footage. You've read this before?

12 A. Yes.

13 Q. Okay. Page 1, line 7, Mr. Mele -- Joe Mele says, "What's the problem?"
14 Line 9, Mark Grisanti says, "There's a problem. Your truck's in my
15 driveway." And then line 10, it says that you, Maria Grisanti, say,
16 "Don't -- don't talk to --" do you recall what you were saying or why you
17 were saying that at this time?

18 A. I might have just, like, "Don't talk to them. Just ignore them."

19 Q. If we go down further, line 14, Joe Mele says, "Ha. Shut up." And Judge
20 Grisanti, Mark, says, "I've already called the cops." Ms. Mele, Gina Mele
21 says, "Fuck you, Maria." And line 18, you say, "Don't worry." Do you
22 remember what you were trying to communicate when you said, "Don't
23 worry"?

24 A. Don't worry, the -- it'll be taken care of, the cops were called, pretty
25 much.

1022.



(Maria Grisanti - Direct)

1 Q. Okay. Line 19, Gina Mele refers to you as a "effing c-word;" is that
2 correct?

3 A. Yes.

4 Q. Okay. On page 2, line 4, you say, "Don't worry, fat ass" -- you were
5 referring to Ms. Mele?

6 A. Yes.

7 Q. Did you call her some names --

8 A. I did.

9 Q. -- in this transcript and during that day?

10 A. I did.

11 Q. On page 5, line 3, it refers to Theresa Dantonio as Dr. Dantonio. Theresa
12 says, "Wait, are you drunk?" And on line 5, you say, "Yeah, I'm drunk."

13 A. Sarcastically. "Yeah, I'm drunk."

14 Q. Okay.

15 A. Like --

16 Q. Okay. Were -- that evening, did you feel that you were under the
17 influence of alcohol?

18 A. Not at all.

19 Q. Okay. Line 20, same page, Linda Chwalinski says, "Let go of Maria."

20 And then Gina Mele says, "Choke her. Choke her. Give her a
21 chokehold, Theresa." And Linda says, "Call 911." And then Gina Mele
22 says, "Effing choke her." Correct?

23 A. Yes.

24 Q. All right. You said that at a certain point, you do recall hearing someone
25 refer to calling 911; is that right?

1023.



(Maria Grisanti - Direct)

1 A. Yes, I did.

2 Q. Okay. And Linda then at line 25 again says, "Call 911," correct?

3 A. Yes.

4 Q. Page 10, line 12, you say, "Two against one." What were you referring
5 to?

6 A. Gina and Theresa on --

7 Q. Okay. Against?

8 A. Against me.

9 Q. Okay. And then Gina Mele -- now at this point, this is after the point in
10 the transcript where Linda Chwalinski has referred to calling 911,
11 correct?

12 A. Yes.

13 Q. All right. And Gina Mele's response to you saying, "Two against one" is
14 "There was no two against one," correct?

15 A. Gina says that? Where is -- I'm trying to -- what line was that? I'm sorry.

16 Q. 13 -- line 13.

17 A. Okay. Okay.

18 Q. Okay.

19 A. Okay. Do -- yes, she says that.

20 Q. And then if we -- the next page, or pardon me, I -- the bottom -- a little
21 further down, line 22 on page 10, Mark says, "Two against one," correct?

22 A. Yes.

23 Q. And we turn to page 11, line 1, it's continued on, it's interrupted a couple
24 of times, but I'll just read what Mark says. "It was you and your
25 husband -- you and your husband and your sister-in-law against my

1024.



(Maria Grisanti - Direct)

1 daughter." So the "you and your husband" were Gina and Joe Mele,
2 correct? And the sister-in-law was Theresa?

3 A. Yes.

4 Q. Okay. Is he -- how did -- he's --

5 A. I was his daughter --

6 Q. Okay.

7 A. -- that day.

8 Q. All right.

9 A. He said his daughter. I don't know.

10 Q. All right.

11 A. It was just -- we -- I don't know why he said I was his daughter.

12 Q. All right.

13 MR. DOYLE: One minute, Mr. Easton.

14 BY MR. DOYLE:

15 Q. So just a couple more. Continuing on the transcript, on page 15, line 1,
16 Gina Mele says, "Does your husband embarrass you?" And then on line
17 5, "We all hear about it." How did you take those comments that Gina
18 Mele was making?

19 A. She always insinuates that Mark's cheating on me.

20 Q. Okay. I mean, is that true?

21 A. No.

22 Q. Okay.

23 A. That he cheats on me?

24 Q. Okay. Yeah.

25 A. He better not be, no.

1025.



(Maria Grisanti - Direct)

1 Q. All right.

2 A. No.

3 Q. Okay.

4 A. No. He -- she always insinuates that Mark's cheating on me.

5 Q. Yeah. Had she done it before this date?

6 A. Yes.

7 Q. Okay. Page 20, line 8, Gina Mele says, "How many times were you
8 married?" And that was a comment to you?

9 A. Yes.

10 Q. Okay. And then line 14, and again, I'll continue on -- it goes over a
11 couple of lines. But Gina Mele says, "Johnny, your ex, Johnny" and then
12 further down she says, "While he was with you, eat that one. Eat that
13 one." Do you recall her during this altercation making reference to your
14 ex-husband John Amoia?

15 A. She has done that before as well.

16 Q. Okay.

17 A. She bring -- I don't know why she would bring up a deceased man, but --

18 Q. Okay.

19 A. -- she would insinuate he cheated on me, too.

20 Q. Okay.

21 A. I guess.

22 Q. And --

23 A. I don't know what she did.

24 Q. That's essentially the last thing she says to you before the police arrive; is
25 that right?

1026.



(Maria Grisanti - Direct)

1 A. Yes.

2 Q. The transcript ends on the next page on page 21?

3 A. She has also told my kids that their dad would be ashamed of them.

4 Q. Okay. All right.

5 A. Not on that, but --

6 Q. Okay.

7 A. -- she has said that.

8 Q. Thank you.

9 MR. DOYLE: That's all I have, Mr. Easton.

10 Thank you, Maria.

11 THE WITNESS: You're welcome.

12 THE REFEREE: Cross examination? How --
13 would you like to take a lunch break first, or proceed?

14 MR. POSTEL: No, I don't think so.

15 THE REFEREE: Okay.

16 MR. POSTEL: Thank you.

17 THE REFEREE: You can proceed.

18 CROSS EXAMINATION

19 BY MR. POSTEL:

20 Q. Ms. Grisanti, you made a reference to the word Prozac. Do you know
21 what that is?

22 A. Yes.

23 Q. What is it, in your mind?

24 A. It's a anti-anxiety medication.

25 Q. Do you know it to be a -- what they call an SSRI?

1027.



(Maria Grisanti - Cross)

- 1 A. I don't.
- 2 [REDACTED]
- 3 [REDACTED]
- 4 [REDACTED]
- 5 [REDACTED]
- 6 [REDACTED]
- 7 [REDACTED]
- 8 [REDACTED]
- 9 [REDACTED]
- 10 [REDACTED]
- 11 [REDACTED]
- 12 [REDACTED]
- 13 [REDACTED]
- 14 [REDACTED]
- 15 [REDACTED]
- 16 [REDACTED]
- 17 [REDACTED]
- 18 [REDACTED]
- 19 [REDACTED]
- 20 [REDACTED]?
- 21 A. And vitamins. I take vitamins.
- 22 Q. That's how you've become a great trainer, right?
- 23 A. Yeah.
- 24 Q. All right.
- 25 A. I guess.



(Maria Grisanti - Cross)

1 Q. Let's go back to June 20th [sic].

2 A. Okay.

3 Q. When you pulled into your driveway, you were coming from an evening
4 out that you had enjoyed; is that right?

5 A. Pretty much. It was pretty -- yes. I mean, it was --

6 Q. Did you like having dinner with your husband?

7 A. Yeah. We were able to -- it was very rare at that point where we were
8 able to eat together, so.

9 Q. So it was special?

10 A. It was special.

11 Q. And you came out -- you came in and you became disturbed by where
12 you saw the black truck parked, right?

13 A. Yes.

14 Q. Your husband, Mark, went into the house and you remained outside?

15 A. If I can remember correctly, Mark went in to get Fredo to let him come
16 out. So kind of put him in the yard.

17 Q. You knew that he had called -- you testified that you knew he had called
18 the District D --

19 A. Yes, D-District office.

20 Q. -- office of the district? Where was he when he did that?

21 A. He was probably walking into the house with his phone. Like, probably
22 started --

23 Q. You remained --

24 A. -- calling when we parked.

25 Q. Oh, when you were in the car?

1029.



(Maria Grisanti - Cross)

1 A. He -- we parked the car, got in, he's -- you know, gets out of the car and
2 calls D-District.

3 Q. All right. So that's before the dog came out?

4 A. Probably on the way as he's walking in to get the dog.

5 Q. All right.

6 THE REFEREE: Can we clarify what
7 D-District is?

8 BY MR. POSTEL:

9 Q. What do you know D-District to be?

10 A. Well, it's -- I believe it's with the police department, but it's not -- it's like
11 a non-emergency.

12 Q. You know it to be one of the district buildings or offices of the police?

13 A. Yes. It's -- I think --

14 Q. Precinct house?

15 A. It's a precinct. It's a, like, they have A, B, C, and D.

16 Q. And it's a building, right?

17 A. I believe so.

18 Q. And the -- did you go to the D --

19 A. I think I was brought there.

20 Q. You did go to the D, right?

21 A. I think I was brought to D-District --

22 Q. All right.

23 A. -- because that's their --

24 Q. And just to provide some context, your daughter, who you named Ashlee,
25 works out of C-District?

1030.



(Maria Grisanti - Cross)

1 A. B.

2 Q. B?

3 A. B-District.

4 Q. Okay.

5 A. Yes.

6 Q. And that's a different precinct house; is that correct?

7 A. Yes. That's -- D-District is the north side of Buffalo. B-District is
8 downtown Buffalo.

9 Q. So your husband is walking into the house to let the dog out, and you
10 know that he's calling D-District. Did you hear him actually say anything
11 to D-District on the phone?

12 A. I remember hearing him say, "Okay, I'll call 911."

13 Q. And then he -- did he then go into the house?

14 A. I don't remember.

15 Q. In other words, when he let the dog out, did he stay outside with the dog,
16 or did he go in the house to make the call?

17 A. No, I think he was probably in our back yard. See, we have a side door to
18 our house, so we --

19 Q. So it was the side door and not the front door?

20 A. -- let the dog -- right. We let the dog let out of the side door because we
21 have a gate. So he may have been in the yard. He typically talks on his
22 phone in the yard.

23 Q. But I just want you to talk about what happened that night.

24 A. Okay. So I believe that he was calling -- as we were doing things, he was
25 on the phone telling, you know, as we were letting the dog out. It was

1031.



(Maria Grisanti - Cross)

1 kind of like a simultaneous thing, calling the -- "I'm going to call as I'm
2 doing it."

3 Q. Did you hear the call to 911?

4 A. I didn't -- I didn't hear the call.

5 Q. Where were you at that point?

6 A. I was -- I may have let Fredo out of the gate, walked him down -- we
7 went probably to next door, which is Rick France's house. Walked next
8 door.

9 Q. As you're looking, it's to the left?

10 A. It's -- if I walk out of my driveway --

11 Q. It's to the right?

12 A. -- I'm going to turn right.

13 Q. Okay. So he was not with you at that point; is that right?

14 A. No.

15 Q. He would be -- the dog was --

16 A. He was in the back. The dog was --

17 Q. -- but not Mark?

18 A. -- but Mark was not, no. He may have been taking stuff in the house, too.

19 Q. All right. So you were concerned about where the black truck was
20 parked, right?

21 A. Yes.

22 Q. And you went over to it to look specifically as to where it was parked; is
23 that correct?

24 A. I did.

25 Q. And in doing so, you put your foot out towards the black truck; is that

1032.



(*Maria Grisanti - Cross*)

1 correct?

2 A. I did.

3 Q. At that point, you heard the Meles say something to you from across the
4 street, right?

5 A. Yes.

6 Q. All right. When you put your foot out towards the black truck, did it
7 occur to you that this would be antagonizing the Meles?

8 A. No. I was just measuring.

9 Q. While -- after you measured, or put your foot out to measure, did you
10 take a step towards it?

11 A. I might have, like, kind of leaned down and looked just to see how --
12 where it was. I don't even know why I would have done that, but I did. I
13 just looked --

14 Q. Okay.

15 MR. POSTEL: If we can bring up Commission
16 Exhibit 30, please? And can I dim the lights for this,
17 please --

18 THE REFEREE: Sure.

19 MR. POSTEL: -- so we can get a better look?

20 [Video was played.]

21 MR. POSTEL: Is it playing? And can we stop
22 that right here, please?

23 BY MR. POSTEL:

24 Q. At this point, the black car that's in the driveway is your car, is that
25 correct?

1033.



(*Maria Grisanti - Cross*)

1 A. Yeah, that's Mark's car.

2 Q. Mark. And that's the car you had taken out for dinner that evening; is that
3 right?

4 A. Yes.

5 Q. And the white car to the right of the black car is your vehicle?

6 A. Yes.

7 Q. What is that?

8 A. It's a Ford Escape.

9 Q. And the black truck we're talking about is to the left of the driveway
10 there? It has what looks to be a cap on top of it? Do you know what a
11 cap is?

12 A. Yeah. I think it does.

13 Q. Okay.

14 A. I think it does.

15 Q. Do you see either yourself or Mark in that picture?

16 A. No.

17 MR. POSTEL: Would you play it, please?

18 [Video was played.]

19 MR. POSTEL: All right. Stop, please.

20 BY MR. POSTEL:

21 Q. As you're looking at the picture now, can you tell us where would you be
22 at this point, and where would Mark be? This is before any of the
23 incident occurred.

24 A. I could have been either walking Fredo behind the truck where you can't
25 see, or I could have --

1034.



(Maria Grisanti - Cross)

- 1 Q. Sure.
- 2 A. -- still been in the yard. I --
- 3 Q. And --
- 4 A. -- can't answer that.
- 5 Q. -- that white obstruction at the end of the driveway, what is that?
- 6 A. White obstruction?
- 7 Q. The big white -- is it a fence, a building? I'm sure --
- 8 A. Oh, that's our garage.
- 9 Q. Oh, the garage.
- 10 A. That's in the back.
- 11 Q. So as we're looking at it --
- 12 A. That's our --
- 13 Q. -- is that your garage?
- 14 A. That's our garage, yes.
- 15 Q. And the side door is here?
- 16 A. The side door is, like, you can't see the side door because it's kind of
- 17 pushed in. It's in -- it's like a mud room.
- 18 Q. It's indented?
- 19 A. Yes.
- 20 Q. And that would be -- as you look at the picture, to the left of the black
- 21 vehicle, right?
- 22 A. Yes.
- 23 Q. And the --
- 24 A. The side --
- 25 Q. -- the gate you're talking about would be behind that?

1035.



(Maria Grisanti - Cross)

- 1 A. No, the gate is a chain-link gate.
- 2 Q. So right in front?
- 3 A. The gate -- yeah. The gate, if you look --
- 4 Q. Here. Show me, please.
- 5 A. Okay. So this would be the gate right here. It's a chain-link fence. It
- 6 wasn't -- it's not a high fence.
- 7 Q. Does it go in front of the garage?
- 8 A. Yeah, it's probably, like, right about here.
- 9 Q. And to the right, where does it end?
- 10 A. It goes all the way to the other side.
- 11 Q. Okay. And where does it begin?
- 12 A. It begins at our house, like, right past -- right at the house.
- 13 Q. Right by the brick?
- 14 A. Yes.
- 15 Q. So the bottom of your house is brick, right?
- 16 A. Yeah, we -- our -- we don't have a full -- we don't have a full -- like, the
- 17 gate's pushed up.
- 18 Q. Okay. So it's forward of the house?
- 19 A. Yes.
- 20 Q. Okay. And you talked about extent the fence runs across the entirety of
- 21 the garage; is that right?
- 22 A. Yes.
- 23 Q. And is there a large gate that opens and closes for the garage, or do you
- 24 not use it for the cars?
- 25 A. We don't typically use it for the cars. We use it for storage.

1036.



(*Maria Grisanti - Cross*)

1 Q. So at this point, you're talking perhaps you're behind the truck walking
2 Fredo. Where would Mark be at this point?

3 A. Putting things away.

4 Q. Still in the house?

5 A. Yes.

6 MR. POSTEL: All right. Play it, please?

7 [Video was played.]

8 THE WITNESS: Oh, there I come.

9 MR. POSTEL: There you go.

10 BY MR. POSTEL:

11 Q. So you're over there on the left?

12 A. Yes.

13 Q. So you're in front of the truck, right?

14 A. Yes.

15 Q. On the sidewalk?

16 A. I'm on my sidewalk, yes.

17 Q. And so that indicates you would have come from the direction of what
18 you characterized as the France home; is that right?

19 A. Correct.

20 Q. All right. And the truck's still there, right?

21 A. Yes.

22 MR. POSTEL: Continue, please.

23 [Video was played.]

24 BY MR. POSTEL:

25 Q. And there's Mark with Fredo, right?

1037.



(*Maria Grisanti - Cross*)

1 A. Okay. Yes.

2 Q. So Mark is not in the house at this point; is that correct?

3 A. Right. Correct.

4 Q. So Mark had gone to walk Fredo with you?

5 A. Yes.

6 MR. POSTEL: Stop.

7 BY MR. POSTEL:

8 Q. What are you doing right now?

9 A. What am I doing?

10 Q. Yeah.

11 A. It looks like I'm walking over toward the truck.

12 MR. POSTEL: Okay. Continue, please.

13 [Video was played.]

14 THE WITNESS: Then I disappear again.

15 BY MR. POSTEL:

16 Q. Are you talking to Mark at this point?

17 A. Possibly.

18 Q. So there you are, right?

19 A. Yes.

20 Q. Okay. So now you're -- that's the back of the truck; is that correct?

21 A. Yes, it is.

22 Q. And what are you doing right now?

23 A. Measuring.

24 Q. You have a -- you don't have a tape measure, right?

25 A. No, with my -- with my -- kind of like walking -- like, you know when

1038.



(Maria Grisanti - Cross)

1 you walk -- measure with your feet?

2 Q. Trying to measure based upon your gait? Gait meaning the --

3 A. Yes. Where our approach is, pretty much.

4 Q. The length of your step that you know, right?

5 A. Right.

6 Q. Okay.

7 MR. POSTEL: Go ahead, please.

8 [Video was played.]

9 BY MR. POSTEL:

10 Q. And now you're facing the truck, right?

11 A. Um-hum.

12 Q. And that right foot is out, right?

13 A. That's where I measured. That's where I was measuring.

14 Q. That's -- but your right foot is going towards the truck; is that correct?

15 A. I believe so, yes.

16 Q. All right.

17 A. I think it was my left foot.

18 Q. Left foot?

19 A. Um-hum.

20 Q. All right. Thank you. So what happens next?

21 MR. POSTEL: Play it, please. Right to the end.

22 Is that it?

23 [Video was played.]

24 BY MR. POSTEL:

25 Q. At this point, has Mark called the police?

1039.



(Maria Grisanti - Cross)

1 A. Yeah, I believe the police were already called.

2 THE REFEREE: For the record, that -- what
3 exhibit is that, Mr. Postel?

4 MR. POSTEL: 30.

5 THE REFEREE: 30, and in the references to the
6 foot being placed near the truck, that's at -- it's denoted
7 7:13:41 -- or 39 to 41? Is that the --

8 MR. POSTEL: That's fair, yes.

9 THE REFEREE: Okay.

10 MR. POSTEL: All right. Are we done with
11 this, please? That's fine. Yeah, please. We'll just turn the
12 lights on so we can see it.

13 THE WITNESS: Okay.

14 BY MR. POSTEL:

15 Q. Would it be fair to say that it was at some point right about that time
16 when you put your foot out that you heard the Meles yelling?

17 A. I don't know if it was right at that point. I feel like I was in the -- doing
18 something in my car, like, getting stuff out of the car.

19 Q. So you had gone from standing behind the vehicle --

20 A. From walking -- I mean, if you think about it --

21 Q. So tell us.

22 A. A fair amount -- I'll say fair, but it was probably maybe seconds, like,
23 walking from where I was back to my car. I don't --

24 Q. So --

25 A. -- remember if we received -- or if we got everything out of our car that

1040.



(Maria Grisanti - Cross)

- 1 we bought that day.
- 2 Q. So when you say walking, you're talking about going from the back of the
- 3 truck to the side of the black car. And what kind of car is it, so we make
- 4 it easy?
- 5 A. Mark's car?
- 6 Q. Black -- excuse me, Mark's car.
- 7 A. It's a Ford Escape too.
- 8 Q. Oh, okay. You have two Escapes?
- 9 A. We both have Escapes. Um-hum.
- 10 Q. Did you go to the left side of the car or the right side of the car, or the
- 11 back of the car where --
- 12 A. The back -- the back -- the hatch.
- 13 Q. -- the tail would come up?
- 14 A. Where the --
- 15 Q. -- hatch comes up?
- 16 A. Yes.
- 17 Q. All right. Did you get groceries or --
- 18 A. We -- yeah, we were --
- 19 Q. You had gone to Aldi's, right?
- 20 A. Yes, we did.
- 21 Q. And you were there for landscaping purposes?
- 22 A. We went to Home Depot for landscaping purposes. Aldi's -- we wanted
- 23 to check it out and see what they had, and --
- 24 Q. Did you get anything?
- 25 A. We did.

1041.



(Maria Grisanti - Cross)

- 1 Q. All right. So you went to Home Depot, and you bought some things?
- 2 A. Bought some things at Home Depot. Bought some things at --
- 3 Q. For the yard?
- 4 A. Yes.
- 5 Q. And you went to Aldi's and bought some things for --
- 6 A. The house.
- 7 Q. Okay.
- 8 A. Just some snacks.
- 9 Q. And did you -- after you opened the hatch, did you bring the material into
- 10 the house?
- 11 A. I believe so.
- 12 Q. So you went into the house, and then you came back out of the house?
- 13 A. I'm not sure if I went all the way in the -- I don't remember going all the
- 14 way in the house, but I don't even know what happened to Fredo's ice
- 15 cream that day, so I can't remember.
- 16 Q. All right.
- 17 A. It's really hard for me to remember that.
- 18 Q. Well, wouldn't you have given Fredo the ice cream as soon as you --
- 19 A. I hope so.
- 20 Q. -- came home?
- 21 A. That's what I'm thinking, did the -- I asked --
- 22 Q. Does he expect ice cream when you come home?
- 23 A. -- Mark the one day, I was like, "Did I even give him the ice cream?" I
- 24 don't remember.
- 25 Q. All right. Did you carry the shopping material from the back of the

1042.



(Maria Grisanti - Cross)

- 1 Escape --
- 2 A. Into the yard.
- 3 Q. -- to the -- into the back yard or the side door?
- 4 A. Onto the back -- into the back yard. Mostly -- if it was, you know,
- 5 because I believe we bought flowers. We wouldn't bring those in the
- 6 house. So probably the snack items, which wasn't very many at Aldi's,
- 7 we would put those in the house, and then the mulch -- because we
- 8 usually buy probably ten bags for --
- 9 Q. Bags?
- 10 A. Yeah. Like, bags of --
- 11 Q. You were carrying the bags of mulch?
- 12 A. I was. I help.
- 13 Q. How long did that take?
- 14 A. A few -- maybe a couple of minutes.
- 15 Q. All right.
- 16 A. Well, I carried nine and Mark carried one. I'm just kidding. I'm just
- 17 kidding. I'm only teasing. I'm sorry. So --
- 18 Q. I don't think anyone's going to hold that against you.
- 19 A. -- we try to help each other, you know, carry stuff.
- 20 Q. So was it at that point after you had carried all this mulch and the snacks
- 21 and the other material that you had got from Aldi's or Home Depot that
- 22 you heard the Meles yelling?
- 23 A. Yeah. After that. After all the stuff was brought in.
- 24 Q. All right. And had Mark already called 911?
- 25 A. I believe so.

1043.



(Maria Grisanti - Cross)

1 Q. Did he tell you he called 911?

2 A. Yes.

3 Q. And when you heard the Meles yelling, you were standing at that point,
4 or walked out to the apron of your own driveway?

5 A. I don't even think I was in the apron. I think I was on my driveway and
6 in my driveway. Behind --

7 Q. All right.

8 MR. POSTEL: Can we bring up --

9 A. Behind Mark's car.

10 MR. POSTEL: Sure. Can we bring up the first
11 of today's exhibits from Respondent? And go to the next
12 one, please.

13 MR. DOYLE: The KKK ones?

14 MR. POSTEL: Okay.

15 BY MR. POSTEL:

16 Q. So if I'm to understand this --

17 A. Okay.

18 Q. -- at some point, you walked from --

19 MR. POSTEL: And can we blow this up?

20 THE WITNESS: No, wrong way. I think it was
21 blown up.

22 MR. POSTEL: That was blown up. I think this
23 is the part where they say we're having technical
24 difficulties.

25 //

1044.



(*Maria Grisanti - Cross*)

1 BY MR. POSTEL:

2 Q. So we're back to the KKK, the first page.

3 A. Okay.

4 Q. There we go.

5 A. Okay.

6 Q. Well, regardless of the size, you can see this, right?

7 A. I can.

8 Q. So this is the black Escape --

9 A. Black, yes.

10 Q. -- we're talking about --

11 A. Um-hum.

12 Q. -- right, that I'm pointing at?

13 A. Yes.

14 Q. And you've gone into the back, you carried the mulch; is that correct?

15 A. Yes.

16 Q. And then you come back out to where you're standing; is that correct?

17 A. Yes.

18 Q. And standing right next to you is your husband, Mark Grisanti; is that
19 correct?

20 A. Yes.

21 Q. And he's wearing a white t-shirt; is that correct?

22 A. Yes.

23 Q. And you're standing -- what would you consider yourself to be standing
24 on?

25 A. Standing on? I don't --

1045.



(Maria Grisanti - Cross)

- 1 Q. Yeah. What's -- what part of the driveway you're standing on?
- 2 A. Oh, I see. I thought you meant standing on an object. Probably near
- 3 their -- like sidewalk -- between sidewalk and our -- my approach.
- 4 Q. Okay. So we've heard a lot about the word apron.
- 5 A. Right.
- 6 Q. And you and your husband used the word apron, and you've extended
- 7 your apron, and this is a source of aggravation, parking on or near the
- 8 apron. Can you tell me, when you talk about the apron with Mark, and
- 9 you testified it, is it the area between the end of the driveway that actually
- 10 goes down a little bit --
- 11 A. Um-hum.
- 12 Q. -- this, what I'm showing?
- 13 A. Oh, that's like the curb. I would call that a curb.
- 14 Q. What would you call the apron? Would you show me, if you can get up?
- 15 A. Oh, the apron?
- 16 Q. Sure.
- 17 A. I feel like the apron would be from the -- you know, where our driveway
- 18 is -- here's our driveway -- to the -- how it comes out like an apron, and it
- 19 extends out a little bit.
- 20 Q. Does it include the material -- so this concrete?
- 21 A. Yes.
- 22 Q. Does it include the material right up until the edge of the -- edge of this,
- 23 where the sidewalk is?
- 24 A. Yes.
- 25 Q. Okay. So it's the entirety of area from the sidewalk to the street, right?

1046.



(Maria Grisanti - Cross)

1 A. Yes.

2 Q. Thank you. So as you look at that picture, you can see your husband's
3 got his right arm elevated; is that right?

4 A. Yes.

5 Q. And it's pointing at the Meles' house, right?

6 A. It looks like it is.

7 Q. Is it at this -- is it at this point that the dispute pretty much has begun in
8 terms of arguing back and forth?

9 A. Possibly. He could have been pointing, like, saying something and
10 showing with his arm. I don't think he was actually pointing, but kind of,
11 like, talking.

12 Q. He was gesturing with his right arm, correct?

13 A. Yes.

14 Q. All right. It's -- well, are you at this point engaged in a verbal argument
15 with the Meles?

16 A. Yes, I believe so. It's hard to tell. I don't really know, but it --

17 MR. POSTEL: Could you go to the next
18 exhibit, please? 2. KKK, 2?

19 BY MR. POSTEL:

20 Q. So it looks like at this point you've crossed the street from where you
21 were, right?

22 A. Yes.

23 Q. So it's undisputed, is it not, that there was an argument going on between
24 you and the Meles that brought you across the street, right?

25 A. Well, there was -- yes, verbal -- like, a verbal --

1047.



(Maria Grisanti - Cross)

1 Q. Verbally, right?

2 A. -- confrontation --

3 Q. Yeah. Okay.

4 A. -- I would call it.

5 Q. And in the course of the argument -- the verbal argument preceding the
6 moving across the street, you were using profanity; is that correct?

7 A. I did.

8 Q. And Mark was using profanity, is that correct?

9 A. Yes.

10 Q. Okay. Now, I'm going to ask you a number of questions -- and we also
11 know, we have the transcript that you've read, that Joe and Gina were
12 using profanity, correct?

13 A. Yes.

14 Q. You know that. You heard them say it?

15 A. I did.

16 Q. As you and Mark headed across the street and approached the Meles, you
17 were concerned that there would be a physical confrontation between Joe
18 and Mark, weren't you?

19 A. I was.

20 Q. But you went anyway, right?

21 A. I did. And --

22 Q. Did you stop and tell Mark or did you say to Mark at any time while
23 crossing the street, "I don't want you getting into a fight with this guy"?

24 A. I don't remember.

25 Q. Is that something you would remember saying?

1048.



(Maria Grisanti - Cross)

1 A. I would -- I wouldn't encourage having a fight.

2 Q. Well, no, I didn't ask you that.

3 A. I know.

4 Q. I asked you simply --

5 A. Okay. Can you repeat?

6 Q. -- did you say to him, "I don't want you getting into a fight with Joe"?

7 A. No.

8 Q. And by fight, we both know we're talking about physical confrontation,
9 right?

10 A. Exactly.

11 Q. And you testified that you, in fact, were so concerned about a physical
12 confrontation that you actually stood between them, right?

13 A. I did.

14 Q. You put yourself between them?

15 A. I did.

16 Q. Did you turn to Mark at that point and say, "We got to get out of here"?

17 A. I didn't have a chance to.

18 Q. I -- and I didn't say what your timing was. I simply said, did you say to
19 him --

20 A. I didn't.

21 Q. -- "We have to get out of here"?

22 A. No.

23 Q. You were still verbally arguing with the Meles about the truck, right?

24 A. Yes.

25 Q. When you went across the street, did it occur to you that this thing was

1049.



(Maria Grisanti - Cross)

1 escalating beyond control?

2 A. Not at that point.

3 Q. But you went over to their driveway, right?

4 A. Yes.

5 Q. Their apron.

6 A. We met with them.

7 Q. At their apron?

8 A. They were walking toward, and we were walking toward them, and their
9 apron.

10 Q. Did they ever leave their property?

11 A. Yes.

12 Q. And did that occur before or after you went to the apron of their
13 driveway?

14 A. After.

15 Q. So the initial confrontation, face to face, physically, was in the apron of
16 the Meles' driveway; is that correct?

17 A. I believe so. It -- yes.

18 Q. Now, today you've used the word -- or letter -- F-I-N-G, as in effing,
19 right?

20 A. Right.

21 Q. But you had no problem on that day using the word "fuck;" is that
22 correct?

23 A. Correct.

24 Q. I'm going to show you Commission Exhibit 2.

25 MR. POSTEL: And would you bring that up on

1050.



(Maria Grisanti - Cross)

1 the screen, please? 2-A, I'm sorry. Thank you, David.

2 BY MR. POSTEL:

3 Q. If you would go to page 2, please, line 4. During the course of your
4 dispute, is it true that you called Ms. Mele on line 4, page 2, a "fat ass"?

5 A. Yes.

6 Q. Did you call her a fat ass again on line 11?

7 A. I did.

8 Q. On line 13, what did you call her?

9 A. A motherfucker.

10 Q. Would it be fair to say, based upon the way you're speaking to her and the
11 way she's speaking to you, that you had not yet engaged in any form of
12 physical confrontation?

13 A. At that point?

14 Q. Yes.

15 A. I believe so.

16 Q. All right. Now, you talked about -- in talking about the physical
17 confrontation and what happened later, you described that the bruises that
18 you showed on your arm were taken in the interrogation room at
19 D-District precinct; is that correct?

20 A. I don't remember exactly where they were taking the pictures, but I --

21 Q. Did the police take them?

22 A. I don't remember.

23 Q. All right. But you did meet with a detective?

24 A. The -- yes.

25 Q. And you told -- you gave him your story, right?

1051.



(*Maria Grisanti - Cross*)

- 1 A. I did.
- 2 Q. All right. And he asked you if you had hit anybody, right?
- 3 A. Yes.
- 4 Q. And he specifically asked whether you had punched Joe Mele; is that
- 5 correct?
- 6 A. Yes.
- 7 Q. And you told him, "I probably did," right?
- 8 A. Well, I probably -- with the swinging that was going on, I might have. I
- 9 mean, I -- it was very hard to tell.
- 10 Q. You told Moretti that you probably did, right?
- 11 A. Okay. Yes.
- 12 Q. Looking at page 3, please, what did you say to Gina at line 7?
- 13 A. The F word.
- 14 Q. Okay. And line 10?
- 15 A. You.
- 16 Q. Excuse me, line 12?
- 17 MR. POSTEL: Is this page 3?
- 18 MS. TRAPANI: Yes.
- 19 MR. POSTEL: Okay.
- 20 BY MR. POSTEL:
- 21 Q. Line 7, what did you say? I'm sorry, you said, "Fuck," right?
- 22 A. Yes.
- 23 Q. Let's turn to the -- no, actually, if you look at line 10, and that's what my
- 24 confusion was, it's a continuation. It's actually "Fuck you;" is that
- 25 correct?

1052.



(*Maria Grisanti - Cross*)

- 1 A. Yes.
- 2 Q. And looking at page 4, please, line 13, what did you call her again here?
- 3 A. An m-effer.
- 4 Q. And you didn't actually say m-effer to her, did you?
- 5 A. No, I said motherfucker. I said the word, which I'm not proud of at all.
- 6 Q. And looking at page 5, please, line 2, what did you tell Ms. Mele to do?
- 7 A. Do you want me to say the whole sentence?
- 8 Q. I want you to tell us what you said to her.
- 9 A. I told her -- line 2 -- to "get the fuck out of here."
- 10 Q. And at that point, they were standing in front of their own home, weren't
- 11 they?
- 12 A. If that's what the video showed. I don't know. I can't answer that.
- 13 Q. Well, you knew where you were, right?
- 14 A. I know, but it was at -- was on both sides.
- 15 Q. Well, at a certain point, it moved across the street; is that correct?
- 16 A. Okay.
- 17 Q. Do you think that by this point in the transcript, which is 21 pages long,
- 18 that by page 5 you'd already moved across the street?
- 19 A. Probably not.
- 20 Q. Looking at page 6, please, line 9, what did you say to Gina?
- 21 A. "Fuck you."
- 22 Q. Line 11?
- 23 A. "Fuck you."
- 24 Q. Line 14?
- 25 A. "Fuck you."

1053.



(Maria Grisanti - Cross)

- 1 Q. Line 16?
- 2 A. "Fuck you" again.
- 3 Q. Turning to page 7, please. Line 4, what did you call Ms. Mele?
- 4 A. "Fuck you, you fat fuck."
- 5 Q. Line 22, what did you call her? Line 20 and 22 together.
- 6 A. 20 -- "Go on, you fucking Weeble Wobble."
- 7 Q. "Go on, you fucking Weeble Wobble," right?
- 8 A. Yes. That's what I said.
- 9 Q. What is Weeble Wobble?
- 10 A. I don't know.
- 11 Q. Does it refer to the way she walked?
- 12 A. No. It just -- I don't know. She just -- it was a -- it was a --
- 13 Q. Well, you called her a Weeble or a Weeble Wobble a number of times,
- 14 right?
- 15 A. I did, probably three or four.
- 16 Q. And does it have to do with her size or her shape?
- 17 A. I don't know. I just called it.
- 18 Q. You made the choice of words.
- 19 A. I did.
- 20 Q. I'm simply asking you, what was in your mind when you called her a
- 21 Weeble or a Weeble Wobble?
- 22 A. I can't even answer what was in my mind at that point. I don't know.
- 23 Q. Well, had you ever heard Linda use that word in describing?
- 24 A. No. I -- she would kind of, like, walk like her.
- 25 Q. Wobble?

1054.



(*Maria Grisanti - Cross*)

- 1 A. Right.
- 2 Q. So Linda would make fun of her or mock the way that Gina walked; is
- 3 that correct?
- 4 A. Linda would.
- 5 Q. Yeah.
- 6 A. It has -- I --
- 7 Q. I said Linda.
- 8 A. Okay. Linda would.
- 9 Q. Is that correct?
- 10 A. I guess so, yes.
- 11 Q. Well, you saw her do that, right?
- 12 A. Not really.
- 13 Q. You just said, Linda --
- 14 A. Linda would -- well, because I -- Linda actually told me about the fact
- 15 that she would do that. I mean, I can't --
- 16 Q. So Linda described Gina's walk as a wobble?
- 17 A. Yes.
- 18 Q. All right. Did you add the -- choose to add the word Weeble?
- 19 A. Yes.
- 20 Q. How do you get from wobble to Weeble Wobble?
- 21 A. I don't -- I have no idea.
- 22 Q. It wasn't a nice thing to say though, was it?
- 23 A. It was not.
- 24 MR. POSTEL: Page 8, please.
- 25 //

1055.



(Maria Grisanti - Cross)

- 1 BY MR. POSTEL:
- 2 Q. Right from the beginning, line 1 and line 3, what do you tell her?
- 3 A. "You had a miserable fucking life."
- 4 Q. Line 21, what do you say to her?
- 5 A. "Fuck you."
- 6 Q. Line 24?
- 7 A. "Fuck you."
- 8 Q. Turning to page 10, let's go down to the bottom, please, and would you
- 9 read to yourself from 18 to 25?
- 10 A. To my --
- 11 Q. Just to yourself.
- 12 A. To myself?
- 13 Q. And if you want to turn -- if it's easier, you have the exhibit right in front
- 14 of you.
- 15 A. I can see -- it's easier for me to see it here. 18 to 21, I'm sorry?
- 16 Q. 25.
- 17 A. 25.
- 18 Q. And tell me when you're done, please.
- 19 A. I'm done.
- 20 Q. All right. You said to Ms. Mele or Mr. Mele, "Yeah, you're real good
- 21 with your spitting," right?
- 22 A. What -- I think that's the wrong --
- 23 Q. I'm sorry. I'm on page 9. Let's go back. 18 through 25.
- 24 A. Okay. Okay.
- 25 Q. You said to Mr. or Ms. Mele, "You're real good with your spitting,"

1056.



(Maria Grisanti - Cross)

- 1 right?
- 2 A. Yes.
- 3 Q. And then you said, "How's that, huh?" Is that correct?
- 4 A. Yes.
- 5 Q. And Ms. Mele responds, "Did you spit at me?" Is that correct?
- 6 A. Yes.
- 7 Q. And you responded after Ms. Mele said, "You fucking --", you
- 8 responded, "How's that?" Is that correct?
- 9 A. Yes.
- 10 Q. Did you spit at her at that point?
- 11 A. No.
- 12 Q. Do you have any idea how that came up?
- 13 A. Probably because they're always spitting.
- 14 Q. So did they spit at you at that point?
- 15 A. I don't remember.
- 16 Q. All right. But your testimony --
- 17 A. Probably. I don't -- I don't remember.
- 18 Q. Did Ms. Mele ask you if she had spit -- you had spit at her?
- 19 A. It says it on there, so yes.
- 20 Q. And your response was, "How's that?" right?
- 21 A. Um-hum.
- 22 Q. And your testimony today is that had nothing to do with you spitting on
- 23 them?
- 24 A. That's my -- right. I do not recall spitting.
- 25 Q. Looking at line -- turning to page 10, please, line 6, what did you say to

1057.



(Maria Grisanti - Cross)

- 1 them?
- 2 A. Line 6?
- 3 Q. Yes.
- 4 A. "You're in fucking trouble."
- 5 Q. What does that mean?
- 6 A. I don't know.
- 7 Q. Line 9, what did you say to them?
- 8 A. "You fuck with people, and guess what? Get out of here, fucking
- 9 Weeble."
- 10 Q. So here we have the Weeble again. Can you explain to us what it meant
- 11 here?
- 12 A. Mr. Postel, I really can't. I don't really -- I was upset. I basically have no
- 13 idea why I even said --
- 14 Q. Were you the only one upset in this --
- 15 A. No.
- 16 Q. -- confrontation?
- 17 A. No.
- 18 Q. Is it fair to say that --
- 19 A. Absolutely not.
- 20 Q. -- you were all upset?
- 21 A. We all were, yes.
- 22 Q. Okay. And you said, "You fuck with people, and guess what?" So tell
- 23 us, what is we're get -- what does that mean, "guess what"? What
- 24 happens?
- 25 A. I have no idea. I don't know. I was just upset. It was my adrenaline.

1058.



(*Maria Grisanti - Cross*)

1 Q. You were saying things you didn't know the meaning to?

2 A. Pretty much. I said eff you, like, a lot of times, which --

3 Q. Well, let's go down to the page -- line 19. What did you say?

4 A. I said it again. I said it a lot. I'm not -- I'm very ashamed of how many
5 times I said it. I don't --

6 MR. POSTEL: Let's go to page 11, please.

7 BY MR. POSTEL:

8 Q. You say right now that you're ashamed that you said it, but --

9 A. I am.

10 Q. -- you had no problem saying it that day, did you?

11 A. No.

12 Q. And we're going to go through all of them, and there's a whole lot, would
13 that be fair to say?

14 A. Yes.

15 Q. Okay. Let's go to line 5, please. Did you say it again?

16 MS. TRAPANI: Mr. Postel, I (unintelligible).

17 MR. POSTEL: I'm sorry, page 12.

18 MS. TRAPANI: Line 9?

19 MR. POSTEL: Line 5?

20 MS. TRAPANI: Line 11?

21 MR. POSTEL: Line 5.

22 BY MR. POSTEL:

23 Q. Line 5? Did you say, "Fuck you"?

24 A. I did.

25 Q. And that's after having said it already to her, line 3; is that correct?

1059.



(Maria Grisanti - Cross)

- 1 A. Yes. I probably said it in a row. Who knows?
- 2 Q. So would you read to us, please -- to yourself, please, from line 7 to line
- 3 15?
- 4 A. Line 7 to 15?
- 5 Q. Correct.
- 6 A. Do you want me to read it out loud?
- 7 Q. No, to yourself.
- 8 A. Oh.
- 9 Q. Tell me when you're finished.
- 10 A. Okay.
- 11 Q. Does it read, and did this happen, begins, your statement, "Yeah, really?"
- 12 Ms. Mele, "Like that?" You say, "Yeah, I'll fucking push you. Don't call
- 13 me a drunk." Right?
- 14 A. Um-hum.
- 15 Q. Okay. That's what you said to her, right?
- 16 A. Um-hum.
- 17 Q. "I'll fucking push you." You pushed her?
- 18 A. She said I pushed her?
- 19 Q. No, you did push her, didn't you?
- 20 A. I don't know.
- 21 Q. Well, you're the one who said, "I'll fucking push you."
- 22 A. I may have said that. I mean --
- 23 Q. Well, it's not a question --
- 24 A. -- I may have pushed her.
- 25 Q. -- of whether you said it. It's a question of did you do it? Are you saying

1060.



(Maria Grisanti - Cross)

1 that you said that --

2 A. I'm trying --

3 Q. -- but didn't do it?

4 A. I'm trying to -- I'm trying to --

5 Q. Process it?

6 A. Yes, I'm trying to think about if I did or not. I'm trying to think of exactly

7 where this was and the -- if this was part of the verbal or the physical.

8 Q. Well --

9 A. I can't --

10 Q. -- let me just ask you generally.

11 A. It's hard to --

12 Q. There did come a point when you pushed her, right?

13 A. I must have, if I said it.

14 Q. All right. And you weren't alone in physical -- in other -- you weren't
15 alone in being touched by the Meles. You actually reached out and
16 touched them as well, right?

17 A. To defend myself.

18 Q. But you did it?

19 A. I did.

20 Q. So when you pushed her, were you defending yourself then?

21 A. Yes.

22 Q. So you were the victim here?

23 A. I felt like I was.

24 Q. But you walked across the street.

25 A. I know.

1061.



(Maria Grisanti - Cross)

1 Q. Was that a smart thing to do?

2 A. No.

3 Q. Looking at page 13, please, line 6, what did you say to Ms. Mele? What
4 did you call her?

5 A. Motherfucker.

6 Q. And then line 15, what did you say to her?

7 A. "Fuck you."

8 Q. And you said it again at line 17?

9 A. I did.

10 Q. Turning to page 14. Excuse me, I'm sorry. Let's go down to the bottom
11 of page 13. All right. Let's go to line 14. Would you read from line 14
12 to the bottom of page 13, line 25?

13 A. 14 to 25?

14 Q. Right. Just take your time.

15 A. Okay.

16 Q. Tell me when you're done.

17 A. Okay. I'm good.

18 Q. Now let's go to page 14, please, line 1 through 6, continue reading to
19 yourself. Excuse me, 1 through 8. Tell me when you're done.

20 A. Through 8?

21 Q. Yes.

22 A. Okay. Okay. I read them.

23 Q. So if we go from line 14 on 13, through 8 on 14, is it fair to say that you
24 had been told by the Meles that they had -- were a video camera that was
25 recording the incident?

1062.



(Maria Grisanti - Cross)

- 1 A. Yes.
- 2 Q. All right. And is it fair to say that your response to that was to tell them
- 3 to "Shove them up your fat fucking ass"?
- 4 A. Yes.
- 5 Q. And that referred to the video; is that correct?
- 6 A. Her cameras.
- 7 Q. The cameras. The cameras, right?
- 8 A. Um-hum.
- 9 Q. Yes?
- 10 A. Yes.
- 11 Q. I say that only because "um-hum" doesn't get picked up.
- 12 A. No. It's cameras.
- 13 Q. Okay. You didn't tell them just once though, did you? On page 14, what
- 14 do you tell them to do? Line 6?
- 15 A. Is this page 14?
- 16 Q. Yes. 6 and 8.
- 17 A. Yes. I told them twice.
- 18 Q. You say, "Shove them up your fat fucking ass," right?
- 19 A. Yes.
- 20 Q. And on line 17, what do you call Ms. Mele?
- 21 A. 17. A piece of shit.
- 22 Q. Line 15 -- excuse me, page 15, line 4.
- 23 A. "Fuck you."
- 24 Q. And line 6?
- 25 A. "Oh, fuck you."

1063.



(Maria Grisanti - Cross)

- 1 Q. And line 11? Did you say to her this --
- 2 A. What? Did you hear -- "What did you hear? Go fucking Weeble Wobble
- 3 back home, you" whatever.
- 4 Q. So here you're telling her to move in a certain direction, right?
- 5 A. Um-hum.
- 6 Q. Does this clarify for you where you told her to "Go fucking Weeble
- 7 Wobble back home," what Weeble Wobble meant?
- 8 A. I -- it probably was just to be a mean, like, I was being nasty to her
- 9 because of everything she said to me.
- 10 Q. Well, I understand that. But right now we're talking about understanding
- 11 the context of "Weeble Wobble back home." That means move --
- 12 A. You know --
- 13 Q. -- go back home, right?
- 14 A. Go back home.
- 15 Q. Right. And --
- 16 A. Like, leave and go back home.
- 17 Q. -- that's the way she walked? You considered to be a Weeble Wobble; is
- 18 that true?
- 19 A. Well, her email is Weeble Wobble, so --
- 20 Q. My --
- 21 A. -- she kind -- it's a -- it was -- I said it -- I don't know what I was -- why I
- 22 said it.
- 23 Q. But you -- but here it's in the context --
- 24 A. But I said it.
- 25 Q. -- of her movement; is that correct?

1064.



(Maria Grisanti - Cross)

1 A. Possibly, yes.

2 Q. Is it -- well, then give me another possible explanation.

3 A. I have no idea. I -- it was something that I was upset and mad and
4 probably --

5 Q. All right. Well, is it probable --

6 A. -- made fun of the fact that she -- that's all I had. I don't know. I can't
7 even -- I can't even explain it.

8 Q. I'm just trying to understand --

9 A. I know. I know.

10 Q. -- what you meant. Is it probable you meant the way she walked?

11 A. Probable, yes. On top of, I'm ashamed of --

12 Q. There's no -- you've said that, thank you.

13 A. -- that.

14 Q. I understand that. Going to line -- page 16, please, line 6. Excuse me,
15 let's go to line 2. You've identified and we know that your husband,
16 Mark, was also using profanities directed at the Meles, right?

17 A. Yes.

18 Q. And specifically, at line 2, he called Ms. Mele a "piece of shit;" is that
19 correct?

20 A. Yes.

21 Q. And then you go down to line 6, and excuse me, Ms. Mele says, "Leave
22 it." Line 4, "What is it?" Mr. Mele, line 5, "Don't pick it up. Leave it.
23 Leave it." Line 6, "We fucking know. I'll fucking --" What does that
24 mean?

25 A. I don't know. It's hard to go back to what any of this means.

1065.



(Maria Grisanti - Cross)

- 1 Q. You looked at all the video, right?
- 2 A. I did. It --
- 3 Q. The Mele video? Yeah?
- 4 A. Pardon me?
- 5 Q. You looked at the Mele video?
- 6 A. Yes.
- 7 Q. You looked at the Gehr video?
- 8 A. I did.
- 9 Q. You looked at the Muhammad video?
- 10 A. Yes.
- 11 Q. You looked at the part of the Muhammad video in which you're in the
- 12 back of the police car, correct?
- 13 A. Yes.
- 14 Q. All right. Let's go down to line 22. Did you call Maria [sic] a "fucking
- 15 wop"?
- 16 A. Yes.
- 17 Q. Did you call her a --
- 18 A. I -- her name's Gina.
- 19 Q. Excuse me, Gina. Thank God you corrected me on that.
- 20 A. I know.
- 21 Q. If I do it again, it's -- I apologize.
- 22 A. It's okay.
- 23 Q. On line 22, you called her a "fucking wop," you've agreed, right?
- 24 A. Yes.
- 25 Q. And on line 24, you called her "fucking wop;" is that correct?

1066.



(*Maria Grisanti - Cross*)

1 A. Yes.

2 Q. You know that the expression "wop" is an old insult directed at Italian-
3 Americans; is that correct?

4 A. I honestly don't even know what it meant.

5 Q. Did you not know that it meant "without papers"?

6 A. I did not.

7 Q. All right. Did you know that it was a derogatory term directed at Italian-
8 Americans?

9 A. I knew it was something to do with Italians, but I didn't know what?

10 Q. Or Italians. We'll call them Italians.

11 A. I'm Italian, too, so I don't know. I mean, I don't even --

12 Q. You knew it was a derogatory term?

13 A. -- I knew it wasn't a nice word.

14 Q. All right. Did you know that it -- and so since it was Italians -- there was
15 an ethnic basis to the component of the insult, right?

16 A. Yes.

17 MR. POSTEL: Let's go to page 17, please.

18 BY MR. POSTEL:

19 Q. Line 5, what did you call her?

20 A. Let's see. I -- 17 or 15?

21 Q. 5.

22 A. Where? What?

23 Q. Page 17, line 5.

24 A. Oh, line 5. A "lowlife."

25 Q. And at line 17 on page 17, you called her a word that you've called her a

1067.



(Maria Grisanti - Cross)

1 number of times already, right?

2 A. What -- where?

3 Q. Line 17.

4 A. Yes.

5 Q. If I talk too fast, just let me know.

6 A. That's okay. I'm just catching up. Okay. Yes.

7 Q. And what was that you called her?

8 A. On line 17?

9 Q. Right.

10 A. Motherfucker.

11 Q. And before that, on line 15, to complete it -- if you put 15 and 17
12 together, what is it you called her?

13 A. "You fat motherfucker."

14 MR. POSTEL: Turning to page 18, please.

15 BY MR. POSTEL:

16 Q. Line 11, what did you say to her?

17 A. "You fucking do, bitch. You fucking block everybody's driveway
18 because you think you own the fucking street."

19 Q. And on the bottom, line 22 -- line 22 and 25, what did you say to her?

20 A. "Nobody fucking likes you. We all -- we -- we all."

21 Q. Right. So go to the top of the next page.

22 A. "We all fucking hate you."

23 Q. Line 5?

24 A. "Fucking move."

25 Q. Line 9?

1068.



(*Maria Grisanti - Cross*)

1 A. "You fucking --"

2 Q. Line 11?

3 A. "-- make the neighborhood look bad."

4 Q. Turning to page 21, the last page of this transcript.

5 A. Thank God.

6 Q. Line 4, what did you tell them -- what did you tell Gina to do?

7 A. "Shove it up your fucking ass."

8 Q. That's the third time you told the Meles -- specifically Gina -- to shove
9 something up her fucking ass, right?

10 A. Yes.

11 Q. And then just before the conclusion, line 6, what do you tell -- what do
12 you call her?

13 A. A "fucking piece of shit."

14 Q. Would you like to take a break?

15 A. I'm good.

16 Q. Are you --

17 A. I'm okay.

18 MR. POSTEL: Do you want to take -- do you
19 want to take a break? Yeah, I think we do. All right. We
20 can either break for lunch or go. I probably got 20 minutes,
21 or 25 left.

22 THE REFEREE: 20 minutes? Ms. Grisanti,
23 you've been on this witness stand for a long time.

24 THE WITNESS: I'm good.

25 MR. DOYLE: Yeah. We'll --

1069.



(Maria Grisanti - Cross)

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THE WITNESS: I'm good.

MR. DOYLE: We'll take a lunch break.

MR. POSTEL: We're good?

MR. DOYLE: I think that makes sense.

THE REFEREE: A --

THE WITNESS: Break?

THE REFEREE: It's pretty exhausting
testimony, so I think the rest of us --

THE WITNESS: Okay. For everybody --

(Recess from 12:45 p.m. to 1:57 p.m.)

MS. TRAPANI: We're back on the record.

THE REFEREE: It's about two o'clock. Ms.
Grisanti, you're still under oath.

THE WITNESS: Yes.

THE REFEREE: And we may resume with
cross examination.

MR. POSTEL: Thank you, Your Honor.

RESUMED CROSS EXAMINATION

BY MR. POSTEL:

Q. Ms. Grisanti, as we went --

MR. POSTEL: Can we put 2-A back up,
please?

BY MR. POSTEL:

Q. As we went through the transcript together, we found a number of times
where you referred to Ms. Mele's weight as being fat; is that correct?

1070.



(Maria Grisanti - Cross)

1 A. Yes.

2 Q. That was an insult, correct?

3 A. Yes.

4 Q. Do you have a personal prejudice against people who are overweight?

5 A. Not at all.

6 Q. But you chose to use that word. Can you tell me why?

7 A. I used that word because of the word she called me.

8 Q. Drunk?

9 A. Drunk. The C word, which is a horrible word to call a woman. I thought
10 it would get to her.

11 Q. All right. So if you look at the transcript, she did call you the C word,
12 and it looks like that started the profane communication, but she only
13 called it to you once. To your recollection, did she call it a number of
14 times?

15 A. She has in the past, but not on this transcript.

16 Q. And as you think about the Weeble and the Weeble Wobble comments,
17 were were you aware that there were -- the term Weeble Wobble, were
18 you -- related to a toy from the 1970s that would rock back and forth?

19 A. I am.

20 Q. You know them, right?

21 A. Yeah.

22 Q. And they're --

23 A. The --

24 Q. -- the --

25 A. Weeble Wobbles. Yeah.

1071.



(Maria Grisanti - Cross)

1 Q. The Weeble Wobbles and they're called Weeble Wobbles because of the
2 way they move, right?

3 A. Right.

4 Q. From side to side and back and forth, right?

5 A. I did think about it, yes.

6 Q. All right. And they are notorious for having a big bottom, aren't they?

7 A. Yes.

8 Q. So we are going to put the transcript aside. I promised I would. I'm sorry
9 I went back to it.

10 A. That's okay.

11 Q. When the police arrived, you went right up to the car; is that correct?

12 A. Up to the police car?

13 Q. Yes.

14 A. Yes.

15 MR. POSTEL: I'm actually going to mark,
16 please, ask to be marked a photograph -- a screenshot of
17 Officer Gehr's car. Counsel?

18 MR. DOYLE: Sure.

19 MR. CONNORS: What's the number of it?

20 MR. DOYLE: It's okay. We don't know it yet.

21 MS. TRAPANI: It's going to be 35.

22 MR. CONNORS: What's the number?

23 MR. POSTEL: 35.

24 JUDGE GRISANTI: 35.

25 MR. CONNORS: 35?

1072.



(Maria Grisanti - Cross)

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MR. POSTEL: Thank you.

(Commission Exhibit 35 was marked for identification)

BY MR. POSTEL:

Q. I'm showing you Commission Exhibit 35. Do you recognize the individuals in that?

A. Myself and my husband, Mark.

Q. And it would be fair to say that that was you and your husband Mark immediately after the police car arrived and they opened the doors and got out, right?

A. I believe so. I was trying to -- yeah. I -- it's hard to --

Q. Who are you pointing at?

A. It looks like the Mele's house.

Q. And after -- was it Officer Gehr who was out on your side? The white officer?

A. Yes.

Q. And after he got out, excuse me, or while you were standing there when he arrived, the first thing you said to him was that the Mele's are a bunch of fucking assholes, right?

A. Yes.

MR. POSTEL: Can we put up the Exhibit 11-A, please?

MS. TRAPANI: 11?

MR. POSTEL: 11-A, please.

BY MR. POSTEL:

Q. And as you look at the picture, would it be fair to say that you were

1073.



(Maria Grisanti - Cross)

1 pretty much standing close to the middle of the street? In front of you.

2 A. Oh, this picture?

3 Q. Yes.

4 A. Yes.

5 Q. And that's --

6 A. Probably in the middle of the street, for sure.

7 Q. In the middle of the street.

8 A. Yes.

9 Q. And that the truck is behind you. You're sort of close to where the
10 windows and doors are of the truck towards the front?

11 A. Yes.

12 Q. And the back of the truck is shielding a portion of your driveway from
13 view; is that correct?

14 A. Yes.

15 Q. And on the other side of the picture is a picture of the front of the police
16 vehicle, or portion of the police vehicle; is that correct?

17 A. This --

18 Q. Yes.

19 A. This picture here?

20 Q. No. No. Over -- all the way to the right. Where your thumb is. Your
21 right thumb.

22 A. Okay. It's hard to tell, but it looks like a car.

23 Q. Okay. And would it be fair to say that -- well, let's look. You see that
24 pole that's sticking out of the grass there on the right side of the picture?

25 A. A street light?

1074.



(Maria Grisanti - Cross)

1 Q. Is that a streetlamp?

2 A. It looks like a streetlight, yes.

3 Q. Okay. That's in front of whose home?

4 A. I think it's the house next door to the Mele's house.

5 Q. All right. So at this point where the Meles were located would be
6 between that streetlamp and the car that's in the right corner of the
7 picture; is that right?

8 A. Yes.

9 Q. On their own property; is that correct?

10 A. Yes.

11 Q. All right.

12 A. At that point, yes.

13 Q. And you were pointing and yelling at Officer Gehr right after he arrived;
14 is that correct?

15 A. I must have, yes. I --

16 Q. You didn't go back to your side of the street after Officer Gehr arrived,
17 did you?

18 A. I think I did.

19 Q. Immediately after?

20 A. Immediately after? I know I was on my side of the street. I think I went
21 up to Officer Gehr when he arrived. I believe I went up to him --

22 Q. In the middle of the street.

23 A. I was excited. Like I said, I felt safe when I knew they were there. So I
24 went up to him.

25 Q. You also said you were trying to defuse the situation at that point, right?

1075.



(Maria Grisanti - Cross)

1 A. No. That was -- when the police came?

2 Q. Yeah.

3 A. I was trying to defuse it? I don't recall that.

4 Q. You felt safe; is that correct?

5 A. Yes.

6 Q. Were you trying to reduce the tensions at that point?

7 A. I was in -- I was hysterical at that point. So I -- my makeup that day was
8 more of flight or fight, like, I felt like. I felt like the adrenaline was still
9 on high.

10 Q. So were you in the flight mode this point?

11 A. I basically -- once the police arrived, I just felt like I can tell what
12 happened. I was happy to see the police. I was very happy to see them.

13 Q. All right. You say you were in the flight or fight mode?

14 A. Well, it's almost like where your adrenaline, you don't know whether to
15 run or stay.

16 Q. Which one did you do?

17 A. Well when I went up to the police, I feel like I -- I didn't fight. I fled over
18 to them. I wanted the police there.

19 Q. Okay. So you were in the flight mode at that point?

20 A. Yes.

21 Q. Okay.

22 MR. POSTEL: Can we bring up Exhibit 11,
23 please? And go to this point represented, and by the way,
24 I'll offer Commission 35.

25 MR. DOYLE: And just for clarity, this is a

1076.



(Maria Grisanti - Cross)

1 screenshot from Officer Gehr's body cam?

2 MR. POSTEL: That's correct.

3 MR. DOYLE: No objection.

4 THE REFEREE: Received.

5 (Commission Exhibit 35 was admitted into evidence)

6 MR. POSTEL: And also, I think what we'll do
7 is we'll make a digital file of it and put that in its place.

8 (Unintelligible). If that's okay with Ms. Trapani?

9 MR. DOYLE: Okay, we'll just --

10 MR. POSTEL: Everything goes for Ms.
11 Trapani, just so we're clear. Can you move ahead, please,
12 to 47:152?

13 MS. TRAPANI: Sorry?

14 MR. POSTEL: Move ahead, top right, 47:152.

15 MS. TRAPANI: That counter will not adjust
16 while I'm paused.

17 MR. POSTEL: It won't move? Okay. Then
18 let's go from -- let's go to 22_2047 on the -- oh, that's the
19 same thing. Then can you fast forward through this?

20 MS. TRAPANI: The counter at the bottom --

21 MR. POSTEL: Okay. Let's just go a little
22 further. A little bit. Good. Right. A little more. Back
23 please. Right there.

24 BY MR. POSTEL:

25 Q. That's you, right? And that's pretty much what we just saw in Exhibit 35;

1077.



(Maria Grisanti - Cross)

1 is that correct?

2 A. Yes.

3 Q. Would you --

4 MR. POSTEL: Is the volume on?

5 MS. TRAPANI: Volume's on.

6 MR. POSTEL: Would you play this, please?

7 [Video was played.]

8 MR. POSTEL: Stop it there, please.

9 BY MR. POSTEL:

10 Q. It's clear, is it not, that after the police arrived, you continued to use
11 profanity; is that correct?

12 A. Yes.

13 Q. You gestured with your arm towards the Meles; is that correct?

14 A. I did.

15 Q. You did not return to your side of the street immediately upon the police
16 arriving, did you?

17 A. No.

18 Q. In fact, you went over and confronted the Meles at their driveway; is that
19 correct?

20 A. Yes.

21 Q. Now is it fair to say that Officer Muhammad, the black officer, came
22 up -- comes over to you and escorts you over to your side of the street?

23 A. I don't remember if he came over me.

24 MR. POSTEL: Can we play the video, please?

25 This might refresh your recollection.

1078.



(Maria Grisanti - Cross)

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THE WITNESS: Okay.

[Video was played.]

MR. POSTEL: Right there. Stop.

BY MR. POSTEL:

Q. Did you see the black officer on the left side?

A. Can you rewind it or no?

Q. Sure.

[Video was played.]

Q. Right there.

A. Okay. Yes.

Q. So the black officer escorted you over to your side of the street in the apron of your driveway; is that correct?

A. Yes.

Q. While that was happening, and after you -- while you got to your driveway and stood in the apron, was it also clear to you that the black officer, his name was Muhammad --

A. Yes, I know.

Q. -- was talking to Mark about what happened.

A. Was it clear to me at that point?

Q. Yes.

A. No.

Q. All right. Were they in a police car together? Did you see them together in a police car at this point?

A. Mark and --

Q. Mark and Muhammad?

1079.



(Maria Grisanti - Cross)

1 A. No.

2 Q. All right. In fact, they were standing together right in the street, right?

3 A. Yes.

4 Q. Okay.

5 MR. POSTEL: Play the video a little more,
6 please.

7 [Video was played.]

8 BY MR. POSTEL:

9 Q. See that? He's pushing you back, right?

10 A. Yes.

11 MR. POSTEL: Stop please.

12 BY MR. POSTEL:

13 Q. And your husband, Mark, is talking to him and pointing to the where the
14 trucks and the cars are parked; right?

15 A. Yes.

16 Q. So he's explaining the Grisanti's side of the story; is that correct?

17 A. Yes.

18 MR. POSTEL: Can we put this on the side
19 please and go to the, I believe it's KK 1 or 2.

20 MS. TRAPANI: KKK.

21 MR. POSTEL: KKK, yes. I'm short a K. Right
22 there. Stop that, please.

23 BY MR. POSTEL:

24 Q. You've identified for us that the individual in the --

25 MR. POSTEL: Yeah, bring it up, please.

1080.



(*Maria Grisanti - Cross*)

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BY MR. POSTEL:

Q. That the individual in the striped shirt is Joe -- the horizontal striped shirt is Joe Mele, please?

A. Yes.

Q. And the woman -- or the person with the bare left leg and the black pants is Gina; is that right?

A. I think, yes.

Q. And that's Mark to your left; is that correct?

A. Yes.

Q. If you look at yourself in this picture, what's those white things that are wrapped around your shoulders?

A. White things?

Q. Sure. What's this and this?

A. To be honest with you, it looks like it was a tank top sweater. It looks like it was -- it's a see-through shirt. Like a --

Q. Bra strap?

A. Yeah. It looks like, you know, like something like this. You could see through it, because it was like a knitted sweater.

Q. You were wearing something underneath it, other than a bra?

A. Yeah. Absolutely.

Q. Other than a bra?

A. It's hard to tell. I don't remember, but -- it clearly doesn't look like anything's around my shoulders to me.

Q. To you, it looks like there's something coming up between your shoulder blades and your neck?

1081.



(Maria Grisanti - Cross)

1 A. Like, it looks like -- yeah, like, so I -- so I'm covered pretty much. I don't
2 know. It looks like something like a bra top underneath.

3 Q. Do you recall that day -- were you wearing something like that?

4 A. If I wear a top like that and I know that shirt for -- it's got a V-neck like
5 here, and it has bigger sleeves around -- it's a tank top, but it's kind of like
6 a bigger sleeve.

7 Q. As you look at your neck in Commission Exhibit 35, can you show us
8 where it is?

9 A. Well, it looks like this. I mean, it's hard to tell because it's darker down
10 here. But it looks like this part is a dark -- like darker than -- because I
11 have something on under, covering my breasts. That looks like to me.

12 Q. Was it, like a halter top or what are you wearing?

13 A. No, it's like a bra.

14 Q. A bra.

15 A. Probably like a camisole bra type thing. It would be -- because see how
16 the sleeves are? They're longer. Not to show anything under the arm.

17 Q. They -- underneath they're longer? Or higher?

18 A. Well, this sleeves are lower, so I would wear something underneath
19 this --

20 Q. To cover the side of your breast.

21 A. To cover it, right.

22 Q. You saw Officer Muhammad escort you over to your side of the
23 driveway, right?

24 A. Yes.

25 Q. And you were standing there, and you were watching Officer Gehr talk to

1082.



(Maria Grisanti - Cross)

- 1 the Meles, right?
- 2 A. I was watching them.
- 3 Q. You were watching. You specifically, Officer Gehr was talking to the
- 4 Meles; is that correct?
- 5 A. Yes.
- 6 Q. You wanted the first word to Officer Gehr, is that correct?
- 7 A. He was the first officer I saw. So I wanted to -- I pretty much had like --
- 8 Q. Tunnel vision?
- 9 A. Tunnel vision to Officer Gehr.
- 10 Q. So but you knew that Muhammad was the one who escorted you over to
- 11 the side, right?
- 12 A. I probably wasn't paying attention. I was so -- I saw Gehr first, so in my
- 13 mind, I went to Gehr.
- 14 Q. You chose not to talk to Muhammad at that point about providing your
- 15 side of the story; is that correct?
- 16 A. I didn't know he was even talking about our side of the story.
- 17 Q. You didn't hear Mark talking to him in the street?
- 18 A. No. I saw Officer Gehr first, so I thought he was going to -- because we
- 19 called the police, I thought he was going to listen to us first.
- 20 Q. But you knew Muhammad got out of the car as well, right?
- 21 A. I did, but I didn't pay attention to him.
- 22 Q. Even though he's the officer who physically escorted you over to the
- 23 other side of the street, you didn't notice him?
- 24 A. It's not that I didn't notice him. I didn't notice him taking any of our side
- 25 of the story. If I had, I --

1083.



(Maria Grisanti - Cross)

1 Q. Did you ask him?

2 A. Pardon me?

3 Q. Did you ask him to listen to your side of the story?

4 A. Officer Muhammad?

5 Q. Yes.

6 A. No.

7 Q. Rather than asking Officer Muhammad, you started yelling across the
8 street at Officer Gehr, is that correct?

9 A. Yes.

10 Q. Officer Gehr told you to step back at a certain point; is that correct?

11 A. Yes. And I did.

12 MR. POSTEL: Can we bring up 11-A, please?

13 Page 2, line 17.

14 BY MR. POSTEL:

15 Q. "Step back." He was talking to you, right?

16 A. Yes, I believe so.

17 Q. Line 22. How did you respond?

18 A. To Officer Gehr?

19 Q. Correct.

20 A. "You fucking walked over there."

21 Q. A police officer gives you a directive to step back, and your response to
22 him is to use profanity; is that correct?

23 A. Yes.

24 Q. Does he respond by placing you under arrest at that point?

25 A. He said if I don't stop yelling --

1084.



(Maria Grisanti - Cross)

1 Q. My question is, at that point --

2 A. I'm --

3 Q. -- when he first told you to step back, and you responded, "You fucking
4 walked over there." Right after that profanity, did he come over then and
5 arrest you?

6 A. No.

7 Q. Did he -- let's look at line 23, please. After that profanity, his next
8 statement to you was what?

9 A. "You're going to step back."

10 Q. So when he said that to you, did you in fact, step back?

11 A. Yes.

12 Q. Did you continue yelling profanities across the street?

13 A. I don't recall what I was yelling. I know I was yelling.

14 MR. POSTEL: Let's go to page 3, please. Line
15 9.

16 BY MR. POSTEL:

17 Q. As you were standing in your apron, did you yell, "They're fucking --
18 they're, they're, they're rotten, no-good bastards."

19 A. Yes.

20 Q. At line 14 to 16, did you say, "They're no good fucking -- no good
21 fucking neighbors?"

22 A. Yes.

23 Q. So this is while Officer Gehr is over and you can see him, attempting to
24 talk to the Meles about what they say happened, right?

25 A. Yes.

1085.



(Maria Grisanti - Cross)

1 Q. And you're becoming increasingly angry about the fact that he's not
2 listening to you; is that correct?

3 A. Yes.

4 Q. So you're yelling profanities at him; is that correct?

5 A. Well, it wasn't at him as to him.

6 Q. Okay. Because you want to get his attention?

7 A. Yes.

8 MR. POSTEL: Let's go to page 4, please. Line

9 10.

10 BY MR. POSTEL:

11 Q. You yelled across the street, "His fucking truck's there." Is that correct?

12 A. Yes.

13 Q. And then on 13, "Like a fucking;" is that correct?

14 A. Yes.

15 Q. You're continuing to yell profanities across the street; is that correct?

16 A. Yes.

17 MR. POSTEL: Page 5, please.

18 BY MR. POSTEL:

19 Q. As you continue to yell profanities, on line 9, you yell "Two fucking girls
20 and a guy against me. Really? Really?" Is that correct?

21 A. Yes.

22 Q. Again, you were becoming more frustrated by the fact that Officer Gehr
23 was not coming over to you; is that correct?

24 A. Yes.

25 MR. POSTEL: Page 5, please. You're on page

1086.



(Maria Grisanti - Cross)

1 5? Line 22 to 24.

2 BY MR. POSTEL:

3 Q. Now you went over this with Mr. Doyle. Do you recall that?

4 A. Over?

5 Q. The lines 22 to 24?

6 A. Yes.

7 Q. And what you said was essentially, "Joe, wait till my son hears what you
8 did." Is that right?

9 A. Yes.

10 Q. All right.

11 MR. POSTEL: I'm going to mark, please, ask to
12 be marked as Commission Exhibit 36. A copy of a picture.
13 (Commission Exhibit 36 was marked for identification)

14 BY MR. POSTEL:

15 Q. I'm going to show you what's been marked as Commission Exhibit 6
16 [sic], Mrs. Grisanti, and ask if you recognize the person in that picture?

17 A. Yes.

18 Q. That's you, isn't it?

19 A. Yes, it is.

20 Q. And that's at the point where you were yelling across the street at Joe
21 about wait till your son hears about that; is that correct?

22 A. Yes.

23 MR. POSTEL: Can we get to that part of the
24 video, please? Right there.

25 [Video was played.]

1087.



(Maria Grisanti - Cross)

- 1 MR. POSTEL: Stop please.
- 2 BY MR. POSTEL:
- 3 Q. Did you hear your voice?
- 4 A. Yes.
- 5 Q. And you see the picture in front of you?
- 6 A. Yes.
- 7 Q. That picture's from Officer Muhammad's camera?
- 8 A. Yes.
- 9 Q. And you heard your voice?
- 10 A. I did.
- 11 Q. Are you sitting here today telling us that that was not intended as a threat
- 12 to Joe?
- 13 A. It was not a threat. It was a gentleman --
- 14 Q. Your voice was elevated, wasn't it?
- 15 A. Yes. I was upset.
- 16 Q. And you were pointing at them; is that correct?
- 17 A. Yes, I was.
- 18 Q. What was John -- is that your son?
- 19 A. Yes.
- 20 Q. What was he going to do when he heard about it?
- 21 A. I don't know.
- 22 Q. Then why did you say it?
- 23 A. Because I was upset, and I knew Joe and John had an agreement to leave
- 24 his mother alone.
- 25 Q. And when John heard about the agreement being breached, what was his

1088.



(Maria Grisanti - Cross)

1 action going to be?

2 A. I have no idea. I can't answer that.

3 Q. Weren't you warning Joe that John was going to beat him up?

4 A. No. I never said that.

5 Q. I didn't ask if you had said it. I'm saying is that what your intention --

6 A. I was not insinuating that, no.

7 Q. Now, at this point, in the picture in front of you, you get -- to your
8 recollection, is it fair to say, Officer Gehr's attention directly to you?

9 A. Pardon? I'm sorry.

10 Q. After you made that statement about "Wait till John hears about this."

11 You really got Officer Gehr's attention, didn't you?

12 A. I did.

13 MR. POSTEL: I'm offering Commission

14 Exhibit 36.

15 MR. DOYLE: No objection.

16 THE REFEREE: Received.

17 (Commission Exhibit 36 was admitted into evidence)

18 MR. POSTEL: Can I get the Gehr transcript up,
19 please? 11-A. Page 6, please. Line 1.

20 BY MR. POSTEL:

21 Q. So you've just made the statement about wait till your son hears about
22 this, Joe. And Officer Gehr responds by saying, "Ma'am, if you don't
23 stop yelling, this is going to be a problem for you." Is that correct?

24 A. Yes.

25 Q. After you made that statement about Joe and your son, did Officer Gehr

1089.



(*Maria Grisanti - Cross*)

1 at that point, prior to making this statement, cross the street and arrest
2 you?

3 A. After I said, "I don't care."

4 Q. At this point --

5 A. At this point, when he said, "Ma'am, if you don't stop yelling, it's going to
6 be a problem for you?"

7 Q. Before that, when you --

8 A. Oh, no, he --

9 Q. -- made the statement about John.

10 THE REFEREE: Again, wait until the question
11 is over, Mrs. Grisanti.

12 THE WITNESS: Sorry.

13 BY MR. POSTEL:

14 Q. When you made the statement about John, did he come over and arrest
15 you?

16 A. No.

17 Q. Instead, what he said was -- he said to you, "If you don't stop yelling,
18 there's going to be a problem," right?

19 A. Yes.

20 Q. Did you stop yelling?

21 A. No.

22 Q. You continued to use profanity, right?

23 A. Yes.

24 MR. POSTEL: Page 6. Line 4.

25 BY MR. POSTEL:

1090.



(Maria Grisanti - Cross)

1 Q. When he told you -- gave you the directive to stop yelling, how did you
2 respond? Line 4.

3 A. "I don't care."

4 Q. Is that a showing of respect for the police department?

5 A. Not at all.

6 Q. You have told us, and we have no reason to doubt, that you have a step-
7 son-in-law?

8 A. No. Yeah.

9 Q. Is that right?

10 A. Yes.

11 Q. And a daughter who are members of the police department.

12 A. Absolutely. Yes.

13 Q. Did it not occur to you that your conduct at that point was disrespectful to
14 the police?

15 A. At that point --

16 MR. DOYLE: Objection.

17 THE REFEREE: Sustained.

18 BY MR. POSTEL:

19 Q. What did you think in terms of the police?

20 A. I --

21 MR. DOYLE: Objection. I don't --

22 THE REFEREE: Sustained.

23 BY MR. POSTEL:

24 Q. Did you have any feelings at all in terms of your response, in terms of
25 whether that would be respectful to your stepson-in-law and your

1091.



(Maria Grisanti - Cross)

1 daughter?

2 MR. DOYLE: Objection.

3 THE REFEREE: Sustained.

4 BY MR. POSTEL:

5 Q. Did you say anything else to Officer Gehr?

6 A. I said, "I don't care."

7 Q. And then look at 6, please.

8 A. And then I said, "You're not going to arrest me." I remember exactly
9 what I said.

10 Q. Line 6.

11 A. I said, "You're not going to arrest me."

12 Q. Line 6.

13 A. Oh, 6. I'm sorry. "He fucking hit me."

14 Q. Officer Gehr gives you a directive to "get over here," right?

15 A. To get over where?

16 Q. "Get over here."

17 A. He said -- where is that? "Then get over here," he said.

18 Q. Line -- excuse me.

19 A. Okay. He --

20 Q. Line 7.

21 A. I see it. "Then get over here."

22 Q. "Then get over here."

23 A. Get over where?

24 Q. Did you -- to where he was standing. Did you hear him say that?

25 A. Where was he standing? Wasn't he over in the Meles?

1092.



(*Maria Grisanti - Cross*)

1 MR. POSTEL: Well, let's play the video,
2 please.

3 THE REFEREE: Listen to the question. Again,
4 Mrs. Grisanti.

5 THE WITNESS: I'm sorry.

6 THE REFEREE: Let the question fully pose
7 and then the answer.

8 MR. POSTEL: All right. Let's stop this.

9 BY MR. POSTEL:

10 Q. As you were standing there yelling and yelling profanities, Did you not
11 know where Officer Gehr was?

12 A. I thought he was across the street.

13 Q. Right. So it's generally pretty clear that he was across the street, right?

14 A. Yes.

15 Q. And when he told you to stop yelling, he was across the street; is that
16 correct?

17 A. Yes.

18 Q. And when you said to him, "I don't care" when he told you that there
19 could be a problem. You and he were across the street, right?

20 A. No. I don't think I was across the street. Can you play the video?

21 Q. No. No. You were across the street from each other. I apologize.

22 A. Yes.

23 Q. Okay. And when he said to you, "Get over here," wasn't he on the other
24 side of the street?

25 A. Yeah. So why was he asking me to get over here?

1093.



(Maria Grisanti - Cross)

1 Q. It was a directive. Did you not take it as a directive?

2 A. Get over where?

3 Q. So you didn't know what he meant when he said that?

4 A. No.

5 Q. Instead, you continued to yell at Officer Gehr; is that right? Let's go back
6 to the transcript. Line 9. What did you say to him?

7 A. "You're not going to arrest me."

8 Q. Why did you say that?

9 A. Because I didn't think you could get arrested for yelling.

10 Q. It wasn't just yelling, was it? You had failed to follow directives from a
11 police officer; is that correct?

12 A. I wasn't on his side. He told me to stop yelling or there's going to be a
13 problem.

14 Q. Did you stop yelling?

15 A. No.

16 Q. Isn't that a directive? Stop yelling or there's going to be a problem?

17 A. It's a directive, but it's not against the law.

18 Q. Did you follow what he said?

19 A. No.

20 Q. What else did you say in terms of dealing with him at that point?

21 A. In dealing with him?

22 Q. Right.

23 A. "My son. My son."

24 Q. Let's go to the middle. You said, "You're not going to fucking arrest me."

25 A. "No. No. No."

1094.



(*Maria Grisanti - Cross*)

1 Q. And he said, "I sure fucking am," right?

2 A. Yes.

3 MR. POSTEL: Let's go down, please?

4 MR. DOYLE: I don't think that's accurately
5 stated in the transcript. Objection.

6 THE REFEREE: Are you referring to line 17?

7 MR. POSTEL: I'm referring to line 11.

8 THE WITNESS: 11? He said that. That's
9 Officer Gehr.

10 MR. POSTEL: I think that reads, "I sure
11 fucking am."

12 MR. DOYLE: Her statement was, "You're not
13 going to arrest me" on line 9.

14 MR. POSTEL: Arrest me -- right.

15 MR. DOYLE: You added the F word.

16 MR. POSTEL: And then on line 11. Officer
17 Gehr says, "I sure fucking am." Am I not -- if I'm not
18 reading that correctly, I'd be happy to change it.

19 MR. DOYLE: I think when you quoted her
20 line --

21 MR. POSTEL: I got you.

22 MR. DOYLE: -- on line 9.

23 THE REFEREE: Yep.

24 MR. DOYLE: You added the F word --

25 MR. POSTEL: I got it.

1095.



(Maria Grisanti - Cross)

1 MR. DOYLE: -- that's not in there. That was
2 my objection.

3 THE REFEREE: Sustained.

4 BY MR. POSTEL:

5 Q. So he tells you that he's going to "fucking arrest you," right?

6 A. Yes.

7 Q. And then on 15, what do you say?

8 A. "No. No. You're not going to."

9 Q. And then on 17?

10 A. 17. "Don't fucking arrest me."

11 Q. Was that cooperating with the police?

12 A. I guess not.

13 Q. When you went to the police station at the D-District after this event and
14 you were interviewed by Detective Moretti, you talked about your
15 understanding of why you were arrested; is that correct?

16 A. Yes, but I wasn't formally arrested.

17 Q. Thank you. Why you were handcuffed?

18 A. Yes.

19 Q. And you told Detective Moretti that you were kind of hysterical at that
20 point; is that correct?

21 A. I was.

22 Q. And that's a true statement, isn't it?

23 A. Yeah.

24 Q. You also told Detective Moretti, to quote you, "I am a character."

25 A. "I'm out of character."

1096.



(Maria Grisanti - Cross)

1 Q. "I'm out of character." That's what it was.

2 A. Yes.

3 Q. Not "I am a character."

4 A. No. I'm out of character.

5 Q. Out of character. And Detective Moretti explained to you that Officer
6 Gehr had handcuffed you because you were not following commands,
7 right?

8 A. Yes.

9 Q. And your response to him was, "That's right," correct?

10 A. Not sarcastically. I admitted to not following commands.

11 Q. And you told Detective Moretti that you would apologize to the police for
12 your behavior; is that correct?

13 A. I did.

14 Q. Going back to the events.

15 MR. POSTEL: Can we get the video, please?

16 Play it forward, please.

17 [Video was played.]

18 MR. POSTEL: Stop it now, please. Stop it
19 now.

20 BY MR. POSTEL:

21 Q. So at this point, you knew that Officer Gehr was trying to put handcuffs
22 on you, right?

23 A. Um-hum.

24 Q. And you resisted that, didn't you?

25 A. I wouldn't say I resisted it. What I did was, I was in shock that he was

1097.



(Maria Grisanti - Cross)

1 going to actually put handcuffs on me because I said what I said, because
2 I yelled.

3 Q. All right. Did you --

4 A. I didn't think that could happen.

5 Q. Did you pull your left arm away and raise it over your head?

6 A. I did. Video, yes.

7 Q. All right. And you twisted your body away from Officer Gehr?

8 A. Well, I think he had me at that point.

9 Q. All right.

10 A. I think he had me.

11 MR. POSTEL: Let's watch it.

12 [Video was played.]

13 A. He had my arm.

14 MR. POSTEL: Stop that, please.

15 BY MR. POSTEL:

16 Q. As you look at that video, were you cooperating with his attempt to
17 handcuff you?

18 A. Not really.

19 MR. POSTEL: Can we go back to the
20 transcript, please?

21 BY MR. POSTEL:

22 Q. As you relate -- so you went down to the ground; is that correct?

23 A. Yes.

24 Q. As you were laying on the ground, were you yelling up at Officer Gehr
25 and Officer Muhammad?

1098.



(Maria Grisanti - Cross)

1 A. No. I just said it was okay. I don't remember yelling.

2 Q. You weren't yelling at that point, right?

3 A. No.

4 Q. So the yelling had stopped.

5 A. Yeah. I was scared.

6 Q. The next day, after you were involved in this incident, did you file a
7 complaint with the Buffalo Police Department against Officer Gehr?

8 A. No.

9 Q. You knew he had that right; is that correct?

10 A. I did.

11 Q. At any point since June 22, 2020, have you filed a civil lawsuit against
12 Officer Gehr?

13 A. No.

14 Q. Have you filed a civil lawsuit against the Buffalo Police Department?

15 A. No.

16 Q. Have you filed a civil lawsuit against the City of Buffalo?

17 A. No.

18 MR. POSTEL: Can I have a moment, please,
19 Your Honor?

20 THE REFEREE: Sure.

21 MR. POSTEL: I have nothing further.

22 MR. DOYLE: Briefly.

23 MR. POSTEL: Thank you, Ms. Grisanti.

24 THE WITNESS: You're welcome.

25 //

1099.



(Maria Grisanti - Redirect)

1 REDIRECT EXAMINATION

2 BY MR. DOYLE:

3 Q. Ms. Grisanti, briefly.

4 MR. DOYLE: If we could go back to the
5 transcript, 11-A, page 2. Down line 22.

6 BY MR. DOYLE:

7 Q. Mr. Postel asked you about this particular line, Ms. Grisanti. This is at a
8 time when you are over by the Mele's driveway. Officer Gehr is there.
9 Officer Muhammad is there. Your husband, Mark, is there, and the
10 Meles -- all three Meles are there, correct?

11 A. Yes.

12 Q. Okay. And Mr. Postel asked you about your line, "You fucking walked
13 over there." Was that comment directed to Officer Gehr or was directed
14 to Mrs. Mele and her comment about "their stuff is over here," up on line
15 19?

16 A. Right. I said that they walked -- they were on our property.

17 Q. Who's they?

18 A. The Meles. Joe and Gina.

19 Q. All right. So when you say, "You fucking walked over there." Who is
20 the "you" you're talking to?

21 A. I think it was -- I can't -- I'm assuming it was the Meles. I don't know.

22 Q. Well, so on line 19. Mrs. Mele says, "And their -- their stuff is over here.
23 His cigar and her scarf."

24 A. Right.

25 Q. We talked about that during your direct, correct?

1100.



(*Maria Grisanti - Redirect*)

1 A. Yes.

2 Q. All right. So Mrs. Mele is telling the officers, "They," the Grisantis,
3 "came over to our property."

4 A. Right.

5 Q. And pointing to that thing that's in the driveway, correct?

6 A. Yes.

7 Q. Your response is, "You fucking walked over there." What did you mean
8 by that?

9 A. I'm just reading this. So line 19, "and their stuff's over" his cigar and her
10 scarf. Officer Gehr, "Okay. I see that." I was talking to Gina Mele
11 saying that you walked over -- like walked over toward us, I'm thinking.

12 Q. Towards our property, the Grisanti's?

13 A. At this -- right. I wasn't talking to the officer at that point.

14 MR. DOYLE: Could you play that part of
15 Exhibit 11?

16 [Video was played.]

17 MR. DOYLE: It had to be earlier than that. It
18 would be earlier than that. Keep going. Keep going. A
19 little bit more. Okay. Play it from there.

20 [Video was played.]

21 MR. DOYLE: Okay.

22 A. That was to Gina.

23 BY MR. DOYLE:

24 Q. Okay. How do you know that? Having just watched that?

25 A. The way I said it and because she said, "They're drunks" and my stuff's

1101.



(Maria Grisanti - Redirect)

1 over there -- over here.

2 Q. Okay.

3 A. And that's why I said, "You walked over there."

4 Q. And when you said, "You fucking walked over there," was your hand
5 pointed backwards towards your property?

6 A. Yes.

7 Q. Okay. Mrs. Grisanti, you mentioned that when Officer Gehr arrived, you
8 were -- you used the word hysterical, and you also talked about
9 adrenaline.

10 A. Right.

11 Q. Why were you hysterical at that point?

12 A. I was just beat up. I was choked. I was fear -- I thought I was going to
13 die during the choke out, because I feel like I went out for a couple of
14 seconds during the -- when I was being choked.

15 Q. Okay.

16 A. I was just -- I really did -- I was upset tremendously, that Officer Gehr
17 went over there, and they played the victim, as they always have, and
18 have always done. It was frustrating because that was the one and only
19 time we have ever called the police and tried to get this finally resolved,
20 and it ended up to be such a bad, like, scene, which was out of character
21 for myself and my husband. And just to know that we had called them,
22 and he wasn't listening to me. Like, it was upsetting. I was like, how
23 can't you listen? Like, I get frustrated when the -- when I'm telling the
24 truth and it's not heard, and it just bothers me because it really was out of
25 character, and I didn't see any -- I didn't see any tapes of me telling

1102.



(Maria Grisanti - Redirect)

1 Officer Gehr in the police car that I'm sorry this happened, because I have
2 a high respect for the law -- all of the law.
3 I am embarrassed, obviously. I'm mortified about, like, having to be in a
4 situation like this. But at that point, I was very upset. I was, you know,
5 high strung. I had a lot of stressors in our lives, and I'm not taken that -- I
6 know a lot of people have stressors. It was just bad timing and, like I
7 said, my adrenaline was kicked in, and I was choked out. I was pretty
8 much beat up and then the police beat me up. It's like, I did -- being
9 thrown around, I just felt like, I was like a rag doll that night. And I
10 know even though it was only probably a whole seven minutes of a fight,
11 the physical fight, which I'm a 60-year-old woman. I don't like to fight
12 physically. I mean, obviously, I argued, but it was just all out of
13 frustration, and I'm extremely embarrassed, and I'd like to move forward
14 from all of this. I can't change the past, and if I could, I would have. I
15 even told Officer Moretti that night that I wish it never happened. I wish
16 we never even would have called the police because we would have went
17 in the house. But we called the police. The one and only time and the
18 police aren't --

19 MR. POSTEL: This is narrative and not
20 responsive.

21 MR. DOYLE: Yeah.

22 THE REFEREE: Yes.

23 MR. DOYLE: Okay.

24 THE WITNESS: Am I done? Am I all done?

25 MR. DOYLE: Yeah. Thank you, Mrs. Grisanti.

1103.



(Maria Grisanti - Redirect)

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Thank you. Nothing further, Judge.

MR. POSTEL: I have nothing further.

THE REFEREE: Ms. Grisanti, you're done.

THE WITNESS: I'm just -- I'm sorry.

MS. TRAPANI: Can we go off the record?

THE REFEREE: Off the record.

(Recess from 2:41 p.m. to 2:50 p.m.)

MS. TRAPANI: We're back on the record.

THE REFEREE: 2:50. We'll resume. Any further witnesses?

MR. CONNORS: Yes, Your Honor, Judge Grisanti.

THE REFEREE: Good afternoon, Judge.

JUDGE GRISANTI: Afternoon, Judge.

THE REFEREE: I'll spare you the introductory --

JUDGE GRISANTI: Okay.

THE REFEREE: -- spiel that I've given a dozen witnesses because you've probably memorized it. The only thing I would do is administer the oath. And you are represented by counsel. At any stage that you want to confer with counsel, let me know, and then we could break for that purpose.

JUDGE GRISANTI: Appreciate it Judge, thank you.

1104.



(Hon. Mark John Grisanti - Direct)

1 THE REFEREE: So do you swear or affirm
2 under penalties of perjury that the testimony you're about to
3 give is the truth, the whole truth, and nothing but the truth?

4 JUDGE GRISANTI: I swear to God.

5 THE REFEREE: You may proceed.

6 THE WITNESS: Thank you.

7 MR. CONNORS: Thank you.

8

9 MARK JOHN GRISANTI

10 Having been hereby duly sworn, was examined and testified as follows:

11

12 DIRECT EXAMINATION

13 BY MR. CONNORS:

14 Q. Judge, will you please state your full name and spell it for the purposes of
15 the record?

16 A. Mark John Grisanti, M-A-R-K, J-O-H-N, G-R-I-S-A-N-T-I.

17 Q. Do you still live on [REDACTED] Avenue in north Buffalo, New York?

18 A. Yes.

19 Q. What's your address there?

20 A. 21.

21 Q. How long have you lived on [REDACTED] Avenue?

22 A. 18 years, this year.

23 Q. Were you living there on June 22, 2020?

24 A. Yes.

25 Q. Who do you live -- who were you living there with on June 22, 2020?

1105.



(Hon. Mark John Grisanti - Direct)

1 A. With my wife, Maria.

2 MR. CONNORS: Can we pull up Exhibit BB,
3 please? It's in evidence. DD?

4 MS. TRAPANI: I'm sorry, DD? I heard BB.

5 MR. CONNORS: Oh no. I'm sorry, DD. And
6 if we could just blow that up a little bit.

7 BY MR. CONNORS:

8 Q. So Judge, we have Exhibit DD, which is in evidence. Just for purposes
9 of the record, could you identify where your home was on June 22, 2020?

10 A. Yes. In Exhibit DD, my house is in the middle off the bottom of the
11 photo. Number 21. It has a green star on it.

12 Q. Do you recognize the homes of your neighbors as they existed on June
13 22, 2020?

14 A. Yes.

15 Q. Will you please identify the homes of your neighbors as they existed on
16 June 22, 2020?

17 A. On the bottom portion, starting at number 7, is Azad Qadir's house.
18 That's number 7 [REDACTED] At 15 [REDACTED] is Jerry and Linda Chwalinski. 27
19 [REDACTED] would be Richard France. 31 [REDACTED] I know that she got
20 married, so I do not know her married name. That's the young lady who
21 has her children, [REDACTED]. And at
22 37 [REDACTED] is Charlie Adamo.

23 Q. If you go on the opposite side of the street?

24 A. On the opposite side of the street at number 8 [REDACTED] I believe her name
25 is Ms. O'Conner [sic]. I can't see the address, but I think it's number 12,

1106.



(Hon. Mark John Grisanti - Direct)

1 that would have been the home of Franny and Tony Riccio. At 15
2 ██████ that would be Joseph and Gina Mele's house. At 22, I believe it
3 is -- no, it would -- yeah, 20 -- I'm sorry. 16 ██████ is Joe and Gina
4 Mele. 22 ██████ would be Jeanne and Joe Contino. 28 ██████ it's just --
5 it's a young couple that just moved in there. I'm not sure who they are. I
6 mean, I know them, I say hello to them, their kid comes over for
7 Halloween. 32 ██████ I don't know who that is either. I know them, but
8 I don't know their names.

9 Q. So on the evening of June 22, 2020, did you get into altercation with the
10 Mele family?

11 A. Yes.

12 Q. And when you meant -- when you say the Mele family, who are you
13 referring to?

14 A. It was Gina Mele, Joseph Mele, and Gina's sister, Theresa.

15 Q. As a judge of the New York State Court of Claims, and Acting Justice of
16 the Supreme Court, was your behavior appropriate during the course of
17 that altercation with the Mele family on June 22, 2020?

18 A. No. Absolutely not.

19 Q. During the course of that altercation with Mele family, did you act in a
20 manner that promotes public confidence in the judiciary?

21 A. No.

22 Q. During that same altercation that we've referenced, did you maintain the
23 high standard of conduct that's required of a judge of the Court of Claims,
24 or an Acting Justice of the Supreme Court?

25 A. No, I did not.

1107.



(Hon. Mark John Grisanti - Direct)

1 Q. Judge Grisanti, do you have a -- an excuse for your conduct on that
2 evening?

3 A. I do not have any excuse for my conduct that evening. The only thing I
4 can do, if I'm allowed, is to explain and put in context what resulted and
5 what came about from that evening.

6 Q. Well, I will come back to that and have -- give you that opportunity. But
7 before we discuss your explanation and the context for the evening of
8 June 22, 2020, I'd like to ask you a little bit of background information.

9 A. Yeah. Okay.

10 Q. Judge, will you first tell us about where you grew up?

11 A. I grew up on the Lower West Side of Buffalo.

12 Q. Can you tell me a little bit more about that -- the geography of the Lower
13 West Side of Buffalo?

14 A. The Lower West Side of Buffalo stretches -- in a sense we're almost at
15 the end. Downtown Buffalo would be almost like the Lower -- they call
16 it Downtown Buffalo, but where City Hall is, it's a Lower, Lower West
17 Side of Buffalo that stretches probably until Porter Avenue, which is
18 maybe a couple of miles. That would be the Lower, Lower West Side.
19 Going further a couple miles, I was on Elmwood and Anderson, which is
20 still called the Lower West Side, a few blocks up they call it the Upper
21 West Side.

22 Q. What was the economic status of that neighborhood when you grew up?

23 A. I mean, it was a nice neighborhood. There were a lot of families on that
24 street. I would say lower to middle class.

25 Q. Okay. Tell us about your early education.

1108.



(Hon. Mark John Grisanti - Direct)

1 A. Early education? I went to school there in the West Side of Buffalo at
2 cathedral school. There was grammar school, and then eventually my
3 teen years -- not my teen years -- when I was probably about 11 years
4 old, 12 years old, we had moved to North Buffalo, and I finished school
5 there at School 81 -- Public School 81.

6 Q. Is [REDACTED] Ave in North Buffalo?

7 A. Yes. It's probably about a half a mile from where I lived when I was in
8 my early teens.

9 Q. Did you go into high school?

10 A. I did.

11 Q. Where did you go to high school?

12 A. I went to Canisius High School for my first year. Then my mom was
13 talking about moving again. My mother and father had divorced when I
14 was only seven, eight years old. So my mom was talking about moving
15 again, so we didn't re-register for Canisius. I registered then to McKinley
16 High School, took up building trades at McKinley, and then we ended up
17 moving after I was at McKinley out to the Tonawanda area, borderline
18 with Amherst, and finished up at -- my junior and senior year at Sweet
19 Home High School.

20 Q. Where is Sweet Home High School located?

21 A. Sweet Home High School is in the Amherst area. That's in Amherst
22 school system. And they had an affiliation with BOCES, which is also a
23 trade school that -- I also joined BOCES for the trade, and the BOCES
24 school was in Tonawanda.

25 Q. Did you also work during your high school years?

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1 A. I did, when I learned some building trades at McKinley, and then went to
2 Sweet Home and signed up for BOCES. It was a fantastic program
3 because they taught you plumbing, electrical wiring, welding. We were
4 building housing for -- additions for some senior homes. So in my senior
5 year, because I had enough credits, I was able to leave school at like 11
6 o'clock each day, and I was able to leave school and drive to work and be
7 at work by 12 o'clock doing construction.

8 Q. Where did you work construction?

9 A. My stepfather had a company that was -- along with my uncle called Bel-
10 Air Sales. And my job, if you can -- if you can call it such, was to --
11 when a house burned down and it was going to be remodeled, my job was
12 to go to the house, strip all the burnt material from the house, go on the
13 roof or in the attic and scrape the rafters of all the charred remains. And
14 it be 85 degrees outside, I'd be in a full -- a full asbestos suit, and that's
15 where I -- that's where I started learning the grunt work, and then getting
16 into the construction and rebuilding afterwards.

17 Q. Did you eventually go to college?

18 A. I did.

19 Q. Was it right after high school?

20 A. No. After high school, I stayed out probably for two years, because I
21 was still in construction. I was actually -- I bought my first car when I
22 was not even 16 years old because I was -- I was making some money.
23 And we went to school roughly a year and a half, two years later. I went
24 to school at Canisius College then.

25 Q. Did you work construction to pay your way through college?

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1 A. Yeah. I went to Canisius College at night. I did construction in the day.
2 And then in my junior and senior year, I was doing construction and
3 working in my father's law office learning some of the techniques of the
4 law firm that he was in.

5 Q. Did you enroll as a full-time student at Canisius College?

6 A. I was a full time student at Canisius, at nighttime.

7 Q. And were you pursuing a degree?

8 A. Yes, pursuing a degree.

9 Q. Did you eventually obtain your degree?

10 A. I did. I obtained a Bachelor of Arts in English, with a Minor in
11 Philosophy.

12 Q. Did you continue to work construction during that same time period?

13 A. All through college. I did.

14 Q. So what would be your typical college day, combining your studies and
15 your construction work?

16 A. I would get up in the morning and be on the construction job probably
17 about 7:00 a.m. I would leave there probably about 1:00. I would stop
18 my father's office for a couple hours. Sometimes he had some process
19 serving to do. I would do process serving for him. I would do some
20 filing for him downtown. I would just get to start to know the business a
21 little bit, and I would take classes starting from 3:30 in the afternoon until
22 9:00, 9:30 at night.

23 Q. What type of practice did your father have at the time?

24 A. My father's office was on Niagara and Jersey, which is probably not even
25 a mile from here, in the Lower, Lower West side of Buffalo. Very poor

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1 community. A community where, you know, people would never give
2 somebody a -- really, a second chance. My father had a very good
3 clientele. It wasn't a very lucrative practice, but he had a good clientele
4 of people that respected him, people that admired him in the
5 neighborhood. His father grew up about a mile from here on Busti
6 Avenue. And actually, his practice started in his house that was on Busti
7 Avenue. And when my father had his building, it was only about two
8 blocks from where his father grew up. And we ended up having, my
9 father did, two, three, four generations of families that were -- that were
10 clients. And they were families that were very poor. They just wanted a
11 fair shake, because they would get taken advantage of in certain
12 situations. They didn't have much money. Most of the work that he did
13 was probably pro bono, which is what I did later on.

14 Q. During your college years, did you work for your dad?

15 A. I did.

16 Q. During the entire four years?

17 A. Just -- probably, it was junior and senior year.

18 Q. And why did you go to work for your father?

19 A. I was the last out of six, and my father was talking about retirement, and
20 my mother was -- and my stepfather for that matter -- was saying, "I
21 know you love the construction field. I know you've always wanted to be
22 an attorney. I know you want to have my higher aspirations. Why don't
23 you go to law school?" And I talked to my father about it. He said, "You
24 know, I would love to have you. You're the last one out of six kids. No
25 one else is taking over the practice." And I made the decision to then go

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1 to law school.

2 Q. Did you go to law school right from college?

3 A. No. I was out of college probably for a year.

4 Q. And what did you do during that year?

5 A. I was working construction, and helping out my father. I was kind of
6 teetering on -- I felt -- I felt that I owed my father, but I also felt that I
7 owed my stepfather, because he got me involved in a great trade in
8 construction and he had a great company. So I was kind of caught
9 between a rock and a hard place in which I wanted to go. I ended up
10 following in my -- you know, my grandfather who started the practice in
11 1921. My father's second generation, so I figured I would be the third.

12 Q. Did you pay your way through college with the money you earned in
13 construction?

14 A. I did.

15 Q. Did you pay your way through law school?

16 A. Well, not all the way, because my senior year I didn't make enough, so I
17 ended up having to take out student loans.

18 Q. Now, when you made the decision to go to law school, tell us why you
19 made that decision? Why did you go to law school?

20 A. You know, I thought about it -- when I was -- when I was a kid on the
21 West Side, there was a library called the Crane Library that was on
22 Elmwood Avenue and Highlands -- and I was only living in that area
23 until I was about eight years old. And I used to go to this library, and I
24 used to take my Radio red wagon to the library, and I would pull out -- I
25 would pull out lawbooks that were real thick. Could read the words but

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1 didn't understand them. I would bring those home, and I would
2 actually -- I would actually file them in my closet, in my bedroom, and I
3 was just fascinated by them.
4 I would watch some of the shows on TV dealing with -- you know, Perry
5 Mason was on, or things on those lines. I would try to listen to my father
6 who's having a conversation. It intrigued me, and it intrigued me how my
7 father was respected in the community where his law practice was. And I
8 said, "You know, this is something that I've wanted to do." And that was
9 kind of the final straw where I was kind of teetering. I said that, "This is
10 what I'm going to do, is I'm going to go to law school, and I'm going to
11 follow in my father's footsteps, and follow the dream that I had ever since
12 I was a kid."

13 Q. What law school --

14 A. And by the way, I used to -- I used to get yelled at because I didn't tell my
15 family I had the law books. And back then, they used to send out the
16 letters with the cards of the fines for the library, and they didn't know that
17 I took the books out. They just know that it was under the Grisanti name.
18 And my mother and father never knew it was me and could never find the
19 books that were in the closet. But I'd pay for that eventually.

20 Q. What did you -- what law school did you go to?

21 A. I went to Thomas Cooley Law School in Michigan.

22 Q. And when did you start? Do you recall what year?

23 A. 1989.

24 Q. What year did you graduate?

25 A. Graduated in December of -- it would have been December of '91, but

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1 then they didn't have the ceremony until January of '92.

2 Q. When were you admitted to the practice of law?

3 A. In January of '93. Either January or July, but it was '93.

4 Q. And did you then begin the practice of law?

5 A. I did.

6 Q. Where did you begin the practice of law?

7 A. Right on Niagara and Jersey. The building's still there. And
8 immediately, my father threw me -- it was like, you know, into the fire,
9 and handed me a file and said, "Here, you're going to court."

10 Q. What type of law practice did you pursue in those early '90s?

11 A. It was criminal, civil, general practice. It had, you know, a lot of real
12 estate. There was a lot of family law involved. It was a poor community,
13 so it was different problems every single day. People would just walk in.
14 There was really no -- you know, we had appointments, but there was a
15 lot of walk-ins saying, "Can you help me with this, can you help me with
16 that." And you know, you would think it would take a little -- a short
17 period of time, but it would end up being a lot longer than it would on a
18 certain case. And I was glad to do it, glad to help out the people in that
19 community. And I still go down there and visit some of the people in that
20 community. It's a great area, the Lower West Side of Buffalo.

21 Q. Were you able to go to court too, at an early age?

22 A. It was literally as soon as I was sworn in at the Appellate Division, the
23 Fourth Department in Rochester. That next week, my father was like,
24 "Here, here's a file, and go to court."

25 Q. Did you handle that --

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1 A. When I was -- when I was working for him, he used to send me to court
2 and say, "Here, take care of this case. And back then I'm like, "I'm not an
3 attorney. I have no idea what I'm doing." And he'd, "Oh, just go there,
4 and just go there and ask for an adjournment." Just stuff like that. He
5 was trying to get me acclimated to moving around. Things were a lot
6 different back then than they are now, that's for sure.

7 Q. Did you learn litigation?

8 A. I did.

9 Q. What types of litigation? Both civil, criminal?

10 A. Civil litigation, criminal litigation, a lot of, you know, criminal trials
11 early on at the lower level dealing with just strictly misdemeanors in City
12 Court. The civil litigation was really just contract disputes, things along
13 those lines. And then personal injury type cases, and eventually trials on
14 personal injury, or the felony trials for a criminal.

15 Q. Did you handle assigned counsel cases as well?

16 A. I did handle assigned counsel cases.

17 Q. Both through the state system and in the federal system?

18 A. State and the federal system.

19 Q. What was your experience in that particular area of law?

20 A. Well, it's -- I mean, people needed help. So in the assign counsel system,
21 I had no problem. I was doing a lot of pro bono work anyways, and the
22 assigned counsel program really helped individuals have a leg up on
23 being able to have solid representation when they didn't feel like they
24 were not getting full representation from an attorney. And it kind of
25 leveled the playing field out.

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1 So I was doing assigned counsel, there was programs on TV where it was
2 called "Call Your Lawyer," ask -- call for your lawyer and ask questions.
3 I would volunteer to do that on certain evenings, where they would call
4 up and you would answer as many questions as you possibly can for
5 people that had problems.

6 Q. What was the --how long did you do that work how long were you
7 involved as a practicing lawyer on the Lower West Side?

8 A. 23 years.

9 Q. Did there come a time when you decided to enter public service?

10 A. I did. It was in 2008 when I ran for the New York State Senate.

11 Q. How did that come about that you are able to run for a position in the
12 New York State Senate?

13 A. You know, I kept in touch with -- you know, my -- kind of like, your
14 finger on the pulse of what was going on in the community itself. And
15 basically, Buffalo is not what it was, you know, in 2008. In 2008,
16 Buffalo was stagnant. The waterfront, you had the naval park. That was
17 the only thing that was down there. You had pollution that were in the
18 Buffalo River. You had no community development whatsoever, not
19 only along the waterfront, but on the East Side, the West Side of Buffalo.
20 You had issues with education in the area. You had resources -- when I
21 started doing a little bit of research, there resources and opportunities that
22 were bypassing Buffalo, the Western New York area, the 60th Senate seat
23 and going to other parts of the state.

24 So I decided that in 2008. I asked my family, I go, "What do you think if
25 I take a run at New York State Senate?" I approached the Chair -- I was a

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1 Democrat. I approached the Chair, he says, "No, we already have
2 somebody." So I challenged that individual on a primary. Myself, and
3 really just my family, we were able to get the requisite signatures, which I
4 believe at that time over 2,200 valid signatures. They were challenged,
5 and I ended up -- I ended up losing that race by about -- I think I got 30,
6 35 percent of the votes, somewhere along those lines.

7 In 2009, I was asked to -- if I would run again. And I said, "Well, I really
8 didn't do that great the last time." I said, "You know, I don't -- I don't
9 think I want to do it, although I still have the desire to do it." And I was
10 told about a political maneuver called the Wilson Pakula. And that's
11 spelled W-I-L-S-O-N P-A-K-U-L-A, where -- the Wilson Pakula is
12 where they give you the chance to run on a line even though you're not
13 registered under that line. So I was a Democrat, and the Republicans
14 were offering me the ability to run on the Republican line under a Wilson
15 Pakula. So I took that opportunity in 2000 -- probably about the middle
16 of 2009, and we began to strategize and put a campaign together for the
17 2010 election.

18 Q. So at that time, you were a registered Democrat?

19 A. Yes.

20 Q. And when you were approached to run in the Republican line, did you
21 accept that endorsement?

22 A. I did.

23 Q. So tell me the lineup then, in that 2010 race?

24 A. In the 2010 race, you mean the parties that were involved?

25 Q. Yeah.

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- 1 A. In the 2010 race, it was a heavily entrenched gentleman who was on the
2 Democratic line, the same one that I tried to beat in 2008. You know,
3 he's well known in the area. But I felt that the resources, they were just
4 being bypassed. So I said, "You know, this is something that we can do."
5 And we ended up putting a great team together, getting our -- you know,
6 what our agenda was, what our priorities were for the District, and it was
7 resonating. It was resonating because people realized that Buffalo was
8 laying stagnant, and the 60th District was in the heart the City of Buffalo,
9 and dealing with issues, as I said, like education, crime, poverty,
10 community development, construction. It was just -- it was just stagnant.
11 So ran the campaign. I challenged him. He had no primary; I had no
12 primary. And in November, I ended up winning by roughly 550 votes
13 out of, I think it was something astronomical, over 100,000 plus cast.
- 14 Q. During the course of your campaign for the New York State Senate, were
15 you attacked for your -- the fact that you are actually a lawyer?
- 16 A. Oh, yes. My opponent attacked me for representing individuals in the
17 criminal system, whether it be, you know, somebody that may have
18 committed a robbery, or something like that, or somebody caught with
19 narcotics. I was attacked for that, and my brethren and my colleagues in
20 both the Democratic and the Republican circle actually took out a full-
21 page ad. I felt it was very heartwarming, very touching, showing unity,
22 that just because somebody has this profession, everybody deserves the
23 right to have representation, and he shouldn't attack that person's
24 constitutional right to have representation. And it was a big mistake that
25 they attacked me in that fashion, because I think it helped the campaign

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1 actually push over the top.

2 Q. Did you have, or develop, allies in both the Democratic Party and the
3 Republican Party when you ran for that race?

4 A. I did, all the way around. As I said, we had a great team. As a matter of
5 fact, people that were working for me, they were Democrats and
6 Republicans. I just didn't hire people because of what their party
7 affiliation was. It was the best people for the job.

8 Q. And when were you sworn in as the New York State Senator?

9 A. January of 2011.

10 Q. And what was your district?

11 A. The 60th District. It stretched -- it was pretty much three quarters of
12 Buffalo. It took in the City of Tonawanda, Grand Island, and the City of
13 Niagara Falls.

14 Q. Did you continue your law practice while you were as state senator?

15 A. I did. It was difficult, but for the -- for the most part -- I was so focused
16 on -- in the New York State Senate, we were there from January until
17 June, but anytime that I came -- that I drove back from Albany to
18 Buffalo, I immediately went into the office and tried to get as much work
19 done as possible. Plus, everybody had my cell phone number. So I had
20 clients calling me all the time and telling them, "You know, I'm not going
21 to be back until this time period." So I was pretty accessible, both on the
22 Senate and for my law practice.

23 Q. Will you tell us a little bit about your tenure as a New York State
24 Senator?

25 A. It was -- the entire tenure, it was four years. It was 2011 to 2015. During

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1 that time period, I sponsored -- my estimate would probably be that I
2 sponsored, myself, probably 150 to 200 pieces of legislation. Over 30 of
3 those pieces of legislation were actually signed into law by the governor,
4 which was very gratifying, because some of those laws that were signed
5 had to do with environmental issues. They had to do with issues that deal
6 with poverty, and education, and community development, and expansion
7 of the New York SUNY school system. That was probably one of the
8 bigger pieces of legislation. It was initially called UB 2020, for the
9 University of Buffalo, where it gave the university the ability to expand,
10 have a bigger footprint, to lower tuition, in a sense, and to be more
11 modernized. And matter of fact, other systems loved it so much across
12 the state, Stony Brook and systems like that, it morphed into being --
13 instead of being called UB 2020, it was called New York SUNY 2020.
14 And it was a huge benefit for the entire state and for those that were
15 unable to afford college, and to have that access.

16 And around here it was a big boon, to the point where they moved the
17 medical campus from the suburbs, down to the medical campus where
18 Roswell is, Buffalo General. And that's where they moved the Jacob
19 School of Medicine. And that's what I mean by expanding the footprint
20 and expanding access, not only regionally, but nationally, and worldwide
21 for students to come and attend.

22 Q. In your time as a State Senator, did you work with both Democrats and
23 Republicans?

24 A. You could not get a piece of legislation passed unless you had many
25 people on board, both Democrats and Republicans. And I was a

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1 Democrat, and I caucused with the Republicans. I caucused with the
2 Republicans because the Republicans were the majority. It would make
3 no sense to caucus with a party that's in the minority where you couldn't
4 get anything done. So I caucused with the Republicans. It was
5 successful in moving not only legislation, but getting huge resources to
6 be routed back here to the Western New York region -- really to Upstate
7 New York, the Upstate New York area from Albany, Syracuse,
8 Rochester. You had -- there was some great representation. You know,
9 you had John DiFrancisco out in Syracuse; you had, you know, Ruffalo
10 [sic] out of Utica; you had, I think it was -- I think it was -- I can't
11 remember his name, just out of Rochester. Just good people. And it was
12 actually jump starting the Upstate New York region as far as giving it
13 their turn in order to expand.

14 Q. When you say you caucused with the Republicans, just what does that
15 entail? What does that mean?

16 A. Well, the Republicans were in the majority by two votes. So if I went
17 and caucused with Democrats, there's legislation that you wouldn't even
18 get passed. They wouldn't put it on the calendar. So any bills that you
19 wanted to do, they wouldn't pass it. So I said, "Well, we have a great
20 team. We have some great ideas." So I caucused with the Republicans.
21 And not only did I share my ideas with some of the Democrats on the
22 other side of the aisle, but some of the Democrats that I knew --
23 especially from the Upstate region, there was a couple of them -- had
24 some great ideas that kind of piggybacked on to some ideas that we had.
25 So they would be cosponsors on some of the legislation, and it would

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1 help them, Democrats, also get legislation passed. Specifically for -- they
2 would say, "Well, that's for Upstate. That doesn't matter." But New
3 York is one state. When one area blooms, the entire state prospers. So
4 we had a lot of bipartisan legislation that helped move things forward.

5 Q. How did it come about that you were accepted, as a Democrat, to actually
6 work with Republicans in caucus?

7 A. There were some that really didn't accept it, but they saw that I had a very
8 open mind, that I was very willing to work with all sides, that the ideas
9 were something that were -- was doable. Because don't forget, you can
10 have an idea for a piece of legislation, but if you don't have what I call a
11 "Sister Bill" in the assembly that goes along with it, then the bill never
12 makes it to the Governor's desk. You have to have the exact same
13 language pass the Assembly, and the Senate, in the same bill, in order for
14 it to get to the Governor's desk for signature. So we constantly had to --
15 and you know, the Assembly was not a Republican majority. It was a
16 Democratic majority.

17 So in the Assembly, you had to find individuals that were on the
18 Democratic side that were willing to pass legislation, even though it's
19 Democratic majority, to get them on board. So you had to have a
20 bipartisanship in order for any piece of legislation to have a chance at
21 moving. And the legislation that we put forward, it was passing by really
22 a super majority, rather than just by one or two votes. It was moving
23 quickly.

24 Q. Judge, among the criteria for the Commission to consider in this
25 proceeding is your integrity and independence as a judge. I want to ask

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1 you a few questions about that. First of all, with respect to your integrity,
2 have you ever been disciplined by the Attorney Grievance Committee of
3 the New York State?

4 A. No.

5 Q. Have you ever been the subject of any disciplinary proceedings as a State
6 Senator?

7 A. No.

8 Q. As far as you know, were there ever any complaints filed against you as a
9 State Senator that attacked your integrity?

10 A. Never.

11 Q. I want to talk a little bit about independence. Obviously, you had a
12 voting record as a State Senator, correct?

13 A. Correct.

14 Q. All right. Tell us about some of the votes that you cast as a State Senator
15 during your tenure that were evidence of your independence as a
16 legislator.

17 A. Well, in -- when I was elected for the 60th District in the Senate, one of
18 the issues they had started coming up immediately in 2011 was -- it was
19 talk, but it was talk of a bill for marriage equality. And in the beginning
20 of January and February, we really didn't pay much attention to it because
21 it was it was legislation that -- when I did my homework, it came up they
22 can never get the two sides together, the Assembly and the Senate. And
23 what I mean by that is having mirror bills, that I talked about before. So
24 it would just never come to fruition. And on the campaign trail,
25 whenever you took one of those, I guess, poll so the voters knew where

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1 you stand on certain issues -- they would say, you know, "Are you for or
2 against marriage equality?" And I would say, "Well, I'm for civil unions.
3 You know, I think that's good enough." It was kind of like, you know, a
4 pan answer and -- because no one talked about it. I mean, what was
5 important was jobs, lowering taxes, things along those lines. Well, when
6 the legislation came, it was coming like a -- it was coming like a train. It
7 was -- it was gathering so much steam, to where the lobbying that was
8 going on and the rallies that were going on in Albany was tremendous.
9 So I said to my staff, I said, "Listen, we have to -- we have to focus on
10 this legislation, because this legislation is coming." There were some
11 people on my staff that were saying that, "Listen, the Republicans will
12 never bring this bill to the floor for a vote. They're never going to do it.
13 Even though the Democrats and the Assembly always pass a legislation,
14 the Republicans will never bring it to the floor for a vote." And I said, "I
15 beg to differ. I think it -- I quite think it's going to come to the floor for a
16 vote." Because even though the Democrats in the Senate had a few
17 people that were not going to vote for the legislation, there was a couple
18 of Republicans, including myself, that were doing the research, and I
19 don't want to say on the fence, but basically, we weren't we weren't a
20 slam as a no.
21 So long story short, I did the research. I found out that civil unions in
22 other areas in this great nation of ours, it wasn't working. It costs
23 government additional funds by having two separate systems that would
24 run, especially in New Jersey. I talked to bishops. I talked to people in
25 my own community. I met with Stonewall Democratic leaders, not only

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1 in New York, but also in Buffalo. And what I've come to find out is
2 something that's very simple -- and I even said this on the Senate floor --
3 that I did not become a Senator who is just Catholic, because I was a
4 Roman Catholic, but I came with an open mind to the New York State
5 Senate. And there was roughly 3,000 rights that a same-sex couple lack
6 over the same rights that I have with my wife. And what I mean by that
7 if they're not married, and let's say they're together for 30 years and one
8 of the partners happens to die, that individual, if he doesn't have his name
9 joint, or she, on accounts or what have you, they would lose all right to
10 that. It would basically go into Surrogates Court, and other family
11 members would divide that up.

12 So there was a substantial amount of rights that people didn't have. I felt
13 that that was a problem. I looked at it as a lawyer, and I looked at it as
14 who am I to decide that somebody should not have the same rights that I
15 share with my wife if they want to go ahead and get married. I talked
16 then to Dean Skelos at the time, who was the Republican Chair. There
17 was a couple other people. There was Alesi, I believe he was out of
18 Rochester as well. He said that he was going to vote for it, and we said,
19 "You're going to have to bring this to the floor for a vote." And
20 eventually we got word that he was going to do that. And there was two
21 other individuals. I believe it was Montgomery and Saland, that joined in
22 in voting for the legislation also.

23 Q. Did you lose political support because of your stance on that particular
24 legislation?

25 A. Oh, I was -- when they saw that -- or heard, because I never talked about

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1 it. I didn't -- I didn't make any statements that I'm voting for this piece of
2 legislation. You know, I kept -- I kept it to myself and to my conference.
3 What you said in your conference, stayed in your conference. And the
4 Governor didn't even know what I was going to vote for until probably
5 about three days beforehand when I told him, "Listen, I did the research,
6 and I know that Saland and Alesi" -- we went to the Governor and we
7 said, "Listen, this piece of legislation is going to pass. We're going to --
8 we're going to -- it's going to come to the floor for a vote, even though
9 there's not going to be many Republicans voting for it. And there's going
10 to be a couple of Democrats that are not going to vote for it, but it's going
11 to pass by a slim margin of maybe one vote, maybe two." So we -- when
12 it got out that I was on the fence, or that I may be leaning the other way, I
13 was actually getting emails and text messages from individuals that were
14 in the Republican Party and on the Conservative side saying, "You know
15 I knew that we shouldn't have had a Democrat running the Republican
16 line in the Wilson Pakula." The Conservative Party Chair was telling me,
17 "You vote for this piece of legislation, you're going to lose the
18 Conservative line." And it didn't matter to me. It mattered to other
19 people in the Republican Party that wanted to vote for that legislation but
20 didn't, because they were concerned about losing a political line. That
21 never crossed my mind. I said, "You know, that's the right vote; it's the
22 right thing to do." And I stood on the Senate floor and gave my reasons
23 as to why I voted for that piece of legislation, and it passed.

24 Q. Did you actually suffer political consequences after that?

25 A. I lost the -- I lost the Conservative line. So the next election in 2012, I

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1 only had the Republican line that -- I had to go out and get the majority of
2 signatures myself, because some individuals are not happy with the vote
3 on marriage equality. But I had enough support in the Republican Party
4 that we were able to get on the ballot on the Republican line and on the
5 Independent line, which is a very small line. There's probably only 200
6 independent people registered in the 60th District. So you would have to
7 get those signatures in order to be on the Independent ballot line. But the
8 Conservative Party would not give me their line. They give it to
9 somebody else. And then they had a Democrat run against me. And their
10 commercials that they put out there were horrific, concerning my vote on
11 marriage equality, that my kids saw them where -- it was -- it was a very,
12 very nasty campaign in 2012.

13 Q. Is there other legislation that you sponsored or supported that
14 demonstrated your independence as a legislator ?

15 A. The SAFE Act was another piece of legislation that came out in 2013. So
16 in 2012, I was able to be successful. So at that point in time, I was
17 caucusing with the Republicans. I actually switched my affiliation from
18 Democrat to Republican, and the SAFE Act came out. And that was in
19 response to the legislation, the shootings in Sandy Hook, and shootings in
20 malls across the country. Shootings that go on to this day with high-
21 powered weapons, ammunition that can pierce basically armor, capacity
22 magazines that don't have to have that amount of capacity in order to --
23 for let's say, hunting, for that reason.

24 So I was Chair of the Environmental Conservation Committee. And I
25 took on that role in 2011. I chaired the Environmental Conservation

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1 Committee. I was also a member of other committees dealing with travel
2 and tourism, education, veterans, homeland security, labor, insurance,
3 community development and construction.

4 But the Environmental Conservation Committee had a lot of hunters, and
5 the hunters were concerned about the SAFE Act because they were
6 concerned that some of the weapons that they would use for hunting were
7 going to be affected, or their Second Amendment rights were going to be
8 affected. And myself and Andrew Lanza looked at that legislation. We
9 saw that there was some items in there that could affect sporting and
10 gamesmanship in New York State. It's a billion, billions of dollar a year
11 industry, but this legislation had a lot of good key points, and it was a
12 time that would help certain high crime areas in dealing with crime and
13 weapons.

14 So we were able to talk to the Assembly. The Assembly was kind of
15 taking the lead on it, so we talked to the Assembly, and we said, "Hey,
16 can we sort of do away with some of these items that are going to hurt the
17 sportsmanship in our region?" And they did so. And they also had extra
18 fees, because that's what New York State does. They always tack a fee
19 on, or something like that, no matter what they do, so they knocked out
20 some fees. And we told them, "Listen, if you do that, myself and Mr.
21 Lanza are going to sign on." I believe we are -- me and him were the
22 only two Republicans, I believe, that actually signed onto the legislation.
23 All the Democrats signed on. So it, again, passed by one vote, maybe
24 two. I don't recall at the top of my head. But it didn't pass by much.

25 Q. Now you say you were -- were you a registered Republican at that time?

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1 A. I was.

2 Q. Okay. How did you switch your affiliations?

3 A. Well, I didn't actually switch the affiliation. When I ran on the line, the
4 Wilson Pakula that I talked to you about before in 2010, I didn't know the
5 Republican Chairman -- who is now the State Chairman. His name is
6 Nick Langworthy. And when I talked to him and he was asking me,
7 "Who are you going to caucus with?" I said, "Well, I don't know who I'm
8 going to caucus with because I don't know who's going to be in the
9 majority, because it's such a tight race all across the state that any
10 number -- it could flip. You get the Republicans to be in the majority, or
11 the Democrats." So he asked me if I would sign a card, and I said,
12 "What's the card?" He goes, "It's your voting card -- it's your voting
13 card." He goes, "If you don't caucus with the Republicans, as a
14 Democrat," he goes, "I'm going to switch your role to a Republican."
15 And I completely forgot about it. When we won and it was about a year
16 and a half, two years later that I got a card in the mail saying that your
17 registration was Republican. And when I called some off my staff
18 members on my team, I said, "How did this happen?" And they said,
19 "That's when Nick had you sign -- the Republican Chairman had you sign
20 the paperwork in order to give you the Wilson Pakula. He must have
21 filed it even though you were caucusing with the Republicans."
22 So I never switched back to the Democrats. I didn't feel that, like, having
23 a party association, a Democrat, Republican, Conservative, Independent
24 really reflected, because I vote Democrat, Republican. I vote for
25 whoever I think is the best person for the job and on the issues that I

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1 agree with. So it's -- I really didn't care about having a specific line next
2 to my name. But on the SAFE Act, once I voted for the SAFE Act, the
3 Republicans told me that, "We're not endorsing you anymore as a
4 Republican."

5 Q. So was that actually a political consequence you suffered as a result of
6 that vote?

7 A. That was it. Because the Conservative Party was done from the vote for
8 marriage equality. On the Republican line they said they were not going
9 to give me the line. They already had a Democrat that was -- that was
10 going to run against me. And I stayed on the Independent line. They
11 wanted me to give up the -- that small, little, Independent line, and I said,
12 "No, I'm not going to give that line up." So I campaigned in 2014 on the
13 Independent line alone, which I didn't win, but we were able to garnish --
14 it was an unheard of amount of about 27, 28,000 votes on the
15 Independent line.

16 Q. Did you ever think --

17 A. Democrat with the -- Democrat line you got like 31, and the Republican
18 who lost too got 29. So if the Republicans would have given me the line,
19 with the I-line, it would have been a defeat of -- I'd still be in the Senate.
20 It would have been a defeat of 70/30.

21 Q. Did you ever consider changing your votes on those pieces of
22 legislation in order to maintain that type of political support?

23 A. No. It's -- it was not a question of -- as I said before, it was not a question
24 of "Well, I shouldn't vote this way because I'm going to lose the political
25 line." There were a lot of individuals that came up to me and said, "Do

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1 not vote this way; you're going to lose a line." And I said -- and I said,
2 "Do you want to vote this way?" I would say to individuals, "Do you
3 want to vote this way?" And I could see that some people wanted to vote
4 a certain way, and they were worried about losing a political line and they
5 wouldn't. They would just vote, really, against what their -- what their
6 gut was telling them, what they felt was the right vote. And I felt that
7 was the right vote in both circumstances, and you know, the constituents
8 in my district -- on marriage equality, the constituents, I believe, agreed
9 with it. The party didn't, but the constituents did, or else I wouldn't have
10 won in 2012. In 2014 with the SAFE Act -- they took the line away from
11 me, so we'll never know.

12 Q. Do you maintain that same type of independence as you approach your
13 judicial duties on a regular basis now?

14 A. Absolutely.

15 Q. And do you --

16 A. Always impartial, fair across the board. Have a fantastic rapport with
17 both plaintiff and defense bar. You know, my numbers, everything, are --
18 it shows that.

19 Q. After you -- I take it you lost the next race when you only had the
20 Independent line?

21 A. I did. And I even -- and I'll date myself, but there was a song out there by
22 Stealers Wheel, I don't know if -- I don't know if you guys know who that
23 band is, Stealers Wheel. And my campaign motto was -- the song was,
24 "Clowns to the left of me, jokers to the right, here I am stuck in the
25 middle with you," on the Independent line. And I get a phone call -- I get

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1 a phone call from an attorney in New York City telling me that, "You
2 don't have the rights to use that song. You need to send us the check
3 for -- " something outrageous, like \$60,000. I'm like, "I don't have
4 \$60,000 as I lost -- " I explained to him the whole situation. He felt bad
5 and he said -- he says, "Well, what have you got in your campaign
6 account?" I go, "Well, I'm still --" I go, " -- I still want to race here." I
7 go, "I have the Independent line." I said, "You know, I could probably
8 send you like, you know, 2,500 bucks. You know, something like." He
9 took it. And then after he took it, he goes, "And by the way, I only
10 own -- I only own 50 percent of the song rights." He goes, "Somebody
11 else might come after you with the other 50 percent." But that never
12 happened. But it was -- listen, it was a spirited -- it was a spirited
13 campaign. It wasn't anything in the past where they were attacking you
14 constantly for your votes. It was a spirited campaign, and it was -- it was
15 a hard-fought campaign. I actually thought I had a shot. The
16 Independent line is way down on the ballot. You can't even see it. So to
17 direct people, you know, it's literally -- you know, it's probably as bad as
18 a write-in. You know, it's even worse than that because it's so far down
19 to the bottom.

20 Q. Did you return to the practice of law after that defeat?

21 A. I did. I did return to the practice of law. And I also, at that time period --
22 it was, you know, not a lucrative practice at that point, because I was
23 never really there. Clients -- you know, I had still clients that, you know,
24 that were second, third generation clients. They had access to my cell
25 phone, so they would call me, but if it was something important, they

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1 would -- I would just say, "Listen, you're going to have to find somebody
2 else," or I would send them to somebody else. But when I lost, I went
3 back to the practice. And then I heard that a Court of Claims seat was
4 opening up.

5 Q. So before we get to that, how long were you in the practice of law after
6 you returned from the Senate?

7 A. It was literally, I want to say -- let's see 2010, '11, '12. It was literally six
8 months.

9 Q. Were you still working in the neighborhood in the Lower West side?

10 A. It was longer because I -- because I lost in November, so you knew -- you
11 know, you were still technically a senator until January, but I knew in -- I
12 knew in November that I lost. So it was -- yeah. About eight months.

13 Q. And when you refer to the returning to the practice of law, is that to the
14 practice you left in the Lower West Side of Buffalo?

15 A. Yeah, Niagara -- right on Niagara and Jersey.

16 Q. And was it the same type of neighborhood practice where you would
17 work for people in the community?

18 A. Same neighborhood practice because -- I mean, I was still coming back
19 and forth from Albany, and I would show up there and they would be
20 like, "Hey Grisanti, how are you doing, good to see you. You know,
21 congratulations, sorry you lost, but good to have you back."

22 Q. So how did you learn about -- well, first of all, you said you learned there
23 was a position that you could apply for in the Court of Claims?

24 A. Correct.

25 Q. How did you learn about that?

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1 A. I was on the -- I was on the Judiciary Committee, also, in the New York
2 State Senate, and they had Court of Claims seats that, if a Supreme Court
3 seat it was given to a specific county -- which you just signed into law the
4 other day -- extra Supreme Court seats not only down state, but also a
5 couple scattered out throughout the state, new seats. They would take a
6 Court of Claim seat and they would move it around. So there was
7 technically a Court of Claims seat, I think it was outside of Syracuse, that
8 was available, and there was something with a seat here in Buffalo that
9 changed. So I inquired about it, and I said, "You know, I want to put in.
10 You know, what's the process?" I was told what the process was is to go
11 online, fill out a very lengthy application, and from there, you'll be given
12 an opportunity. If they call you to go in front of a screening panel in
13 New York City that had various members from all across the state on this
14 panel.

15 Q. Just let me slow you down a little bit. Why did you apply for that
16 position as a judge?

17 A. Well, I mean, I always wanted -- my aspiration was not only, you know,
18 to be a lawyer but also to be a judge. You know it's -- it's an odd story,
19 but my stepfather, who was instrumental in -- even though he, God rest
20 his soul, got me a great job in doing construction, he's the one who kind
21 of talked me into going to law school. He says, "You know, this, this is
22 your path. Your grandfather -- you're going to be a judge someday."
23 And my stepfather, as he got on early in -- or you know, later in years, he
24 used to -- he used to call me "Judge" all the time, you know. And he
25 says, "You know, you're going to be a judge someday; you're going to be

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1 a judge someday." And my wife kind of touched on this. I don't want to
2 move out of the Buffalo area because I was going to run for a judgeship
3 in, you know, in the city, in the district. And when this came up, I said to
4 myself, I said, "You know --" and my stepfather had passed by then, I
5 said, " -- this is odd that this is coming my way." I said, "I'm going to fill
6 out this application and hope for the best." And I told Maria about it, and
7 she said, "Listen, it's something you wanted, you know. Go for it. If it
8 doesn't happen, or if it doesn't go through, or you're not approved by the
9 screening panel," she says, "you know, then you just keep trying."

10 Q. But you were, at that point, a registered Republican?

11 A. I was.

12 Q. And the Governor was a Democrat?

13 A. That's true.

14 Q. So tell me how you went through the process of the screening committee
15 and the evaluations?

16 A. Well, the application was quite lengthy. They asked for a tremendous
17 amount of writing samples, your experience, your history. And when I
18 went to New York City in front of the panel, I actually was quite -- I was
19 pleasantly surprised, because it was basically relayed to me that, "You
20 have a lot of -- you have 23 years of experience, and not only doing
21 criminal and civil work, but you also have, you know, four hard years --"
22 they were hard years in the New York State Senate -- "four hard years
23 with a lot of legislation, a lot of controversy going on in those years, and
24 we think that that would help you to be a good judge in this position."
25 And the screening panel put it through, to then allow it to go to the Senate

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1 Judiciary Committee. And in the Senate, I had good friends that were on
2 the -- on the Senate Judiciary Committee. Andrea Stewart-Cousins, who
3 is now the Democratic leader at this point, just -- I had good camaraderie
4 with Democrats and -- well, let me put it this way, most Democrats and
5 most Republicans in New York State Senate. But more so positive than
6 not. And when I got through the panel, I got a phone call from Larry
7 Schwartz, who was Governor Cuomo's counsel, and he said that, "There's
8 about five or six that are going through," he says, "and you're one of
9 them." And then it went through.

10 Q. So if I can take you back a step to the Judicial Screening Panel. Did you
11 submit the writing samples and appeared for an interview?

12 A. I did. In New York City,

13 Q. And did -- incidentally, you were here when John Elmore testified. Was
14 he on that panel at that time?

15 A. John was -- John was on the panel at that time, and there was -- there was
16 another attorney. There was also -- with the Paul Beltz firm that was on
17 that panel, and that person was giving me guidance. But I knew John
18 from, you know, my days of practicing law. And when I saw him I said,
19 "Oh." I said, you know -- I didn't realize he was on that panel until I
20 actually got to New York. And he was happy to see me. And as a matter
21 of fact, he's one of the individuals that was saying, "Listen, you have
22 great -- a great resume of experience here." He said, "The panel's going
23 to love you."

24 Q. What was your rating that came out of that panel?

25 A. Highly qualified.

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1 Q. When is it that you became a Court of Claims Judge?

2 A. May 14, 2015.

3 Q. And when were you sworn in?

4 A. I signed an oath card on May 14, 2015, but because I had to wind up
5 federal cases that I had and state cases that I had, I couldn't actually do
6 the swearing in and the oath. I could only sign the card, and then I had
7 30 days to wind up all my affairs. It came very quickly. Wind up all my
8 affairs, or else the recommendation for appointment would have gone
9 away. So it was June of -- June 5, of 2015 that the card was received by
10 OCA saying that I accept the position.

11 Q. That was your appointment as a Court of Claims Judge, correct?

12 A. Correct.

13 Q. But you also served as an Acting Supreme Court Justice?

14 A. That's correct.

15 Q. Will you tell us how that came about.

16 A. Basically, in June of 2015, my administrative law judge asked if I would
17 start out in Genesee County. In Genesee County, there was a -- just a
18 Superior Judge out there by the name of Bob Noonan who was out there
19 for decades. He was retiring, wasn't feeling well. But he was not only
20 the judge dealing with civil, he did civil, criminal, he did some family
21 law, and he was a Surrogate Court Judge out there. That's what they did
22 in Genesee County. He wore all hats. And they asked that -- he was
23 going to be retiring, if you can go out and help lighten his caseload and
24 try to clear some of his calendar. So I went out there, I met him. I like to
25 believe we hit it off, and he said to me, "Can you take all of my civil

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1 cases, you know, from now until the end of the year? Let me focus on
2 clearing my criminal docket as well as Surrogate Court docket." I said,
3 "Sure, absolutely."
4 And I started out in Genesee County. But in order to do that, you had to
5 be appointed Acting Supreme. And the way that works is Court of
6 Claims judges have categories. They have the "A" Judges, and the Court
7 of Claims "A" Judges are those judges that only deal with lawsuits that
8 are against the State of New York. As a matter of fact, they have -- in
9 Buffalo here, they have their own separate offices that are on Elmwood
10 and Huron. I believe they have separate offices too in the Rochester area
11 for some Court of Claim judges that are there. But those are the "A"
12 Judges. They only hear cases against the State. The "B" Judges, which is
13 what I am, are Acting Supreme and you can do criminal and civil cases.
14 You can do aspects of all cases, and not only that, but all cases anywhere
15 in the State. So that's why they appointed -- they said, "If you're going to
16 go to Genesee County, we're going to make you Acting Supreme." And
17 then that's how I got to that level.

18 Q. Who actually makes the appointment as an Acting Supreme Court
19 Justice?

20 A. You know, I can't be too sure of who actually does it. I believe OCA gets
21 together and says, "Where's this judge going?" And then they made that
22 determination, and your administrative law judge makes the appointment.

23 Q. So what is your present caseload like, now that you're an Acting Supreme
24 Court Justice? What are your day-to-day activities consist of?

25 A. When I started out with -- I recall you gentlemen seeing some of the

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1 things that they have with -- they're the sheets that come out at the end of
2 the year that talk about standards and goals, so on and so forth. So in the
3 beginning, in Genesee County, those six months I probably got rid of 160
4 cases of Judge Noonan's, and did some motions. 2016, I was working in
5 both Genesee County and Erie County, because I cleared some of his
6 calendar, and they needed some help for some other judges that were
7 going to be retiring in 2016 in Erie County. So you're kind of like the
8 new kid on the block, so they take all of their worst cases. When it came
9 to Erie County, they give you like all the worst cases to take over. So did
10 that, had my own calendar as far as taking all tort cases, all civil cases,
11 nothing criminal. Excuse me. And I worked both offices, going back
12 and forth from Erie County and Genesee County.

13 Now, I have over 550 cases scattered across of the 8th Judicial District
14 dealing in all walks of life, types of cases. And telephone conferences
15 every morning.

16 When you heard John Elmore talking, he wasn't kidding. I call people at
17 quarter to 9:00 in the morning on their cell phone. I usually set down 15
18 files each morning, and I go through them. I make sure that they're
19 following the scheduling orders that we had. I make sure that if we have
20 a trial coming, if there's any motions, if there's anything on those lines,
21 that we're all on the same page. I got to realize that if you tell attorneys,
22 "All right. Do your depositions, do everything. I'll call you in six
23 months," that you'll call them in six months and then nothing gets done.
24 So I have so many --many files each morning, because I call these people,
25 like, usually, every 45 days out, 45 to 60 days. So it's a constant rotation.

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1 And that's how I keep cases moving, and try to keep up with standards
2 and goals and some of the initiatives that have been set down by the
3 Chief Judge of the State.

4 Q. So have you developed a process with respect to the handling of cases
5 that are assigned to you?

6 A. The process is, I believe, I have a great rapport with, as I said, with
7 plaintiff and defense bar. They know now how things operate. When I
8 call in the morning, as John said, it's absolutely true, I call up and I say,
9 "Hey it's Mark. You know, hold on, " you know, let's say Allison, "let
10 me get so and so on the line." And put them on hold, hit the call button,
11 call up, "Hey it's Mark, I got Allison on the other line. Okay. You're
12 ready. Yes." And then we have a conversation that takes probably --
13 there's usually not a problem, but if there's a problem it will take a little
14 longer -- but usually two or three minutes, that call. Hang up, go to the
15 next one. And then I'm able to get those done by 9:30, and then at 9:30,
16 quarter to 10:00, I can do my motion calendars.

17 Q. Do you have an active trial calendar?

18 A. I do have an active trial calendar. I had roughly, I think, 75 trials
19 scheduled for this year alone. Probably more. They're always -- they're
20 double and triple booked.

21 Q. Do you also handle your own settlement conferences?

22 A. I have my settlement conferences in the afternoon. If ADR is busy, then
23 then I do my settlement conferences. If it's a smaller matter where I
24 know they're close, I'll have my law clerk do the settlement conferences,
25 and I'll tell my one law clerk, Doug Curella. Because he moved closer to

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1 Genesee County and took a position there, I have a newer law clerk that
2 did just really criminal, so slowly, I'm getting that -- her name is Kelly --
3 I'm getting her acclimated to, you know, to more of a civil side, because
4 she did a lot of criminal when her judge retired.

5 Q. We talked a little bit in the beginning about the qualities of independence
6 and about an issue of integrity. Has your integrity ever been challenged
7 as a Supreme Court Justice?

8 A. No.

9 Q. Has it ever been challenged as a Court of Claims Justice?

10 A. No.

11 Q. Have you ever been the subject of a complaint to the State Commission
12 on Judicial Conduct, other than the one we're discussing here today?

13 A. No. This is the -- this is the first time, and it's embarrassing.

14 Q. I want to talk a little bit about some of the assignments and the awards
15 that you've received over the years. And we have some exhibits that have
16 been provided.

17 MR. CONNORS: We could probably start with
18 Exhibit E, if we could pull that up?

19 BY MR. CONNORS:

20 Q. And at the end, I'll offer it into evidence as some reflection of your
21 career. But for the purposes of question, I was wondering if we could
22 talk about some of these assignments and awards.

23 MR. CONNORS: It's Exhibit E.

24 MS. TRAPANI: E as in elephant?

25 MR. CONNORS: Yes. And my Ds and my Bs

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1 aren't as clear.

2 MS. TRAPANI: I just wanted to make sure.

3 Thank you.

4 MR. CONNORS: Okay. Thank you.

5 (Respondent's Exhibit E was marked for identification)

6 MR POSTEL: It's growing up in Queens.

7 MR. CONNORS: I said that a long time ago.

8 A. Can you actually -- when you're scrolling, can you read what that says on
9 the --because from here you really can't. I can read that, but when you're
10 scrolling on the computer I don't even know how you read that.

11 BY MR. CONNORS:

12 Q. I can give you this. And --

13 A. Thank you.

14 Q. -- I'm not going to go through all of these, Judge, because I have also
15 another exhibit that has some of the highlights. But I know that you're
16 proud of the fact that you've been appointed to two committees. Both
17 Commercial Division Rules, and the ADR committees?

18 A. Yeah.

19 Q. If you'd tell us a little bit about that and how it is that you were appointed,
20 and what you've accomplished in that role?

21 A. Yeah. There's -- yeah. There's another one that's not on here and has to
22 do with a Child Victim Act cases that came up, but in -- which was
23 around the same time period. It was a couple years ago that that came up,
24 where myself and a couple other judges were asked to train to handle
25 Child Victim Act cases, which is legislation that was passed by the

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1 legislature, allowing individuals to pursue those that sexually abused that
2 individual where the statute of limitations has already run. So that was
3 something that I was honored to asked to join, and asked to -- and asked
4 to train for. They're sad cases, but I'm glad to help out where I can.
5 And then in 2021, Commercial Division Rules -- the Commercial
6 Division is a very, very, busy part of the court. I don't really do
7 Commercial Division work, but some of the rules and regulations that
8 they had seemed to be outdated. And we utilized -- there was a few of us
9 on the panel. Some of the rules that we're using to move cases along
10 faster in the civil end and tying those into the commercial end. And some
11 of those actually took shape because our Administrative Law Judge took
12 it to, you know, Larry Marks and others, and said, "You know, let's look
13 at this." So they formulated rules to help the Commercial Division Rules
14 to expedite trial ready cases a lot faster.
15 The ADR, alternative dispute resolution. There's an ADR panel really in
16 all districts. There's usually maybe two or three individuals that handle
17 the ADR panel. And what that basically means is when the case is trial
18 ready, before the trial, it'll ask to be sent to ADR, alternative dispute
19 resolution, and they'll see if they can resolve the case in ADR. Well,
20 there's only so many people that do ADR, and I myself hold my own
21 settlement conferences because I know how backlogged ADR is.
22 So a few of us were asked to come up with, again, rules and regulations.
23 And we came up with the idea in this area of having attorneys that are
24 prominent and have knowledge in certain fields, if they would be ADR
25 monitors and try to resolve cases outside of the court. And if they donate

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1 the time of two free hours, which is difficult to get attorneys to donate
2 two free hours of time, but naturally, they get something in return. They
3 would get some credits. So like, whether it's CLE, or something along
4 those lines.

5 So there's all new forms. You ask if you want to go to a specific attorney,
6 or what have you they do. If that attorney after two hours it's not able to
7 resolve it and you want to stay with that attorney, you can, but then you
8 have an understanding per this agreement that you're going to be paying,
9 you know, for his time. Or you can go to a different attorney. Or myself
10 and a few other judges actually decided to -- what about having a fresh
11 set of eyes from a different judge look at a case. So a judge would go
12 ahead and allow, you know, say, "Hey, I'm going to send this case, you
13 know, to Judge Walker, or I'm going to send it to Judge Boller, or I'm
14 going to send it to this judge." And have them do a fresh set of eyes and
15 see if they can settle it. And sometimes it works, sometimes it doesn't.
16 But it's really to have plaintiffs' cases move faster. It's they have more
17 expediency, rather than -- you know, I'm setting trial dates right now until
18 July of 2023. There are some that are out there, especially in the medical
19 malpractice field -- which I'm on that -- I'm on that same list, but our
20 medical malpractice "guru" just retired. He has cases that are scheduled
21 out to 2024. So it's really to take trial preference ready cases, cases like
22 that, and then move them a lot faster. That's what the committee to
23 expand ADR. And I'm sorry to be long, but it actually helps out the
24 entire system around here.

25 Q. Has that committee proven to be meaningful in connection with the

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1 reduction of the civil backlog of cases?

2 A. Yes, absolutely. And that was the whole point. And especially with
3 COVID, there was a problem. Because nobody was -- I was working, but
4 nobody was working.

5 Q. So modesty aside, do you know of any other judge in the Supreme Court
6 who settles and resolves more cases than you in any given year?

7 A. You know, it fluctuates. I'm like, probably, within the top three or four.
8 But I do settle -- I do settle a lot of cases. I'm proud of that. I was
9 actually also -- there are coordinated -- what's called "coordinated
10 litigation cases" that I was actually assigned to by the Appellate Division.
11 Those are cases that have to do with a catastrophic accident that happens
12 in the state, and you have numerous plaintiffs that are all across state and
13 numerous lawyers that are all across the state. So they gear it towards
14 one county to handle all discovery, or if there's a liability trial, they
15 handle that, or any sort of motions. And that's -- that's one of the cases
16 that I've also been assigned to that's coming to fruition from the Appellate
17 Division.

18 But I have great colleagues. They are wonderful. If I ever have any
19 questions on a given topic and I'm not sure, I can call up any one of my
20 colleagues. And the advice and the camaraderie and the talking back and
21 forth is fantastic. And I set a lot of cases. I'm not going to say I'm
22 number one, but the percentages are high. And my Appellate record is
23 strong, also.

24 Q. You mean the record of the review of your decisions on appeal?

25 A. Yes.

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1 MR. CONNORS: So this Exhibit E, I'm going
2 to offer into evidence now.

3 MR. POSTEL: Yeah, I'm good.

4 MR. CONNORS: Okay. And I'm going to pull
5 up Exhibit MMM.

6 And I'll leave a hard copy with you because it's
7 a --

8 MS. TRAPANI: To clarify, is Exhibit E
9 received?

10 THE REFEREE: Did you move it in?

11 MR. CONNORS: I did.

12 MR. POSTEL: I have no objection.

13 THE REFEREE: No objection? Received.

14 (Respondent's Exhibit E was admitted into evidence)

15 MS. TRAPANI: Is this MMM?

16 MR. CONNORS: It is.

17 (Respondent's Exhibit MMM was marked for
18 identification)

19 BY MR. CONNORS:

20 Q. So Judge, what I've done is I have taken a subset of Exhibit E and
21 condensed some of the awards. But there are some that I want you to tell
22 us what they mean, and how you were able to achieve these awards. So
23 in 2014, you received the Humane Leadership Award from the ASPCA.
24 Tell us the basis for that, and why you received it.

25 A. Well, the ASPCA is basically, an animal rights group that -- for the

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1 | | protections of animals. And some of the legislation they had, it had to do
2 | | with puppy mills. It had to do with -- there was really no crime for
3 | | cruelty and punishment to animals. There was really no -- like killing a
4 | | police dog, there was really no crime in that sense. So we wanted to
5 | | strengthen some laws. And in fact, we had tremendous bipartisan support
6 | | to get those laws passed. And there was a huge crackdown on, especially
7 | | in New York, on puppy mills, and what the penalties are for people that
8 | | abuse their animals.

9 | | There was -- there was other ones that because -- for New York State
10 | | Animal Protection Federation -- it's not just legislation that deals with
11 | | dogs or et cetera. There was legislation that banned shark fins, shark fin
12 | | soup, so it banned that. There was ivory tusk legislation that banned the
13 | | importing of ivory tusk, to crack down on basically, the killing of, you
14 | | know, the great elephants of this world. And there one that, believe it or
15 | | not, it was called bear gallbladder legislation, where individuals would
16 | | come in from Canada, and they would kill a bear for their gallbladder.
17 | | They would leave the carcass. They would take the gallbladder and bring
18 | | it back, because the gallbladder was worth a substantial amount of
19 | | money, and delicacies in some restaurants. I don't know whether they
20 | | send them overseas. I don't know what they call it. So it's combination
21 | | of very, very, strong basically, legislation for those that can't speak. And
22 | | it proved fruitful, and myself and other senators were able to obtain that
23 | | award.

24 | | Q. You are also responsible for creating a Veteran of the Month recognition
25 | | program?

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1 A. Yeah.

2 Q. Would you tell us about that?

3 A. Yeah. Local Veteran of the Month, we would -- we would -- basically,
4 there's a ton of veterans in this region -- it actually picked up with other
5 senators trying to you know do the same thing across the state -- but it's
6 having recognition for a veteran and their service, in all branches of the
7 armed forces, to be able to have -- basically, have their recognition. And
8 we would put it out there as to what their bravery is, what they did. And
9 it would go out to the local media and to -- on our website.

10 MR. CONNORS: Could you scroll up just a
11 little bit, too?

12 BY MR. CONNORS:

13 Q. I'm familiar with this one. This is a Erie County Bar Association award.
14 It's called the Liberty Bell Award. You received this when you were a
15 State Senator, I believe?

16 A. I did. It was -- very, very proud to receive this award. It's an award that
17 basically -- and as a matter of fact, when it was awarded, I think I was in
18 Albany. I think I wasn't even here. And my father went and was able to
19 stand in for me. But it was really an award dealing with, not only
20 community service as to where your law practice was, but also in
21 recognition for having really, under the system as it says, a freedom
22 under a law to acknowledge contributions for functioning. And when I
23 asked them, "You know, what is that more geared towards?" And they
24 said, "Really, your vote on marriage equality. You know, it was stellar."
25 So it was a combination of where I practiced law, and a combination of

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1 some of the tasks that we did in the Senate.

2 Q. So when you were in the State Senate, you were active in conservation; is
3 that true?

4 A. I was Chair of the Environment Conservation Committee.

5 Q. Okay. And in 2013, you received an award for the New York Coalition
6 for Recreational Fishing?

7 A. Yeah. The gaming and sports industry in New York State is phenomenal.
8 The amount of money and the jobs that it creates. And to keep the
9 waterway clear, to keep the fishing productive, oysters in Long Island. I
10 mean, all those little things are recognized by a number of organizations.
11 And this recognizes some of the legislation that was done to protect,
12 basically, water lands with regards to certain pesticides that are in
13 chemicals, and to make sure that those pesticides don't interfere with
14 certain water ways.

15 Q. And you've told us earlier that you're Roman Catholic?

16 A. Correct.

17 Q. But you've received awards from other religious denominations?

18 A. That's correct.

19 MR. CONNORS: If you would scroll up a little
20 bit more?

21 A. Yeah. The Methodist Episcopal Award, correct?

22 BY MR. CONNORS:

23 Q. So you received the award from the Calvary Christian Methodist
24 Episcopal Church?

25 A. Yes.

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1 Q. What was that for?

2 A. Basically, it's a men moving forward award, where you would, basically,
3 have your time and your understanding and provide education and
4 resources to individuals, to communities for that matter, to let people
5 know that we're here for you, that you're not stuck in a position where
6 you are, you can move forward, you can pick yourself up, and you can
7 move on. So it was in recognition of -- basically, to have individuals
8 have the opportunities to just do better in life.

9 Q. And why did they give that to you?

10 A. Because I was helpful during that time period with providing educational
11 resources to -- and you know, to help -- naturally, there's monetary
12 sources that they need in order to get things done, in order to have a role
13 models, sort of like Big Brother. And that's something that they
14 recognized. I mean, there's a lot of -- when you're in the Senate, there's a
15 lot of hands in there that say, "Oh, we need money for this; we need
16 money for this; we need money for this." We took the time to figure out,
17 you know, which -- I mean, they're all good prospects, but which ones are
18 in need. And strengthening communities, and uplifting people to get out
19 of what they felt themselves was the gutter, and to move forward. That's
20 where we provided the resources that we had.

21 Q. The Western New York Veterinary Medical Association gives an annual
22 award out to a veterinarian. But you received that in 2013. Why did you
23 receive the award?

24 A. It kind of goes back to the ASPCA award with regards to strengthening
25 legislation for the abuse of animals, and adding categories, you know,

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1 like police dogs, getting really recognition that if someone harms a police
2 dog or if somebody harms animals. Basically, it was kind of for the same
3 thing, but they took it to the next level.

4 Q. So the Audubon Society in New York is an environmental society, and in
5 2012, you received the William Hoyt Excellence Award?

6 A. Yes.

7 Q. Why did you receive that?

8 A. Well, that's -- the Audubon Society is basically -- for those who don't
9 know, it's -- New York State is well known for the amount of prey and
10 birds that we have, and birdwatchers. And again, it goes to strengthening
11 New York State's commitment with waterways. Not having pesticides
12 get involved in those waterways, strengthening parks, tourism, recreation.
13 Those are committees that I was on, as well as Environmental
14 Conservation. So having that combination, the Adirondack Park Council
15 is the same thing. So the Audubon Society, they have -- they're not
16 linked together, but subcategories, where it's really just strengthening
17 New York or New York State to be a beautiful state that it is. I don't
18 know if you've ever gone camping, or anywhere around here. There's
19 some beautiful areas, and it's got to be preserved, and that's what we took
20 that time to do. And that's why the Audubon Society gave me that award
21 as well, to protect our natural resources.

22 Q. The New York Farm Bureau also presented you with an award in 2011.
23 What was the nature of that award?

24 A. If the Farm Bureau -- believe or not, would hook up with Cornell
25 University. They would do a tremendous amount of research with

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1 regards to agriculture, seed production, cross pollination of seeds. And
2 by providing, basically, grants and support for that program, it would
3 help farmers be able to, not only have there have their products sell
4 quicker. In other words, when they go ahead and experiment, you know,
5 with certain type of seeds, so on and so forth, in agriculture to -- will this
6 plant survive, you know, in drier weather, will this -- you know, if it's
7 cold out or chilly out, will this plant die? So there's constant research
8 going on to protect farmers with regards to change of climate that's been
9 going on so they have the best crop that's out there, and it still stays
10 affordable for people of New York State.

11 And on top of that, we have the idea that -- and it's -- I believe it's still in
12 existence, where most of the farms are in Upstate New York. So we
13 would take some of the products at the farms from Upstate New York,
14 and we'd set them up, and make sure you have farmer's markets closer to
15 this city, you know, and Downstate New York. Keep New York as one.

16 Q. You spoke a little bit earlier about the -- about New York SUNY 2020.
17 But I know you were instrumental in connection with the legislation in
18 the past to establish that Challenge Grant Program?

19 A. Right.

20 Q. Will you tell us about what your efforts were in that regard?

21 A. Yeah. As I said, it basically gave a footprint for the bigger SUNY
22 schools to be able to move forward, and it actually allowed families -- it
23 was a structured plan of tuition. So it allowed families the ability to
24 know what tuition was going to cost over a four-year time period. Where
25 it was before this legislation, is you could have a very minor tuition

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1 growth, let's say for your kid in your freshman year, and then in your --
2 by your junior year, it could be like a \$6,000 increase. So as I said, it was
3 something set up for capital funds and investments for not only economic
4 expansion and footprint, but also to make sure that the tuition costs
5 stayed affordable for all New Yorkers. And it happened in all the SUNY
6 schools across the state when it passed.

7 Q. And you've told us about your commitment to the veterans of our
8 community, but in 2010 you received a lifetime membership in the
9 Buffalo Naval and Military Park Award. Tell us about that award and
10 why you received that.

11 A. You know, the Buffalo Naval and Military Park Award, and I talked
12 about this in 2008, that was really the only game in town as far as
13 anything to do if he went in downtown Buffalo in 2008. It was desolate
14 down there. There was nothing happening. Basically, this park has the
15 Sullivans. They have significant World War II ships and artifacts that
16 they have in a park. It's a park that's also designated to honor those that
17 have passed that are from all ethnic groups. They have different
18 monuments for different groups. And they needed help. They were not
19 getting any financial help from, really, from the city, or from the county,
20 or from the state. And being the Environmental Chair, and considering it
21 was a waterway, and considering that the type of ships, you know, could
22 leak oil, or whatever -- and a matter of fact, it just happened recently
23 where the one ship was sinking, and it was saved. But back then, it was a
24 significant amount of financial viability to help to -- preservation for the
25 ships.

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1 And what happened back then in 2010, is it spearheaded a campaign to
2 have a continuing endowment of funds where they never had that before.
3 So I do have a hat that actually has, "Lifetime Member." And the strange
4 thing about it is I've still not taken the time to board the Sullivan, or any
5 other ships, and actually walk through them. I've got to -- I've got to take
6 my grandkids and do that one of these days.

7 MR. CONNORS: Judge, this would be a perfect
8 time. I was going to go into another area entirely different,
9 and we only have a few minutes left.

10 THE REFEREE: I think it would be a perfect
11 time. And we can reconvene tomorrow at 10:00.

12 (Proceedings concluded at 4:22 p.m.)

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13	LLL	Still Photograph from Officer Muhammad’s Body Worn Camera Video, parked truck (1 p)	971	971
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15	MMM	Elaboration of Professional Awards of Mark J. Grisanti (3 pp)	1147	
16				
17	NNN	Still Photograph from Officer Gehr's Body Worn Camera Video, Meles in their Driveway (1 p)	1012	1013
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CERTIFICATION

I, Chandelle Paccione, do hereby certify that the foregoing is a true and accurate transcript of the audio recording described herein to the best of my knowledge and belief.

Dated: July 10, 2022



Chandelle Paccione



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

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In the Matter of an Investigation :
Pursuant to Section 44, subdivision 4, :
of the Judiciary Law in Relation to :

MARK J. GRISANTI, :

a Judge of the Court of Claims, :
Acting Supreme Court Justice, :
Erie County. :

----- -X

Erie County Family Court, Part 3
One Niagara Street, 7th Floor
Buffalo, New York 14202

July 7, 2022
9:57 a.m.

B e f o r e:

WILLIAM T. EASTON, ESQ.
Referee

P r e s e n t:

For the Commission
JOHN J. POSTEL, Deputy Administrator

DAVID M. DUGUAY, Senior Attorney

For the Respondent
TERRENCE M. CONNORS, Esq.

VINCENT E. DOYLE, III, Esq.

TYLER GATELY, Esq.

A l s o P r e s e n t:

HON. MARK J. GRISANTI, Respondent
KATHRYN TRAPANI, Executive Assistant to the Deputy Administrator
VANESSA MANGAN, Senior Investigator



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THE REFEREE: Okay. It's July 8th [sic], and we're resuming testimony.

MR. CONNORS: 7th.

MS. TRAPANI: 7th.

MR. POSTEL: 7th.

THE REFEREE: 7th.

MR. POSTEL: 2021, still.

MR. CONNORS: You -- you are in a hurry to have these cookies eaten. Strike that.

THE REFEREE: We're resuming the hearing. I think that we broke when the judge was on direct examination.

Judge, you may --

THE RESPONDENT: Thank you, Judge.

THE REFEREE: -- resume the witness stand. You're still under oath.

THE RESPONDENT: Thank you.

MR. DOYLE: Mr. Easton, with the permission of Commission's Counsel, we wanted to offer a couple exhibits now --

THE REFEREE: Sure.

MR. DOYLE: -- just while the judge is setting up. So these are Respondent's Exhibits R through Z. So that would be R, S, T, U, V, W, X, Y, and Z. These all relate to the financial statements and corrections that were

(Matter of Mark J. Grisanti)

1 submitted. Those are all offered.
2 (Respondent's Exhibits R, S, T, U, V, W, X, Y, and Z were
3 marked for identification)

4 MR. POSTEL: No objection.

5 THE REFEREE: Received.

6 (Respondent's Exhibits R, S, T, U, V, W, X, Y, and Z were
7 admitted into evidence)

8 MR. CONNORS: In addition, we'd offer, also
9 related to the financial reporting charged, Charge III,
10 Exhibits P and Q.

11 (Respondent's Exhibits P and Q were marked for
12 identification)

13 MR. POSTEL: No objection.

14 THE REFEREE: Received.

15 (Respondent's Exhibits P and Q were admitted into
16 evidence)

17 MR. CONNORS: And then finally, we had
18 offered a number of Respondent's exhibits that were
19 standards and goals reports. I noticed last night I forgot to
20 offer Exhibit H, which is the 2022, the first four months of
21 2022, standards and goals report. That's Exhibit H.

22 MR. POSTEL: No objection.

23 THE REFEREE: Received.

24 (Respondent's Exhibit H was admitted into evidence)

25 MR. CONNORS: Thank you, Counsel.

1158.



(Hon. Mark J. Grisanti - Direct)

1 MR. POSTEL: Do you have any cups?
2 MS. TRAPANI: I have these.
3 MR. POSTEL: This is a fresh one, a fresh cup.
4 THE RESPONDENT: Oh, I have one. I have
5 one here. Yeah.
6 MR. POSTEL: Oh, okay.
7 THE RESPONDENT: Thank you. Tyler took
8 the last cup.
9 MR. POSTEL: Of course he did.
10 MR. GATELY: It's on the record, too?
11 MR. CONNORS: It's --
12 MR. POSTEL: (Unintelligible).
13 MR. CONNORS: -- you made the record.
14 MS. TRAPANI: We are on the record.
15 THE REFEREE: Judge, you're still under oath.
16 And you can resume direct examination.
17 THE RESPONDENT: Thank you, Judge.

18 RESUMED DIRECT EXAMINATION

19 BY MR. CONNORS:

20 Q. Good morning, Judge. I want to take you back to --
21 A. Morning.
22 Q. -- June 22, 2020. Do you remember that day?
23 A. I remember that day. It's pretty much etched in my mind.
24 Q. What day of the week was it?
25 A. It's a Monday.

1158.



(Hon. Mark J. Grisanti - Direct)

1 Q. Tell us what you did during that day.

2 A. From that day, I got up. I went to work. We were in the middle of a -- of
3 a COVID pandemic. I actually was still doing phone conferences. I had
4 roughly 37 trials scheduled from March until September that I was trying
5 to get resolved. So that's who I was calling, was the attorneys on the
6 cases, as well as the attorneys on other matters that we had. So I was -- I
7 was basically at work for the -- for the daytime.

8 Q. Were you working out of your chambers?

9 A. Yes.

10 Q. What time of the day did you conclude?

11 A. Probably about since maybe four o'clock.

12 Q. What did you do after that?

13 A. Went home, took care of some stuff around the house. And my wife
14 wanted to try out a new store, Aldi's, that was around the corner. And we
15 had some errands to run.

16 Q. So where did you go for the errands?

17 A. Went to Aldi's, picked up a few items there at Aldi's. Went to Home
18 Depot, picked up some landscaping material. Then we went to get
19 something to eat. And then we went to Dairy Queen for dessert.

20 Q. Where did you go to get something to eat?

21 A. North End.

22 Q. Where is that located?

23 A. North End is a restaurant on Elmwood Avenue in Kenmore.

24 Q. How close is that to your home?

25 A. To my house, two-and-a-half miles.

1159.



(Hon. Mark J. Grisanti - Direct)

- 1 Q. Do you know approximately what time you arrived at the North End
2 restaurant?
- 3 A. At the North End, approximately, I would say somewhere around maybe
4 6:30, quarter to 7:00.
- 5 Q. Who were you with?
- 6 A. My wife, Maria.
- 7 Q. Was there anyone else --
- 8 A. No.
- 9 Q. -- eating? So what did you do when you arrived at the restaurant?
- 10 A. Arrived at the restaurant, waited for a table, went to the bar. I ordered a
11 cocktail. When the -- when the table was available, we went, sat down,
12 and ate.
- 13 Q. What type of a cocktail did you have before dinner?
- 14 A. Rum and Coke.
- 15 Q. Did you have anything of an alcoholic nature to drink when you were
16 having dinner?
- 17 A. Yes.
- 18 Q. What did you have?
- 19 A. I had two six-ounce glasses of Chardonnay. They're not really glasses.
20 They give you the little plastic six-ounce plastic bottle. It wasn't a fine-
21 dining, but -- and then you pour that in a glass yourself.
- 22 Q. Do you know approximately what time you left the North End restaurant?
- 23 A. Say it was about an hour and a half later, probably quarter to -- probably
24 quarter to 8:00, ten to 8:00, somewhere around there -- that range.
- 25 Q. What did you do after you left the dinner, the restaurant?

1160.



(Hon. Mark J. Grisanti - Direct)

1 A. We went to Dairy Queen.

2 Q. What is Dairy Queen?

3 A. Dairy Queen is -- they serve ice cream.

4 Q. Okay. And how long were you -- did you stay there?

5 A. Well, it was hot. There was a long -- there was a long line. So I ordered
6 a -- I ordered a sundae. Maria ordered a cone. And then we were getting
7 a ice cream for our dog to take home.

8 Q. Do you know what time it was that you left the Dairy Queen?

9 A. I do. It's on a receipt. It was 8:20.

10 Q. Now, Judge, no one has testified to this point that you were intoxicated,
11 but I want you to answer the questions as to how you felt with respect to
12 any level of intoxication when you left the Dairy Queen to go back to
13 your home.

14 A. I was not intoxicated.

15 Q. Okay. Did you also maintain some receipts from your purchases at the
16 North End restaurant, at Aldi's, and at Dairy Queen?

17 A. Yes, and Home Depot. I had those with me that evening.

18 Q. And did the purchases at North End reflect the amount of alcohol that you
19 just testified to?

20 A. Yes.

21 MR. CONNORS: Okay. So we have them
22 marked as exhibits. I'll get the numbers in the -- over the
23 break, and we'll show them again to counsel. But I'll
24 probably offer those into evidence at some point.

25 //

1161.



(Hon. Mark J. Grisanti - Direct)

1 BY MR. CONNORS:

2 Q. So what route did you take home from the North End restaurant?

3 A. After North End, went down Elmwood up to -- it was probably about a
4 half a mile down to Dairy Queen. After I left Dairy Queen, went
5 Elmwood Avenue, south to Kenmore Avenue, turned east, and went to --
6 up Kenmore Avenue to my street, [REDACTED]

7 Q. When you turned onto your street, [REDACTED] which direction were you
8 heading?

9 A. I was heading south on [REDACTED]

10 MR. CONNORS: Kate, I'm sorry I didn't
11 mention this earlier, but could you pull up one of those DDs
12 so I can look at that street again?

13 MS. TRAPANI: Certainly.

14 BY MR. CONNORS:

15 Q. So we've shown -- we're showing you Exhibit DD, which is received into
16 evidence. And you indicated the direction that you were driving on that
17 evening was in a southerly direction?

18 A. Correct.

19 Q. So for purposes of the record, Judge, would you just stand up and show
20 us where that direction is?

21 A. Sure. I was driving on -- DD, if you're looking at -- I was driving from
22 right to left, down [REDACTED] Avenue.

23 Q. All right. And were you proceeding to turn into your -- to your
24 driveway?

25 A. Yes, at 21 [REDACTED] Avenue.

1162.



(Hon. Mark J. Grisanti - Direct)

1 Q. Okay. And when you got to your driveway, did you notice anything
2 about any vehicles that were parked in the street?

3 A. Well, it was actually -- it was actually before my driveway, I noticed a
4 large four-door extended truck that had a cab on it, black truck. I noticed
5 it because when I was pulling up to my driveway, I actually could not see
6 the driveway. The truck was actually, at a minimum, I would say a
7 couple of feet from the curb itself, so it was sticking out farther in the
8 street than other cars that were parked on [REDACTED] Avenue.

9 So when I saw that vehicle, I saw the license plate. It was a New Jersey
10 license plate. I knew that it was a vehicle that was from the Mele
11 household. And I -- so you know, I -- when I tried to make the turn -- I
12 made the turn. I had to hit the brake and adjust myself to -- in order to
13 get into the -- to the driveway, because you could not -- you could not see
14 it when you were -- the driveway when you were coming in and trying to
15 make the turn into the apron. The truck was basically on top of the apron
16 of the driveway.

17 MR. CONNORS: So if we could pull up LLL,
18 please.

19 MS. TRAPANI: Um-hum.

20 MR. CONNORS: Thank you.

21 BY MR. CONNORS:

22 Q. I'm showing you what's been marked and received into evidence as
23 Exhibit LLL. Is that the vehicle that you saw as you approached your
24 driveway --

25 A. Yes.

1163.



(Hon. Mark J. Grisanti - Direct)

1 Q. -- driving in a southerly direction?

2 A. Yes.

3 Q. Okay. Now, you've told us that the vehicle itself obscured your view to
4 your driveway?

5 A. Correct.

6 Q. Okay. You also mentioned, I think, that the vehicle was somewhat out
7 from the curb?

8 A. Yes.

9 Q. Would you identify that for the record, please? If you could just point to
10 that.

11 A. Yes. On Exhibit LLL, you can clearly see, on the bottom left-hand
12 corner, that the vehicle itself is a significant distance from the curb itself
13 into the street. And you can clearly see where my driveway apron is in
14 the bottom left-hand corner in relation to where the back of the vehicle is.

15 Q. Now, we know from other testimony so far, Judge, that that is a later -- a
16 picture later in the evening. But is that the same spot that the vehicle was
17 in at or around 8:30 when you were driving to your home from the North
18 End restaurant?

19 A. Yes.

20 Q. Now, you've told us that the vehicle was parked in a way that obscured
21 your view and was close to the apron of your driveway. Was that of any
22 significance to you on that evening?

23 A. Yes. It was -- it happens all the time. It happens every time alternate
24 parking changes from one side of the street to the other. Monday through
25 Thursday, it is on our side of the street, which is the odd side. The even

1164.



(Hon. Mark J. Grisanti - Direct)

1 side of the street goes from Thursday evening until Monday in the
2 afternoon.

3 Q. Had that been an ongoing problem that you had experienced on your
4 street?

5 A. Literally, for just about a decade. When the relationship with the Meles
6 started going downhill, it was every single Monday, Tuesday, Wednesday
7 that they would park their cars either -- as you see in this particular
8 picture, if you're facing the street from my driveway, that is the right
9 driveway apron. They would take their vehicle and back it up to that
10 apron, or on the other apron side, they would pull up to the apron. They
11 would do that consistently.

12 They had, at the time, in 2014, five vehicles, plus a city vehicle that they
13 would use. And they would do it to myself, and they would do it to the
14 other neighbors. So it was very frustrating. And on this particular day,
15 and coming home, it was more pronounced because of the way that the
16 vehicle was sticking out.

17 Q. Now, the Exhibit LLL reflects a space in front of the hood of the vehicle.
18 How much -- how many feet, approximately, was that space?

19 A. That -- it's eight to ten feet, easy.

20 Q. Okay.

21 A. Easy to move up.

22 Q. That evening, did any other vehicle park in front of that Mele vehicle that
23 was parked in front of your home?

24 A. No.

25 Q. Now, you said earlier that it was an ongoing problem. Was it only an

1165.



(Hon. Mark J. Grisanti - Direct)

- 1 ongoing problem with respect to the Grisanti household, or did it affect
2 others on [REDACTED]
- 3 A. For the alternate parking on our side of the street, it would affect my
4 driveway, and it would affect the Chwalinskis' driveway. And what I
5 mean by that is, it's not just pulling up and leaving. Literally, I've seen it
6 on at least a hundred occasions, where the Meles would actually park the
7 vehicle, get out of their car, look to see if there was room to either pull up
8 if they wanted to affect the left side of the driveway apron; or they would
9 get out and go to the rear of their vehicle to see if they had room to back
10 up, in this instance, to the right side of the apron of the driveway.
11 And it was mostly Gina. She would -- Gina Mele. She would get out,
12 look, get, actually, back in her car, and then pull the car forward. And on
13 numerous occasions, I would say, "Why are you doing that," you know,
14 "Can you move back? There's plenty of room." And I would either get a
15 hand gesture like the finger, or if it was Joe, I would just get spit at.
- 16 Q. Who were the other families in the neighborhood that would be affected
17 by this parking issue?
- 18 A. The Chwalinskis. They would do the same thing to their driveway. And
19 then when the alternate parking went from Thursday to Monday, and the
20 alternate parking switched to the even side of the street, they would park
21 their vehicles not blocking the driveway of, let's say the Continos, which
22 are on the right side of the Mele's house, or the Riccios, which are on the
23 left side.
24 What they would do is -- the parking pad on the street for the even side
25 allow two vehicles to park there. And what they would do is park their

1166.



(Hon. Mark J. Grisanti - Direct)

1 vehicle in the middle of the parking spot so no other vehicles, then, can
2 park in front or behind them. Consistently, they would do that.

3 Q. And you mentioned the Chwalinskis. Where did they live with respect to
4 your home?

5 A. Chwalinskis were at 15 [REDACTED] And they would do the same thing to
6 their driveway, either encroach the right or the left side of the driveway,
7 depending on where they wanted to be. And in this particular picture in
8 LLL, you can see that the vehicle is right, really, on top of the -- it's
9 encroaching into the apron. And I didn't see -- I didn't see them park the
10 vehicle there, but it looks to me if it's something where it's been parked
11 and then backed up to that spot.

12 Q. Now, you mentioned the Riccios and the Continos. Where do they live
13 with respect to your home and the Mele home?

14 A. The Continos are directly across the street from myself. Our house lines
15 up. The Riccios are kind of directly across the street from the
16 Chwalinskis. The Continos live, if you're facing the Mele house, to the
17 right of the Meles; and the Riccios live to the left of the Meles.

18 MR. CONNORS: Kate, do you have that
19 exhibit with the names on the homes?

20 MS. TRAPANI: Sure.

21 BY MR. CONNORS:

22 Q. Now, we're showing you what's been marked into evidence as Exhibit --

23 MS. TRAPANI: It's not actually --

24 MR. CONNORS: Not yet?

25 MS. TRAPANI: No. This may be two of the --

1167.



(Hon. Mark J. Grisanti - Direct)

1 MR. POSTEL: This is part of the DD-1 one --

2 MR. CONNORS: Okay.

3 MS. TRAPANI: Yeah.

4 MR. POSTEL: -- events.

5 MR. CONNORS: That's right. This --

6 MS. TRAPANI: Maybe we could change it to

7 2?

8 MR. CONNORS: Yes.

9 MS. TRAPANI: Okay.

10 MR. CONNORS: So this would be DD-2,

11 which we'd offer into evidence.

12 (Respondent's Exhibit DD-2 was marked for identification)

13 MR. POSTEL: No objection.

14 THE REFEREE: Received.

15 (Respondent's Exhibit DD-2 was admitted into evidence)

16 BY MR. CONNORS:

17 Q. So I'm showing you what's been marked as Exhibit DD-2 in evidence,
18 and asking you if you can identify the homes of individuals you just
19 named, as well.

20 A. To get up and identify them?

21 Q. Or you can do it from -- by number.

22 A. Okay. So the Riccios -- I can't really see the number. I believe that's 12.
23 The Meles are at 16. The Continios, I believe that is 22.

24 Q. Okay.

25 A. I live at 21 [REDACTED] Chwalinskis are at 15.

1168.



(Hon. Mark J. Grisanti - Direct)

1 Q. Now, you earlier mentioned that when you would confront either Gina or
2 Joe about their parking habits, that they would respond to you in a certain
3 way. You said that they would spit at you or give you the middle finger.
4 How often did that occur?

5 A. It would occur any time that I saw them physically get out of their car to
6 move it up to block either the left or right side of the driveway apron. If I
7 was outside and I saw them do it, or if I was inside, I would try to go
8 outside, and I'd say, "Why do you do that? Why can't you back up a little
9 bit? You have a -- you have numerous feet of space either behind or in
10 front." I would say from 2014 until the present day, at least 200 times, at
11 least. Either I would get nothing in return, or I would get the finger, or I
12 would get spit at. Gina usually, you know, would just make, like, a noise.
13 She wouldn't really say anything.

14 Q. Okay. And did that continue from 2014 up until the evening of 2020,
15 June 22nd?

16 A. Yes.

17 Q. All right.

18 A. It actually continued after, for about a week.

19 Q. Okay.

20 A. After June 22nd.

21 Q. Was that the only problems that you experienced and your family
22 experienced with the Meles over the same year -- time period?

23 A. Oh, God, no. No.

24 Q. Okay. Tell us what you and your family experienced with the Mele
25 family over that time period.

1169.



(Hon. Mark J. Grisanti - Direct)

1 A. Well, in 2014 -- you know, we were cordial with the Meles. But in 2014,
2 my wife had witnessed an event that took place. I can hear it from inside
3 the house. But she witnessed an event, and that event was a threat made
4 by Gina Mele to Ms. Chwalinski. There was also a threat of Mr. Mele
5 couple months later in 2014 to her daughter, Victoria. When that was
6 done, there was police action involved. My wife had to make a
7 statement. She did. And from that point on, we saw, prior to '14, how
8 the Meles would park on the Chwalinski's driveway. But now everything
9 elevated and kind of shifted to our driveway to just basically provoke and
10 harass.

11 On top of that, in 2014, I was putting in an expansion to my parking pad.
12 And -- if I can get up and show you on the -- on the exhibit?

13 Q. Sure.

14 A. So when I bought the property, there were bushes that went from the
15 sidewalk -- and what I'm pointing at under Exhibit D-2 [sic]. There were
16 bushes that went from the sidewalk to the chain-link fence on my
17 property. And what I did was I removed the bushes so I can fill it in with
18 concrete. The bushes were dying. I filled it in with concrete. I had a
19 permit. And I did it to expand my parking pad. And I did that because at
20 the time in 2014, my kids were living with us. And with all the vehicles
21 that the -- that the Meles had, and they were not utilizing their driveway, I
22 was gaining space in order to have my kids park on the driveway.

23 Q. So let the record reflect that you're pointing to your driveway on 21
24 [REDACTED] Avenue.

25 A. Correct. So I expanded the driveway and had a permit. And Gina Mele

1170.



(Hon. Mark J. Grisanti - Direct)

1 did not particularly care that I did that. And for the next three years, she
2 was contacting City Hall, having inspectors come out, say that I did a
3 curb cut. I never touched the apron of the driveway. The apron of the
4 driveway, which is the front part in front of the sidewalk in-between the
5 sidewalk and the street, I consider that the apron. I didn't touch it. It was
6 flared on both ends. I didn't cut any curbs. I strictly just expanded the
7 driveway pad.

8 And she would constantly have inspectors come out. The inspectors
9 looked at it. They measured. But she would call once a year for the next
10 couple of years. And I spoke to one gentleman, and he said, "Listen, I
11 know you have a permit." I says, "Well, then why are you even
12 measuring?" He says, "Because she keeps calling." She's writing letters
13 to City Hall. She's writing letters to the Common Council that she wants
14 to have a hearing on the matter, because I took green space. It's my
15 property, and all I did was expand the pad.

16 Q. Did you have other experiences with the Mele family during that same
17 time period?

18 A. Yes. The -- basically, from 2014 up until -- for years, I would be outside
19 mowing my lawn. Joe would come out. If you see on the Meles' house,
20 he has, like, a walkway that goes from his front porch to his driveway.
21 He would stand on the driveway. He would stare at me. He would spit.
22 There was at least a half a dozen occasions that he would basically say
23 comments to me, which seemed just out of nowhere. I mean, he would
24 say, you know, "Do you want a shot at the title," things along those lines.
25 And he would constantly spit. And he made sure that you saw him spit,

1171.



(Hon. Mark J. Grisanti - Direct)

1 because he would kind of grunt, and then he would turn, he would look at
2 you, and then he would just spit. He would do that constantly. He also,
3 on numerous occasions --

4 Q. Before we go there, what did you interpret the comment he made to you
5 on numerous occasions, "Do you want a shot at the title"?

6 A. I didn't ask him what that meant, "Do you want a shot at the title." I
7 ignored him. I took it to mean that he wanted to have some sort of an
8 altercation.

9 Q. Do you know why -- whether that he had any basis for it? Do you know
10 what -- whether there were ever any reasons disclosed as to why he
11 would say those things?

12 A. No. I'm assuming the reason is -- well, I believe the reason is, I think he
13 was aggravated that I used to keep telling them to -- "Can you back your
14 car up or pull your car forward, because it's encroaching onto the swing
15 part of the apron part of the driveway."

16 Q. So you're telling us that --

17 A. And I was concerned about that, because my kids, now, were parking
18 there, and they were not -- they were not good drivers. And as a matter
19 of fact, my daughter backed out and clipped -- how that truck was parked
20 on the 20th, he used to park his truck there the same way. And my
21 daughter backed down and clipped the back of his truck, actually put a
22 little nick in his bumper.

23 Q. Now, were there other experiences that you had, either with Gina or Joe
24 Mele prior to June of 2020?

25 A. Yes. Joe Mele would -- he would say comments to my wife. We -- you

1172.



(Hon. Mark J. Grisanti - Direct)

1 know, he knew that my wife was a -- you know, that she -- that she taught
2 aerobics and personal training. And you know, she used to have to go out
3 of the house in her workout outfit, and you know, basically go to work
4 or -- which, if she did that, she'd be watering outside, and he would be
5 making comments at her about either her appearance or saying, you
6 know, "You're on -- are you on steroids?"

7 And I would -- I would say to him -- you know, the one time that I heard
8 it, but I know that she said he did it more than once. I would say, "Don't
9 make comments at my wife like that." He wouldn't respond to me. But it
10 would be a situation where it was kind of creepy, because it's, like, when
11 she was outside, he would, like, come outside and just, like, stare and spit
12 or grunt. So it was -- to me, it was demeaning. It's like, you know --
13 because you would -- I would see him do that. I mean, my windows are
14 right there. He --

15 Q. So --

16 A. -- he also was -- at the time, he was the driver of the street sanitation
17 truck. And his route was our area. And there were numerous times
18 where he would not pick up our garbage. And I would go ahead and have
19 to call 311 to make a complaint that he did not pick up the garbage. And
20 he would do that to other neighbors, as well. There were times when he
21 would -- he knew people in the Streets Sanitation Department. You
22 would notice that your -- in the wintertime, when it snowed, there'd be a
23 lot more snow at the front of your driveway after you just cleaned it out
24 with a snowblower than other streets. I took that to mean that he was
25 telling people to dump snow from the street onto our front of our

1173.



(Hon. Mark J. Grisanti - Direct)

1 driveway.

2 Q. During the same time period, did you ever learn of any violence that
3 either Joe or Gina Mele had done in the neighborhood?

4 A. Yes, from -- it was actually -- we moved in in 2004. We probably
5 noticed within a few years that there was a lot of friction between various
6 neighbors. And we didn't know all the neighbors at that point. I mean,
7 there was friction between all the neighbors. And you know, I used to
8 tell Maria, and she used to agree, "Well, let's just stay neutral. Let's stay
9 friends with everybody, you know. Let's just not get involved in
10 anybody's business."

11 But it got to the point where, not only were the neighbors telling us what
12 was going on, you could visually see what they would do to each
13 neighbor. And it was bizarre, because they would -- it would be, like,
14 pick-on-this-neighbor month, and then go to this neighbor, and then go to
15 this neighbor. It was -- it was just -- it was terrible, what they used to do
16 in the neighbors.

17 With the Chwalinskis, it was the parking. When they used to park in
18 front of the house of the Chwalinskis, I would see them do a U-turn.
19 Rather than pull the car into their driveway to back out to go the opposite
20 way on the street, they would do the U-turn, but then back up all the way
21 over their lawn, which is the patch of grass in front of the street, over the
22 sidewalk, and onto the main lawn of the property.

23 They used -- they did that on many occasions. The parking that they used
24 to do, the taunting that they used to do to Jerry Chwalinski, who, at the
25 time, was the Chief Clerk of the City of Buffalo. They used to taunt him

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1 to try to get him into an altercation. They taunted their kids. They would
2 ride their bicycles back and forth on -- the kids -- on the driveway and up
3 and down the driveway.

4 For the Riccios -- and I'm not sure when this picture was taken, because I
5 don't see it there. But for the Riccios, if you look at their driveway, at
6 number 12 [REDACTED] on the right side of the driveway but on the grass of
7 the Meles, he built a fence that went basically down to the sidewalk. And
8 the -- and the fence was right on the grass and the driveway. So when the
9 Riccios would pull in their driveway, the passenger sides of the vehicles
10 could not open up the door because there was a fence there. The Riccios
11 have since moved. And I noticed that the new owners must have done
12 something, because he had to take the fence down, and he was not too
13 happy about it. But that fence stayed there because Tony Riccio did not
14 want to cause any altercations with Joe Mele. He used to challenge him
15 all the time.

16 For the Continos -- and I saw this specifically. The Continos, who live at
17 22 [REDACTED] they have a large tree. You can see it in their backyard. And
18 when the Continos were on vacation, I saw Gina and Joe Mele get on the
19 roof of the garage and trim branches for probably a good hour, and take
20 those branches, and they would throw them into the Contino's yard. Any
21 time in the fall, they would rake leaves. They would either rake leaves
22 towards the front of their house, bring the leaves in the back, and throw
23 them over the fence.

24 They would spit at the Riccios. They would spit at the Continos. They
25 would torment Jeanne, calling her -- they basically would call her names

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1 like "retard," which --

2 Q. Jeanne Contino?

3 A. Jeanne Contino, which she would tell us that that hurt her very much,
4 because she had a brother that was mentally handicapped. They were just
5 very nasty. It was very frustrating. It was so many things, not only done
6 to us, but you would watch what they would do to the other neighbors on
7 a consistent, consistent basis. You were almost happy if it wasn't your
8 time to get picked on. But parking the car, it always happened Monday
9 through -- Monday through Thursday until five o'clock.

10 Q. So you ended your term with -- as a State Senator in 2014?

11 A. 2014.

12 Q. '14. All right. And shortly thereafter's when you applied for a judge in
13 the Court of Claims?

14 A. Correct.

15 Q. Had you learned other information about the Mele family that caused you
16 to distance yourself from them prior to that time?

17 A. Well, me and Maria had several conversations when I would tell her that,
18 you know, "Listen, I understand, you know, you try to be neutral," I said.
19 "But the stuff that they do, it's just impossible." So with the spitting and
20 the arguments, we used to pretend there wasn't even a house there.
21 I learned that -- you know, when I became a judge, I learned that Joe
22 Mele had cocaine convictions. He had charges for dealing drugs. His
23 wife had numerous criminal charges, as well, for shoplifting. So I slowly
24 started to back off and say, "You know what, I don't even want to deal
25 with these people." In the beginning, we talked to them. We were

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1 cordial. But --

2 MR. POSTEL: I'm going to object to the line of
3 questioning with regard to any criminal convictions without
4 a specific time line for those criminal convictions from this
5 witness.

6 THE REFEREE: Sustained.

7 BY MR. CONNORS:

8 Q. So my question to you in terms of background information is that you
9 learned that there was some criminal convictions in their past. Did you
10 learn when it was that these criminal convictions occurred?

11 A. Criminal convictions for Mr. Mele was basically in the early 2000s. And
12 the criminal convictions for Gina Mele were approximately, I would say
13 from -- probably from '96 all the way up until 2000- -- I think the -- 17.

14 Q. Did you become aware of any violence that Gina Mele had demonstrated
15 in the neighborhood with respect --

16 A. It --

17 Q. -- to her --

18 A. -- it was -- it was -- it was brought up by -- by Jeanne Contino that they
19 would argue and fight --

20 MR. POSTEL: Objection. This is hearsay.

21 THE RESPONDENT: No. I saw it.

22 MR. POSTEL: No. This --

23 THE REFEREE: Well --

24 MR. POSTEL: -- testimony was hearsay.

25 THE REFEREE: Well --

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THE RESPONDENT: Oh.

THE REFEREE: What do -- what -- he's -- it's not coming in for its truth, what the Continos say. It's coming in for his state of mind. So --

MR. CONNORS: Right.

THE REFEREE: Is that correct, it's not coming in for the truth?

MR. CONNORS: No. It comes in for his knowledge and state of mind as of June 22, 2020.

MR. POSTEL: Okay. Based not upon the truth, but what he heard.

THE REFEREE: Right.

THE RESPONDENT: Well, it's not only what I heard, but what I saw. The --

MR. CONNORS: And what he saw.

THE REFEREE: Yeah. There's a -- I guess there's a --

THE RESPONDENT: That the Mele children were -- you know, they were getting older. They were going out. And you would hear arguing where they -- arguing and screaming to the point where the kid would be saying, "Get off me." And I got up, because it was probably, like, two o'clock in the morning, three o'clock in the morning. And the kid's running out of the house, and Gina Mele's chasing her own kid, arguing with her,

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1 probably because the kid was out late. But literally hitting
2 her kid out in the public, as she was. And that was the
3 same as Jeanne Contino telling us how she was strangling
4 her own daughter in the driveway to the point where they
5 had to call the police.

6 BY MR. CONNORS:

7 Q. Were you aware of all this information as of June 22, 2020?

8 A. I was aware of all the information.

9 Q. How did you get --

10 A. Which is --

11 Q. -- along --

12 A. -- which is why it was -- you know, I don't understand why I thought that
13 I could have a conversation with them regarding the parking on that day.

14 Q. Well, we'll get to that later. But how did you get along with the other
15 neighbors on ██████ Avenue, Judge?

16 A. I got along great with all the neighbors. I used to, you know, help each
17 one of the neighbors with any sort of help that they needed. You know,
18 from snowblowing until somebody needed their grass cut. I got the name
19 wrong yesterday, but it's Marion that's at Number 8. Her kids come and
20 visit every now and then. She's by herself. She's an elderly woman. I go
21 and check on her to see if she's okay every now and then. She
22 appreciates that. She had my phone number in case something happens.
23 And I've helped Riccio do stuff in the backyard. Never really helped
24 Contino do anything. He pretty much just had everybody -- contractors
25 do things themselves. And I would help whatever neighbor needed help

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1 with. I got along with all the neighbors fine. And in the beginning, I got
2 along with the Meles for a few years. But after that, it just went downhill
3 extremely quickly.

4 Q. So with this background information, on June 22, 2020, did you pull into
5 your driveway when you came home from the North End restaurant?

6 A. Yes, I did.

7 Q. What happened after you pulled into your driveway on June 22, 2020? I
8 think you said it was about 8:30 or 8:45?

9 A. Yeah, about 8:30. Yeah, I pulled in. I had some items that I had to take
10 out of the vehicle. I took those items out of the vehicle. I went into the
11 house to call -- I told my wife -- and it's the first time I've ever called on
12 them with regards to a parking issue. I've never called before. I've
13 always tried to ignore it. But on this particular occasion, it just hit me
14 where it's, like, you know what, you have to make a phone call. Called
15 D-District, and D-District told me to call 911.

16 Q. Did you call 911?

17 A. I did call 911.

18 Q. We have an exhibit here of the 911 call. And you've heard it and listened
19 to it. Is it a fair and accurate description of what it is that you said to the
20 people in 911?

21 A. Yes.

22 MR. CONNORS: So if we could pull up

23 Exhibit 1, I think it is, or --

24 MS. TRAPANI: 1-A.

25 MR. CONNORS: 1-A? Okay. Exhibit 1 is

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the --

MS. TRAPANI: Audio.

MR. CONNORS: Audio.

MS. TRAPANI: Do you want that?

MR. POSTEL: The video.

MR. CONNORS: It's the audio.

MR. POSTEL: Audio. Yeah.

MR. CONNORS: Audio. Yeah.

MR. POSTEL: (Unintelligible).

MR. CONNORS: Yeah. If you could play the audio for us, please. It's very short.

MS. TRAPANI: Sure.

MR. CONNORS: That's Exhibit 1.

[Audio was played]

BY MR. CONNORS:

Q. Okay, Judge. Now, if we could look at Exhibit 1-A for a second and -- page 1, down the bottom, line 22. So Judge, you mentioned there to this 911 operator that you have daughters and sons -- a son-in-law that are involved with the police and the fire department. Why did you tell them that?

A. Because that -- because I know through my -- through my kids that there were contract negotiations that were -- to this day, they haven't been taken place with the police, and I know that that affects 911, that affects everything else. And I know that the -- at that time period, the police department as -- and as well as its unions were getting mad that they



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1 haven't had a contract in years. And that was something that was, you
2 know, in the news. So I just kind of mentioned that, "Hey, you know, I'm
3 with you, and I know that you guys" -- I didn't come out and say contract,
4 but I think she knew what I was talking about.

5 Q. Were you trying to curry favor to obtain special treatment?

6 A. No, because it was -- I mean, I wasn't asking them to do anything other
7 than check to see if they can give the car a ticket or towed. And I didn't
8 really care when they came. But you know, if it was there later on, then
9 either put a ticket on it or tow it.

10 Q. And you never mentioned to the 911 operator that you were a judge, did
11 you?

12 A. No. Why would I do that?

13 Q. What happened after the 911 call occurred?

14 A. After the 911 call -- when I was doing that, Maria was taking our dog for
15 a walk. Our dog was experiencing some grave health concerns, so she
16 wanted to get him out of the house. And I do remember she did give the
17 dog the ice cream, because that was something that my wife testified
18 yesterday. The dog did get the ice cream. And dog went for a walk. I
19 met her down the street, came back with her. And we were basically
20 standing in the sidewalk area in front of our house.

21 MR. CONNORS: Okay. So if we could pull up
22 Exhibit 2, I think is the video.

23 BY MR. CONNORS:

24 Q. And I think you have Exhibit 2-A in front of you. But before we start
25 this -- I'm going to play the entire video, Judge. But you've seen this

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1 video before, Exhibit 2?

2 A. Yes.

3 Q. And you've seen the transcript of Exhibit 2-A?

4 A. Yes.

5 Q. Would it be fair to say that the transcript isn't exactly synced with the
6 video itself?

7 A. The audio and the video do not sync, not even close.

8 Q. What do you mean by that?

9 A. Well, the audio -- the video itself, it plays; it freezes; it doesn't connect.

10 And the audio doesn't match what is being showed in the video. It's not
11 even close. It doesn't match.

12 Q. So we're going to start this video at 7:13:46. And first of all, the date on
13 the video is June 23, 2020, and that's not the correct date, is it?

14 A. No, it's not the correct date. And as a matter of fact, it took the police at
15 least a day to get the audio from the video. They couldn't find it in the
16 computer.

17 Q. And the time of 7:13 and 46 seconds is not the time of the event that is --

18 A. That's not correct, either.

19 Q. -- the event that's shown in the video? Okay. So --

20 A. That's not correct.

21 Q. -- for purposes of the video to start, who can you see in that video?

22 A. I can see Maria.

23 MR. CONNORS: Okay. Can we play that just
24 a little bit, and I'll try to give you some advanced notice?

25 [Video was played]

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MR. CONNORS: If we could stop there.

BY MR. CONNORS:

Q. So prior to that, Judge, did you observe Maria ever kick the Mele vehicle that's shown in this video?

A. No. No. Maria did not -- in what was stated and what was stated by Gina Mele, Maria did not kick, spit, or circle the vehicle.

Q. Now, did you hear at 7:14:02 some noise, sounded like some conversation?

A. Yes. That was the Meles that were asking us -- what I -- remember was, they asked, "Is there an effing problem," and then, "What's the problem?"

Q. So if you look at Exhibit 2-A, which is in evidence, that's the transcript of these events, you see at the very top of the page a statement attributed to Maria, "Have they tried," and then it's unintelligible. And then there's some more unintelligible comments. Are you able to recall what was said at the beginning of this conversation, the words that you heard and who uttered them?

A. What I remember is -- I don't know why Maria said, "Have they tried," or you know -- she was saying on the other line, like, her and him from the car was, "Do you know if it's her car or his car?" So maybe it's just not clear. But then the next -- the unknown and the Ms. -- and the Ms. Mele is where it was said, you know, "Do you have an effing problem?"

Q. Do you recall --

A. And it wasn't "effing." And then the next line right after that was, "What's the problem?"

Q. Okay. So was that --

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1 A. And then that's me. I don't know why it says unknown. And I said,
2 "Yeah, Joe." And I said, "There is a problem. Your truck's in my
3 driveway."

4 Q. So lines 1 to 9, you've tried to recreate as best you can on the basis of
5 your memory and being actually there at the time of the events?

6 A. Correct. And then my wife was saying, "Don't talk, don't" -- you know,
7 basically saying, you know, "Don't talk to them."

8 MR. CONNORS: Okay. If we could go back to
9 the video and play it a little bit more, please.

10 [Video was played]

11 MR. CONNORS: Can you stop there?

12 BY MR. CONNORS:

13 Q. Can you -- can you recognize the voices in that part of the video at
14 7:14:13?

15 A. Yes.

16 Q. Whose voices do you recognize?

17 A. I recognize Joe Mele's voice and Gina Mele's voice.

18 Q. Do you know where they were situated at the time? Were they in their
19 house? Were they outside?

20 A. They were outside their house. As I showed you in the other exhibit,
21 there's a walkway that comes out of their front porch area that connects
22 into their driveway. They were on -- they started out on the porch, and
23 then they were on the walkway.

24 Q. Okay.

25 A. They were yelling at us from the walkway.

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1 Q. Now, the transcript before showed Mele saying, "What's the problem?"

2 Did you tell him what the problem was?

3 A. Yes. I said there -- I said, "There's a problem. Your truck's in my
4 driveway."

5 Q. Okay.

6 A. I never said, as Gina said, that -- I never said that, "I am a -- I'm a judge,
7 and I'll have your car ticketed and towed." I never said that to her, either.

8 Q. You never said that the entire evening, did you?

9 A. Never said that at all.

10 Q. Okay. So why did you try to tell them from the side of the street that
11 there's a problem? Why did you say that?

12 A. Because they're asking me what the -- "what's the problem, what's the
13 problem?" So I told them, "Yeah, there's a problem. There's a problem
14 with your truck that's -- you know, it's encroaching on the driveway."

15 MR. CONNORS: Can we go back to the
16 transcript for a second, please, Exhibit 2-A?

17 BY MR. CONNORS:

18 Q. So at line 9, you say to them, "There's a problem. Your truck's in my
19 driveway," correct?

20 A. Correct.

21 Q. Okay. You didn't curse at them, did you?

22 A. No.

23 Q. You didn't swear at them?

24 A. No.

25 Q. And you've told us you told them that because you wanted to identify

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1 what the problem was with their parking, correct?

2 MR. POSTEL: Objection. That's a statement,
3 and asked and answered already.

4 THE REFEREE: Sustained.

5 MR. CONNORS: Yeah. I'll withdraw.
6 If you could go down to line 10, 11, 12.

7 BY MR. CONNORS:

8 Q. So previously, you identified some sounds that you heard, and you said it
9 was Ms. Mele and Mr. Mele. And is that the "What's the problem, what's
10 your problem, what's the problem"?

11 A. Yes.

12 Q. Okay. And then --

13 A. As a matter of fact, on line 11, Ms. Mele, where is says, "What's -- well,
14 what's the problem, guys," when I listened to the tape, she actually says,
15 "Well, what's the problem, Mark?"

16 Q. Okay.

17 A. It's not "guys." She says -- and it's not unintelligible. It says, "What's the
18 problem, Mark?"

19 Q. And did you then tell them that you've called the cops?

20 A. Yes. I said, "I've already called the cops."

21 Q. Why did you tell them that?

22 A. To let them know that I called the cops, and that I called them to ask that
23 they come down and give them a ticket.

24 Q. What was Mele's response to you at that time?

25 A. "Shut up."

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1 Q. Go up line 16.

2 A. Line 16, "Shut up," which Ms. Mele to Maria was, "Fuck you, Maria."

3 And Mr. Mele was, "Shut up. What's your problem?" And then Maria

4 said, "Don't worry."

5 Q. Where were you located at the time that Ms. Mele said, "Fuck you,

6 Maria"?

7 A. In our driveway.

8 Q. Where were they located?

9 A. On their walkway that goes from the driveway to the front part of their
10 house.

11 Q. Okay.

12 A. Their front door.

13 Q. Then Gina Mele, on line 19, made that insulting comment to your wife.

14 You see that?

15 A. I do see that.

16 Q. Where were you located, and where were the Meles located?

17 A. I was -- still the same position.

18 Q. Okay. And did you tell them, line 20, the problem?

19 A. Yes. That part -- I said that, "Your truck's in my driveway." And I said,

20 "Okay." And then Maria saying, "Don't worry," and Gina Mele's

21 mocking her, saying, "Don't worry."

22 Q. Okay. Up to this time, you had not cursed at them or swore at them?

23 A. No.

24 Q. And nor had Maria, had she?

25 A. No.

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1 Q. But you then say, on line 24, "But there's a whole 'nother eight." What
2 does that mean? What are you referring to?

3 A. I was saying to them that there's a whole 'nother eight feet here for them
4 to pull up. And that was the point where I started moving from my
5 driveway to get closer. They're shouting, so I'm shouting louder. And
6 I'm trying to explain to him there's a whole 'nother eight feet here. And
7 I've said that on numerous occasions to them when they park, that there's
8 plenty of room to either back up or pull forward. And usually, I would
9 get spit at or something like that. This was -- resulted in them actually
10 having a, you know, somewhat of a verbal conversation where I can tell
11 them, "There's another eight feet here. Can you pull up?"

12 Q. So if you go to page 2 --

13 A. Yeah. That's -- that's the finishing of it on page -- line 2 on page 2,
14 saying "Feet here."

15 Q. Yeah. And just looking at what you said, there's a continuation of the
16 previous line that says, "There's another eight feet here," correct?

17 A. Right.

18 Q. And then line 7, you say, "There's eight feet here."

19 A. Correct.

20 Q. And then you say it again on line 9.

21 A. Correct.

22 Q. Why are you repeating that to the Meles?

23 A. Because, basically, Gina Mele just started insulting Maria. So Gina and
24 Maria were basically insulting each other, sort of speak. I'm kind of
25 directing that towards Joe. And he's basically saying, you know, "You

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1 got a problem? What's your problem?" Because he's -- you know, she's
2 saying, "About what?" And I'm saying, "There's another eight feet here."
3 So I keep saying that to them. And at that point, I start moving towards
4 the street.

5 MR. CONNORS: So could we go back to the
6 video and play it forward, please? We're at 7:14 and 15
7 seconds.

8 [Video was played]

9 MS. TRAPANI: I'm sorry. Would you like me
10 to go back to that and start over?

11 MR. CONNORS: Sure. I think you got it pretty
12 good, though. But yeah.

13 [Video was played]

14 MR. CONNORS: Okay. You can stop it there.

15 BY MR. CONNORS:

16 Q. So Judge, why did you cross the street?

17 A. I was crossing the street. When I was standing on my side of the
18 driveway, you know, you couldn't pick it up on the video, but I'm
19 basically saying to Maria, "They're not really comprehending this." So
20 I'm, like -- I'm screaming, "There's eight feet here." I go, "Why don't you
21 call" -- I call the cops. I start going across the street. Maria actually
22 was -- she goes, "I'm going to go over there." I'm like -- I'm like, "No.
23 I'll tell them to move the vehicle." And I came across the street. And I'm
24 telling them, "There's eight feet here." You can see just before that, the
25 first time I said it, I'm actually pointing at the vehicle. And then I was

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1 saying it; I was coming across the street.

2 Q. Well, why did you want to tell them that there was eight feet in front of
3 the vehicle?

4 A. "To move your car up or else, you know, I called the police, and you're
5 going to get a ticket."

6 Q. So --

7 A. I was trying to have a conversation, you know, with Joe. You know, I
8 knew -- you know, I knew Gina and Maria were arguing. I said -- but I'm
9 trying to have a conversation with Joe. And it -- really, to try to say,
10 "Listen," you know, if I can get this resolved once and for all.

11 Q. So when you got across the street -- if we could go back to page 3, line 9.
12 So when you got across the street to page -- excuse me -- across the
13 street, and you look at page 3, line 9, is that when Joe Mele said to you,
14 "Come on, Mark. Come on, Mark"?

15 A. Yes.

16 Q. What did you interpret that to mean?

17 A. He basically say, "Come on, Mark. Come on, Mark." And you know,
18 when I first heard it, I took it to mean, like, not that he was inviting me
19 over there, but I took it to mean, like, "Ah, come on, Mark," you know,
20 "You're full of it." But then when he started saying, you know, "Come
21 on," I was already there. I was already up the street, like, in the front part
22 of his driveway when he -- when it changed to, like, "Come on," you
23 know -- he says, "Come on, motherfucker." And then she's saying, "He's
24 a chickenshit" from the sidewalk area, the sidewalk that goes from their
25 driveway to the house.

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1 Q. So what did you interpret that to mean?

2 A. I'm like, you know, the guy wants to fight.

3 MR. CONNORS: Could you scroll up a little
4 bit to the -- on this page, please?

5 MS. TRAPANI: Um-hum. Down to show more
6 of it?

7 MR. CONNORS: Yes. Yeah.

8 A. I didn't go over there to fight. But he -- the way it switched from, "Come
9 on, Mark" to what he said, I'm like, "Oh, this guy wants to fight." So I'm
10 saying to him, "Come on," you know, "Come on." And I didn't think
11 that -- I didn't think that he was going to do anything, you know, because
12 I've seen before where, you know, somebody would say something back
13 at him if he was -- if he wanted a challenge, and if somebody said
14 something back to him, you know, he would just go in the house. I didn't
15 think that he was going to actually do anything. I didn't go over there
16 to -- you know, to start an altercation with him.

17 BY MR. CONNORS:

18 Q. But in line 14, he says to you, "Come on, motherfucker," right?

19 A. Right. And I was at -- I was actually at his driveway at that point.

20 Q. And then Gina said, "He's a chickenshit." Did you understand that to
21 mean she was referring to you?

22 A. Yes, that they -- that, "He's not going to fight."

23 Q. And then Mele then calls you a "cocksucker."

24 A. Correct.

25 Q. Now, you respond, and you say, "Come on, come on, come on," three

1192.



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1 times. What does that mean? What were you saying at that point?
2 A. I was basically saying, you know, what if -- if this guy wants to fight, I'm
3 going to call him on it, because I've seen him do that before. I seen him
4 do that with Riccio. And you know, I'm thinking, "He's not going to --
5 he's not going to -- he's not going to start a fight." And you know, almost
6 to -- you know, by that point, I'm like, "All right. I'm here. I mean, do I
7 call him out on it," because I remember what happened before with Tony
8 Riccio, where he would call him on it, and then he would just back down.
9 So I figured if I call him on it, he's going to back down. And that wasn't
10 the case.

11 Q. Yeah. In line 20, Mele says to you, "What have you got, tough guy?"

12 A. Correct.

13 Q. And was that similar to some of the other challenges that he had
14 previously issued to you in --

15 A. Yes.

16 Q. -- the neighborhood?

17 A. Yes, they are.

18 MR. CONNORS: And if we could scroll down
19 or up, whichever.

20 BY MR. CONNORS:

21 Q. Now, you hear Maria say something a little bit different. It says, "You let
22 go, you let go." Do you --

23 A. Correct.

24 Q. -- remember -- you remember that?

25 A. I do.

1193.



(Hon. Mark J. Grisanti - Direct)

1 Q. What is that referring to?

2 A. Well, because Maria put her arm out, you know. All this was said as on
3 there, Joe's coming down the sidewalk. He's saying, "Come on, come on,
4 you cocksucker. Let's see what you got." He's coming like a train.
5 Maria puts her arm out, and he basically grabs her arm and like, kind of,
6 like, throws it to the side. It's choppy in the video, but you can clearly
7 see that he grabs her arm and he pushes it to the side.

8 Q. Okay. So --

9 A. So when he grabbed it, that's why she's saying, "Let go."

10 MR. CONNORS: Okay. So let's go back to the
11 video and take a look at that, and we can match them up.

12 [Video was played]

13 THE RESPONDENT: Right there. If you go
14 back a little bit further. See, Maria's ahead of me at that
15 point. She puts her arm out. He pulls it away, and that's
16 where he pushes me.

17 BY MR. CONNORS:

18 Q. Okay. And you go backwards?

19 A. Yes. You can see his arms completely extended. You can see me going
20 backwards. And prior to that, you can see -- that's at 7:14:38, you clearly
21 see, prior to that, that Maria put her arm out, and he grabbed her arm and
22 threw it aside. Maria did not punch him or anything like that there, as
23 Gina Mele said.

24 MR. CONNORS: So if you go back to the
25 transcript at page 4 to see if we can synchronize this.

1194.



(Hon. Mark J. Grisanti - Direct)

1 BY MR. CONNORS:

2 Q. So at the top of page 4, Mele, again, calls you a "motherfucker" and tells
3 you to, "Take your fucking shot." You see that?

4 A. Yeah. Correct.

5 Q. Do you recall that?

6 A. I do recall that. And I said to him, "What do you got?" And it wasn't at
7 that point that he did anything. But when Maria put her arm out to kind
8 of stop him, and he grabbed it and pushed it away, she's like, "Don't touch
9 my husband." But Maria basically was putting her arm out to stop. And
10 then he says again to me, in line 12, "Come on, motherfucker." And he
11 says, "I'll fucking," and that's when he pushed me, "knock you out." So
12 in other words, what he's saying to me was, "I'll frigging -- I'll fucking
13 knock you out." He pushes me. And that's why I said to him, you know,
14 "You're a fucking asshole."

15 Q. Okay.

16 A. That was at the time that he pushed me. That's why I -- that's why I
17 called him that.

18 Q. Now, on that same page, if we could scroll down a little more, Gina Mele
19 says, on line 20, "Don't fucking touch my fucking," and it's cut off with
20 her sister speaking.

21 A. Right.

22 Q. But later, she will say -- continue that thought, "Don't fucking touch my
23 fucking," and then the next page says -- I think it says "husband." Well,
24 it's unintelligible.

25 MR. POSTEL: No. That's Dantonio.

1195.



(Hon. Mark J. Grisanti - Direct)

1 MR. CONNORS: Yeah. It says, "Don't" --
2 okay.

3 MR. POSTEL: That's Dantonio.

4 MR. CONNORS: Yeah.

5 THE RESPONDENT: Yeah. There's --

6 MR. CONNORS: So the next --

7 THE RESPONDENT: -- nothing -- there's --
8 there's nothing after that.

9 MR. CONNORS: Okay. So if we could go
10 back a little bit --

11 THE RESPONDENT: But right -- but right
12 there on page 4 --

13 MR. CONNORS: We can go --

14 THE RESPONDENT: Well, I'll wait for a
15 question.

16 MR. CONNORS: -- back a little bit.

17 BY MR. CONNORS:

18 Q. So at that time, Mr. Mele, Joe Mele, at 22, says, "You bit my arm, you
19 fucking." Do you know what he's referring to?

20 A. Yes. Maria bit him.

21 Q. How did that come about?

22 A. Because in the video, after Joe pushed me, we're standing there, and then
23 Gina and her sister, Theresa, came down, and they grabbed Maria. Now,
24 they grabbed Maria, and they were basically -- one had her -- Theresa had
25 her -- she said she knew jujutsu. It's -- and she had her around the neck,

1196.



(Hon. Mark J. Grisanti - Direct)

1 and Gina had her from the other side of the neck. And Joe Mele was --
2 had his right arm extended. He's holding Maria back. And Maria's -- and
3 I'm saying to get off, because I'm trying to pull Maria back over to our
4 side of the driveway.

5 As I said, I should've never -- I should've never went across the street. I
6 basically thought I could call his bluff, as I seen before. And I didn't
7 think he'd push me. But you know what, when he came like a freight
8 train, and I saw him push Maria's arm and then push me, I'm like, "Yeah,
9 this is not going to -- this is not going to be good." And they immediately
10 jumped on Maria. Joe's involved. His arm's preventing me from
11 bringing her across the street, because the girls were on top of her.

12 MR. CONNORS: If we go to page 5 --

13 A. And it doesn't pick it up, but he's actually saying to me, you know, stuff
14 like, girl -- like, girl fight stuff. You know what I mean?

15 MR. CONNORS: Page 5, if we go to line 17.

16 BY MR. CONNORS:

17 Q. So line 17 is unintelligible. I take it you don't recall what you said at that
18 point.

19 A. No.

20 Q. But did you recall -- do you recall hearing, in line 21, Gina Mele saying,
21 "Choke her, choke her. Give her a chokehold, Theresa," and then at 24,
22 "Fucking choke her"?

23 A. I recall her saying that, because the two girls were on her at that point.

24 When Maria bit Joe's arm, Joe then got -- Joe then let go. I was pulling
25 Maria. But Joe comes around and grabs me and starts grabbing -- I had a

1197.



(Hon. Mark J. Grisanti - Direct)

1 button shirt on. It wasn't a T-shirt. I had a button shirt on and a -- and a
2 T-shirt underneath. And Joe came at me, and actually started grabbing
3 my shirt and pulling it over my head like a hockey move.

4 Q. Did you see your wife being choked?

5 A. Yes.

6 Q. What -- what was your --

7 A. And I'm trying to break away from Joe, but he's grabbing my shirt and
8 put it over my head. And he gave me a shot -- like, an uppercut when he
9 was doing that.

10 Q. What were your thoughts when you saw Maria being choked by two or
11 more people?

12 A. I was extremely concerned for her, because, you know, she has -- she's
13 tiny. And you know, she's -- you know, she's a scrapper. But I mean,
14 you know, she may talk and swear and have a big game. But you know,
15 when you have two people on you like that, three from the beginning and
16 then two more people on her, I was concerned, because, you know, I saw
17 the one choking her as I was pulling Maria away, and I saw where Gina
18 was on her neck. But when I heard that, it was very concerning.

19 Q. Were you afraid that she would be seriously injured?

20 A. Absolutely.

21 Q. Did you try to intervene?

22 A. I was trying to get away from Joe. And eventually, I did. And I went to
23 go grab her again.

24 Q. When you say "grab her," you mean Maria, your wife?

25 A. Try to grab Maria again, right, to get her away from -- to get her out of

1198.



(Hon. Mark J. Grisanti - Direct)

1 there. And I was successful.

2 MR. CONNORS: So if we could go back to the
3 video. So we're playing from 7:14:38 on.

4 [Video was played]

5 THE RESPONDENT: So you can see me in
6 the --

7 MR. CONNORS: Stop --

8 THE RESPONDENT: -- video.

9 MR. CONNORS: -- stop there. We can stop
10 there.

11 BY MR. CONNORS:

12 Q. And I was going to ask you what it was that you saw or you were doing
13 at that point at 7:15:00.

14 A. You can see, at that point, me on the far side in the white shirt. You
15 see -- even if you back it up a little bit, you'll see Theresa, Gina, and Joe
16 all on Maria. And you'll see me pulling -- you can see me pulling her
17 arms to try to get her across the street. It's actually a little bit before this.

18 Q. But you're no longer on the sidewalk in front of the Mele home, are you?

19 A. I was never on the sidewalk in the Mele home. I was always in the street.

20 MR. CONNORS: Okay. You can continue it,
21 please.

22 A. As a matter of fact, and I was (unintelligible) --

23 BY MR. CONNORS:

24 Q. Hang on just a second, Judge. I'm going to --

25 A. Okay.

1199.



(Hon. Mark J. Grisanti - Direct)

1 Q. -- continue and play a little more.

2 [Video was played]

3 THE RESPONDENT: If you back that up, that's
4 when Joe's arm was in front of her.

5 MR. CONNORS: In front of Maria?

6 THE RESPONDENT: Yes.

7 MR. CONNORS: Okay.

8 THE RESPONDENT: There's Joe pulling my
9 shirt over my head at 17:15:10, and the girls are on Maria.

10 See, he took my shirt off, and he's holding it in
11 his hand. And now he throws it on the ground.

12 MR. CONNORS: So if we could stop there.

13 BY MR. CONNORS:

14 Q. And when he had your shirt off, do you recall whether or not he was
15 punching you at all?

16 A. When he was pulling the shirt over my head, he gave me a shot
17 underneath. And before that, after he pushed me, and the girls came
18 down, and I was pulling Maria, and his arm's here, he also gave me a
19 whack with his hand as I was trying to -- as I was trying to pull Maria
20 away. It -- you can see it on the video as plain as day.

21 Also, when I walked up, you can see it in my hand, as I had the -- the --
22 the droppings from my dog in a plastic bag that were in -- that was in my
23 hand. They -- she -- Gina Mele, numerous times, claimed on the video
24 that I had a cigar. I did not have a cigar in my hand.

25 And that scarf was not Maria's. Maria didn't even have a scarf. As a

1200.



(Hon. Mark J. Grisanti - Direct)

1 matter of fact, the scarf appeared when Theresa Dantonio came down into
2 the mix. Maria wasn't even near the area where the scarf was dropped.

3 Q. When you first walked across the street from your home toward the Mele
4 home, did you have the dog droppings, you said, or excrement in a bag at
5 that point?

6 A. Yes. When I came from my side -- yeah. I was holding it when I -- when
7 I was walking Fredo.

8 Q. So were you planning to go over to fight Joe with the dog excrement held
9 in your hand in a bag?

10 A. No. No.

11 MR. CONNORS: We could play a little bit
12 more, please.

13 [Video was played]

14 THE RESPONDENT: Now he come -- he came
15 after me again.

16 MR. CONNORS: So we'll stop there. So
17 stopping at 7:15:29.

18 BY MR. CONNORS:

19 Q. You see now that Mele's on the ground, right?

20 A. Correct.

21 Q. Did you ever punch Joe Mele that --

22 A. Never.

23 Q. -- night? Did you ever hit him at all?

24 A. I never hit him, and I never hit anybody.

25 Q. When --

1201.



(Hon. Mark J. Grisanti - Direct)

1 A. I told the officer in my statement that I was flaring my arms to try to get
2 out of where my shirt was, and I may have hit him. But when I saw the
3 video, I never made contact with him at all.

4 Q. So how did he go to the ground?

5 A. Because he went to go take his -- as we were backing up towards my
6 driveway, he went to go take a swing. I backed up. He missed. He
7 grabbed my chain and my undershirt, and he -- it ripped right off. And he
8 hit the ground face-first.

9 Q. We've seen a photo of the injuries that he's had in -- around his eye. Did
10 you cause those injuries?

11 A. No.

12 Q. Did Maria?

13 A. No. I saw when he got up. He had glasses on. And I saw when he got
14 up, and his glasses were pushed into his eye. And there was, like, a cut
15 there. And he was trying to fix his glasses.

16 Q. While he was down on the ground, where were you?

17 A. You can see in the video that I backed up, but I just stayed back there.

18 Q. While he was on the ground, could you have hit him or struck him or --

19 A. Oh, absolutely. If he was on the ground, and I was that type of person, I
20 would've -- I could've done a number of things. And I didn't touch him at
21 all.

22 MR. CONNORS: Okay. Can we play a little
23 more, please, from 7:15:29?

24 [Video was played]

25 THE RESPONDENT: You can see that -- you

1202.



(Hon. Mark J. Grisanti - Direct)

1 can see me and Maria standing in our driveway. We're
2 staying away from them. And I'm -- we're -- actually, I'm
3 telling them to stop, and I'm telling them to go home. And
4 Gina came up again towards -- after Maria.

5 MR. CONNORS: Okay. We can it hold there,
6 please, at 7:15:40.

7 BY MR. CONNORS:

8 Q. If you go to page 7 of the Exhibit 2-A, the transcript, line 7. So there's --
9 line 7 and, 8, it's unintelligible. And I take it you can't remember what
10 was said before that. But in line 9, you say, "Stop." Do you --

11 A. Correct.

12 Q. -- remember that?

13 A. Correct.

14 Q. And you say it again in line 18.

15 A. Yes.

16 Q. Who were you directing that instruction to stop?

17 A. I'm directing it to the Meles, because the other individual, the unknown
18 that's on there, is the individual that came in from the -- from the other
19 side. That's Charlie Adamo, where -- on page 7, line 3, where's he's, like,
20 "Mark, come on. Come on, please." And he says, "The -- come on. The
21 cops are going to come." So I'm basically telling them to stop, because
22 me and Maria were standing in our driveway away from the Meles, and
23 they came again at us. And I was just yelling, "Stop."

24 Q. Is Adamo a -- a neighbor on that street?

25 A. Yes.

1203.



(Hon. Mark J. Grisanti - Direct)

1 Q. Is he someone who's also had problems with the Mele family?

2 A. He's down in the middle of the block. He doesn't ever come to that side
3 of the block.

4 Q. Why not?

5 A. He just doesn't. You know, he just -- he's a guy that doesn't want to have
6 any problems.

7 Q. Now, on page 9 of the transcript, Exhibit 2-A, line 5, Mele is still -- I'll
8 say what he says. "Come on, motherfucker," at page 9, line 5, correct?

9 A. Yes.

10 Q. And you say, "Tough guy, yeah"?

11 A. Yeah, because I said prior to him -- because he was still, like, on my
12 driveway. And he's, like, being mouthy. So I said, "Oh, you want to go
13 again, tough fucking guy?" And Charlie goes, "Oh, stop." And then he
14 says, "Come on, motherfucker." And I go, "Yeah, tough guy, yeah."
15 And then I told him, you know, "I'll flat your -- your -- I'll fucking flatten
16 your face again," and "you ain't flattening nothing." I never struck him. I'm
17 saying, "Go" -- you know, I'm telling him -- he knows what I meant, Joe,
18 because I -- you know, "Go ahead and take another shot at me. I'm just
19 going to back up, and you're going to fall on your face again," because
20 that's what happened.

21 Q. But you never struck him?

22 A. I never struck him. And even Joe said that I never struck him. Even his
23 wife said I never struck him. My [sic] wife said that Maria gave him a
24 black eye. He got this black eye from falling flat on his face. And I saw
25 that when his glasses went into his face.

1204.



(Hon. Mark J. Grisanti - Direct)

1 MR. CONNORS: If we could scroll a little bit
2 further.

3 BY MR. CONNORS:

4 Q. In line 18, Maria says, "You're -- you're real good with your spitting."

5 A. Correct.

6 Q. Do you know what that was in reference to?

7 A. Yeah, because she was being spit at.

8 Q. Maria was?

9 A. Yes.

10 MR. CONNORS: Now, if we could go back to
11 the video, please? From 7:15:41, play forward.

12 [Video was played]

13 THE RESPONDENT: As you can see, me and
14 Maria are standing there by our white car, and they're still
15 in our driveway. And we're telling them to stop and to go.
16 And you just heard, you know, Maria saying, "Get out of
17 here, Gina." And Joe's actually saying, "Come on, Gina."

18 In that video, at 17:15:58, I'm not even near the
19 scene. That's when I was getting my necklace that he
20 ripped off, that she tried to say was her husband's.

21 From 7:16 on, we're standing there in our
22 driveway, and they're -- they're standing in the street, you
23 know, basically -- they still wanted to fight. But we're
24 standing there.

25 BY MR. CONNORS:

1205.



(Hon. Mark J. Grisanti - Direct)

1 Q. How did your T-shirt get ripped and your necklace get broken?

2 A. Because when he went to go take a swing at me, he basically ripped -- he
3 ripped the necklace and ripped the T-shirt area. And literally, I was
4 covered in -- the bag broke open, and I was actually covered in -- the shirt
5 and the undershirt were covered in dog poop.

6 Q. Now, is Linda Chwalinski there at this point?

7 A. She's -- she was -- she's been there, but you can't see her in the picture.
8 She's to the right. She was there when Maria was being choked.

9 Q. Now, at 7:17:06 and 05, Joe Mele walks back. Gina walks back, but then
10 she goes back to you -- Gina goes back out into the middle of the street.
11 Do you remember that?

12 A. Yes. She goes -- she's actually going back after Maria. And I'm grabbing
13 Maria, and I'm pulling Maria back.

14 Q. Why were you pulling Maria back?

15 A. Because Maria was over in the driveway, and then for some reason, the
16 girls got back together again, meaning Theresa, Gina, and Maria, and
17 they were arguing loud. They weren't doing anything at that point. But I
18 didn't want it to get into another physical altercation. They're basically
19 yelling at each other.

20 MR. CONNORS: So if we could stop there.

21 BY MR. CONNORS:

22 Q. So at one point prior to 7:17:32, Joe Mele goes back to his side of the
23 street. Gina goes halfway back. But then Gina goes forward again to
24 encounter and engage with Maria.

25 A. Correct.

1206.



(Hon. Mark J. Grisanti - Direct)

1 Q. And then Joe follows her back over to your side of the street.

2 A. That's correct.

3 Q. Do you remember that happening?

4 A. I do remember that happening.

5 Q. Where were you at that time?

6 A. I'm actually on -- between my driveway apron and the sidewalk, and Joe's
7 to the left. And it's at this point where my shirt actually is -- that I have
8 on is ripped. I'm noticing that I'm covered in, really, dog feces. And I
9 just take the rest of the shirt off. And I have the button shirt that's still in
10 my hand.

11 MR. CONNORS: So if we go to page 12 in the
12 transcript, please, line 15, 16.

13 BY MR. CONNORS:

14 Q. So line 15 and 16, Maria says, "Get out of here," and you say, "Get out of
15 here."

16 A. Right.

17 Q. And Maria -- the full sentence is, "Get out of here, Gina," right?

18 A. Correct.

19 Q. And what did -- how does Ms. Mele respond?

20 A. "Motherfucker."

21 Q. And --

22 A. And then she says it again, "You motherfucker."

23 Q. All right. Now, why are you telling -- why are you saying, "Get out of
24 here" in line 16? Who are you saying that to?

25 A. I'm just telling them to get away from our driveway. "Get out of here.

1207.



(Hon. Mark J. Grisanti - Direct)

1 Go across the street."

2 Q. Then at line 13 -- I'm sorry -- page 13, line 3, you say, "Get out of our
3 fucking life now." Do you remember that?

4 A. I do.

5 Q. In-between when you're saying this to the Meles, I take it?

6 A. Yes.

7 Q. And Gina Mele calls you what?

8 A. I think she's calling Maria a motherfucker, because Maria says the same
9 thing back to her.

10 Q. Okay. Then on line 8, you say, "Get the fuck out of my driveway."

11 A. Yes. This is where the video tape ended, because they're going to -- you
12 know, they're going to go at it again. And Joe's saying, you know, "Hey,
13 don't touch her," calling Maria a wack job. And I'm saying, "Get the fuck
14 out of the driveway." And then he's saying to me, again, "Come on,
15 motherfucker." And I said -- and I just said, "You're a fucking asshole."

16 MR. CONNORS: Okay. Could you go back to
17 the tape and play that, please?

18 [Video was played]

19 THE RESPONDENT: And you can see, that's --
20 that's Joe [sic] Adamo in the green shirt at 17:17.

21 MR. CONNORS: 7:17:40.

22 THE RESPONDENT: Yes.

23 MR. CONNORS: That's Charlie Adamo.

24 THE RESPONDENT: So you can see that
25 they're still there. And I was in my -- on my driveway. Joe

1208.



(Hon. Mark J. Grisanti - Direct)

1 was going back to the street, and they came -- he came
2 back. And I think at this point, he's coming back to get
3 Gina to come back to their side of the street.

4 There's where you can see that she's actually
5 kicking -- she's got her -- she's moving the scarf that she
6 claimed was Maria's that I say was Theresa's, because
7 Maria didn't have a scarf. And they were actually moving
8 that so they could say that that's our items that are on the
9 ground.

10 BY MR. CONNORS:

11 Q. So if you go to page 15, line 2 and line 13, you're saying, "Go inside, go
12 inside, go inside." Three times, you say that. Who are you saying that
13 to?

14 A. I'm saying that to the Meles.

15 Q. And what are the Meles saying back to you?

16 A. They're basically saying that -- saying now, "You're fucking drunk." I
17 mean, that's -- you know, just swearing. And I say to them on -- on page
18 15, "Nobody likes you guys on the street," because, basically, they start
19 with everybody. And I call him a piece of shit. I'm not proud of my
20 language with him. I don't talk like that. As people have known me, I
21 don't talk like that. And you know, I got down to his level. And if he's
22 swearing at me, I was going to swear back at him.

23 MR. CONNORS: So if we could play some
24 more of the tape, finish that up.

25 //

1209.



(Hon. Mark J. Grisanti - Direct)

1 BY MR. CONNORS:

2 Q. Shortly thereafter, the police arrived, right?

3 A. Correct.

4 [Video was played]

5 THE RESPONDENT: At one of the points in
6 there, Maria was -- at about 17:19, thought she was going
7 across the street, so I say, "Maria, get over here."

8 I may -- there's no question, but --

9 BY MR. CONNORS:

10 Q. Okay. So now, 7:20:02, the police arrive.

11 A. Correct.

12 Q. So what happened when the police arrived?

13 A. When the police arrived, we went from our driveway to the officers. I
14 said to the officers, you know, "They ripped my shirt, ripped my necklace
15 off." Maria had a few choice words about the Meles, called them names.
16 And then -- she was very upset. She was emotional. And she walked
17 over to confront, again, Theresa, who was the one that was choking her in
18 the beginning.

19 And you can't make out what the words were, but when you look at that
20 picture at 7:20:02, and you look at the size of Joe Mele and you look at
21 Maria, who's all but five-foot-one, you know, 105, 110 pounds, and you
22 got this six-foot-two guy on her with his arm across her mouth, it's not,
23 like, you know, he said -- Maria said, "Give me your arm so I can bite it."
24 The only way she would bite his arm is because he was preventing her
25 from moving forward.

1210.



(Hon. Mark J. Grisanti - Direct)

1 So for him, the way he was helping his sister-in-law and his wife attack
2 Maria, I saw -- and I'm trying to pull her away. She had no choice, really,
3 but to bite him. And I'm glad she did. And -- because he broke free,
4 then, but she still had a two-on-one. So I didn't have three people on me.
5 Maria did. And you could see how tiny she is in that photograph
6 compared to the other individuals. So she was extremely, extremely
7 upset. And I was extremely upset, because I was concerned, really, of
8 how her adrenaline was going and how everything was happening. I was
9 very concerned for her.

10 MR. CONNORS: So could we continue the
11 video from 7:20:02?

12 [Video was played]

13 THE RESPONDENT: Now, you can see in that
14 video that I'm actually standing by the car -- the truck,
15 rather. And Maria's -- is with Theresa. And Ofc.
16 Muhammad says, you know, "Come across the street."
17 Ofc. Gehr tells her to go across the street. And when he did
18 say that, she went across the street.

19 So my understanding was, you had Ofc. Gehr
20 that was going to talk to the Meles, and you had Ofc.
21 Muhammad that was going to talk to us.

22 BY MR. CONNORS:

23 Q. And did you talk to Ofc. Muhammad?

24 A. I did. I was telling Ofc. Muhammad what the situation was. As you can
25 see in the video, my back and -- and Ofc. Muhammad back is to the

1211.



(Hon. Mark J. Grisanti - Direct)

1 Meles. And I understand, Maria was in our driveway. She's screaming.
2 She's still upset as to what happened. She was just violently attacked.
3 And I can hear that the one officer's kind of yelling at her, saying, you
4 know, "I want you to be quiet." I'm still trying to talk to Ofc.
5 Muhammad. And that's when Ofc. Gehr came running by. Ofc.
6 Muhammad said to him --

7 MR. CONNORS: Okay. If we can -- we can go
8 to Exhibit 12, because that's a much better -- that's Ofc.
9 Muhammad's body camera, Exhibit 12. And 12-A is the
10 transcript.

11 And if you can run that to a point. I'll tell you to
12 stop. Hopefully, I'll find it.

13 [Video was played]

14 THE RESPONDENT: You can see I'm trying to
15 tell my -- trying to tell Maria to stop.

16 MR. CONNORS: Okay. Stop, please.

17 BY MR. CONNORS:

18 Q. So this is Exhibit 12, which is the body camera of Ofc. Larry
19 Muhammad, correct?

20 A. Correct.

21 Q. Is he the officer that you were standing in the street talking to you?

22 A. Yes.

23 Q. And is this essentially the same view that you had of what was happening
24 to Maria?

25 A. Yes.

1212.



(Hon. Mark J. Grisanti - Direct)

1 Q. Now, you mentioned that you saw Ofc. Gehr come across the street and
2 go towards Maria, correct?

3 A. Correct.

4 Q. Okay. At the time you saw Ofc. Gehr go towards Maria, did you hear
5 Ofc. Muhammad say anything?

6 A. Yes. Ofc. Muhammad told Ofc. Gehr, "She's good, she's good." I
7 believe he said it three or four times.

8 MR. CONNORS: So if we could go to 12-A,
9 page 3 -- 12-A, page 3, line 19. There we go.

10 BY MR. CONNORS:

11 Q. Now, Ofc. Muhammad says, "She's good, she's good, she's good."
12 Actually, three times he says that, correct?

13 A. Right.

14 Q. Were you standing next to him when he said that?

15 A. Yes.

16 Q. What did you understand that to mean?

17 A. That he was telling his partner that he had it under control, that his side
18 was him taking care of us, and Ofc. Gehr was across the street, was to be
19 taking care of the Meles and getting a statement from them. I mean, he
20 had a -- he ran 25 yards to get to her.

21 MR. CONNORS: Okay. Go back to the --

22 A. And he was running.

23 MR. CONNORS: -- go back to the video,
24 please.

25 [Video was played]

1213.



(Hon. Mark J. Grisanti - Direct)

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MR. CONNORS: Hold that.

BY MR. CONNORS:

Q. So we just played the video, the portion -- looks like 48:44Z is the segment that was just played. But we know it's the segment where you approached Ofc. Gehr, correct?

A. Correct.

Q. Why did you do that, Judge?

A. Because I was concerned for Maria's safety. He came running at her. His back was to me. She was in front of him. But I saw her have her arm, and I saw her take her and do some kind of maneuver and what I consider to be a take her to the ground violently and excessively. It was not proper.

Q. What did you do, physically, with respect to Ofc. Gehr?

A. Well, I mean, I was listening. I was concerned because, you know, I saw what Maria was just involved with. He didn't. I saw it. I witnessed it. It was violent. Yes, she's swearing. Yes, she's trying to do what she can do. But there's three people on her, then two people on her. She was just violently attacked in my position. Nobody, like, really hit me except for little uppercut from Joe. But she was attacked. Does she swear a lot? Does she have a big mouth? That's the level we were brought down to unfortunately in dealing with these individuals who are swearing back at us. And that's what's embarrassing. When I saw him grab her, and I was concerned, because she has neck problems and back problems, and throw her to the ground like that, I pushed him on the shoulder, and I said to, "Get the fuck off of my wife."

1214.



(Hon. Mark J. Grisanti - Direct)

1 Q. Had there been a series of episodes of which you were aware involving
2 police and use of force in our community prior to that time?

3 A. Yes. It -- it's -- it was been going on since about 2018. There was an
4 incident with excessive --

5 MR. POSTEL: I'm going to object to this,
6 unless it has specifically to do with this officer.

7 THE REFEREE: The question is that was he
8 aware of --

9 MR. CONNORS: Instances of excessive force
10 by the Buffalo Police Department.

11 MR. POSTEL: It's irrelevant to --

12 THE REFEREE: Prior -- prior to June 20th --

13 MR. CONNORS: Yes.

14 THE REFEREE: -- 2020? I'll allow it for, not
15 for its truth --

16 MR. CONNORS: His state --

17 THE REFEREE: State of mind.

18 A. I knew that in 2018 and '19, it seemed like one a year of excessive force.
19 And once that was actually brought out to the public, it was something
20 that stayed in the media for a long period of time. Just prior to this
21 incident, you had the George Floyd incident that was nationally televised.
22 It was televised where there were literally demonstrations all across, not
23 only this nation, but also in Buffalo. And then those demonstrations
24 resulted in protests.

25 There was a protest at least a couple of weeks before this -- this incident

1215.



(Hon. Mark J. Grisanti - Direct)

1 in Niagara Square, where the police officers pushed a gentleman, and he
2 fell over and he cracked his head open. That -- when you saw the video,
3 you were kind of in shock because of the force that was used. When you
4 saw the video of George Floyd, you were even more in shock that the
5 abuse of those officers had.

6 My concern for Maria is I knew what she just went through. I knew how
7 she was just attacked and choked out. When I saw her being grabbed and
8 thrown down by this officer, when she's five-foot-one, 105 pounds, that,
9 to me, was excessive. That was improper. And I'm telling him to get off
10 my wife, because I didn't know if she was hurt or not.

11 Q. If we go to page 5 of Exhibit 12-A, the top of the page, you mentioned, at
12 that time, that your daughter and your son-in-law are both Buffalo police
13 officers.

14 A. Correct.

15 Q. Why did you mention that at that time?

16 A. Well, because he said to me, "Do not fight a police officer." So I'm
17 telling him, "Listen, my daughter and my son-in-law are both police
18 officers. I'm not going to fight a police officer." I was -- didn't do
19 anything with Muhammad. I was trying to -- I was cooperating with him.
20 But I'm letting him know that I come from a family that has law
21 enforcement. "And I'm not going to fight you. If I fight you, it's almost
22 like fighting, like, my own family."

23 But I pushed him, Ofc. Gehr, because it was not proper what he did. For
24 somebody to be standing on their driveway -- you have a First
25 Amendment right to speak. And for somebody to be standing on their

1216.



(Hon. Mark J. Grisanti - Direct)

1 driveway and yelling -- why he was paying attention to Maria when he
2 should've been paying attention to the Meles, I have no idea.

3 MR. POSTEL: I'm going to object to that. It's
4 supposition.

5 THE REFEREE: Sustained.

6 BY MR. CONNORS:

7 Q. So then you mentioned to Ofc. Muhammad, at this point, Judge, that you
8 would call your relatives in the police officer. And --

9 A. Correct.

10 Q. -- he permitted you to do so.

11 A. He did. It wasn't at that time that I called them, but I said, "I'll call them
12 right now." And then I basically -- I said, "You would not be" -- he said,
13 "You would not be wanting to put your -- your -- putting your --
14 somebody putting their hands." And I'm trying to tell him that I really
15 couldn't believe that they were actually putting handcuffs on Maria. It
16 was very emotional.

17 When I actually stepped back, after he put Maria in the car, and I thought
18 about it, I'm like, "I can't believe that I just pushed an officer." I said, you
19 know, "My kids are going to be completely upset with me." But at that
20 time period, my emotions, my adrenaline, my concern for Maria, my
21 reflexive actions as a husband, that's the only thing that I was concerned
22 about.

23 And I found out later on, as we all did here through the testimony of Ofc.
24 Gehr, that apparently he had a bad evening, and he had a fight with a girl.
25 And I never knew that until he sat on this bench -- or in this witness

1217.



(Hon. Mark J. Grisanti - Direct)

1 chair, and him saying that, it's not an excuse, but maybe he was having a
2 bad day, as well, because apparently he's had a bad day --

3 MR. POSTEL: Objection.

4 THE REFEREE: Sustained.

5 THE RESPONDENT: Okay.

6 BY MR. CONNORS:

7 Q. You said that, "If you arrest my fucking wife, you're going to be sorry."

8 Do you recall that?

9 MR. CONNORS: If you could scroll --

10 A. I do.

11 MR. CONNORS: -- down a little bit.

12 A. I do.

13 BY MR. CONNORS:

14 Q. What did you mean by that, Judge, when you said that to Ofc. Gehr?

15 A. I was -- what I meant by that was, basically, he's going to be sorry in the
16 sense of, when he finds out what happened during this altercation, when
17 he finds out how she was attacked, when he talks to the neighbors -- I get
18 it, he didn't have an opportunity to do that. But he didn't let that have an
19 opportunity to do that, because within a minute of him being there, he
20 threw my wife to the ground.

21 I understand that he didn't know what just happened to her, but I did.

22 And I'm saying, "Once you find out what happened to her, once you talk
23 to the neighbors, once you see what transpired beforehand and what's
24 been going on, you're going to -- you're basically going to be sorry."

25 On top of that, the way he threw her down to the ground, I didn't know if

1218.



(Hon. Mark J. Grisanti - Direct)

1 she was injured. So you know, I'm an attorney. I know what somebody's
2 rights are and how the excessive force was used. "I'm telling you,
3 though, you're going to be sorry, because once you find things out and
4 who knows if I'm going to do a complaint or something like that to one of
5 your superiors."

6 Q. You never did file a complaint, though, did you?

7 A. No, I never did.

8 Q. Or a civil lawsuit?

9 A. No.

10 Q. Why not?

11 A. Listen. It -- this day -- I'm never going to stop reliving this day.

12 Internally, for me, I am so upset with myself internally, and I -- every
13 single day, I think about this day, without fail, every single day. And
14 there is just so many things that I could've done better to make sure that
15 this incident by itself didn't happen. And my wife feels the same way.
16 My wife says, "If I wasn't screaming, the police officer wouldn't have
17 came over."

18 What I'm faced with and what we have, it is what it is, as far as what
19 transpired. But I know that -- you know, I regret pushing the police
20 officer. I regret having an argument with my neighbors. I feel sorry for
21 him, and that this entire incident happened. It happened, and the only
22 thing that I can do is try to make myself better, and I didn't want to go
23 ahead, then, and relive the situation by taking it out on the police officer,
24 who was just trying to -- he was trying to do his job. And I learned later
25 through Ofc. Muhammad that she wasn't under arrest. He was just

1219.



(Hon. Mark J. Grisanti - Direct)

1 putting her in the police car to calm down, which I understood that after I
2 was asking him to get the cuffs off her.

3 MR. CONNORS: That's on page 6, if we would
4 scroll to that, please, line 12.

5 BY MR. CONNORS:

6 Q. This conversation you had with Ofc. Gehr at the time -- let's see. Is that
7 page 6 of 12-A? Yeah, that's it.

8 MR. CONNORS: If you just scroll down a little
9 bit more.

10 BY MR. CONNORS:

11 Q. So you mentioned that you had said something to Ofc. Gehr or Ofc.
12 Muhammad about the cuffs on your wife.

13 A. Right.

14 Q. Do you recall that?

15 A. Yes.

16 Q. In fact, the quote was, "You need to get -- if you don't get the cuffs of"
17 [sic] "her right now, you're going to have a problem." Do you remember
18 saying something to that effect, words or substance to that effect?

19 A. I do.

20 Q. And what did you mean by that?

21 A. Again, very emotional, very upset. I'm telling them that, you know,
22 "You're going to have a problem, because once you talk to all these
23 individuals, you're going to see that Maria was just attacked, and she's
24 upset. And that's why she was yelling. And you need to get the cuffs off
25 her." Basically saying that I'm going to go ahead and possibly file a

1220.



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1 complaint against them for that.

2 And my wife, even before that, is telling Ofc. Gehr, "You don't
3 understand. Ask any neighbor." But I didn't hear the other parts where
4 he's saying, "It doesn't mean I'm not going to listen to you." I wasn't
5 privy to all that, because he was taking her to the car, and I was talking to
6 Ofc. Muhammad.

7 So all of these items that you have and that you're looking at are all things
8 in hindsight, where I look at it, and I see that there are so many things
9 that I did wrong on so many levels in getting involved with this, that it's
10 not good. And I take responsibility for it.

11 Q. On page 7, were you allowed to make a phone call at that point?

12 A. I made a phone call. Correct. I asked Muhammad. I said, "Well, I'm just
13 going to -- I'm going to call my wife and -- or I'm going to call my
14 daughter and my son-in-law." And -- you know, because I want to let
15 them know what's going on. I don't recall saying that they're lieutenants
16 right now, but if that's what it says, that's what it says.

17 Q. Who did you make the call to?

18 A. I called my daughter, Ashlee.

19 Q. And is she a police officer?

20 A. She is.

21 Q. What was the purpose of your call to her?

22 A. I wanted to let her know that there was an altercation with the neighbors
23 across the street, and that her mom was in handcuffs in the back of a
24 patrol car.

25 Q. Did you ask her to intervene in any way on your behalf?

1221.



(Hon. Mark J. Grisanti - Direct)

1 A. No, I did not. And she didn't.

2 Q. If you could go to page 17, please, on Exhibit 12-A, line 15. This is in
3 evidence. And your wife says to Ofc. Muhammad, "You have no idea
4 what these people have done to us. They're rotten. They're just no good.
5 They're fucking taunting. They spit at us. You have no idea the shit
6 we've gone through. And I just -- like, three of them were on me. And
7 I'm sorry that -- I'm sorry I was acting like that. But." And the officer
8 says, "Well, you're super upset. I get it."

9 Now, were you present when this exchange took place between Maria
10 and Ofc. Muhammad?

11 A. I know that -- I was present. I was outside. I could hear bits and pieces,
12 because -- if you go back, she wanted the cuffs loosened, because Ofc.
13 Gehr put them on tight, and they were digging into her arm. And he
14 was -- she was asking him, "if you can go ahead and loosen them."

15 Q. Do you recall what her emotional state was at that time?

16 A. At the time that she was talking to Ofc. Muhammad?

17 Q. Yes.

18 A. She was explaining to him what had just happened to her. Again, she
19 was emotional. She was explaining what happened to her and what's
20 been happening in the past. And you know, he understood. He says, you
21 know, "I understand you're super upset." I've seen the video. And she's
22 upset. She's crying. And it pains me to see that, because you don't ever
23 want to see a loved one in that situation.

24 Q. So Judge, that night of June 22, 2020, you also mentioned the names of
25 some public officials, did you not?

1222.



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1 A. I did.

2 Q. You mentioned Byron Brown's name?

3 A. I did.

4 Q. Why did you mention Mayor Brown's name that evening?

5 A. My next-door neighbor is Jerry Chwalinski. And Jerry Chwalinski's the
6 Chief Clerk of the City of Buffalo. Jerry Chwalinski, for close to two
7 decades, has been putting up, even before I moved there -- and I know
8 this because he's told me of situations with the Meles. The Meles, Gina
9 and Joe, but in particular, Gina, would constantly write to City Hall and
10 complain about Jerry Chwalinski and try to get him fired. And being the
11 Chief Clerk of the City of Buffalo, you're basically the mayor's right
12 hand. When you're sitting in Common Counsel meetings, you're his right
13 hand. You run the operations, really, of City Hall in one capacity or
14 another.

15 So he knew about it, and plus, when I see him, the complaints -- you got
16 to remember, I was a Senator of the 60th District. Byron Brown was the
17 prior Senator twice-removed of the 60th District. So politically, we knew
18 each other. And he knew that I would call 311 when Joe wouldn't pick
19 up the garbage or would have his friends plow in my driveway. He knew
20 all these things.

21 And I mentioned his name, saying, "Look it, even Byron Brown knows
22 what goes on around here." Now, whether or not the officer was going to
23 listen to it, they didn't have a contract going on at that time. So I'm just
24 letting them know that we're just not making stuff up. And prior to that, I
25 was saying that, really, to Ofc. Gehr and to Ofc. Hy, as to who Mayor

1223.



(Hon. Mark J. Grisanti - Direct)

1 Brown was. But I was talking to -- that's after I got off the phone with
2 my daughter.

3 Q. Did you mention Mayor Brown's name in an effort to persuade the
4 officers to give you any special treatment?

5 A. No, absolutely not. I mean, I -- listen, I knew at that point that Maria was
6 in the car. She wasn't being under arrest. She was in the car just to calm
7 down. And I wasn't in handcuffs or anything, so I didn't need any special
8 treatment. I was just trying to give them a basis of where this whole
9 process was with regards to myself and with these neighbors.

10 Q. Okay. You also mentioned the name Gramaglia.

11 A. Correct.

12 Q. Do you know an individual by the name Gramaglia?

13 A. I do know Joe Gramaglia.

14 Q. And how do you know him?

15 A. I don't know him socially. I know Joe because he was my daughter's
16 lieutenant.

17 Q. Why did you mention that name? Or at least tell us the context of that
18 comment, where you mentioned the name Gramaglia.

19 A. When I was talking to my daughter, Ashlee, Ashlee's talking to me at the
20 same time Ofc. Hy and Ofc. Gehr are asking me questions. When I was
21 on the telephone with my daughter, Ashlee, Ofc. Hy asked me, "Where
22 does your daughter, Ashlee, work?" And I said, "She works for B-
23 District." And he said, "Bravo?" I said, "Yeah." And he goes, "Where
24 does your son-in-law work?" And I said, "C-District."

25 So he's asking me questions as the same time my daughter's talking to

1224.



(Hon. Mark J. Grisanti - Direct)

1 me. And my daughter asked, "Do you want me to call Gramaglia?" And
2 I was saying -- what he -- because I told them about my kids, because I
3 have other family members. I have a cousin who's a detective. And I
4 was about to tell him, you know, "My cousin, who's a detective." He
5 mentioned Gramaglia. And I kind of comingled and convoluted the
6 conversation, and basically said my cousin. Joe Gramaglia's not my
7 cousin. I don't know him socially. It came out like that basically because
8 I have somebody -- I have my daughter talking in my ear, and I have, you
9 know, an officer asking me questions as to who everybody was.

10 Q. In that same conversation, you mentioned your daughter and your son-in-
11 law as members of the Buffalo Police Department. Do you recall that?

12 A. I do.

13 Q. And you told us earlier about the times when you mentioned that during
14 the Gehr -- during the Ryan Gehr video. Do you remember that?

15 A. Yes.

16 Q. When you mentioned the fact that your daughter and your son-in-law are
17 also police officers, did you attempt to persuade the officers to give you
18 any preferential treatment?

19 A. No, because I -- that conversation was with Ofc. Gehr and with Ofc. Hy.
20 Ofc. Gehr was there when I was telling that to Ofc. Hy. Ofc. Gehr
21 already knew that. I was having a conversation with Ofc. Gehr, and I was
22 telling him that, "Listen, I -- I" -- to paraphrase, "I understand what you
23 guys go through. My kids are police officers. I didn't mean any
24 disrespect." I was telling him that, "You didn't need to take my wife
25 down that. I thought you took her down pretty hard. I didn't mean to" --

1225.



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1 I said "tackle," but I didn't mean it -- I said, "tackle you -- you know, I
2 pushed you."
3 And you know, he said to me -- if I recall, he said to me, "Well" --
4 because I said, you know, "If that was your wife, and I would've taken
5 your wife down to the ground that hard, you would do the same thing."
6 And he said -- Ofc. Gehr said to me, "Not if you're a police officer or I
7 have it on body camera footage." And I said, "Now, listen, I'm just
8 giving you some constructive criticism, because everything that's been
9 going on that I hear from my kids and what goes on with -- just happened
10 to Mr. Gugino with the excessive force, what happened nationwide with
11 excessive force. I'm telling him, "You didn't need to do that." I was just
12 giving him, you know, a little bit of advice. You know, who am I to give
13 advice? Nobody. But I'm just letting him know that I didn't think that
14 that was proper. I thought he was excessive. I thought it was violent,
15 what he did, without having all the facts.
16 And his partner, who was asking me questions about, "Who is your
17 daughter? Where does she work for? Who is your son-in-law, and who
18 does he work for," then says to me, you know, "Let me give you some
19 constructive criticism. You're mentioning names here." I'm like, "I'm
20 mentioning names because you're asking me who my kids work for and
21 what department they work for." And he got upset with me. So at that
22 point, I stayed silent, because I realized that what he was saying that he
23 thought that I meant was not the way it was meant at all. And I stayed
24 quiet because I understood he could take it that way. But that wasn't
25 Gehr taking that -- Ofc. Gehr taking it that way. That was Ofc. Hy, who

1226.



(Hon. Mark J. Grisanti - Direct)

1 had actually just come on the scene and did not see anything with regards
2 to what transpired beforehand.

3 Q. Do you remember that you made a statement at some point that evening,
4 "Do me a favor. Get the cuffs off my wife." Do you recall that?

5 A. Yes. It was at the same time I was having a conversation with Ofc. Gehr.
6 And he seemed to have -- or I thought we seemed to have, you know,
7 "Hey, all right. You apologized. I get it. You know -- but you know
8 what, if you were a cop, you know you would do the same thing,
9 because -- you would do the same thing, because you're not supposed to
10 push a cop."

11 So I was telling him, you know -- it's a figure of speech, you know?

12 "Hey, do me a favor. Can you get me a fork?" "Do me a favor. Can you
13 get her out of the car so I can take her in the house," I believe is what I
14 said to him, because my understanding was she was being put in the car
15 to calm down. She was calm. I heard some of the conversation that she
16 was having with Muhammad.

17 So I'm asking him if he can take her out of the car so I can bring her
18 inside the house. I didn't know if she was hurt. I didn't know because
19 when he threw her down to the ground and got her back up, he took her
20 right into the police car. So I didn't know what her condition was.

21 Q. Did you eventually go to the precinct -- to the D precinct?

22 A. Yes. Ofc. Hy went ballistic on me, and I get it, but he just went -- I
23 stayed quiet. I was telling him, "Listen, I understand, you know, what
24 you're saying to me. You know, I understand." And I went in the police
25 car. And I sat in that police car for two hours in front of my house. And

1227.



(Hon. Mark J. Grisanti - Direct)

1 eventually, I was taken down to D-District, where I was -- by Ofc. Hy,
2 who then put the handcuff -- took them -- you know, took them apart
3 from behind my back, and then handcuffed me to a bench for two-and-a-
4 half hours.

5 Q. Judge, one of the -- among the criteria the Commission looks to when
6 there's an incident like this is whether or not you apologize for your
7 conduct prior to the time that the Commission begin their investigation.
8 Did you issue any of those timely apologies?

9 A. I apologized to Ofc. Gehr that evening, when Muhammad -- when I had a
10 conversation with my cousin on the telephone. I was explaining. And I
11 apologized. I said it to Ofc. Muhammad when he drove us home that
12 evening. I apologized -- well, my wife did, as well, to Ofc. Muhammad.
13 And then the next morning, I went to find where my watch was, because
14 my watch was missing. I thought it was possibly in the police car, but it
15 wasn't. And I saw Lt. Turello there. I apologized to Lt. Turello. And
16 when I gave a statement to Det. Moretti that evening, I believe that I
17 apologized to him and let him know that I apologized to the other
18 officers.

19 Q. So June of 2020 was an eventful month for you, Judge. Would you tell
20 us whether or not you were experiencing any stressors during that time
21 period, in or -- in or around June of 2020?

22 A. June -- it's -- it was -- June was not a good month. But it was a lot of -- it
23 was a lot of -- and it's not just my family. It's everybody's family, I mean,
24 especially with COVID, that it just came to fruition. But you know, my
25 mom, who I took care of for -- what my, you know, out-of-state siblings

1228.



(Hon. Mark J. Grisanti - Direct)

1 say to me, you know, "You kept Ma alive for four or five years, you
2 know, and we appreciate that." My mother, from September of 2019 --
3 even before that, she was in and out of hospital. But from September of
4 '19 until she passed, which'll be two years this week, she was in and out
5 of the hospital for a good six months, you know, in and out, in and out,
6 and sometimes for three months straight. [REDACTED]
7 [REDACTED]
8 [REDACTED]. We tried --
9 which actually did work. It's a great procedure. It gave her a little bit
10 more time. [REDACTED]
11 [REDACTED]. She was -- you know, she had a long life. She's
12 88 years old, and she's trying these things because she wanted to live.
13 And I was doing everything I can, [REDACTED]
14 [REDACTED]
15 [REDACTED]
16 [REDACTED]
17 [REDACTED] All of these things
18 were things that I was trying to do. And she was in the hospital. She was
19 at Buffalo General, which is downtown Buffalo.
20 And at the same time, Maria's mother was in Millard Suburban Hospital,
21 which is north of Buffalo. So me and Maria would never see each other.
22 She's at one hospital or taking care of her home when she's out of the
23 hospital, and my mother was in the hospital quite a bit. And I was able to
24 go in and see her and be there, which was good. My -- I call him my
25 father-in-law. He passed December 28th of 2019. That was my mother's

1229.



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1 partner -- my mother-in-law's partner, a great individual. That was
2 devastating. And it was devastating for my mother-in-law, as well,
3 because now, she's going to be alone. I had, what I consider to be an
4 aunt, [REDACTED] (phonetic), who passed away of a brain aneurysm.
5 I had numerous people that I knew and friends -- [REDACTED],
6 (phonetic) who passed away from COVID; [REDACTED],
7 which was a cousin of mine that passed away with cancer, diagnosed with
8 cancer. We would keep in touch. We were very close. She actually
9 worked in the court system. My cousin, Ida (phonetic), who passed
10 away. There was just a lot of stressors going on. But I was able to --
11 what I found out from going to counseling is I was compartmentalizing
12 these things and doing things at a certain level.
13 And then my dog. I was giving my dog dialysis. The dog is 16 years. I
14 was not only taking him to dialysis, but when you couldn't take him, and I
15 had a bag of saline, I actually would give him the dialysis through the
16 nape of his neck in my kitchen, where I devised a device to hold up the
17 bag for 45 minutes until the fluid got into his system. And I did that on
18 two occasions. But he ended up passing on January 27th [sic]. And my
19 mom ended up passing on July 13th.

20 Q. June?

21 MR. POSTEL: Years?

22 A. June 13th. June 27th was Fredo, 2020, five days after this incident. My
23 mom was July 13th, basically 18 days after this incident.

24 BY MR. CONNORS:

25 Q. Were you taking care of your mother during the month of June 2020, as

1230.



(Hon. Mark J. Grisanti - Direct)

1 well?

2 A. Absolutely.

3 Q. What type of things did you have to do for her?

4 A. I would -- my mom, at one point, lived with my brother. But my brother
5 had [REDACTED]. And he was divorced. He didn't have any kids at home. It was
6 very strenuous on him, because he couldn't get around that well either.

7 And my mom had to have a walker. So I would bathe her. I would bring
8 them both food, together for dinner. I would have, basically, Grubhub
9 drop off things for lunch. But I was there all the time.

10 I had a sister that lived here, but she worked, and her husband worked.

11 But when my mom got out of the hospital, she went and moved with my
12 sister above her garage. But my sister was traveling a lot. So I would

13 have to go there and take care of her and give her baths there. And I
14 would have to do her medication. It was -- the pills that she would take,
15 roughly 18 a day, and to put them in the correct slots. I did everything I
16 possibly -- and take her to all of her medical appointments.

17 But for the most part, for that time period, her being in the hospital was
18 probably the best place to be because she was getting proper care. But I
19 just had a picture pop up on my phone of June 5, 2020, where she was in
20 my backyard with my mother-in-law, and they both had their feet in the
21 baby pool while the grandkids came over to say hello to them. And then
22 you would never think that a week after that, that she would pass away.

23 It was devastating. It's still devastating to this day.

24 THE REFEREE: Yeah. Why don't we take a
25 break now. And we can go off record.

1231.



(Hon. Mark J. Grisanti - Direct)

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(Recess from 12:09 p.m. to 1:09 p.m.)

THE REFEREE: Okay. It's July 7th, a little after 2:00, and we'll resume testimony.

Judge, you're still under oath.

THE RESPONDENT: Thank you, Judge.

MR. CONNORS: Before we begin, Your Honor, I just wanted to mention that Exhibit EE are the receipts from the food and drink and purchases that the Judge made that we referred to earlier -- copy to counsel, I don't think there's an objection.

(Respondent's Exhibit EE was marked for identification)

MR. POSTEL: No objection.

THE REFEREE: Received.

(Respondent's Exhibit EE was admitted into evidence)

MR. CONNORS: No.

RESUMED DIRECT EXAMINATION

BY MR. CONNORS:

Q. Judge Grisanti, I'd like to now move to Charge II and ask you some questions with respect to the allegations contained in that specification issued by the State Commission on Judicial Conduct.

A. Okay.

Q. First of all, you understand that Charge II of the petition charges you with taking judicial action in eight cases involving Matthew Lazroe without disclosing whether you had any financial relationship with Mr. Lazroe?

A. That's correct.

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(Hon. Mark J. Grisanti - Direct)

1 Q. Do you know Matt Lazroe?

2 A. I do know Matt Lazroe.

3 Q. How did you meet him?

4 A. I met Matt Lazroe through Peter Pecoraro.

5 Q. Who was Peter Pecoraro?

6 A. Peter Pecoraro was an attorney that I knew for probably 45 years before
7 he passed. He was friends with Matt's father.

8 Q. Did you share office space with Peter Pecoraro?

9 A. I shared space with Peter, correct.

10 Q. Did there come a time in 2015 when you entered into an agreement to sell
11 your law practice?

12 A. Yes.

13 Q. Would you tell me about the -- how that came to be?

14 A. Well, I knew that I was going to be appointed to the Court of Claims, and
15 I needed to wind up affairs. I asked Mr. Pecoraro if he was interested in
16 purchasing my practice. He said he was. He said he may purchase it
17 with somebody else. I didn't know who that somebody else was at first. I
18 came up with really a nominal price for the practice, and he told me who
19 it was. And an agreement was drawn up, and we signed the agreement,
20 myself, Peter Pecoraro and Matt Lazroe.

21 MR. CONNORS: Could you pull up Exhibit 14,
22 please, Kate?

23 BY MR. CONNORS:

24 Q. So we've pulled up Exhibit 14 that's in evidence, and ask you if, in fact, is
25 that the agreement that you just referenced?

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(Hon. Mark J. Grisanti - Direct)

1 A. It is.

2 Q. And feel free to look at that if you need to, but I'm interested in having
3 you place on the record the essential terms of the Sale Agreement.

4 A. The essential terms were all files, goodwill, telephone numbers, fax
5 numbers, copy machines, and there was a couple of items that were left
6 out that were my grandfather's, as well as my Senate chair.

7 Q. What were the financial terms of the sale?

8 A. Financial terms were \$15,000 down and payments of 730 a month,
9 starting in July of 2015, running 'til June of 2019.

10 Q. When was the down payment made with respect to the purchase of your
11 practice?

12 A. Down payment was made roughly the end of April -- beginning of May,
13 or about that same time as the agreement was signed, which I'm not sure
14 of the date of the -- when the agreement was actually signed.

15 Q. We can scroll and get that exact date.

16 A. Okay. Yeah, that's when the agreement was signed, on May 18, 2015. It
17 was probably sometime that week when the payment was made.

18 Q. After the down payment was made, was there a monthly stipend as part
19 of this agreement, as well?

20 A. \$730 a month.

21 Q. And how was that divided between Mr. Lazroe and Mr. Pecoraro?

22 A. \$365 each a month.

23 Q. Was that payable on a monthly basis?

24 A. Monthly basis, correct. Usually the 1st of the month.

25 Q. Did anything happen to Mr. Pecoraro to interrupt his payments?

1234.



(Hon. Mark J. Grisanti - Direct)

1 A. Mr. Pecoraro passed away in 2018.

2 Q. Prior to that, did he actually have a lengthy illness?

3 A. Yeah, he did.

4 Q. When did that start?

5 A. Started -- he was first diagnosed with brain cancer roughly, probably
6 2000 -- late '16, 2017. Went and had a tremendous amount of treatment
7 done, was really not around. He was in remission for a short period of
8 time, and it came back with a vengeance, and he ended up passing in
9 2018.

10 Q. When Mr. Pecoraro got sick, did you forgive his share of the payments to
11 be made on a monthly basis?

12 A. He was a proud individual. He paid as he could, but roughly sometime
13 in, probably at the beginning of '18, he stopped paying.

14 Q. And I take it you no longer asked for any further payments from him?

15 A. No, I did not.

16 Q. Did you require Mr. Lazroe to make up for Mr. Pecoraro's share?

17 A. No.

18 Q. Did Mr. Lazroe continue to make the payments on a regular basis?

19 A. Matt Lazroe did until the end of the term, which was June of '19.

20 MR. CONNORS: Can we pull up Exhibit 15,
21 please?

22 BY MR. CONNORS:

23 Q. This is in evidence, and it purports to be a summary of the payments
24 made by Attorney Lazroe to you to fulfill the contract of sale for your
25 practice of law, correct?

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(Hon. Mark J. Grisanti - Direct)

1 A. Correct.

2 Q. And how long did Matt Lazroe make those payments to you?

3 A. From July of '15 'til June of '19.

4 Q. Was that the last payment that was made to you from any source with
5 respect to the sale of your practice?

6 A. Yes.

7 Q. So Judge, the Commission has charged that in 2018 to 2020, that you
8 were the Judge assigned to eight cases in which Matt Lazroe played some
9 role as an attorney, is that true?

10 A. Yes. I didn't know that he was the attorney on really all of those eight
11 cases, because he was an attorney that was appointed by somebody else
12 in a foreclosure part, and I would sign an order at the end. So those were
13 cases that he -- there was no appearances, so I didn't know he was
14 involved in the case until it was brought to my attention by the
15 Commission.

16 Q. Who would be responsible for assigning cases in the foreclosure part at
17 that time?

18 A. It was two individuals. There was Diana Boccio, who headed the
19 foreclosure part in the basement of 25 Delaware. In that particular part,
20 you would have -- my understanding, *pro se* litigants against financial
21 institutions. There would be attorneys there representing people that had
22 also cases against financial institutions, and Diana Boccio would ask
23 individuals, "can you help out this person, *pro se*, to see if you can work
24 out an agreement, and we'll have -- we will have conferences." So she
25 would ask those attorneys, randomly, you know, can you help out some

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(Hon. Mark J. Grisanti - Direct)

1 of these *pro se* litigants.

2 Q. How could those assignments take place without your conscious
3 involvement?

4 A. The foreclosure part worked that way, where they would see if they can
5 resolve it, and if it's specifically a foreclosure part. If they can resolve it
6 in a foreclosure part, once it's resolved, they would require the bank who
7 was doing the foreclosure to provide the Court with an order. And at that
8 time, the case then would go on a wheel, and get assigned to a judge, to
9 sign off on the order. The other way to do foreclosures is my Court
10 Clerk -- not my Court Clerk, my Law Clerk, Doug Curella, was one of a
11 couple Law Clerks that actually helped get rid of foreclosures, because
12 there was a backlog in Erie County, so he was trained to do that, and he
13 also would assign individuals to foreclosures.

14 Q. So the Commission has charged that you violated the Judicial Conduct
15 Rules by not disclosing the 2015 sale and Mr. Lazroe's ongoing payments
16 to you. Did you disclose the sale to the parties?

17 A. I did not know -- I did not disclose the sale to the party. I did not know
18 under the Rules that that was something that was required to disclose a
19 contractual obligation regarding a sale of a law practice with monthly
20 payments to any of the parties. And I did not disclose that. And in some
21 of the cases, there was nobody, as I said, to really disclose it to, because I
22 didn't know that Matt was on those cases.

23 Q. Did you disclose it in a public document?

24 A. I disclosed it on my financial disclosures, the agreement that I had with
25 Peter Pecoraro and Matt Lazroe.

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(Hon. Mark J. Grisanti - Direct)

1 Q. And when you say, your financial disclosures, that means the -- do you
2 mean the OCA, Office of Court Administration annual disclosure?

3 A. Yes. There's a Financial Disclosure that you have to file annually in May
4 of each year for the previous year. I was familiar with those forms,
5 because you had to do the same thing when you were in the Senate. So I
6 was familiar with those forms from basically 2011 up until the present
7 day.

8 Q. Now that OCA Financial Disclosure, is that a public document?

9 A. It is a public document.

10 Q. And did you disclose the fact that you had sold your practice, and that
11 you were receiving ongoing payments from Attorney Lazroe in that
12 document?

13 A. Yes, I did. On numerous portions of the document, I disclosed that.

14 Q. And would that be a yearly disclosure?

15 A. It's a yearly disclosure, correct.

16 Q. So the first case before you involving Attorney Lazroe was in 2018,
17 which would be more than two years after the sale of your practice. Was
18 that intentional that he wasn't able to appear in front of you until more
19 than two years after the sale?

20 A. No.

21 Q. Now how about Peter Pecoraro, was he on your recusal list?

22 A. Peter Pecoraro was on my recusal list.

23 Q. Do you remember whether Matt was formally on your recusal list?

24 A. I don't believe Matt was on my recusal list. I tried to find out. I couldn't
25 find the answer, but I don't believe he was on the list. Because I -- in

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(Hon. Mark J. Grisanti - Direct)

1 training, I didn't share office space with him, so I didn't believe he had to
2 be on the list.

3 Q. In any event, Attorney Lazroe was not involved in any case that was
4 assigned to you until 2018, which was three years after the sale?

5 A. That's correct.

6 Q. Did you believe at the time that your supervision of cases in which
7 Attorney Lazroe was involved was consistent with the Judicial Rules?

8 A. I did.

9 Q. Did you disclose the 2015 sale and the payments to the parties or counsel
10 in the cases Attorney Lazroe was involved in for that two-year period?

11 A. I did not.

12 Q. Why not?

13 A. I didn't know that under the Judicial Rules that I had to go ahead and
14 disclose a contractual obligation that I had with somebody when -- that
15 was made when I was an attorney, until I researched it, and I obtained an
16 opinion on it.

17 Q. Did you --

18 A. I didn't know, in other words, beforehand, until it was brought to my
19 attention.

20 Q. Okay. Did you likewise disclose this information in your OCA financial
21 statements from 2015 going forward?

22 A. I did.

23 Q. You mentioned training that you received, what training was that?

24 A. That was at the -- when you became a Judge, you had to take judicial
25 training at the Judicial Institute. It's roughly a three- or four-day training

1239.



(Hon. Mark J. Grisanti - Direct)

1 session. I attended those training sessions, and I recall, you know,
2 various classes in particular on -- with regards to ethics. They talked
3 briefly about recusals and what they stated was, and I actually asked my
4 A.J. here, "Well, who has to be on a recusal list? What requires recusal?"
5 And they said, "Anybody that you share space with, or considering that
6 you were in the Senate, and you had fundraisers, anybody that
7 contributed a certain dollar amount to your campaign had to be on there."
8 And I think the dollar amount was roughly \$1,500. So there was a lot of
9 individuals on my recusal list that supported my campaign for New York
10 State Senate.

11 Q. Had you ever shared space with Attorney Lazroe?

12 A. No, I never shared space with him, and never had any contribution from
13 him for the Senate.

14 Q. You did tell us that you shared space at one time with Peter Pecoraro?

15 A. Correct.

16 Q. And was he recused from taking any -- did you recuse yourself from any
17 cases involving Mr. Pecoraro for a period of two years?

18 A. I did. I never had any cases with Peter Pecoraro.

19 Q. Did you recuse yourself from any of the eight cases which Attorney
20 Lazroe was involved from 2018 to 2020?

21 A. Can you repeat that? Sorry.

22 Q. Sure. Did you recuse yourself from any of the eight cases in which
23 Attorney Lazroe was involved from 2018 to 2020?

24 A. No, I didn't.

25 Q. Why not?

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(Hon. Mark J. Grisanti - Direct)

1 A. I didn't know that I needed to recuse from any cases. There was one case
2 that I did recuse on at the end. It was a foreclosure case that I had to
3 recuse myself on. When I -- when I looked into it, and received the
4 opinion, when I spoke to Laura Smith, and it was Judge Walsh from the
5 Judicial Ethics Commission, "what do I do with this particular case."

6 Q. Was Attorney Lazroe a social friend of yours?

7 A. No.

8 Q. Was he ever involved in a partnership with you?

9 A. Never.

10 Q. I think you've told us that you never shared space with him?

11 A. Correct.

12 Q. In any of those cases was your impartiality ever questioned with respect
13 to the handling of those cases?

14 A. No.

15 Q. Did you do research on this issue since the Commission raised it in 2021?

16 A. I did.

17 Q. What did you learn from your research?

18 A. From my research, I was given the opinion that, because I had a
19 foreclosure that was still outstanding, I believe the case was named Great
20 Lakes [sic]. It was a foreclosure that he was assigned to and COVID hit,
21 so the sale couldn't take place. So when I received documentation that
22 things were opening back up for the court system, and they set a date for
23 the sale, it came up that it was Matt Lazroe that was the referee on the
24 case. So I contacted Laura Smith and Judge Walsh. We had a
25 conversation. I told them, "What do I need to do with these recusals?"

1241.



(Hon. Mark J. Grisanti - Direct)

1 They said, "How old is the case? How old was the agreement?" I told
2 them, and they said, "Well, for this particular case, he stopped paying you
3 in 2019, what you should do is put him on your recusal list from two
4 years, from 2019, from June of 2019." So I went ahead and had the
5 case -- recused, and I had the case reassigned. And it was assigned to
6 another Judge to finish the sale and -- sometime in 2021, I believe.

7 Q. Did your research uncover any Black Letter Law that a lawyer who is
8 making installment payments to a Judge is required to be recused?

9 A. It doesn't cover that under the Black Letter Law. That's why I seeked out
10 an opinion. As I said, it wasn't covered in the Judicial Institute classes
11 either when you became a Judge.

12 MR. CONNORS: Could you pull up Exhibit 20,
13 please?

14 BY MR. CONNORS:

15 Q. I'm going to show you Exhibit 20, which is in evidence. And is this the
16 case you were referring to previously, that you recused subsequent to the
17 research that you conducted?

18 A. Yes, that's the *Greater Woodlawn* case that was originally mine. And as
19 you can see on the bottom of -- of Commission's Exhibit 20, it was
20 finished off by Judge Emilio Colaiacovo.

21 Q. If we could scroll through the rest of the document.

22 MR. CONNORS: It's a part of the exhibit.

23 Yeah. I just wanted to get to the end where there's some
24 email correspondence. Okay.

25 //

1242.



(Hon. Mark J. Grisanti - Direct)

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BY MR. CONNORS:

Q. We're still in this exhibit, which is Exhibit 20, in evidence. And I note that there are some emails attached to this exhibit. Can you tell us -- tell the Hearing Officer what is the significance of those emails?

A. That is after I contacted -- that's my handwriting on the top with the index number. It's sloppy. And basically it states that I called on 1/5/21, Laura Smith. I've got Judge Walsh on the other line. I told him the status with Matt. Suggested -- I can't even read my own writing, but, oh, suggested transfer to another Judge due to work done on file and that Judge will sign the final order, as a sale was scheduled for 1/6 of '21. So prior to this, I was trying to find out what do I need to do with regard to this particular file. So I sent an email on January 5th to Dan Marren, who was Paula Feroletto's confidential Law Clerk, telling him that I did check with ethics, and the transfer to another Judge is a suggestion based on the work done and by the parties, and have the Judge sign the final papers.

Q. So once you had that information and the communication from the Ethics Committee and Mr. Marren, did you follow the advice with respect to the recusal?

A. Absolutely.

Q. So Judge, five of the cases involving Attorney Lazroe were cases in which you appointed Matt either guardian, court evaluator, or referee; is that correct?

A. Correct.

Q. Okay. You were here from your former Law Clerk, Doug Curella, testified?

1243.



(Hon. Mark J. Grisanti - Direct)

1 A. I was.

2 Q. And Attorney Curella testified that in each of the five cases where Matt
3 was appointed, it was he, it was Doug, who selected Matt for the
4 appointment?

5 A. That's correct.

6 Q. You signed the orders though, didn't you?

7 A. I did sign the orders.

8 Q. So how is it that Doug Curella, your former Law Clerk, was the one who
9 would select the individuals for the appointment?

10 A. My Law Clerk basically, at that time and now, they handle all the
11 foreclosures. They also handle what's called Part 36 cases. Part 36 cases
12 are cases where somebody will file an order to show cause seeking some
13 specific relief on behalf of a client. And some of those cases, it would be
14 a court evaluator -- they were seeking a court evaluator to be appointed in
15 order to review documents and paperwork for an individual that's filing a
16 show cause order to make the accusation that another individual under an
17 Article 81 needs to have a guardian appointed. So in other words, if
18 somebody files an order to show cause and they say, "John Smith needs a
19 guardian; he's got dementia; he's up there in years," we get the order to
20 show cause, and the paperwork itself provided by the filing attorney. It
21 asks for a court evaluator. It also asks that a court attorney be appointed,
22 and then you go that way. I've always had Doug Curella take care of any
23 Part 36 assignments, and told him that that is his responsibility.

24 Q. Did you provide any general instructions to Attorney Curella with respect
25 to the qualifications of an attorney?

1244.



(Hon. Mark J. Grisanti - Direct)

1 A. I just told him to go on the list and look at it, because on that particular
2 list of Part 36 there's not a lot of them, but there's quite a few, but there
3 are some that don't get any cases, or not enough cases. And there are
4 some that get appointed consistently or all the time. So I said, you know,
5 "Go ahead, and make the appointments for some individuals." And he
6 would go ahead and do that. I didn't really take -- I didn't take any part in
7 that.

8 Q. Roughly how many appointments did your part make between 2018 and
9 2020?

10 A. Between all aspects, probably -- because there's also attorney for the
11 children. There's a bunch of different -- probably, maybe 50 to 100.

12 Q. So roughly, 150 to 300 over that time period?

13 A. Probably, yeah, I would say, probably since 2015. I can't really recall off
14 the top of my head. There's -- you know, there's quite a few. There's
15 different areas.

16 Q. Did you have any specific conversations with Attorney Curella about
17 Matt Lazroe for any of those appointments?

18 A. No.

19 Q. Did you have any conversations with Matt Lazroe about those
20 appointments?

21 A. No, not at all.

22 Q. What connection was there between the appointments Attorney Lazroe
23 received and the 2015 sale of your practice?

24 A. Absolutely no connection.

25 Q. The *Buffalo Seminary* case was one of the eight cases in which Attorney

1245.



(Hon. Mark J. Grisanti - Direct)

1 Lazroe was involved. Do you recall that case?

2 A. I didn't recall the case when it was brought up, but then I did the research,
3 and I recall the case now.

4 MR. CONNORS: Would you pull up Exhibit
5 29, please?

6 A Or I should correct that. I don't recall the case at all. I recall, you know,
7 the order, and then I looked into what the case was about.

8 BY MR. CONNORS:

9 Q. Well, we put up Exhibit 29, which is in evidence, that references *Buffalo*
10 *Seminary* against *Stephanie Satterwhite*. Does that help to refresh your
11 recollection?

12 A. Yes.

13 Q. Now there has been some testimony that you granted a default judgment
14 to Attorney Lazroe's client, the *Buffalo Seminary*. Do you recall that
15 testimony?

16 A. I do recall that testimony.

17 Q. Why did you grant a default judgment?

18 A. From what I recall about the case is, Buffalo Seminary, which is a school,
19 actually had -- was owed tuition from Stephanie Satterwhite for her
20 daughter that went to Buffalo Seminary. And they worked out an
21 agreement that as long as she pays, they wouldn't go forward anymore
22 with any legal work. In other words, she signed a confession of judgment
23 stating that she would make payments, and in the confession of judgment
24 it says, "If you do not make the payments, we can *ex parte*," meaning
25 without her notice, "file a default judgment."

1246.



(Hon. Mark J. Grisanti - Direct)

1 Q. Was the motion for default judgment opposed by anyone?

2 A. No, not at all.

3 Q. Was it opposed by a lawyer?

4 A. No.

5 Q. Was it opposed by Ms. Satterwhite?

6 A. It was not. It was -- it wasn't even -- there wasn't even a date set up for
7 the motion at all. It was an *ex parte* motion. Any motions that came in
8 went to my Law Clerk. He would review it, and if it would just need a
9 Judge's signature, he would put a sticky note on it, and he would put it in
10 my box.

11 Q. Is that what happened in this particular case?

12 A. Yes.

13 Q. Did -- did it have anything to do with the fact that Attorney Lazroe was
14 the attorney of record in that case?

15 A. It had nothing to -- I didn't even know he was the attorney on the case
16 until it was brought up to me. It was an *ex parte* order. There was no
17 appearance. No.

18 Q. So as to all of the eight cases that we've mentioned so far, what actions
19 did you take because Attorney Lazroe was the attorney involved in any of
20 those cases?

21 A. I didn't take any action on -- the case was the case. I didn't take any
22 action because he was the attorney on it.

23 Q. You understand from your judicial rules of ethics that you must exercise
24 your judicial authority in an impartial manner?

25 A. Absolutely.

1247.



(Hon. Mark J. Grisanti - Direct)

1 Q. So did you exercise your judicial authority in connection with the eight
2 cases that are the subject of this matter in an impartial manner?

3 A. Yes. Not only in the cases where Matt Lazroe, but in all of my cases.
4 They are done impartial. There's no biases. As a matter of fact, there's
5 another case. It's -- the name is *Wells Fargo*, that was a case of Matt
6 Lazroe's. I forget the time period. I think it was around 2018, 2019, that
7 I actually ruled against him on a summary judgment motion. So if I was
8 impartial to Mr. Lazroe, why would I rule against him on a summary
9 judgment motion against his client?

10 Q. You mean if you were partial to him?

11 A. Yeah, if I was partial to him.

12 Q. The case you just mentioned, the *Wells Fargo* case is not one of the cases
13 listed in the particular set of charges filed by the State Commission?

14 A. It's not. When I was -- when I was asked through an informal complaint
15 about the cases with Matt Lazroe, I did the research and I provided all the
16 information on all those cases, and one of those cases I provided
17 information on was the *Wells Fargo* case. When I received the
18 complaint, that case was not included.

19 Q. In any of the cases that have been the subject of these proceedings, or in
20 any of the case -- any case that you've involved with Attorney Lazroe,
21 have you ever shown him partiality or preferential treatment?

22 A. Absolutely not. I don't really know Matt that well. It was just, you
23 know -- there was -- and even if I did it, there wouldn't be any sort of any
24 arrangement or anything.

25 Q. Even if you did know him, you say?

1248.



(Hon. Mark J. Grisanti - Direct)

1 A. Yeah. I mean, I -- it's not like that in any of my cases that I have. I know
2 a lot of attorneys on both plaintiff and defense side. Never had any
3 complaint or accusation that I was biased or prejudiced towards
4 somebody because I knew somebody else.

5 Q. Judge, you understand that Charge III against you relates to your
6 financial disclosures, both to the OCA Ethics Commission, and to the
7 Clerk of the Court?

8 A. Yes.

9 Q. First, let's talk about the OCA Ethics Commission. Can you tell us about
10 your financial reporting requirements to that Commission?

11 A. My financial reporting requirements for the financial form, as I stated
12 before, you have to put your finances together, and fill out the form in
13 May of each year for the previous year.

14 Q. Were you somewhat familiar with those forms when you started your
15 tenure as a Court of Claims Judge?

16 A. I was familiar with it because it -- they were same forms -- they're public
17 documents. They're the same forms that you have to file when you are in
18 the New York State Senate.

19 Q. How did you comply with the OCA annual disclosure forms?

20 A. Gathered the information on my finances, and I would fill out the forms.
21 Sometimes I would do it by hand and send them in. Other times I would
22 do it -- it was a lot easier by computer, and you would get a notification
23 the following year, hey, it's time to file your financial forms. And you
24 pull up the forms, and if there was any changes, you would make the
25 changes. If there was no changes, then you'd basically go through it.

1249.



(Hon. Mark J. Grisanti - Direct)

1 You hit it. It kind of fills itself in, and then you file it.

2 Q. That's when you do it online?

3 A. Correct.

4 MR. CONNORS: Let's pull up Exhibit 23,
5 please.

6 BY MR. CONNORS:

7 Q. 23 in evidence is a document entitled Ethics Commission for the Unified
8 Court System. Do you know what that document is?

9 A. That's the annual statement of Financial Disclosure for the year 2015.

10 Q. That is filled out in 2016 for the previous year?

11 A. That's correct.

12 Q. So let's look at question number 1. It asks for first name and last name,
13 and who filled in that particular information?

14 A. I did.

15 Q. Question 2, what's your current job title, job address, and phone number,
16 who filled in that information?

17 A. I did. It shows two offices that I had at that point, in Batavia, and which
18 is Genesee County and on Delaware, Erie County.

19 Q. You filled in all the information that was requested of you in that
20 particular form?

21 A. I did.

22 Q. So Judge, some of the questions have what's called a drop-down menu,
23 are you familiar with that?

24 A. I am.

25 Q. Is that where you choose an answer from various options?

1250.



(Hon. Mark J. Grisanti - Direct)

1 A. That's correct.

2 Q. Could you go to question 12 (a), please? Are you able to read that from
3 where you're sitting?

4 A. I am. I am.

5 Q. Read it out loud, please.

6 A. 12 (a) says, "Describe the terms of, and the parties to, any contract,
7 promise, or other agreement between the reporting individual and any
8 person, firm, or corporation, with respect to the employment of such
9 individual after leaving office or a position. Do you have any
10 information to enter on this question?" And I checked the box, "Yes."

11 Q. And what did you answer?

12 A. It -- it allows you to fill in. I wrote, "I sold the phone number and
13 goodwill of the firm to individuals I was sharing space with for 730 a
14 month for four years. I closed my Federal I.D. number" and my -- "and
15 all State numbers and all tax numbers in my name."

16 Q. Is that a reference to the 2015 sale agreement that we discussed this
17 afternoon?

18 A. Yes.

19 Q. Now it says you sold it to individual, to "individuals I was sharing space
20 with." Were you sharing space with Matt Lazroe?

21 A. No. Yeah, that's incorrect.

22 Q. Who were you sharing space with?

23 A. Peter Pecoraro.

24 Q. Did you clarify --

25 A. Well, it's on the -- yeah, the next question is 12 (b).

1251.



(Hon. Mark J. Grisanti - Direct)

1 Q. Yeah, well, let me get there.

2 A. Okay.

3 Q. I've -- did you clarify it in the next answer?

4 A. I did.

5 Q. How did you clarify it?

6 A. Next answer, on 12 (b), and I'm not even sure if you have to fill out the
7 information for both of them, but 12 (b) says, "Describe the parties to,
8 and the terms of any agreement providing for a continuation of payments
9 or benefits to the reporting individual in excess of \$1,000 from a prior
10 employer. Other than the State, this includes interest or contributions and
11 pension fund, et cetera. Do you have any information, enter in this
12 question?" And I checked, "Yes." And then I wrote, "I sold my law
13 practice to two attorneys, one attorney I shared space with, the other
14 attorney, he had moved into my vacant space. Terms are 730 a month for
15 four years. It will end June of '19."

16 Q. Was that the clarification that you referenced with regard to Attorney
17 Lazroe?

18 A. It is.

19 Q. And your answer to question 12 (a) though, you mentioned the monthly
20 payments of \$730, correct?

21 A. That's correct.

22 Q. But you don't mention the down payment?

23 A. I did not mention the down payment.

24 Q. Why not?

25 A. Well, the monthly paid -- the monthly payment amounts started in July of

1252.



(Hon. Mark J. Grisanti - Direct)

1 2015 when I was a Judge. The down payment was when I was an
2 attorney and there's actually a separate area -- there's a separate area
3 where you list income from the -- from your practice. So my estimation I
4 put that in that box, but when I was told later on to make corrections, it --
5 to make it uniform; it's not in the correct spot. It should have been -- I'm
6 not even sure if that information should be in 12 (a), when you read it.
7 But in 12 (b), it should have been in there that there was a down payment
8 of \$15,000. But the agreement's there. The terms are there, but the down
9 payment is not there.

10 Q. But you did disclose the existence of that amount of down payment in
11 another category on that form?

12 A. Yes, I believe I did.

13 Q. Okay. So let's look at 12 (b) that you just mentioned. Would you read
14 that question out loud, please?

15 A. It says, "Describe the parties to and the terms of any agreement providing
16 for continuation of payments or benefits to the reporting individual in
17 excess of \$1,000 from a prior employer other than the State." It -- now
18 that I read that, it doesn't seem like it should even be an answer there,
19 because I wasn't getting any money from a prior employer.

20 Q. So did you disclose information about the 2015 sale in response to both
21 questions 12 (a) and 12 (b)?

22 A. I put it in 12 (a) and 12 (b).

23 Q. Why did you do that twice?

24 A. In all honestly, when you read it, it just gives the impression that if you're
25 receiving some monies, that you have to put something down. In

1253.



(Hon. Mark J. Grisanti - Direct)

1 analyzing it, it doesn't look like it needs to be in both, but I put it in both
2 just to be safe.

3 Q. Were you trying to hide anything with respect to the down payment?

4 A. No, absolutely not.

5 Q. So in your question to -- excuse me, in your answer to question 12 (b),
6 you clarified that one of the attorneys you shared space with, was that
7 Peter Pecoraro?

8 A. Correct.

9 Q. And the attorney who moved into your vacant space, was that Attorney
10 Lazroe?

11 A. That would be Matt Lazroe.

12 Q. And when did that occur? When he moved into your vacant space?

13 A. When I left. He moved into the vacant space, but then my understanding
14 is, is they actually left that particular part of the building and went to a
15 different floor.

16 Q. Okay. Now looking at these answers, there's no disclosure of the down
17 payment, correct?

18 A. That's correct.

19 Q. And why did you not disclose it there?

20 A. I didn't close it there because I was -- in my mind, I'm thinking, "Okay,
21 this is information from when I'm Judge. I'm going forward. At the time
22 I got the down payment, I was not a Judge."

23 Q. Did you consider the fact that it was disclosed in your income from your
24 law practice on another part of this questionnaire?

25 A. I did.

1254.



(Hon. Mark J. Grisanti - Direct)

1 Q. So let's talk about --

2 A. And then I changed it, because I -- it should have been -- I corrected it
3 because it should have been together, so it's uniform.

4 Q. Okay. When did you make that correction?

5 A. After I spoke to the Executive Director, it would have been -- I made the
6 corrections on the 2020 filings.

7 Q. So let's go to question 14, please. 14's a long question, but asks you to
8 disclose the nature and amount -- no, I'm sorry, 13. 13, that's the long
9 question asking you to disclose a lot of information about the nature and
10 amount of any income in excess of \$1,000. Do you see that?

11 A. I do see that. It's a long question.

12 Q. What did you put down in terms of income to you as a response to that
13 question?

14 A. I put -- it asked if I have any information, and it talks about spouse, so I
15 put, "Self, law office closed May of '15. Clients. Category amount, \$20-
16 60,000." I put "Self, Peter Pecoraro, Esquire, and Matthew Lazroe,
17 Esquire, sale of law office starting May '15, 730 a month for four years."
18 And then it has what my -- where my spouse worked.

19 Q. You listed the nature of payments as clients, do you see that?

20 A. Correct.

21 Q. And why did you list that information on this disclosure form?

22 A. I really didn't know what to put there, so I just put clients.

23 Q. So regarding the category of the amount, how is that filled out in the
24 form?

25 A. Category amount C, \$20 to -- \$20,000 to under \$60,000.

1255.



(Hon. Mark J. Grisanti - Direct)

1 Q. Is that a drop-down menu?

2 A. It is.

3 Q. So how do you do it, physically? How does it -- you enter those figures?

4 A. You -- well, you go to the category. You go to the category amount, if I
5 recall from memory, and you click A, B, or C, and then it fills itself in as
6 to what the amount is.

7 Q. So if the --

8 A. At the top of the form, it has categories of what they are and what the
9 dollar amounts are. And that's what I corrected.

10 Q. Okay. For the source of income from your law office, you chose the
11 range of \$20,000 to \$60,000, and that resulted in category C, correct?

12 A. That's correct.

13 Q. So the next part of your answer, under question 13, is for income to
14 yourself.

15 A. Correct.

16 Q. Do you see that?

17 A. Yes.

18 Q. What did you list there?

19 A. For the -- you mean the income to myself?

20 Q. Yeah.

21 A. Oh, for the sale of the law practice, it's 730 a month.

22 Q. So that's where you listed Peter Pecoraro and Attorney Lazroe?

23 A. Correct.

24 Q. What did you enter under nature of income?

25 A. Sale of the law office.

1256.



(Hon. Mark J. Grisanti - Direct)

1 Q. Okay. And what did you answer under category of amount?

2 A. A, under \$5,000.

3 Q. Was that correct?

4 A. It was correct if you take a payment amount of -- that started in July -- I
5 don't know why it has May, but if it started in July, 730 a month times six
6 months is under \$5,000. But to keep things uniform, I -- that's the
7 correction that I made for 2015, is I changed the category amount to
8 category C, which would have been \$20,000 to under \$60,000, when you
9 add the \$15,000 down payment.

10 Q. So that disclosure would include the actual down payment that you
11 received from the sale of your practice?

12 A. It would because it's a little confusing, so I wanted to, you know -- I said,
13 "I get it, I'll keep it uniform."

14 Q. But if you took the six months of payments of \$730, that would only
15 equal \$4,380, correct?

16 A. If -- I trust you. If that's the math, I trust that's what it is.

17 Q. In any event, it was under \$5,000?

18 A. Correct.

19 Q. Okay.

20 A. I'm not really good with -- on computers and programs, so trust me, a
21 form like this, takes a long time to fill out.

22 Q. So the category of amount, just above that, for income from your law
23 office, that's where the category is \$20-\$60,000, do you see that?

24 A. I do.

25 Q. And you stated earlier that you included the down payment for the sale of

1257.



(Hon. Mark J. Grisanti - Direct)

1 your practice in that amount.

2 A. I would have included it in that category considering that it was really
3 money received prior to me being a Judge. I was looking at -- on the self
4 part of it, for the other one, as those are payments I'm receiving when I'm
5 a Judge.

6 Q. So that would be money that --

7 A. I should have made that distinction -- was the --

8 Q. -- but, just so I understand you correctly. That would be money you
9 earned as an attorney as opposed to after you became a Judge?

10 A. That's correct.

11 Q. Let's look at question 18. Now that's another fairly long question, but it
12 asks you list any notes or accounts receivable that are due to you, correct?

13 A. That's correct. It's asking for, like an account receivable, for debts owed
14 to such individual at the close of the taxable year last occurring in excess
15 of \$1,000.

16 Q. How did you answer that question?

17 A. I answered, yes, and I put, "Sale of law firm," will [sic], "and phone
18 number in May of 2015," which is the date of the agreement, "730 a
19 month payable on the 1st for four years."

20 Q. So if you go back to count the entries in this form, you filled in the
21 information about the 2015 sale of your practice in four different spots on
22 this form?

23 A. I did. And I believe that that one was corrected as well, because I wanted
24 to keep it uniform, and I believe the category of amount was changed on
25 that one from A to C.

1258.



(Hon. Mark J. Grisanti - Direct)

1 Q. Were you trying to conceal anything about the 2015 sale in filling out
2 your OCA annual Financial Disclosure?

3 A. No, absolutely not. I -- you know, it was -- I went ahead and there's
4 really nothing to hide, because it's on there. And I went ahead and closed
5 all of my tax I.D. numbers, so it's just really an error where the total is.

6 Q. So did there come a time when you learned that your disclosure for
7 2015 -- there may have been a better way to report that in the annual
8 disclosure form?

9 A. Yes.

10 Q. And that's Exhibit 23?

11 A. (Unintelligible).

12 Q. So when did you come to that conclusion that there may be a better way
13 to disclose that information?

14 A. When I received the informal complaint from the Judicial Conduct
15 Commission, I went back and looked and said, "Yeah, I can, you know --
16 I can see the discrepancy. It's an error, and it needs to be corrected," So I
17 contacted -- starting in December of 2020, I was calling the phone
18 number that I had for, what I thought was the Judicial Ethics
19 Commission, and I was calling that number, and I wasn't getting through.
20 I called again in January, and I believe in -- I believe I got a hold of
21 somebody and there was nobody answering because I'm assuming
22 because of COVID. And then I finally got a hold of somebody, and they
23 said that "You're calling the wrong department. This phone number is for
24 JCOPE." Which is the Ethics Commission for the Senate. So I grabbed
25 the phone number from the form, from the one I had from the Senate. I

1259.



(Hon. Mark J. Grisanti - Direct)

1 thought it was the same thing, because it was an Ethics Commission.
2 And they said, "No, you have to call this number," and they gave me a
3 212 area code number to call for Judicial Ethics, and I called that number,
4 and I spoke to -- oh, actually I called the number, left a message, I called
5 again, I left a message, and then I got a return call, and it was Elizabeth
6 Hooks who was just appointed the Administrative Director. I explained
7 to her what the situation was, and she said, "You cannot do it online.
8 You cannot do it over the phone." She said, "It sounds like all your
9 information is there, but what you want to do is, to make a correction,
10 you have to make a copy of -- she was, go on line, get a copy of that
11 particular question, make sure that that question stands out by itself, and
12 then, you're going to have to write in the correction --"

13 Q. Write -- write it?

14 A. -- because it -- you have to write in -- "write in the correction, because
15 you -- because you can't change it online, and send that back with" --
16 And I told her, I said, "Well, the next filing is" -- she goes, "Send it with
17 your next filing, so it stays together, and make sure you put a letter with
18 it," which I did.

19 Q. Did you do so for the years 2015, 2016, and 2017?

20 A. I did. Because for 2016 and 2017, if you take 730 a month times 12
21 months, it's over \$5,000. It comes out to be, I think \$8,000 something, so
22 I made that change to put it to category B.

23 Q. So --

24 A. So the amounts there, but the addition's wrong for '16 and '17.

25 Q. Yeah. The actual totals per month were disclosed accurately?

1260.



(Hon. Mark J. Grisanti - Direct)

1 A. Oh, yeah. It's -- that does -- that didn't change.

2 Q. But the yearly total should have been in a different category?

3 A. Correct.

4 Q. And that's all been corrected?

5 A. That has all been corrected. If you go on there now, it has, because I
6 double and triple checked it. You go on there now, and it has like a little
7 box, saying corrected. And then you click on that, and it shows the
8 handwritten correction.

9 MR. CONNORS: I'm going to ask Kate, if she
10 would, to put a series of exhibits up, just to have you look
11 at them. They're all in evidence.

12 BY MR. CONNORS:

13 Q. It's R through Z. And if you can take a look at those, and tell us what
14 they are?

15 A. That --

16 Q. That's R?

17 A. Yeah, that is the certified mailing that I sent to New York State Ethics
18 Commission -- man, is my handwriting terrible -- my -- New York State
19 Ethics Commission to Elizabeth Hooks. It's -- that's embarrassing
20 actually to send that to somebody, handwritten like that.

21 Q. Well, it got there.

22 MR. POSTEL: Join the club.

23 MR. CONNORS: Yeah.

24 A. Yeah, that's not very professional.

25 //

1261.



(Hon. Mark J. Grisanti - Direct)

1 BY MR. CONNORS:

2 Q. S?

3 A. That is the letter to -- good thing I didn't handwrite this one. It's a letter
4 to Elizabeth Hooks that has an I.D. number. I believe that's my I.D.
5 number. And it talks about a couple of months ago having a conversation
6 regarding the error in listing or hitting the wrong category of amount box
7 on a Financial Disclosure. The category amount should be category B,
8 not A, in answering question 12. And it shows the corrections, and that
9 the years '18 and '19 are correct. As stated, due to only one individual
10 paying per agreement. That -- I mean, that that's -- I was trying to get to
11 remember the conversation that we had, so -- and then I filed the 2020
12 Financial Disclosure, which was -- that one was by hand, and not by
13 computer.

14 Q. So Exhibits T through Z, are those the corrections? The respective
15 corrections that were made?

16 A. Oh my God, look at that. Yeah, that's -- no, that's -- yeah, that's my 220
17 [sic] -- 2020 Financial Disclosure that I did -- that I filed, and I wrote in
18 there with corrections for 2015, '16, and '17. How embarrassing is that?

19 Q. So that's T through Z, correct?

20 A. That's correct.

21 Q. But that was in addition to your disclosures for 2020 that were made
22 already, correct?

23 A. That's correct. I added the corrections as I was told to the 2020 filing.

24 THE REFEREE: Mr. Connors, for clarification
25 on Respondent's R, I couldn't see dates. Is that letter dated?

1262.



(Hon. Mark J. Grisanti - Direct)

1 MR. CONNORS: S would be the letter I think?
2 A. Yeah, it all -- the letter's not dated, but it would have been basically at the
3 time that I sent it by certified mail which was -- if you go back to the last
4 exhibit, I can tell you when -- it was sent June 3rd, so I'm sure I did the
5 letter on June 2nd or June 3rd. And then that's what I mailed to her, by
6 certified mail. And shows that she received it on June 7th. Which -- I
7 know you have to file the disclosure of May of every year, but because of
8 COVID, they extended it from May of '15 -- May 15th to June 15th to file
9 the disclosure. So the 2020 was on time with the corrections.

10 BY MR. CONNORS:

11 Q. So just let me go to the second part of Charge III that deals with an
12 alleged violation of Section 100.4, by not disclosing the 2015 sale of your
13 law practice, and the installment payments to the Clerk of either the Court
14 of Claims, or Supreme Court. Are you familiar with that Rule?

15 A. Am I familiar with the Rule?

16 Q. Yes.

17 A. I'm familiar with the Rule now, yes.

18 Q. And how did you gain that familiarity?

19 A. I wasn't familiar with that Rule until I received an email. I believe it was
20 in May of '21, from my Administrative Law Judge, asking that, if you've
21 had any judicial activity or income over \$150, you need fill out a -- you
22 need to send a form to -- in my case it was Billie Jo Zakia, who was the
23 Clerk for the 8th Judicial District, and also to Eileen Fazzone, who is the
24 Clerk of the Court of Claims.

25 Q. Is that Exhibit P which is in evidence?

1263.



(Hon. Mark J. Grisanti - Direct)

1 A. I don't know if it's -- I don't know if it's P or not.

2 Q. Exhibit Q or P -- it's Q then. Okay. Is that the email that you're --

3 A. Yes.

4 Q. -- referencing?

5 A. Yes, that email says -- that's the email talking about 22 NYCRR

6 100.4(H)(2), about public reports. So when I received that, I really didn't

7 know what it was talking about, so I asked other Judges, and other Judges

8 didn't even know about it, but it talks about the income would usually be

9 attributed "to teaching, which some of you," who are new to the bench,

10 "income due from practice that has been wrapped up, but moneys still

11 owed, not -- talks about musicians, \$150 per year." And then it said, "If

12 you have any compensation for this year, in the event you forgot to do

13 this the prior five years, you might want" to do a *nunc pro tunc* filing. So

14 when I saw that, I've never received an email like this before, since I've

15 been a Judge. So -- and if I have, I -- who knows if I delete it, but when

16 they talk about going back five years, I'm assuming that it was something

17 that was not sent out, so I looked into it. And I did some research, and I

18 looked at opinions, and it -- you know, and in my estimation, it didn't

19 apply to me.

20 Q. You were not receiving -- at the time, you were not receiving any

21 compensation in excess of \$150, but you were still receiving some

22 payments from Attorney Lazroe?

23 A. I was.

24 Q. Is it your testimony that your research revealed that was not a required

25 disclosure pursuant to this particular Rule?

1264.



(Hon. Mark J. Grisanti - Direct)

1 A. Correct. There is a -- as I said, I talked to other Judges. Other Judges
2 weren't even aware of this Rule. And Judges that were, they said, "Well,
3 you're not a teacher," you know. "Did you perform any wedding
4 ceremonies?" And I said, "No," and they're like, "Do you teach?" And I
5 said, "No." They said, "Well, it doesn't apply to you." But I wanted to
6 look into it, and there's actually an opinion from 2014 -- I don't have it
7 with me, but it basically said that income from --

8 MR. POSTEL: I'm going to object to this.

9 MR. CONNORS: Yeah, we'll supply that to the
10 Hearing Officer, that is --

11 MR. POSTEL: Isn't it in evidence?

12 MR. CONNORS: No, we'll -- as part of our
13 legal argument, we'll provide that opinion.

14 THE RESPONDENT: Okay.

15 A. It was an opinion from 2014, and just recently there was another opinion
16 from 2022, just this year, that came out, that said that if your income --
17 that said that basically (unintelligible) from a law practice is not
18 something that you have to -- is required to file with the Clerk of the
19 Courts.

20 BY MR. CONNORS:

21 Q. Now there was also a memorandum from Chief Administrative Judge
22 Lawrence Marks, Exhibit P, that we placed into evidence as well. That is
23 dated March 17, 2022 --

24 A. Right.

25 Q. -- it is fashioned as another reminder similar to Justice Feroletto's

1265.



(Hon. Mark J. Grisanti - Direct)

1 reminder, correct?

2 A. Yeah, that's correct. And that's when -- at the -- around that same time
3 period, the other ethics opinion came out, because there was a big article
4 put across the State regarding -- that I received and that everybody
5 received, regarding the 100.4(H)(2) filings. And I figured because I'm
6 filing the Financial Disclosure Statements, that that -- it's public record,
7 that that's sufficient. That's enough, and that 100.4(H)(2) does not apply
8 to me, based on the 2014 ethics opinion as well as the 2022 ethics
9 opinion. And this email talks about, we recognize that they're the same in
10 large part, and duplicative of the Financial Disclosure Statement. So it's
11 saying that they're both public documents. They both seem to be doing
12 the same thing, and we're going to evaluate whether this process should
13 be simplified and streamlined, and that's because there was, I don't know,
14 a couple a hundred Judges, including Administrative Judges that were not
15 filing that form under 100.4(H)(2) either.

16 Q. So the Financial Disclosure Statement is referencing Judge Marks,
17 second paragraph of this memorandum, is that a reference to the OCA
18 filing?

19 A. Yes.

20 Q. Which you made?

21 A. Correct. And again, it says also, the disclosure requirement remains in
22 effect under 100.4(H)(2), but if you're a teacher, or if you're doing a --

23 MR. POSTEL: Objection.

24 THE REFEREE: Sustained.

25 A. All right. If --

1266.



(Hon. Mark J. Grisanti - Direct)

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BY MR. CONNORS:

Q. So we've talked about --

A. -- I took it to mean if it's a judicial activity.

Q. Okay. But we've talked about some of the corrective action that you took with respect to your financial filing obligations, correct?

A. Yes.

Q. And you have corrected those to the best of your ability presently?

A. Yes, I have.

Q. Well, when we're talking about corrective action, I want to -- I want to bring you back to -- away from your Financial Disclosure corrections, and talk to you about whether or not you took any corrective action steps from a personal standpoint?

A. Yes, I did. After July -- July 22nd of 2020.

Q. What -- what were the steps that you took immediately after this event of June 22, 2020?

A. I -- I -- in July I contacted Dan Lukasik, who's the -- what's called the Judicial Wellness Coordinator. I contacted Mr. Lukasik. I had a conversation with him.

Q. So let me just stop you there for a minute. What is a Judicial -- what did you understand a Judicial Wellness Coordinator to be?

A. Judicial Wellness Coordinator is somebody that has knowledge that can help with any sort of problem that a Judge may have, a consideration. It could be depression. It could be anxiety. It could be loss of loved one. It could be anger issues. It could be any health issues that the Judge feels that he may have a problem with. So I called him to explain to him that

1267.



(Hon. Mark J. Grisanti - Direct)

1 I -- you know, that I believe I have a problem.

2 Q. Did you have -- did you do that voluntarily on your own?

3 A. I did.

4 Q. There was no court order that required you to do that?

5 A. No, no one knew that I called him. It's private.

6 Q. Okay. And is the Judicial Wellness Coordinator a member of the staff of
7 the Office of Court Administration?

8 A. He is.

9 Q. And who is the person you've called and spoke to?

10 A. Dan Lukasik.

11 Q. Did you get any direction or instruction from Attorney Lukasik?

12 A. I did. I actually sat with him, explained what happened about the incident
13 with my neighbors. Explained what happened to him about the incident
14 with the police. I was having a real hard time with why, you know, I
15 exploded the way that I did, considering that that's completely out of
16 character for me. That I have a -- you know -- in my estimation, a good
17 temperament, never had that happen in that sense of just the anger, and
18 the frustration, the anxiety. I was dealing with a lot of grief. I was
19 dealing with a lot of issues. And I sat there and explained with him for a
20 good period of time.

21 Q. How many times, roughly, did you meet with the Judicial Wellness
22 Coordinator for the Office of Court Administration?

23 A. I talked to him probably once or twice a month from July until he told me
24 that he was going to refer me to another agency, and I think me and him
25 were talking -- I still talk to him every now and then, but consistently it

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(Hon. Mark J. Grisanti - Direct)

1 was just him until probably February of 2021. In the meantime -- I mean,
2 COVID was still going on, so in the meantime, when we could meet or
3 talk on the phone, he gave me exercises to do in order to try to better
4 myself, to try to understand things, and to move forward.

5 Q. Did you follow his advice with respect to those exercises?

6 A. I did.

7 Q. Do you believe that it helped you in any respect?

8 A. I believe that it helped initially with the grief and the loss that I was
9 experiencing. I believe that it helped in -- with regards to not keeping
10 things in, as far as, you know, issues like discussing problems that I'm
11 having or things that come up, trying to discuss it with family, in
12 particular, my wife. But it wasn't helping in the sense of me
13 understanding, internally. I was mad at myself, and I still am, to this day,
14 internally mad. It's getting better, but my actions on that day, I think
15 about that day every day to this day.

16 Q. Did the Judicial Wellness Coordinator for the Office of Court
17 Administration refer you to another specialist?

18 A. He did. He referred me to -- there's another group that's linked with the
19 Office of Court Administration, known as CCA, which I believe the
20 acronym stands for Corporate Client --

21 Q. Corporate Counseling Associates?

22 A. Yeah, Corporate Counseling Associates. And he spoke to the
23 Administrative Office there, and they connected me with a Zachary
24 Shaiman, who has pretty solid educational credentials, Master's Degree.
25 He's a licensed Clinical Social Worker, and what's called an EAP, which

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(Hon. Mark J. Grisanti - Direct)

1 I'm not sure what that stands for, it's Employment, or --

2 Q. Employee Assistance Program?

3 A. Yeah, because they're connected -- they're linked, the court system and
4 CCA.

5 Q. So this new counselor, Zachary Shaiman, was someone else who was
6 also affiliated with the Office of Court Administration?

7 A. Yes.

8 Q. Okay. And did you make the connection with Mr. Shaiman?

9 A. I did. Made the connection with Mr. Shaiman in March of '21. And he
10 had some preliminary information as to what the issue was. He followed
11 through on other issues with regards to, not only extreme grief and loss,
12 but also the feelings that I was having inside, and any sort of anger issue,
13 or why I acted the way I did under the circumstances. I can explain it -- I
14 told him verbally, "Listen, it was reflexive impulses regarding protecting
15 my wife and trying to protect her, because what was happening, but in
16 hindsight there was a lot -- there's a lot of other better ways to handle it,
17 and I wanted to get down to why and what I could do to make myself not
18 only a better person, but to make sure that that never happens again."

19 Q. Did you do this on a voluntary basis?

20 A. I did.

21 Q. Was there any court order requiring you to pursue counseling with
22 Corporate Counseling Associates?

23 A. No, no.

24 Q. How many times did you meet with the Counselor Shaiman?

25 A. Well, he was in New York City, so I couldn't -- I had to do it through

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1 telehealth.

2 Q. Uh-huh.

3 A. And went that way. And he gave me a lot of, not only good insight, and a
4 lot of materials to read, in particular, he said, "Not only do meditation,
5 but I'm going to send you some articles," and he did, by a psychologist. I
6 believe her name was Karla McLaren. And he said, you know, "Read
7 these. We'll discuss what you take out of these articles on stress."
8 Similar to what Dan was doing. Dan was giving me articles on grief, and
9 coping with loss, things along those lines, and he went a step further
10 talking about -- trying to find out why you did what you did, and one of
11 the articles resonated where he said, "You're in the category of what's
12 called an honorable sentry."

13 Q. What does that mean?

14 A. So an honorable sentry is a person that tries to --

15 MR. POSTEL: I'm going to object to this. We
16 don't have any record relating to any of the meetings he had
17 or any of the results concerning --

18 MR. CONNORS: Yeah, you do. Exhibit GG.
19 That's all we have.

20 MR. POSTEL: Shaiman?

21 MR. CONNORS: Yeah.

22 MR. POSTEL: Well, I understand he met with
23 him, but you don't have any other notes, or any other
24 discussion, or anything relating to it.

25 MR. CONNORS: GG is all of his records.

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1 THE RESPONDENT: Well, I --

2 MR. POSTEL: But this is from Shaiman?

3 MR. CONNORS: Yes.

4 THE RESPONDENT: Well, it's not from
5 Shaiman. I contacted Zachary Shaiman in order to get
6 material. Am I allowed to explain?

7 MR. POSTEL: I'm simply asking -- I'm asking
8 counsel, is this document from Shaiman?

9 MR. CONNORS: This is what we were given
10 when we contacted CCA.

11 MR. POSTEL: And the extent of the records, so
12 I'm going to object to any discussions from which I don't
13 have a basis for cross-examination.

14 THE REFEREE: Well, I'm going to allow in the
15 honorable sentry, just for his understanding of it, not as a
16 diagnostic determination.

17 BY MR. CONNORS:

18 Q. Do you understand that, Judge?

19 A. I did. I can -- and I can explain to you what happened with Zachary.

20 Q. No -- well, stay on this. You're allowed to tell us what your
21 understanding of that terminology, honorable sentry, means.

22 A. My understanding is, and -- I, you know -- I have the materials, and I
23 look at it quite often. It's basically an individual that looks at not only
24 protecting the family, but also to making sure you try to keep a status quo
25 when you get into a situation when you feel that somebody's boundaries

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1 are being attacked, that you come into play. That's my understanding of
2 an honorable sentry.

3 Q. So you told us you met via telehealth appointments with Zachary
4 Shaiman. And did there come a time when he referred you to a local
5 counselor here in the Western New York area.

6 A. Yes. He could no longer -- with the CCA and the contract that they have,
7 they're only allowed a certain number of sessions, is what he told me, and
8 then he says, "We have to send you somewhere else."

9 Q. And did he select --

10 A. For long-term therapy he suggested.

11 Q. Did he select the name of the person to send you to?

12 A. He did. He sent me to Jakob Smidt.

13 Q. Had you had any relationship with Jakob Smidt before that?

14 A. No, I didn't know any of -- I didn't know any of these people. I just -- I
15 barely knew Dan Lukasik for that matter. I knew who he was, but he was
16 extremely helpful, and he sent me to Zachary, and Zachary was extremely
17 helpful, but he couldn't go any farther, so he sent me to Jakob Smidt.

18 Q. And did you go there voluntarily?

19 A. I did go to Jakob Smidt voluntarily.

20 Q. And who was Jakob -- I mean, we've had him testify here, but who did
21 you understand Jakob Smidt to be?

22 A. Jakob Smidt, he has his Master's Degree. He's a licensed Clinical Social
23 Worker, and he had a conversation -- he was filled in by Zachary
24 Shaiman as to what my concerns were, and we went from there.

25 Q. And did you continue to work with Counselor Smidt?

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1 A. Yes, worked on a number of things with Jakob Smidt. Coping skills,
2 anger management, talked about alcohol evaluations, things along those
3 lines to help me get a better understanding as to why I was feeling the
4 way I was feeling, anxiety, depression, why I was internally mad at
5 myself. The grief and the loss was, you know -- it was still there, but
6 pretty much with the material that I was given by Dan Lukasik and also
7 as time goes on, when you lose a loved one, and with Zachary Shaiman,
8 you know, I understood it, because I -- the grief and the loss part, I
9 thought that there was more I could for my mother, and how quickly she
10 passed, I -- you know, as she did, and the way that she passed, it was
11 bothering me, but reality set in, and she lead a good life, so I was able to
12 put that aside, and then focus on other things .

13 Q. Did Jakob Smidt help you in any way to understand any of the stressors
14 that you were experiencing in June of 2020?

15 A. Yes. Those were the items that we were talking about regarding -- he
16 said that part -- he goes, "You" -- what I learned is I compartmentalize,
17 and by compartmentalizing, if I have a lot on my plate, I go ahead, and I
18 push it to one side, and I just keep working, and I'm sure a lot of people
19 do that. The problem is I don't talk to anybody about anything that's
20 bothering me or any outside things that are bothering me or any sort of
21 stressors. I keep it all inside. I don't talk to anybody about it. So that's
22 where the coping skills, and that's where the anger issues is -- he was
23 working on me with, because he said, "By keeping it inside and not
24 talking about it, it builds up," and, you know, on this particular day, it
25 was almost like the straw that broke the camel's back of, you know, close

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1 to a decade full of --

2 MR. POSTEL: I'm going to object to that as a
3 conclusion. The records from the doctors -- Mr. Smidt, are
4 in evidence, and I didn't see anything relating to any
5 camels.

6 MR. CONNORS: Well, I think it's just an
7 example. It's his impression of what the -- what he has
8 learned.

9 THE REFEREE: I'll sustain it as to form, and
10 it's the narrative. Maybe you could break it up.

11 MR. CONNORS: Okay.

12 BY MR. CONNORS:

13 Q. Did you learn how to process your emotions in a healthy way with
14 doctor -- with Counselor Smidt?

15 A. I did. I became more open, and discussing my feelings, and discussing
16 what was bothering me, you know, with my family, and if there was --
17 like if somebody said something to me that I took offense to, rather than
18 keeping it in, he said, "You just tell them, you know, 'I didn't appreciate
19 that,' or 'I don't like that,' so you let people know," and those were really
20 the coping skills that I've learned in order to, you know, get better as to
21 what was bothering me.

22 Q. Did Counselor Smidt provide you with an anger management workbook?

23 A. He did.

24 Q. Did you use that workbook to help improve yourself?

25 A. I did. We went over two chapters every time we met, which was twice a

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1 month.

2 Q. How did that anger management workbook help you in connection with
3 your own personal attitudes?

4 A. It was -- I mean, Jakob is, he's a great man. He -- you know, I feel I have
5 a good temperament, but what I learned from him helped me to make
6 sure that I'm actually more open with not only feelings that I have, and
7 explaining things to, not only my wife, but also if something bothers me
8 from really any individual, in taking a step back and not having a really
9 fiery reaction to something. Where when you see what's going on, you
10 take a step back. You think about it. I think about what I learned in the
11 anger management book as far as the different categories of realizing
12 different areas of anger. In reality, anger -- from what I've learned, is
13 anger is actually your friend. You just have to compartmentalize it in a
14 proper way. It's a perfectly fine emotion to have, but there are times
15 when you have anger and it can go out, and it can come out in a wrong
16 fashion, and you could have a lot of trouble for it, and that's what I've
17 learned, and I believe that's what took place, coupled with everything else
18 on that particular day in June. And it's -- in talking with him, it's made
19 me a better person, and a stronger person.

20 Q. Did your work with Counselor Smidt help you -- provide you with some
21 insight into your behavior in June of 2020?

22 A. It absolutely did. It basically taught me that, in keeping things in -- all
23 the items that I testified here today, about everything that the Meles
24 would do, not only to us, but to other individuals, there were times when
25 Maria wouldn't go out of the house. A lot of those items I saw, I

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1 witnessed, I went ahead, and I would not tell her if something --
2 everything that the Meles did, because I knew that she was stressed out
3 about who the Meles were. And didn't want to tell her everything. When
4 any other problems came up, I kept them on my own. When my mother
5 was ill, and she asked me, "How's your mom doing?" I said, "My mom
6 was fine." There was information, because I would talk with mother-in-
7 law's doctors, and a doctor would tell me some information, and her
8 mother would say, "Don't tell Maria." And I would keep that inside.
9 So these are things where he said, "Listen, you have to let that stuff out,
10 and what happened on that particular day it's a culmination of a lot of
11 thing you had inside, but it was also you trying to defend your wife, you
12 trying to protect your wife. You have a reflexive, you know, response to
13 what was being done to her, especially by the police officer.
14 I understand that, as a -- and by understanding that, are there ways that I
15 could have done it better, absolutely. Not getting down the level of
16 swearing, but I think that's the only way I thought the Meles were going
17 to understand things. They were swearing at me, I was swearing at them.
18 It was out of character for me, and what he's taught me is to be open,
19 express yourself, but do in a positive manner, get rid of the negativity
20 that's in your life, and think before you act.

21 Q. Has your work with Counselor Smidt helped you in connection with your
22 role as a Judge and your judicial temperament that must be employed in
23 that capacity?

24 A. Absolutely. I never had a problem with judicial temperament. Never had
25 a problem on the bench with anything. What he's taught me has only

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1 made me a better person. I do a lot of mental health clinics. With those
2 mental health clinics, I've even have my Court Clerk say, when the
3 individual is there for mental health hearings and they're yelling at the top
4 of their lungs, or they're going off on the doctor, they say, "Boy, do you
5 have patience. Are you more patient," you know, "I would have
6 exploded," or if it was another Judge, they would have done something
7 different with regards to that individual. So I kind of step back and look
8 at everything now before I react to anything. And that helps me be a
9 better person, to have a better temperament, and to be a better person all
10 the way around. Not only in my job. I love what I do. I feel like I'm a
11 good Judge, and I want to stay a Judge.

12 Q. Have you -- do you continue to work with Counselor Smidt?

13 A. I do to this day. I have an appointment with him next week.

14 Q. What do you work on now?

15 A. It's still maintaining that, because it's still hard. I still keep things inside.

16 I mean, you know, I was brought up this way, where you keep things --
17 yourself. I mean, you know, my father divorced my mom when I was
18 eight years old. I didn't bring things to my mother or tell her. My mother
19 was working three jobs. So I kept things to myself. The -- my three
20 older siblings, it was a ten-year gap, you know. There was really nobody
21 to talk to. I didn't bother my mother with it. I kept things inside, and I
22 was like that -- he said "That is how you were raised. That's how you
23 were born," and he goes, "It's not something that's going to happen
24 overnight."

25 So I continue to see him because there are times when I still shut down

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1 and I don't tell Maria everything, or if somebody's saying something to
2 me and I didn't appreciate it, I just keep it inside like, "Oh, why does that
3 person like -- say to that to me? Does that person not, you know -- not
4 like me for some reason?" And rather than confronting it, but
5 confronting it in a positive manner, not confronting into a negative
6 manner, or be angry about it. So I still see him for that. And I see him to
7 try to be open more with my wife to establish that relationship.

8 Q. Judge, we've had some testimony here that there was no diagnostic
9 criteria warranting ongoing work with respect to alcohol or substance
10 abuse. Do you recall that testimony?

11 A. I recall that testimony. Yes, I do.

12 Q. And have you, though, altered any of your lifestyle since this event has
13 happened, on a voluntary basis?

14 A. I have altered my lifestyle. I mean, is it -- during COVID -- during that
15 time period when my mother was ill, you know, there are times when you
16 would think to yourself, you know, are you doing things in excess or
17 something like that, you know. I didn't think I was doing anything in
18 excess and on -- but I want to make sure that doesn't happen where you
19 do anything with excess. So I have altered it where, you know, before --
20 you go to dinner three or four times a week. I don't go to the bar and
21 have a cocktail at the bar. When we go there, we have a reservation now.
22 We go there. We get to our table. We sit down, and if I have now one
23 glass or one and half glass of wine. That's what I do. I don't sit there
24 and, you know -- and make a big ordeal about it. And to be healthier too.
25 Eat healthier, things along those lines, so --

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1 Q. We also heard some testimony that there was no diagnostic criteria that
2 required you to continue with anger management programs. Do you
3 recall that testimony?

4 A. I do.

5 Q. Do you continue to work on issues with your anger management
6 workbook?

7 A. The workbook is over with, but I still talk to Jakob Smidt because I'm not
8 fully resolved with -- for -- I'm not fully resolved for lack of a better
9 manner of feeling better about myself inside about how that day went.
10 I'm still internally mad at myself. I don't portray it out in any sort of
11 fashion. I don't feel like I'm the same person that I was prior to this
12 incident. It's just -- I regret it. I've apologized to the police officers. You
13 know, there are times when I wanted to, you know, talk to the Meles,
14 or -- and apologize to them, and I mentioned that to my counselor, and I
15 told him. He goes, "Well, what do think?" And I said, "I think they're
16 going to take it the wrong way." So I just never did. I knew that he had a
17 family member that passed away. I did say, from across the street, you
18 know, "Sorry for your loss." And said it loud it enough they can -- that
19 they can hear it. I just got a dirty look. You know, there was nothing like
20 that.

21 And you know, there's shows you watch on Sunday morning on TCT, and
22 they talk about, you know, making amends, doing things along those
23 lines, and me and Maria will sit there and look at, and she says, "I don't
24 know if it's a lost cause whether or not we could ever, like, have a
25 conversation to say, hey, I'm sorry about what happened on that day," you

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1 know, "I get it if we're not friends, but let's not just have this animosity.
2 We live next door another -- we live across the street from one another
3 still." So those are the things that I'm still dealing with. Those are my
4 issues internally.

5 Q. Do you plan on staying in counseling with Jakob Smidt?

6 A. I do.

7 Q. Now in addition to your work with Dan Lukasik, with the Employee
8 Assistance Program, Jakob Shaiman -- oh excuse me -- Zack Shaiman,
9 and Jakob Smidt, did there come a time when I told you to get an
10 evaluation for purposes of presenting it to the State Commission on
11 Judicial Conduct?

12 A. Yes.

13 Q. And did you comply with my recommendation?

14 A. Yes, I did. I contacted Horizon Health Services, which is very highly
15 recommended, you know, a facility in --

16 MR. POSTEL: Objection. This is --

17 THE REFEREE: I'll sustain it.

18 THE RESPONDENT: Okay.

19 MR. CONNORS: Well --

20 MR. POSTEL: Are you going to place the level
21 of Horizon's into issue? Because I can bring in witnesses
22 who can say it's not that highly regarded.

23 MR. CONNORS: Well, I think his
24 experience -- I think we will.

25 //

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1 BY MR. CONNORS:

2 Q. In any event, you went there on a voluntary basis to have a behavioral
3 health evaluation?

4 A. I did. They were very receptive. They were very receptive. I didn't --
5 just like with Dan and Jakob and Zachary, I didn't know who I was going
6 to meet over there.

7 Q. So you saw both Christopher Frigon, and you saw Dr. Morra?

8 A. Correct.

9 Q. Did you know either of those people before you met with them for the
10 evaluation?

11 A. No.

12 Q. And tell me how many times you met and were evaluated by that team?

13 A. Chris Frigon, I saw probably -- I didn't see, because it was again by
14 telehealth -- at least four or five occasions. Sometimes it wasn't by
15 telehealth; it was actually just a quick phone call. At least four or five
16 occasions. But he was asking me basically the same things, where are
17 you at, where you've been. Did sort of like a behavioral, in essence,
18 mental health type evaluation, and then he was working alongside with
19 Joshua Morra, who I also saw by telehealth, and by a -- there was a
20 couple of times by telephone because the telehealth didn't work. But I
21 saw actually Josh Morra, more than I saw Chris Frigon.

22 Q. Did you believe that you benefited from that behavioral health evaluation
23 that was conducted by Horizon Human Services [sic]?

24 A. Absolutely. It actually confirmed some of the things that went back.

25 Q. Did you go there specifically to try to obtain some type of a favorable

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1 evaluation for the State Commission?

2 A. No, absolutely not. I went there because I was experiencing internal
3 issues that I experience to this day that I feel that are being worked on,
4 and I'm, you know, in a good place.

5 Q. Thank you.

6 MR. CONNORS: That's all I have.

7 MR. POSTEL: So I'm going to ask that we
8 adjourn, because I need to take care of some -- and issues
9 here, and make some dinner promises so we can get this
10 room.

11 THE REFEREE: Okay. Why don't we resume
12 Monday morning, with --

13 MS. TRAPANI: Okay to go off?

14 THE REFEREE: Off.

15 (Proceedings concluded at 2:39 p.m.)

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19	32	Order of Protection in favor of Gina Mele, against Linda Chwalinski, dated July 9, 2014 (1 p)	520	521
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21	33	Letter from Hon. Paula L. Feroletto to Gina Mele, dated July 30, 2022 (1 p)	709	709
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23	34	Audio Portion of Mele Home Security Video (1)	794	950
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35	Still Photograph from Officer Gehr’s Body Worn Camera Video, Maria Grisanti upon arrival at the scene (1 p)	1073	1077
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EXHIBITS

RESPONDENT

	Description	Ident.	In Evid.
E	Professional Awards, Mark J. Grisanti (3 pp)	1143	1147
H	Mark Grisanti's 2022 Judicial Caseload (2 pp)	703	1158
I	Mark Grisanti's 2021 Judicial Caseload (2 pp)	702	702
J	Mark Grisanti's 2020 Judicial Caseload (1 p)	701	701
K	Mark Grisanti's 2019 Judicial Caseload (1 p)	700	700
L	Mark Grisanti's 2018 Judicial Caseload (3 p)	698	698
M	Mark Grisanti's 2017 Judicial Caseload (1 p)	696	697
P	Memo from Hon. Lawrence K. Marks to Full-Time Judges RE: Reporting of Compensation for Extra-Judicial Activities dated March 17, 2022 (1 p)	1158	1158
Q	Email from Hon. Paula Feroletto to Eighth Judicial District Full-Time Judges RE: 22 NYCRR100.4(H)(2) dated May 20, 2021 (1 p)	1158	1158
R	USPS Certified Mail and Return Receipt for First Class Mail from Mark J. Grisanti to the NYS Ethics Commission dated June 7, 2021 (1 p)	1158	1158
S	Letter from Mark J. Grisanti to the NYS Ethics Commission RE: Financial Disclosure, undated (1 p)	1158	1158



1	T	2020 Annual Statement of Financial	1158	1158
2		Disclosure to the NYS Ethics Commission for		
3		Mark J. Grisanti (12 pp)		
4	U	Correction to 2017 Financial Disclosure for	1158	1158
5		Mark J. Grisanti, dated March 5, 2018 (2 pp)		
6	V	Screenshot of Computer Screen showing	1158	1158
7		Webpage Submission of Amendment to 2017		
8		Financial Disclosure for Mark J. Grisanti,		
		undated (1 p)		
9	W	Correction to 2016 Financial Disclosure for	1158	1158
10		Mark J. Grisanti, date illegible (2 pp)		
11	X	Screenshot of Computer Screen showing	1158	1158
12		Webpage Submission of Amendment to 2016		
13		Financial Disclosure for Mark J. Grisanti,		
		undated (1 p)		
14	Y	Correction to 2015 Financial Disclosure for	1158	1158
15		Mark J. Grisanti dated February 19, 2016 (2		
16		pp)		
17	Z	Screenshot of Computer Screen showing	1158	1158
18		Webpage Submission of Amendment to 2015		
19		Financial Disclosure for Mark J. Grisanti,		
		undated (1 p)		
20	AA	Temporary Order of Protection in favor of	140	489
21		Linda Chwalinski against Gina Mele, dated		
		August 11, 2014 (1 p)		
22	BB	Temporary Order of Protection in favor of	484	488
23		Victoria Chwalinski against Joseph Mele,		
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1	CC	Temporary Order of Protection in favor of Gerald Chwalinski against Joseph Mele, dated August 31, 2004 (1 p)	485	488
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3	DD	Demonstrative Map of [REDACTED] Avenue (1 p)	76	77
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5	DD-1	Demonstrative Map of [REDACTED] Avenue with	474	474
6	DD-2	Demonstrative Map of [REDACTED] Avenue with names of neighbors on houses (1 p)	1168	1168
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8	EE	Mark and Maria Grisanti's Receipts from June 22, 2020 (4 pp)	1232	1232
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10	FF	Photos of Maria Grisanti's Injuries (3 pp)	1020	1020
11	HH	Mark Grisanti's Treatment Records from Horizon Health Services dated August 3, 2021 (49 pp)	813	813
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14	II	Mark Grisanti's Treatment Records from Jakob Smidt, LCSW, from June 24, 2021 through February 11, 2022 (35 pp)	583	
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16	KK	RAP sheet for Gina A. Mele (9 pages)	137	
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18	MM	Written Statement by Gina Mele to Buffalo Police Department dated June 22, 2020 (5 pp)	100	
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3	QQ	Buffalo Evening News article, DA eyeing incident over parked car involving State Supreme Court judge, by Maki Becker and Jane Kwiatkowski, June 26, 2020 (2 pp)	123	
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6	RR	Letter from Gina Mele to Governor Andrew Cuomo, dated June 29, 2020 (2 pp)	124	
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2		by Commission Staff, dated February 2, 2021		
3		(5 pp) [highlighted]		
4	CCC	Lt. Karen Turello Interview Memo written	224	
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12		Muhammad on December 7, 2020 (10 pp)		
13	FFF	Letter from Linda Chwalinski "To Whom	481	
14		It May Concern," dated November 7, 2020 (6 pp)		
15	GGG	BPD Incident Report dated September 29,	495	495
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17	HHH	Affidavit of Joseph M. Shur, Esq., dated	889	889
18		June 28, 2022 (3 pp), with Biography of		
19		Joseph M. Shur from Relin, Goldstein, and		
20		Crane LLP, Dated June 28, 2022 (1 p) and		
21		Biography of Joseph M. Shur from		
22		"Partner - Collections" Undated (1 p)		
23	III	Resume of Joshua Morra, MD, PhD (5 pp)	897	951
24	JJJ	Resume of Christopher A. Frigon, LCSW (1 p)	951	951
25	KKK	Still Photographs from Mele Home Security	1003	1004
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1	MMM Elaboration of Professional Awards of	1147	
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3	NNN Still Photograph from Officer Gehr's Body	1012	1013
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CERTIFICATION

I, Kelly J. Vadeboncoeur, do hereby certify that the foregoing is a true and accurate transcript of the audio recording described herein to the best of my knowledge and belief.

Dated: July 22, 2022

Kelly Vadeboncoeur

Kelly J. Vadeboncoeur



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

-----X

In the Matter of an Investigation :
Pursuant to Section 44, subdivision 4, :
of the Judiciary Law in Relation to :

MARK J. GRISANTI, :

a Judge of the Court of Claims, :
Acting Supreme Court Justice, :
Erie County. :

-----X

Erie County Family Court, Part 3
One Niagara Street, 7th Floor
Buffalo, New York 14202

July 11, 2022
10:05 a.m.

B e f o r e:

WILLIAM T. EASTON, ESQ.
Referee

P r e s e n t:

For the Commission

JOHN J. POSTEL, Deputy Administrator
DAVID M. DUGUAY, Senior Attorney

For the Respondent

TERRENCE M. CONNORS, Esq.
VINCENT E. DOYLE, Esq.
TYLER GATELY, Esq.

A l s o P r e s e n t:

HON. MARK J. GRISANTI, Respondent
KATHRYN TRAPANI, Executive Assistant to the Deputy Administrator
VANESSA MANGAN, Senior Investigator



(Hon. Mark J. Grisanti -Cross)

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MS. TRAPANI: We're on the record.

THE REFEREE: It's July 11th. We'll resume testimony. I think we ended with the completion of direct examination. And Judge, you may take the stand, and the Commission may cross-examine.

MR. POSTEL: Taking no chances on the water, I see. Good morning, Judge.

THE RESPONDENT: It's warmer than --

THE REFEREE: You're still under oath, Judge.

THE RESPONDENT: Thank you, Judge.

CROSS-EXAMINATION

BY MR. POSTEL:

Q. Judge, your term of office as a New York State Senator ended on December 31, 2014; is that correct?

A. Correct.

Q. And you were appointed thereafter to the Court of Claims by Governor Cuomo; is that correct?

A. That's correct.

Q. And your current term ends on July 31, 2023; is that correct?

A. July 31 or July 23. It's an odd number, but July of 2023.

MR. POSTEL: Can we put up -- can I have marked please as the next Commission exhibit, the Office of Court Administration Courtnet.

(Commission Exhibit 37 was marked for identification)

MS. TRAPANI: Want me to go to the second



(Hon. Mark J. Grisanti -Cross)

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page?

MR. POSTEL: Second page, please.

BY MR. POSTEL:

Q. So with the Office of the Court Administration, you see current term ends -- it indicates July 31, 2023; is that correct.

A. That's correct. July 31st. Correct.

Q. And you are Honorable Mark J. Grisanti; is that correct?

A. Yes.

Q. Court of Claims and you're currently an Acting Supreme; is that correct?

A. That is correct.

Q. You're an attorney?

A. Yes.

Q. And as far as you know, that's your judicial ID number?

A. Yes.

Q. All right. And you are currently active and are not deceased, right?

A. That's correct.

Q. Both.

A. Both. Active and not deceased.

Q. All right.

MR. CONNORS: What's that exhibit number, just for the record?

MS. TRAPANI: That'll be 37.

MR. CONNORS: 37?

MS. TRAPANI: Um-hum.

MR. CONNORS: Thank you.

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(Hon. Mark J. Grisanti -Cross)

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BY MR. POSTEL:

Q. In terms of the usual term of office for a Court of Claims Judge, generally a new Court of Claims Judge gets a ten-year term; is that right?

A. That's correct.

Q. But you were appointed on -- your term began on May 14, 2015; is that correct?

A. That's correct.

Q. And that's clearly not ten years. Can you tell us how it occurred that it appears only to be an eight- or nine-year term?

A. My understanding was that it was a seat that was a Court of Claims seat that was somewhere in the Syracuse area that was being relocated to the Eighth Judicial District.

Q. Would this sort of be like an unexpired term you were filling?

A. Yes, unexpired term.

Q. All right. Now, in terms of getting out of the practice of law and into the position of a judge, you knew you had to close your law office; is that correct?

A. That's correct.

Q. And had you -- how long, continuously, had you maintained that law office?

A. Since 1993.

Q. All right. And prior to that, your father had had that law office, right?

A. That's correct.

Q. So in terms of the Grisanti name practicing law in Buffalo, generally speaking, how long did that go on for?

(Hon. Mark J. Grisanti -Cross)

1 A. Started in 1921.

2 Q. So we're talking over 75 years, right?

3 A. Correct.

4 Q. And in terms of your closing your practice, because you can't be both an
5 attorney practicing law and a judge, right?

6 A. That's correct.

7 Q. You arrange for the sale of your law practice to two individuals.
8 Pecoraro and Lazroe, right?

9 A. That's correct.

10 Q. Who negotiated the terms of the sale?

11 A. Myself and Peter.

12 Q. All right. In fact, you were sharing space with Peter, right?

13 A. I was.

14 Q. What did he tell you about why Lazroe was coming into this?

15 A. He didn't tell me. He said -- the only thing he said to me that -- I thought
16 it was going to be Matt's father and then Peter said Matt's father does not
17 want to join practices. He's kind of getting semi-retired and his son is
18 interested.

19 Q. So you knew it was Matt coming in to by the firm with Peter? And by
20 Matt, I mean Matt Jr. The Mr. Lazroe that testified here.

21 A. I don't know if he's a junior. It's Matt. Matt Lazroe.

22 Q. Okay. Did you know the father's name?

23 A. I don't.

24 MR. POSTEL: Can we put up please, Exhibit

25 14?

1288



(Hon. Mark J. Grisanti -Cross)

1 BY MR. POSTEL:

2 Q. You testified in direct examination about this agreement you entered into
3 with Lazroe and Pecoraro. Do you remember that?

4 A. Yes.

5 Q. And in the agreement, the bottom line is that the terms were negotiated as
6 a \$15,000 down payment with 48 \$730 monthly payments?

7 A. Whatever it came out to be from the time period of July until June.

8 Q. Okay.

9 A. Forty-eight months. Four years, yes.

10 Q. Four years.

11 MR. POSTEL: And can we -- first page,
12 please?

13 BY MR. POSTEL:

14 Q. And in terms of what you were selling specifically -- to start with, you
15 were selling goodwill; is that correct?

16 A. That's correct.

17 Q. And the goodwill also included the copier and fax machine?

18 A. Correct.

19 Q. You also sold the furnishings with the exception of three items, right?

20 A. That's correct.

21 Q. What did those furnishings include?

22 A. It was basically a couple of desks and some chairs. Some -- I think there
23 was filing cabinets. Not much, just some other equipment,

24 Q. Had you decorated the office yourself?

25 A. No.

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(Hon. Mark J. Grisanti -Cross)

1 Q. No decorations on the walls, for instance?

2 A. No. Not really.

3 Q. Pretty plain?

4 A. It was pretty plain. Pretty small.

5 Q. In terms of the furnishings and the copier, did Mr. Pecoraro and Mr.

6 Lazroe, to your knowledge, ever use those? Did you ever go to visit them
7 in the office?

8 A. I didn't.

9 Q. You never went back?

10 A. I mean, I went back to see Peter when he was ill. They moved. They
11 moved from a different -- from -- that floor that I was on, they moved to a
12 different floor.

13 Q. All right.

14 MR. POSTEL: So can we scroll up just a little
15 bit, please? Scroll to the next page, please.

16 BY MR. POSTEL:

17 Q. You see in the middle it says, "seller will only be responsible for \$300
18 monthly rental for the office"?

19 A. That's correct.

20 Q. Under the current lease, will also be speaking to the landlord regarding
21 renegotiating said lease.

22 A. That's correct.

23 Q. What did that mean?

24 A. I was still on the lease for the floor that I was on. So I told them that I
25 would still be responsible for -- under the lease because it's joint several

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(Hon. Mark J. Grisanti -Cross)

1 liability, but I wouldn't be responsible for it. They told me that they were
2 going to move and if they move, they were going to take me off the lease.

3 Q. All right. And did that happen?

4 A. It did.

5 Q. Can you tell us when?

6 A. Within I would say a couple of months.

7 Q. Okay.

8 A. I'm not really sure.

9 Q. Was your monthly rent \$300 prior to the sale?

10 A. Yes.

11 MR. POSTEL: Can we go back to the first
12 page, please? Scroll up, please.

13 BY MR. POSTEL:

14 Q. The second to last paragraph that begins with the words "that if." Do you
15 see that?

16 A. Yes.

17 Q. Did you negotiate as part of the agreement the provision that says, "That
18 if any unpaid invoices come in after the date of this agreement, or any
19 funds come in after the date of this agreement, that seller either already
20 earned or was through a referral, those unpaid monies or funds are due to
21 seller"?

22 A. Yes.

23 Q. Did you ever receive any unpaid funds from Mr. Lazroe?

24 A. No.

25 Q. And you didn't itemize any unpaid funds that you anticipated receiving

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(Hon. Mark J. Grisanti -Cross)

1 did you?

2 A. I did not.

3 Q. And you didn't itemize any unpaid invoices that you anticipated coming
4 in after the date of the agreement, right?

5 A. That's correct.

6 Q. Now, you know, Judge, one of the matters we're here for today regards
7 the filing of your financial disclosure statement for 2015, right?

8 A. Correct.

9 Q. And in the course of the Commission investigation, we wrote you a letter
10 asking about the accuracy of certain entries on the Financial Disclosure
11 Statement, right?

12 A. You wrote me a letter when?

13 Q. We sent you a letter asking for a response during the investigation?

14 A. Yes.

15 Q. And you did respond, right?

16 A. I did.

17 Q. And you signed the response; is that correct?

18 A. That's correct.

19 Q. All right.

20 MR. POSTEL: Can we bring up please, this is
21 Commission Exhibit 38, Respondent's and Respondent's
22 Counsel's letter to the Commission in April 2021?
23 (Commission Exhibit 38 was marked for identification)

24 BY MR. POSTEL:

25 Q. All right. Do you remember seeing this letter?

1292



(Hon. Mark J. Grisanti -Cross)

1 A. I do.

2 MR. POSTEL: Can we scroll to the very
3 bottom, please?

4 MS. TRAPANI: You need the first page or --

5 MR. POSTEL: All the way to the end.

6 MS. TRAPANI: It's 268 pages.

7 MR. POSTEL: Well, I think it's page 11 or 12,
8 or even 19. Right there. Next page, please? Page 20.

9 BY MR. POSTEL:

10 Q. Do you recognize that signature?

11 A. That's my signature, yes. On page 20.

12 MR. POSTEL: Can you scroll up, please, to
13 page 15. And paragraph -- question number 10, please.

14 BY MR. POSTEL:

15 Q. Do you see question number 10?

16 A. Yes.

17 Q. Were you asked the following question by the Commission? "Did you
18 accurately disclose the amounts of money, both down payments and
19 monthly payments paid to you by Mr. Pecoraro and/or Mr. Lazroe, on
20 each statement from 2015 through 2019? If not, please correct all
21 inaccurate information, provide documentation for all changes, and
22 explain why you attested to the inaccurate information on the statement
23 you filed." You were asked that question, right?

24 A. Correct.

25 Q. And if you look at the answer underneath --

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(Hon. Mark J. Grisanti -Cross)

1 MR. POSTEL: Can we scroll up a little bit,
2 please? Good.

3 BY MR. POSTEL:

4 Q. Did you respond as follows: "For the years 2015 through 2017, I should
5 have marked Category B for the 'Category of Amount' on questions 13
6 and 18 regarding the income from Mr. Pecoraro and Mr. Lazroe. This
7 was my error regarding the sale." Did you write that?

8 A. Yes.

9 Q. All right. And then going to the last line on that page, which begins --
10 well, did you also say, "I erred by checking the wrong box regarding the
11 category amount on questions 13 and 18, but I clearly show the total
12 amount throughout the disclosure under source and nature sections in
13 questions 12 (a), 12 (b), 13, and 18." Did you then -- did you also write
14 that?

15 A. Yes.

16 MR. POSTEL: Can we identify please
17 Commission Exhibit 23? Put up -- 23 up?

18 BY MR. POSTEL:

19 Q. Now, you went through this with your counsel at some length but let me
20 go through it a little bit more.

21 A. Okay.

22 Q. I believe you testified that you had had experience with regard to filing
23 financial disclosure statements with the State of New York in connection
24 with your service as a State Senator?

25 A. That's correct.

(Hon. Mark J. Grisanti -Cross)

1 Q. How many years had you served as a State Senator?

2 A. Four years.

3 Q. And they were two year terms?

4 A. That's two year terms. Correct.

5 Q. So you were elected twice?

6 A. That's correct.

7 Q. And you filed financial disclosures for all four years; is that correct?

8 A. Yes.

9 Q. Had you ever been questioned about whether any of them were complete
10 and accurate?

11 A. No.

12 Q. So to your knowledge, you got them all right, right?

13 A. To my knowledge, yes.

14 Q. Did you do -- did you do them yourself?

15 A. I did.

16 Q. You didn't have an accounting firm help you with them, did you?

17 A. No.

18 Q. And when you became a judge, 2016 rolls around, and you've got to file a
19 financial disclosure statement for the prior year 2015, right?

20 A. Correct.

21 Q. How did you know to do that?

22 A. There was an email that came around stating that -- it was sent to
23 everybody, stating that you have to file. I think it came out in January
24 saying don't forget to file your financial disclosures by May of this year
25 for the year prior.

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(Hon. Mark J. Grisanti -Cross)

1 Q. I get them too. They're reminders, right?

2 A. Correct.

3 Q. And at a certain point, you did, in fact, put that all together; is that
4 correct?

5 A. I did.

6 Q. And you couldn't just copy over the one from the State Senate because
7 this is an entirely different organization, right?

8 A. That's correct.

9 Q. This is the Ethics Commission for the Unified Court System, as you'll see
10 on the top of the page, correct?

11 A. That's correct.

12 Q. And you knew, did you not, that in filing this, you were expected to be
13 accurate; is that correct?

14 A. Yes.

15 Q. And you knew that it related to any and all matters during the calendar
16 year 2015, as specified under the specific section, regardless of whether it
17 was a period before or after you were a judge?

18 A. That's correct. I used the Senate one, sort of as a template.

19 Q. All right. You printed it out?

20 A. Correct.

21 Q. And you looked at it before you filled this one out, right?

22 A. I was seeing if it was the same.

23 Q. All right. And it was not the same, because it didn't say Ethics
24 Commission for the Unified Court System?

25 A. That's correct. I never looked at the top. I was just looking at the

(Hon. Mark J. Grisanti -Cross)

1 questions.

2 Q. And in terms of what you were filling out, you -- we all do this on
3 computers to some extent, right?

4 A. Correct.

5 Q. You did this on your computer, and you emailed it or clicked to send it
6 in? You verified that it was your signature and you completed it, right?

7 A. That's correct.

8 MR. POSTEL: And can we look at section 5,
9 please? A.

10 BY MR. POSTEL:

11 Q. Under this section, under the word, "position," the second entry is
12 Grisanti and Grisanti; is that right?

13 A. That's correct.

14 Q. And the organization name is Grisanti and Grisanti, right?

15 A. Correct.

16 Q. And then there's the address and the description of the occupation, right?

17 A. Correct.

18 Q. And it has to do with who you might have done business with, any
19 agency, and you listed Bar Association, because you wanted full
20 disclosure, right?

21 A. Correct.

22 Q. And you said that under Grisanti and Grisanti on both of those "closed
23 May of 2015," right?

24 A. Correct.

25 Q. And that's both entries and used the word "closed;" is that correct?

1297



(Hon. Mark J. Grisanti -Cross)

1 A. That's correct.

2 MR. POSTEL: Can we go to 8 (a), please?

3 BY MR. POSTEL:

4 Q. With regard to this entry, you put down your law practice ended May of
5 2015 and was a general practice; is that correct?

6 A. That's correct.

7 MR. POSTEL: Can we go to 12 (a), please?

8 BY MR. POSTEL:

9 Q. And 12 (a) begins, "Describe the terms of and the parties to any contract,
10 promise, or other agreement between the reporting individual and any
11 person, firm, or corporation with respect to the employment of such
12 individual after leaving office or position." You filled this out, right?

13 A. I did.

14 Q. 12 (a)?

15 A. Yes.

16 Q. And you were trying to be complete since you really were not -- this was
17 not an occupation agreement -- an employment agreement, right?

18 A. No, it wasn't.

19 Q. But you did it anyway, correct?

20 A. It looked like -- yes. It looked like I needed --

21 Q. You weren't taking any chances?

22 A. It looked like I needed to put something there.

23 Q. All right. So you say you "sold the phone number and the goodwill of the
24 firm to individuals ..." correct?

25 A. Correct.

1298



(Hon. Mark J. Grisanti -Cross)

1 Q. "... I was sharing space with ..." and Mr. Connors made clear that that's
2 what you were doing. You were sharing space with Mr. Pecoraro. Was
3 that correct?

4 A. That's correct.

5 Q. And you put in with -- in connection with the terms, because it says
6 describe the terms, "\$730 a month for four years," right?

7 A. That's correct.

8 Q. And used the -- second word you used was "sold;" is that right?

9 A. Yes.

10 Q. And if you go to 12 (b), you're again asking for "the parties and the terms
11 of any agreement providing for the continuation of payments or benefits
12 to the reporting individual in excess of \$1,000 from a prior employer,
13 other than the State." So Mr. Pecoraro and Mr. Lazroe were not your
14 prior employers, right?

15 A. That's true. Correct.

16 Q. But you did it anyway, correct?

17 A. That's correct.

18 Q. And would I be -- would I be fair to say you did it because you tried to be
19 forthcoming and accurate?

20 A. Correct. I did it because it talks about a terms of an agreement in excess
21 of 1,000.

22 Q. You weren't taking any chances?

23 A. Correct.

24 Q. And there you say, "I sold my law practice to two attorneys;" is that
25 correct?

(Hon. Mark J. Grisanti -Cross)

1 A. That's correct.

2 Q. You used the word "sold."

3 A. Yes.

4 Q. And then underneath at -- the last line -- excuse me. The second to the
5 last line says, "Terms are \$730 a month for four years." Is that correct?

6 A. That is correct.

7 Q. If you take 400 -- four years is 48 months times \$730, it's pretty fair to
8 say that comes out to just above \$35,000; is that correct?

9 A. Okay, yes.

10 Q. All right. And same thing with 12 (a), right? You were disclosing
11 \$35,000; is that correct?

12 A. Correct.

13 MR. POSTEL: Can you go to 18, please?

14 BY MR. POSTEL:

15 Q. Here, you're talk -- it asked you to talk about "all notes and accounts
16 receivable other than from goods or services sold, held by the reporting
17 individual at the close of taxable" last year prior to the filing that's "in
18 excess of \$1,000." Did you make an entry there that Mr. Pecoraro and
19 Mr. Lazroe were identified as debtors?

20 A. Yes.

21 Q. And that this related to the sale of the law firm goodwill and phone
22 number in May of 2015?

23 A. I did. Yes.

24 Q. And you listed \$730 a month payable on the first for four years; is that
25 correct?

1300



(Hon. Mark J. Grisanti -Cross)

1 A. That's correct.

2 Q. And again, four years times 735 -- \$730 is just over \$35,000, right?

3 A. Correct.

4 Q. Now, you said to us, if you look at all these you distinguished certain
5 areas are closed or ended, and then others are sale, right? We've just
6 gone through this?

7 A. Yes.

8 Q. All right. You know that you can close a law firm without selling it; is
9 that correct?

10 A. Yes.

11 Q. To your knowledge and experience, is that how most lawyers get out of
12 the practice?

13 A. I'm not sure.

14 Q. Well, in terms of people you know.

15 A. I know some are closed and --

16 Q. Some are closed. Some are sold, right?

17 A. Exactly.

18 Q. But they're not the same thing, to sell and to close since it's not automatic
19 that if you close, you sold, right?

20 A. Correct.

21 Q. Is it also possible for you to sell and then to continue in the law firm as an
22 employee of the firm, under the employment of the people who bought
23 it?

24 A. Like if I close my firm and then become an employee of the new firm?

25 Q. Correct.

(Hon. Mark J. Grisanti -Cross)

1 A. Yes. Sure.

2 MR. POSTEL: Can we look at 13, please?

3 BY MR. POSTEL:

4 Q. All right. So this is the crux of the charge here in this matter. And under
5 this, you, at the bottom, you reported -- made two reports concerning
6 your spouse. That's Maria; is that correct?

7 A. Correct.

8 Q. And you listed McGuire Group and Russell Friedman & Associates,
9 right?

10 A. Correct.

11 Q. And you listed A for the category amount on the first and B for the
12 category of the amount on the second, right?

13 A. That's correct.

14 Q. Those were accurate, correct?

15 A. Yes.

16 Q. Where did those numbers come from?

17 A. From -- I believe her W2.

18 Q. And in terms of putting together your material, did you reference the
19 1040 that you had filed the year before with the money you were taking
20 in from Lazroe and Pecoraro?

21 A. I did not. Well, on the form I did, as far as the 730 a month for four
22 years.

23 Q. All right. Can you tell us -- and just go into it a little bit more? Your
24 relationship with Mr. Lazroe, prior to May 2015. Was he a friend?

25 A. He was not anybody that I saw. I mean, I would see him around town

1302



(Hon. Mark J. Grisanti -Cross)

1 or --

2 Q. Did you know that he was a practicing lawyer?

3 A. I did know he was a practicing lawyer.

4 Q. Did you know where he practiced?

5 A. I did not.

6 Q. Did you know what his kind of practice was?

7 A. I thought his practice was real estate and foreclosures and bankruptcies.

8 MR. POSTEL: Can we please put up the
9 section from the Rules Governing Judicial Conduct 100.2 --
10 100.4(H) (2)?

11 MS. TRAPANI: Will you be identifying this as
12 Exhibit 39?

13 MR. POSTEL: Exhibit 39 -- it's 38, excuse me.

14 MS. TRAPANI: No, it's 39 (unintelligible).

15 MR. POSTEL: 39.

16 (Commission Exhibit 39 was marked for identification)

17 BY MR. POSTEL:

18 Q. So we talked about this on last Thursday. Was that the day we did,
19 Thursday?

20 A. Yes.

21 Q. This is the fifth week and it's all blending into one.

22 A. Last Thursday.

23 Q. Thank you, Judge. This is the compensation reporting requirement in the
24 Rules Governing Judicial Conduct; is that correct?

25 A. That's correct.

1303



(Hon. Mark J. Grisanti -Cross)

1 Q. And you've never, pursuant to this -- pursuant to this section, made a
2 report to the Clerk of the Court of Claims or the acting -- or the Supreme
3 Court for Erie County; is that correct?

4 A. That's correct.

5 Q. In a sense, there's no doubt that whether you had to or not, you never did
6 anything with regard to this section; is that correct?

7 A. That's correct. Well, not that I had -- never did anything. When I
8 received notice of it in May of '21, I looked into whether or not I needed
9 to comply with that -- comply with Section 100(H) [sic].

10 Q. Okay. The charge in this matter goes for the years 2015, 2016, 2017,
11 2018, and 2019. You never filed for those years, is that correct?

12 A. That's correct.

13 MR. POSTEL: Can we put up Commission
14 Exhibit Q, please?

15 MS. TRAPANI: Respondent's Q?

16 MR. POSTEL: Respondent's Q. Thank you.

17 BY MR. POSTEL:

18 Q. Now, while they're doing that, Judge, can you tell me how long have you
19 known Paula Feroletto?

20 A. Probably since I became a practicing attorney in the 90s.

21 Q. All right. And did you have any social relationship with her?

22 A. No.

23 Q. How about her husband?

24 A. No.

25 Q. Now, you did employ your son at a certain time; is that correct?

(Hon. Mark J. Grisanti -Cross)

1 A. That's correct.

2 Q. When was that?

3 A. 2011 -- maybe 2011 and '12.

4 Q. And when you became a Court of Claims Judge, she was active in
5 ensuring that, or making the necessary arrangements, for you to become
6 the Acting Supreme Court that you are, correct?

7 A. Correct.

8 Q. And in terms of -- you heard her testify about your abilities and what she
9 knows of your character; is that correct?

10 A. Correct.

11 Q. In terms of your impression of her abilities, well, as an Administrative
12 Judge, how would you describe them?

13 A. Top notch.

14 Q. You know, based upon your experience these past years that the
15 Administrative Judge is loaded down with work, right?

16 A. Absolutely.

17 Q. But she doesn't do it alone, does she?

18 A. No.

19 Q. She has a District Executive; is that correct?

20 A. She does.

21 Q. And who is the District Executive?

22 A. Andrew Isenberg.

23 Q. And throughout the term of since you've been on the bench in 2015, has it
24 consistently been Mr. Isenberg?

25 A. To my knowledge, yes.

1305



(Hon. Mark J. Grisanti -Cross)

1 MR. POSTEL: Would you scroll up?

2 BY MR. POSTEL:

3 Q. This is a -- you identified this as a --

4 MR. POSTEL: Stop there, please.

5 BY MR. POSTEL:

6 Q. -- as an email you received on or about May 20, 2021 from Judge
7 Feroletto and it's concerning various reporting requirements, right?

8 A. Yeah.

9 Q. You recognize your name right --

10 A. Yes.

11 Q. -- there in the middle, Honorable -- Hon. Mark Grisanti?

12 A. Yes.

13 Q. Okay.

14 MR. POSTEL: Scroll up, please.

15 BY MR. POSTEL:

16 Q. And it's highlighted. Did you highlight that?

17 A. I believe I did.

18 Q. All right. And if you look at the last paragraph -- and you got this email,
19 right?

20 A. Yes.

21 Q. All right. If you look at the last paragraph, it begins, "Hi, judges,"
22 correct?

23 A. Yes.

24 Q. And it says, "Andrew sends you a reminder to file this report around
25 every year," right?

1306



(Hon. Mark J. Grisanti -Cross)

1 A. Correct.

2 Q. Mr. Isenberg sent you a reminder every year; isn't that correct?

3 A. No.

4 Q. So what Judge Feroletto is saying here is false; is that what you're saying?

5 A. I'm not saying --

6 MR. CONNORS: Objection -- excuse me.

7 Object to the form of that question.

8 THE REFEREE: Sustained.

9 BY MR. POSTEL:

10 Q. Is it accurate or inaccurate?

11 A. I did not receive a reminder to file a report in prior years.

12 Q. All right. Did you --

13 A. I don't know about other judges.

14 Q. In terms of --

15 MR. POSTEL: Scroll up, please.

16 BY MR. POSTEL:

17 Q. In terms of the judges up there, would you think --

18 MR. POSTEL: And scroll all the way, please.

19 BY MR. POSTEL:

20 Q. Would you think that that's a fairly comprehensive list of the judges in
21 the Eighth Judicial District?

22 A. In 2021 it was, but each year it changes.

23 Q. All right. But for this year, for example, Honorable Ken Case is in the
24 middle. You know he's a County Court Judge for Erie County, right?

25 A. Correct.

1307



(Hon. Mark J. Grisanti -Cross)

1 Q. Are there any -- is there anybody on there -- and let's look at the middle
2 also. Honorable Thomas M. DiMillo. We're sitting in his courtroom
3 today, right?

4 A. I believe so. Yes.

5 Q. And so he's a judge. You know him to be a judge, correct?

6 A. I do.

7 Q. Okay. Do you have any reason to believe why Judge Feroletto --

8 MR. POSTEL: Scroll down, please.

9 BY MR. POSTEL:

10 Q. -- would make the statement, "Hi judges, Andrew sends a reminder to file
11 this report around every year," if she had not -- or Andrew had not sent
12 you a report -- a reminder?

13 A. I don't know.

14 Q. But it's unquestioned that in every year you've been a judge, this section
15 22 NYCRR 100.4(H)(2) has been applicable to you; is that correct?

16 A. I don't believe it is applicable to me.

17 Q. Well, you're a judge, aren't you?

18 A. I am.

19 Q. And the Rules Governing Judicial Conduct apply to judges of the Unified
20 Court System, right?

21 A. Correct.

22 Q. Now, whether you had to file or not, you fell under that Rule; is that
23 correct?

24 A. I did fall under the Rule, but used --

25 Q. Every year?

(Hon. Mark J. Grisanti -Cross)

1 A. Yes. You used the word applicable, so I don't -- I felt it wasn't applicable
2 to me when I did the research in 2021.

3 Q. All right. So based upon -- did you do any research in 20 -- in 2015?

4 A. No.

5 Q. '16?

6 A. No.

7 Q. '17?

8 A. No.

9 Q. '18?

10 A. No.

11 Q. Or '19?

12 A. No. It didn't come up in those years and it didn't come up in -- when I
13 went to judge's school either.

14 Q. So with regard to Charge II, you understand that it has to do with Mr.
15 Lazroe's appearance before you and the allegations regarding failure to
16 disclose; is that correct?

17 A. I do. Correct.

18 Q. And it's unquestioned that Mr. Lazroe made somewhat over \$27,000 in
19 payments to you, as indicated on the schedule that he provided us; is that
20 correct?

21 A. From 2015 to 2019? That's correct.

22 Q. Right. And the last thing was in June 2019?

23 A. Yes.

24 MR. POSTEL: Can we put up Mr. Lazroe's
25 schedule, please?

1309



(Hon. Mark J. Grisanti -Cross)

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BY MR. POSTEL:

Q. So you'll see the first entry there is May 15 -- excuse me. May 20, 2015, right? First entry?

A. Correct.

Q. And that's \$10,000, right?

A. I think -- yes. I think he testified that that's a date that it cleared his account.

Q. Right. So --

A. Right.

Q. -- he paid you \$10,000 in May of 2015.

A. That is correct.

Q. And in addition, Mr. Pecoraro paid you an additional \$5,000; is that correct?

A. That is correct.

Q. In May of 2015; is that correct?

A. That's correct.

Q. Upon taking office, did any -- did the Office of Court Administration, the Administrative Judge, Mr. Isenberg, or anyone else talk to you about maintaining a recusal list?

A. It was brought up in the judge's school what a recusal list should be and that I had a conversation -- I don't remember who it -- if it was with Andy or with Paula, on who needs to be on that recusal list, but I did have a conversation with somebody.

Q. And in terms of creating your own recusal list, did you put your family on the list?

(Hon. Mark J. Grisanti -Cross)

1 A. No.

2 Q. Friends?

3 A. If friends donated a certain dollar amount to my Senate campaign for the
4 previous year, I did.

5 Q. Clients?

6 A. Same answer, yes.

7 Q. Were you comprehensive in terms of understanding who your prior
8 clients had been and including them on the list?

9 MR. CONNORS: I object to the form of the
10 question.

11 THE REFEREE: I'll sustain it.

12 BY MR. POSTEL:

13 Q. Were you thoughtful about it?

14 A. I don't believe I put any clients on the list because I had hundreds of
15 clients.

16 Q. How would you have dealt with them if they appeared before you?

17 A. I would have recognized the name, and I would have recused myself.

18 Q. So unquestioned that Mr. Lazroe was not on the list, right?

19 A. I don't believe Mr. Lazroe was on the list, no.

20 Q. Did you -- other than yourself, for yourself, did anyone else add names to
21 the list?

22 A. My law clerk did.

23 Q. On your behalf or on his own behalf?

24 A. Well, for any cases that we had.

25 Q. Based upon his wanting the cases not to be before you?

1311



(Hon. Mark J. Grisanti -Cross)

1 MR. CONNORS: Excuse me, that calls -- I
2 object to that. It calls for the operation of his law clerk's
3 mind.

4 MR. POSTEL: If he knows.

5 THE REFEREE: Sustained.

6 BY MR. POSTEL:

7 Q. How did -- Mr. Curella?

8 A. Curella, correct.

9 Q. What did he say to you about the case of the people or names that he
10 wanted on the list?

11 A. I just know that he put names on there because he came from another law
12 firm.

13 Q. All right. Did he ask you for permission to do that before?

14 A. No.

15 Q. What did you understand the purpose of the recusal list to be?

16 A. The purpose of the recusal list is to make sure that there is no, I guess,
17 appearance of any sort of impartiality towards any sort of other clients or
18 people that were -- that came before you.

19 Q. Did you understand it to also be that those are the names of the cases on
20 people that you should not have appearing before you? Either as parties
21 or attorneys?

22 A. Can you repeat that?

23 Q. Sure. Did you understand that the purpose was to keep attorneys and/or
24 other people from appearing before you?

25 A. Yes.

1312



(Hon. Mark J. Grisanti -Cross)

1 MR. POSTEL: And can we turn to Exhibit 29,
2 please?

3 BY MR. POSTEL:

4 Q. All right. This is the *Buffalo Seminary v Stephanie Satterwhite* matter
5 and you spoke with Mr. Connors during your direct about this; do you
6 recall that?

7 A. I do.

8 Q. Can we indicate the -- that's the RJI; is that correct?

9 A. Correct.

10 Q. And the date of that is December 2017; is that --

11 MR. POSTEL: Scroll down, please.

12 BY MR. POSTEL:

13 Q. -- right?

14 A. That's correct.

15 Q. And in this case, that was a period of time that Mr. Lazroe was making
16 payments to you; is that right?

17 A. That is correct.

18 Q. And in 2017, he had paid you the \$10,000 down payment, and then
19 monthly payments between July and December of \$365; is that correct?

20 A. That is correct.

21 Q. But -- and then the following year, he continued -- that is through June of
22 making payments to you of \$365 a month, right?

23 A. That's correct.

24 MR. POSTEL: So can we get the Judgment
25 Order, please, dated June 14, 2018?

1313



(Hon. Mark J. Grisanti -Cross)

1 BY MR. POSTEL:

2 Q. So we know, Judge, that you signed a judgment dated June 14, 2018; is
3 that correct?

4 A. Yes.

5 Q. And during the pendency of the matter before you from on or about the
6 filing of the RJI, through your signing of the Judgment Order in June of
7 2018, you had taken in thousands of dollars from Mr. Lazroe during that
8 period of time; is that correct?

9 A. That's correct.

10 MR. POSTEL: Can we turn to Exhibit 17,
11 please?

12 BY MR. POSTEL:

13 A. Again, the RJI filed in February of 2018; is that correct?

14 A. That's correct.

15 Q. And there's an order appointing a court evaluator dated June 18, 2018.
16 Now, you've talked to us about how these -- Mr. Lazroe's name came to
17 be filled in. And you indicated to us, I believe, that it was Mr. Curella
18 who filled in the names; is that correct?

19 A. Correct. For -- on this particular one for Ms. E [REDACTED] D [REDACTED].

20 Q. And in terms of his filling in the name, is it your testimony that he would
21 not tell you beforehand that he had filled in that name?

22 A. Yes.

23 Q. You gave him authority to fill in the name without consulting you as to
24 who should be on -- who should be specifically named?

25 A. We've had conversations about, you know, the list of foreclosures,

1314



(Hon. Mark J. Grisanti -Cross)

1 attorney for the children, court evaluators, and I told him to make sure
2 you appoint individuals that do not get, you know, small practitioners that
3 don't get a lot of appointments.

4 Q. Did you look at the list?

5 A. I saw the list probably in 2015, '16.

6 Q. Did you review it on a regular annual basis?

7 A. No.

8 Q. Did you know that Mr. Lazroe was on the list?

9 A. I did not know he was on the list.

10 Q. So you reviewed it, but you didn't see his name?

11 A. Correct.

12 Q. And in terms of --

13 A. Well, I didn't -- I never saw his name on the list.

14 Q. And in terms of how Mr. Lazroe came to become the court evaluator in
15 this case, it's unquestioned, despite what Mr. Curella had said, or
16 whatever language he used, that he doesn't have the authority to actually
17 appoint Mr. Lazroe, right?

18 MR. CONNORS: I object to the form of that. It
19 calls for a legal conclusion.

20 MR. POSTEL: He's a judge.

21 THE REFEREE: I'll overrule it.

22 A. Can you repeat that?

23 BY MR. POSTEL:

24 Q. Sure. It's unquestioned that Mr. Curella, no matter what he filled in on
25 the paper, did not have the authority to make the actual appointment of

1315



(Hon. Mark J. Grisanti -Cross)

1 Mr. Lazroe as the court evaluator?

2 MR. CONNORS: Same objection.

3 THE REFEREE: Overruled.

4 A. That's -- he has the authority to put the names on the form, but he doesn't
5 have the authority to sign the order appointing that individual.

6 Q. Who did that?

7 A. I sign the order appointing the individual.

8 Q. You signed the order?

9 A. Correct.

10 Q. And you signed the order in June of 2018, right?

11 A. Yes.

12 Q. Okay.

13 A. When these order to show causes come before me, what I do is I revert --
14 I review it for the content. I make notes, what's it's about. What they're
15 going for. And then I hand it to him. And I say, "Somebody needs to be
16 appointed and appoint somebody." I actually sign -- I actually sign it
17 before somebody is actually appointed.

18 Q. So you sign it without knowing who's going to be appointed?

19 A. Right, because we get a lot of -- we get a lot of paper in, and I review it to
20 make notes of what the case is about. How old is the person; where she's
21 at; does she have any financials; so on and so forth. And I go ahead, and
22 I'll put a sticky on it, I'll sign it, and I'll put a sticky that a person needs to
23 be appointed.

24 Q. So you read an incomplete proposed order?

25 MR. CONNORS: I'm going to object to the

1316



(Hon. Mark J. Grisanti -Cross)

1 form of that question.

2 A. It's not an incomplete order.

3 MR. CONNORS: Excuse me, Mark.

4 BY MR. POSTEL:

5 Q. All right. Do you read an order that's fully -- I'll withdraw it.

6 A. Yeah.

7 Q. Do you read an order that's fully completed, and sign it on every
8 occasion?

9 A. It's -- at some occasions, I read the entire order on -- for appointments, I
10 just need a name and I trust that my law clerk is going to put a name on
11 somebody that's qualified to take care of whatever that assignment is.

12 Q. So you approve the concept of the order; is that fair to say, by signing it?

13 A. I do.

14 Q. But you don't know who is actually going to get the appointment; is that
15 correct?

16 A. That's correct.

17 Q. But you do understand that you are responsible for that; is that correct?

18 A. That's correct.

19 MR. POSTEL: So if we turn to Commission
20 Exhibit 18, please.

21 BY MR. POSTEL:

22 Q. In this matter, would it be fair to say that Mr. Lazroe was awarded \$250
23 for services?

24 MR. POSTEL: Can you scroll down, please?

25 A. Well, that's -- that was a different attorney that was assigned to that case.

1317



(Hon. Mark J. Grisanti -Cross)

1 MR. POSTEL: Right. I think we have to go
2 further.

3 BY MR. POSTEL:

4 Q. Here it is. That's Lazroe, right?

5 A. That's correct.

6 Q. And there it says \$250 for his services, correct?

7 A. That's correct. It's a statutory fee for being that Guardian Ad Litem.

8 Q. All right.

9 MR. POSTEL: Scroll down, please.

10 BY MR. POSTEL:

11 Q. Your signature?

12 A. My signature.

13 Q. Did you read this before you signed it?

14 A. I probably did not. When I get these, there are sticky notes on there
15 saying that the case is completed, and can you sign it? I don't read every
16 document.

17 Q. In that month, when you signed that, it's October 2018; is that correct?

18 A. Correct.

19 Q. Mr. Lazroe paid you \$365; is that correct?

20 A. That's correct.

21 MR. POSTEL: Commission Exhibit 19, please.

22 BY MR. POSTEL:

23 Q. This is the Federal National Mortgage -- so it's Fannie Mae, right?

24 A. Fannie Mae, correct.

25 Q. It looks like the RJI was filed in May of 2019; is that correct?

1318



(Hon. Mark J. Grisanti -Cross)

1 A. That's correct.

2 MR. POSTEL: And can you scroll down,
3 please? Right to the signature page. Right there.

4 BY MR. POSTEL:

5 Q. And you signed this; is that correct?

6 A. That's correct.

7 Q. And that's -- it awarded Mr. Lazroe \$250 for compensation; is that
8 correct?

9 A. Yes.

10 MR. POSTEL: Can you scroll up? Sure.

11 A. Yes.

12 BY MR. POSTEL:

13 Q. You saw that, right?

14 A. Yeah. After --

15 Q. Did you read this before signing it?

16 A. I don't recall if I read it or not.

17 Q. If you read it, would you have noticed Mr. Lazroe's name?

18 A. If I read it, I would have noticed Mr. Lazroe's name, yes.

19 Q. As a matter of practice, do you read all the documents you sign in terms
20 of orders?

21 A. I cannot say that I read every single document that comes across my desk.
22 There's usually sticky note. It's pretty clear it's an *ex parte*. There'll be a
23 sticky note what that note is to -- this closes out this matter. That's a
24 statutory fee. The \$250 on a Guardian Ad Litem.

25 Q. And during the pendency of this matter, before the payments were

1319



(Hon. Mark J. Grisanti -Cross)

1 concluded in June, Mr. Lazroe had made you -- put money in your
2 pocket, right? Paid you pursuant to the contract?

3 A. Paid me pursuant to the contractual agreement that we had, correct.

4 Q. For May and June -- excuse me. Yeah, for May 2019; is that right?

5 A. Yes.

6 Q. And the last payment was in June?

7 A. Correct.

8 MR. POSTEL: Can we scroll down please? To
9 the February 2020 additional services fee. There it is.

10 BY MR. POSTEL:

11 Q. This provided for the payment to Mr. Lazroe of an additional fee of \$350
12 in this matter, correct?

13 A. That's -- yes. That's my law clerk's writing, and it says \$350 payable for
14 guardian ad litem on transfer of title.

15 Q. Did you approve that?

16 A. I signed the order.

17 Q. By signing the order, does that indicate you approved it?

18 A. Yes.

19 Q. And Mr. Lazroe had by that time, paid you somewhat over \$27,000,
20 right?

21 A. What year is this signed?

22 Q. This is February 2020.

23 A. Yes.

24 Q. The Sales Agreement with Mr. Lazroe had been completed, correct?

25 A. That's correct.

1320



(Hon. Mark J. Grisanti -Cross)

1 Q. In 12 of -- at a certain point, you put Mr. Lazroe's name on the recusal
2 list, right?

3 A. That's correct.

4 Q. Why did you do that?

5 A. After I received notification regarding -- from the Judicial Conduct
6 Commission.

7 Q. All right. So after you got our -- my letter, right?

8 A. Yeah.

9 Q. Yeah. I wasn't aware that the contractual agreement that I had with Mr.
10 Lazroe, under the Judicial Conduct Rules, were interpreted to mean that I
11 needed to -- they were interpreted to me that I needed to have him on that
12 list. So when I received your letter, we went ahead and did some
13 research. I didn't have any cases with him. I went ahead and after
14 COVID, there was a foreclosure that came about. And once that came
15 about, I made calls to the Judicial Ethics Opinion asking what do I do
16 with this case that I still had Matt on. I believe it was *Bayview Loan*
17 *Servicing*, and I was given an opinion and instructions on what to do, and
18 I then had him -- they told me to put him on the recusal list from June of
19 '19 for two years until June of '21.

20 A. Prior to that, had it occurred to you to disclose that a lawyer in a case who
21 was paying you money during the prior two years, is something that you
22 should be doing? In other words, had it occurred to you, prior to the
23 December '20 matter, that for the prior period of time when Lazroe was
24 paying you, you should disclose that amount of money, or disclose that
25 you had been receiving money from an attorney in a matter?

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1 MR. CONNORS: So that's compound so --

2 THE REFEREE: Sustained.

3 BY MR. POSTEL:

4 Q. Had it occurred to you prior to 12/20 that you should disclose that Mr.
5 Lazroe had paid you thousands of dollars?

6 A. It did not occur to me because on some of the cases that I had, I didn't
7 even know that Matt was the attorney. So on a case by case basis, some
8 of them I didn't know he was the attorney, some of them I knew --
9 because there was no appearance in front of me, and some of them I
10 know he was an attorney. But I did --

11 Q. In those cases where you knew he was the attorney, had it occurred to
12 you that you should disclose the matter, because he had been paying you
13 thousands of dollars?

14 A. It did not occur to me because under the Judicial Conduct Rules, I was
15 not aware that that type of contractual arrangement of \$300 plus a month
16 was something that needed to be reported. It was interpreted that way. I
17 knew about impartiality and things along those lines and in any of
18 those -- in my opinion, in any of those eight cases, there was no question
19 of me being partial or biased towards him because they were all statutory
20 type cases. They weren't decisions made that would affect a defendant if
21 he was the plaintiff or affect the plaintiff if he was a defendant.

22 Q. Ms. Lazroe represented a plaintiff in an action against you, right?

23 MR. CONNORS: Excuse me.

24 BY MR. POSTEL:

25 Q. The *Grادل* action?

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(Hon. Mark J. Grisanti -Cross)

1 A. Say that again.

2 Q. Mr. Lazroe represented a plaintiff in an -- I said against you. I apologize.

3 MR. CONNORS: Yeah.

4 A. Yeah.

5 BY MR. POSTEL:

6 Q. In the *Grabl v Jones* [sic] matter, right? The *Jones v Grabl* matter?

7 A. He did. And I did -- yes, he did, and I didn't make any decisions on the
8 *Grabl v Jones* [sic] matter. They were all discovery. That was a case that
9 came from Niagara County with 35 others. It wasn't trial ready, and I
10 was asked until the judge gets better, "can you just make sure discovery is
11 being taken care of?" There was no decisions on that case.

12 Q. At any time, with regard to any of these cases, did you consider the
13 public impression created by a lawyer in a matter before you, being in a
14 position of having paid and paying you money?

15 A. I completely understand now, under the Judicial Conduct Rules, the
16 appearance of the impropriety in having a lawyer that's paying you, you
17 know, a monthly amount on the sale of your practice. I do understand
18 that --

19 Q. Now.

20 A. -- and I take responsibility of that, yes.

21 Q. Now; is that correct?

22 A. Absolutely.

23 Q. But previously, you did not understand that impression?

24 A. I did not understand that impression because, to me, they were not cases
25 that resulted in any sort of bias or prejudice against anybody that Matt

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1 was representing. As a matter of fact, I had a case with Matt Lazroe, the
2 *Wells Fargo* case, where I ruled against him on a summary judgment
3 motion. So I don't see -- I'm -- I was not partial or bias. If I was, I
4 wouldn't have ruled against him on a summary judgment motion.

5 Q. Did you understand that under the Rules, that by disclosing, in any case, a
6 financial relationship with Mr. Lazroe, you are providing for an
7 opportunity for a remittal of disqualification?

8 A. Can you repeat that?

9 Q. Sure. Did you understand in any of these cases, that by disclosing in any
10 one of the cases, your financial relationship with Mr. Lazroe, that you
11 were providing for the opportunity for a remittal of disqualification?

12 A. I understand now that that remittal of disqualification just came into
13 being. That that's a new opinion, if I'm correct, where if you disclose
14 something, you could ask for a remittal in order to stay on that case?

15 Q. So --

16 A. I wasn't aware of that back then, because --

17 Q. In '15, '16, '17, '18, or '19?

18 A. I'm not sure if the remittal process existed in '15, '16, '17.

19 Q. Well, let's say -- let's --

20 A. I recall getting something from that recently.

21 Q. Assuming that it did. And it did. Did you consider it?

22 A. I did not consider it because I didn't know that that existed and, as I said,
23 there was no -- these were all statutory matters where he does his work as
24 a referee, or a guardian, as a court evaluator. The fees are statutory,
25 approved by another attorney, and I sign off on it. There's no decisions

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1 that are made that are jeopardizing anybody, other than on *Satterwhite*,
2 but again, there was no appearance in front of me. So I didn't know that
3 Matt was the attorney on that, and the woman signed a confession of
4 judgment.

5 Q. But it's unquestioned that Mr. Lazroe received money as a consequence
6 of orders that you signed?

7 A. He did receive payments for the work that he did in the orders that I
8 signed, correct.

9 Q. And those payments were in the forms of money?

10 A. Yes. Yes.

11 Q. And at the time he was getting that money, you were receiving money
12 from him; is that correct?

13 A. That is correct.

14 Q. And you did not disclose that fact at any time; is that correct?

15 A. I did not disclose that fact. As I stated before, my explanation and
16 context of each case, I did not. Now, I understand it. It's a matter of
17 reviewing the rules and I completely understand, and I take responsibility
18 for -- I can see that there's an appearance of impropriety. I could see --
19 there was -- in my opinion, there wasn't any or any bias or prejudice. I
20 could see how that comes out and I'll -- I've taken steps to put him on the
21 recusal list and to make sure that I looked at my other recusal list to make
22 sure it doesn't ever happen again.

23 Q. With regard to anyone else?

24 A. With regards anybody, correct.

25 Q. Let's talk about the Meles.

(Hon. Mark J. Grisanti -Cross)

1 A. Okay.

2 Q. Charge I.

3 A. Okay.

4 Q. You indicated, I believe, in your testimony that Mr. Mele was six-foot-
5 two?

6 A. About -- yeah, six -- six-two. Yeah.

7 Q. Would it surprise you that his driver's license lists him at five-foot-eight?

8 A. I don't know what his driver license has him as. He doesn't look five-
9 foot-eight to me.

10 Q. I'm talking about tall not wide.

11 A. No, I understand that. I'm talking height. He doesn't look like he's five-
12 foot-eight. He's a pretty powerful guy.

13 Q. You testified about -- at length about the parking done by the Mele
14 family on ██████ Avenue, right?

15 A. Yes.

16 Q. And I think you said it had been going on for a decade?

17 A. Close to a decade. Ever since 2014.

18 Q. And that was part of the operation of your mind on June 22, 2020, right?

19 A. That was part of it, yes?

20 Q. You had grown frustrated with the way they were parking?

21 A. Yes. I've never called before on them.

22 Q. Had, to your knowledge, the Meles ever been convicted of a parking
23 violation on the street?

24 A. I have no idea.

25 Q. You said something about --

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1 MR. POSTEL: Can we put up --

2 A. Actually, they have.

3 BY MR. POSTEL:

4 Q. You know that?

5 A. They have by parking how they do in front of the Chwalinski's. And I
6 recall the story where she was doing something with her license plate in
7 order to say that she was not in the area, but --

8 Q. How many times did that happen?

9 A. I don't know how many times they received a parking ticket.

10 Q. How many times did you hear that story -- the story?

11 A. Just the one time for a parking ticket.

12 MR. POSTEL: Can we put up the DD, I
13 believe?

14 BY MR. POSTEL:

15 Q. So you talked to us about alternate side of the street parking, and I
16 believe you identified Thursday as a particularly bothersome date?

17 A. Well, Thursday is when -- Thursday is when they move from my side of
18 the street to the other side.

19 Q. So on Thursdays, they're on the even side of the street?

20 A. Correct.

21 Q. And one of the areas that you indicated that was bothersome about Mr.
22 Mele's, or the Mele family parking, was parking right in the middle of the
23 space between the driveways, right?

24 A. No. And I -- when I was asked what I would hear from the Continos or
25 the Riccios -- let's take Continos house, for example, or Riccio. There's

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1 green space and that's a parking spot, and you could park two cars in that
2 spot, and what they would do is park their car in the middle so nobody
3 else could park in that spot.

4 Q. Had they ever done that to 21?

5 A. No. What they do is that they park right up to the driveway, and it leaves
6 eight, ten feet forward, or they'll park the front end of the car on my
7 driveway, which in looking at Exhibit DD --

8 Q. You mean the apron, right?

9 A. Yeah, they would park in front of my apron. Let's say, on the left side of
10 the apron. They would take their other vehicle and back it up to the right
11 side of the apron of 15 [REDACTED] and leave a gap in between their own cars.

12 Q. Would you mark -- show us? Here's my pen. Show us the Contino park
13 job that's at issue here. Or do you have your own?

14 A. For the Continos, you could park two cars here. What they would do is
15 they would park one car here --

16 Q. Right in the middle.

17 A. -- and one car here of theirs, and one car here.

18 Q. So Riccio and Contino had one car parked in front?

19 A. And one car in front of the Meles, and you couldn't -- which would
20 prevent anybody else, like the Continos or the Riccios or myself from
21 parking another vehicle in that spot.

22 Q. So you'd have to park --

23 MR. CONNORS: If we could just stop for a
24 second so the record would reflect that -- I believe the
25 record reflects that you've testified to one car parked in an

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1 area where there -- two cars could fit. Is that fair?

2 THE RESPONDENT: Correct. In front of the
3 Continos, the Meles, and the Riccios.

4 BY MR. POSTEL:

5 Q. Right in the middle, right?

6 A. Right in the middle.

7 Q. So --

8 A. And what they would do is --

9 Q. Hold on. I'm done with my question.

10 A. Okay.

11 THE REFEREE: Well, he's not -- he can
12 answer it. Have you finished your answer?

13 MR. POSTEL: I simply asked him whether he
14 parked in the middle.

15 THE REFEREE: Your answer is you -- they
16 did?

17 THE RESPONDENT: They did. They parked
18 in the middle. And then, I don't know if you wanted me to
19 explain what they would do here.

20 MR. POSTEL: We got that.

21 THE RESPONDENT: Okay.

22 BY MR. POSTEL:

23 Q. It also was a concern to you, or frustrating, or bothersome that they never
24 parked their cars in their own driveway; is that correct?

25 A. He would park -- he would park a car in his driveway on occasion. And

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1 these are city vehicles too that he used to park taking up two spots instead
2 of one.

3 Q. When Mr. Mele, or any member of the Mele family parked in front of the
4 Riccios or Continos in the middle of that strip, was that illegal?

5 A. No. It's inconsiderate.

6 Q. Oh, so they were permitted by law to park there?

7 A. Sure. They could park in -- they could park there. Sure.

8 Q. You just considered it bothersome because you thought they had another
9 way of parking?

10 A. I consider it done on purpose to block other neighbors from parking on
11 the street, and I consider it inconsiderate.

12 Q. So where did you then have -- would you then show us where you then
13 would have to park?

14 A. Well, I didn't expand my driveway until, like, my two kids were living at
15 home, so I had four cars. As I said, in front of my house, 21 [REDACTED]
16 where the white car is showing, prior to 2014, this was all bushes.

17 Q. So when --

18 A. So I only had room to put two cars in my driveway. So my kids then
19 would have to park -- or whoever got there last, they would have to park
20 further down the street because the Meles were taking double spots to
21 park up with their car parked singly.

22 Q. Who's next to the Continos on the right side?

23 A. On the right side, they just moved in. I'm not sure.

24 Q. All right. So that's an area where they could park; is that correct?

25 A. That's correct?

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1 Q. And 32; is that correct?

2 A. Correct.

3 Q. And next to the Riccios, number 8; is that correct?

4 A. Yes. She doesn't have a vehicle.

5 MR. CONNORS: So just to let the record
6 reflect you're referring to Exhibit DD.

7 THE RESPONDENT: Correct.

8 BY MR. POSTEL:

9 Q. You also objected to the fact that Gina Mele, I gather at your words,
10 repeatedly called City Hall to complain about your driveway extension; is
11 that right?

12 A. 2014. Correct. It was at the same time that the Chwalinskis were -- they
13 asked me for a small amount of concrete to fill in a spot that had mud.

14 Q. Who is the mayor of the City of Buffalo?

15 A. Byron Brown.

16 Q. And you had talked yourself to Byron Brown about the circumstances
17 with regard to parking on [REDACTED] Avenue, hadn't you?

18 A. Byron Brown was -- yes. I mean, not all the time. I mean, he was a -- he
19 was a former senator of the same district that I had.

20 Q. So you had a relationship with him?

21 A. Correct.

22 Q. And you would talk to him about the parking problems, right?

23 A. I would tell him that his -- he had an employee that had a city truck that
24 would park and block part of my apron and take up two spots on [REDACTED]
25 I didn't tell -- actually tell him the name. I just said you got a city

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1 employee. I figured he would send somebody out there to check it out.

2 Q. So when Gina Mele was calling the City Hall, can you tell us how many
3 times did they actually come out to look at your driveway work?

4 A. They came out while the driveway work was being done, and they came
5 out probably in September, and they came out the following year, and the
6 following year, because there was a gentleman measuring the apron of
7 the driveway, which I didn't touch the apron. The apron was like that
8 when I moved in. And he said, "No. No. No." He goes I -- he thought I
9 did the curb cut. I don't know if he should have been measuring the
10 Chwalinski's, but they were on my property.

11 Q. But it's unquestioned that Gina Mele had the right to call City Hall to
12 complain about work in the area; is that correct?

13 A. No. I don't believe she had the right to complain about me expanding my
14 parking pad or making false accusations that I did a curb cut, when I
15 didn't, and ask -- and consistently writing to the Common Council asking
16 to have a hearing on me taking green space. I didn't take any green
17 space.

18 Q. And it's unquestioned that the Meles were not required by law to park all
19 their vehicles in their own driveway; is that correct?

20 A. No, absolutely not. They didn't have to do that.

21 Q. Prior to this date, in June of 20 -- June 22, 2020, it's your clear testimony
22 that you had never contacted the police about where the Meles were
23 parking; is that right?

24 A. That is correct.

25 Q. You extended your driveway apron in 2014?

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1 A. That's correct.

2 Q. That was a response on your part and Mrs. Grisanti's part, to the Mele's
3 parking practices that you had witnessed over the prior multiple years,
4 right?

5 A. Well, that --

6 Q. It was a part of it?

7 A. Yeah. I mean, my -- we had bushes there that my -- my wife liked the
8 bushes for the privacy, but I told her that they were dying. So my goal
9 was to remove them to expand the -- I didn't want to have my wife have
10 concerns. So I said, "Well, they're dying. Let me -- let me take these
11 out." And she said, "What are you going to put there?" I said, "I'm going
12 to put concrete to expand our parking pads, so we can park more cars
13 here."

14 Q. You wanted more room on each side. Not just for the parking yourself,
15 of your own Escapes, but also where the cars were parked on the street,
16 right?

17 A. Correct. For my kids.

18 Q. And part of that was where the Meles had been pushing the envelope in
19 terms of backing up near your apron; is that correct?

20 A. It started right after I expanded the parking pad. They used to do -- they
21 did it for years prior with the Chwalinski's, but when I expanded the
22 parking pad, they suddenly started to shift towards my driveway.

23 Q. So before the parking pad was extended, you hadn't had a problem with
24 them in that regard?

25 A. The only problem that I had is the way they used to park and take up two

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1 spots with one car. And after the pad --

2 Q. When you expanded the parking pad, did it occur to you that you were
3 sending a message to the Meles about where they should park?

4 A. No. I was doing a -- I wasn't sending any message to the Meles. I was
5 basically putting in a -- expanding my parking pad so my kids can park,
6 so they didn't have to park further down the street.

7 Q. All right. And when you drove into the -- your driveway that night, you
8 objected to where the black truck was parked, right?

9 A. That's correct.

10 Q. Did you know at that time that the truck was the sister-in-law's truck? A
11 part of the Mele family?

12 A. I assumed because of the New Jersey plate, and I know that she has a
13 sister in New Jersey.

14 Q. By the time you had called the police that night, you called D-District
15 first?

16 A. I called D-District first, correct.

17 Q. And they directed you to 911?

18 A. They said I had to call 911.

19 Q. And you've been a lawyer in practice and a judge for well over 20 years,
20 right?

21 A. Not a judge for 20 years. But yeah, lawyer --

22 Q. Total.

23 A. All together, correct. Yes.

24 Q. And you knew that as a judge and lawyer, it was important to be truthful
25 and accurate when making a report to the police?

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1 A. Well, I tried to be as accurate as possible, yes.

2 MR. POSTEL: Can we bring up the Exhibit
3 1-A, please? And page 1, line 5.

4 BY MR. POSTEL:

5 Q. Now, you've listened to this recording, correct?

6 A. Yes.

7 Q. And it's your voice, right?

8 A. Yes.

9 Q. Line 1 -- page 1, line 5, you tell them that "two of them are blocking my
10 driveway;" is that correct?

11 A. That's correct.

12 MR. POSTEL: Can we go to line 16, 17,
13 please? 17, 18, please. Well, let's go to 16.

14 BY MR. POSTEL:

15 Q. You say, "There's a truck from New Jersey," right?

16 A. That's correct.

17 Q. And that's the sister-in-law's truck?

18 A. That's correct.

19 Q. "There's another, like a Chevy Traverse," right?

20 A. Correct.

21 Q. And what color was that Traverse?

22 A. I believe it was black.

23 Q. Then you say, "They're, like, literally on top of your driveway." You said
24 that, right?

25 A. That's correct.

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1 MR. POSTEL: Can we turn please to Exhibit
2 12-B?

3 MS. TRAPANI: (Unintelligible).

4 BY MR. POSTEL:

5 Q. While this is being brought up, do you recall that after you were placed in
6 handcuffs, you were put in the back of a police car and were permitted to
7 speak with a detective named Costantino?

8 A. Yes.

9 Q. And you talked to Costantino out what had happened, right?

10 A. Yes.

11 MR. POSTEL: Can we go to page 5, please?

12 And line 6 and 7.

13 BY MR. POSTEL:

14 Q. Here you tell Costantino, "It's, like, blocking, like, the driveway apron; is
15 that right?"

16 A. Yes.

17 Q. Line 13. They've -- "so they park all of their cars on the driveways." Did
18 you tell Costantino that?

19 A. I did.

20 MR. POSTEL: I'd like to mark, I believe, it's
21 Commission Exhibit 40, a copy of a still photo taken from
22 the Gehr body cam.

23 (Commission Exhibit 40 was marked for identification)

24 BY MR. POSTEL:

25 Q. I'm showing you Commission Exhibit 40.

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1 A. Thank you.

2 Q. Commission Exhibit 40 shows two houses. One on the left. One on the
3 right; is that correct?

4 A. That is correct.

5 Q. The one on the right is the Chwalinski house; is that correct?

6 A. Yes.

7 Q. The one on the left is the Grisanti house; is that correct?

8 A. That's correct.

9 Q. And in the back of the -- to the right or just right of the house is a white
10 building. Looks like it's behind the house; is that correct?

11 A. It's my garage.

12 Q. Is there a basketball hoop on there?

13 A. Yes.

14 Q. And in front of that is that fence that you heard your wife talk about -- the
15 chain link fence, correct? Can you see it to the right of the Escape?

16 A. Yeah. The chain-link fence is in the front of the house and the garage is
17 probably 50 feet beyond the chain-link fence.

18 Q. All right. And the two cars are a black Ford Escape on the left and a
19 white Ford Escape on the right, is that correct?

20 A. Yeah. There's another car in front of the white Ford Escape. You can't
21 see it in the picture, but there's another car there.

22 Q. What would that be?

23 A. That was my father's car.

24 Q. As you look at the vehicle on the left, is that the truck -- the GMC truck
25 with the New Jersey plate that we're talking about?

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1 A. Yes.

2 Q. And the vehicle that's just poking out on the right, would be -- that be the
3 dark Traverse owned by the Meles, that you were referenced?

4 A. Yes.

5 Q. And if you see your car, your -- you drive the black one, right?

6 A. I do.

7 Q. And Maria drives the white one; is that correct?

8 A. Yes.

9 Q. Is the black -- do you think the black one is fairly well squared up on the
10 driveway?

11 A. Yes.

12 Q. And in pulling in on that evening, did you have to maneuver the Escape
13 back and forth to get it straight like that?

14 A. No. I had to -- I had to maneuver to get into the driveway when I first
15 pulled up.

16 Q. But it pulled in straight, right?

17 A. No.

18 Q. Well, are you -- you pulled in in a way that you were allowed to park
19 straight without moving the car back and forth; is that correct?

20 A. Because when I pulled in, I had to be at an angle, and I have enough
21 room there to straighten the vehicle out to pull all the way to the fence.

22 Q. And that's -- did you -- you didn't hit Maria's car on the right side, did
23 you?

24 A. No.

25 MR. POSTEL: I offer Commission Exhibit 40.

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MR. CONNORS: No objection.

THE REFEREE: Received.

(Commission Exhibit 40 was admitted into evidence).

THE REFEREE: Do you want the 30 -- there's ample reference to 37, I think with the OCA form? Do you want to put that in too?

MR. POSTEL: Sure. I'll offer that.

THE REFEREE: All right.

MR. CONNORS: No objection.

THE REFEREE: Okay.

(Commission Exhibit 37 was admitted into evidence)

BY MR. POSTEL:

Q. And you've testified that you came to where you were parked there by driving on the left -- driving from the left side where the black vehicle is; is that correct?

A. Yes. I was coming southerly down [REDACTED] to pull into my driveway that I could not see.

MR. POSTEL: Can we please bring up the Mele video of the Ford Escape driving down the road and pulling in? That is Commission Exhibit 41.

(Commission Exhibit 41 was marked for identification)

MS. TRAPANI: Bear with me just one moment.

MR. POSTEL: Sure, take your time.

MS. TRAPANI: Are you ready to begin playing

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1 it?

2 MR. POSTEL: Please.

3 [Video was played.]

4 MR. POSTEL: Can we stop that?

5 BY MR. POSTEL:

6 Q. Do you recognize that as similar to the picture that you saw with regard
7 to the Mele video that's already in evidence?

8 A. Yes, I do.

9 Q. That's your white Escape on the right side; is that correct?

10 A. Yes.

11 Q. That's the black truck that was present on June 22, 2020 when you were
12 driving from the left side of this picture to the right side; is that correct?

13 A. That's correct.

14 Q. And that's your house next to the driveway -- house being on the left,
15 driveway being on the right?

16 A. Correct.

17 Q. And it looks like the Mele's driveway. We're looking down towards your
18 house; is that correct?

19 A. That's correct.

20 MR. POSTEL: Please play.

21 [Video was played.]

22 MR. POSTEL: Okay. Stop for a second.

23 BY MR. POSTEL:

24 Q. If you'll look on the left side of the picture, there's a brick wall. What is
25 that?

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1 A. That's on the Mele's driveway side?

2 Q. Yeah. Right here.

3 A. That's the Contino's house.

4 Q. And that looks to be a bush. Is that a bush right in front of it?

5 A. Yeah.

6 MR. POSTEL: Play it, please.

7 [Video was played.]

8 MR. POSTEL: Stop, please.

9 BY MR. POSTEL:

10 Q. Your Escape, right?

11 A. Yes.

12 Q. Pulling in that night, is correct?

13 A. Yes.

14 MR. POSTEL: Continue, please.

15 [Video was played.]

16 MR. POSTEL: Stop, please.

17 BY MR. POSTEL:

18 Q. Is that you pulling into the driveway?

19 A. Yes.

20 MR. POSTEL: Continue, please.

21 [Video was played.]

22 BY MR. POSTEL:

23 Q. Maria getting out on the right?

24 A. Yes.

25 Q. You're getting out on the left?

(Hon. Mark J. Grisanti -Cross)

1 A. Yes.

2 Q. At some point.

3 A. Yes.

4 MR. POSTEL: Stop, please.

5 BY MR. POSTEL:

6 Q. Now, and here you are on the left side of the vehicle, correct?

7 A. Correct.

8 Q. So Maria opened the hatchback; is that right?

9 A. That's correct.

10 Q. And you recall her testimony about taking shopping material out of the
11 hatchback to bring into the house, right?

12 A. I do.

13 Q. So that's consistent with what we know. Which is after you pulled in,
14 you opened the hatchback and unloaded the back, right?

15 A. We're taking stuff -- correct.

16 Q. All right.

17 MR. POSTEL: Continue, please.

18 [Video was played.]

19 BY MR. POSTEL:

20 Q. All right. And right here, you're assisting your wife in removing the
21 shopping products from the back of the car to take them in, correct?

22 A. Right. I think there was a bag of mulch that I had to take out and bring
23 over to the left side.

24 Q. Sure it was you and not Mrs. Grisanti?

25 A. She said she did, so I'll give her the credit, but I think I moved it.

1342



(Hon. Mark J. Grisanti -Cross)

1 Q. All right.

2 A. I never seen this, so I'm going to have to show her this to say that I'm the
3 one that moved the mulch.

4 Q. Take credit where credit's due, right?

5 A. Right.

6 Q. All right.

7 MR. POSTEL: I'm going to offer Commission
8 Exhibit 40, please -- 41.

9 MR. CONNORS: No objection.

10 (Commission Exhibit 41 was admitted into evidence)

11 BY MR. POSTEL:

12 Q. So just to set the stage for when you moved across the street.

13 THE REFEREE: Is a -- what was displayed to
14 the witness is approximately from seven o'clock to 7:01 or
15 7:02?

16 MR. POSTEL: Right.

17 THE REFEREE: All right.

18 THE RESPONDENT: That's what it says on the
19 video, but it wasn't --

20 THE REFEREE: Right.

21 THE RESPONDENT: -- seven o'clock, yeah.

22 THE REFEREE: It's not the right time, but
23 that's what's displayed.

24 THE RESPONDENT: Right. It's not the right
25 date, either.

1343



(Hon. Mark J. Grisanti -Cross)

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BY MR. POSTEL:

Q. So after you put the mulch away, what did you do?

A. I was finishing unloading what was ever in the car and went inside the house.

Q. At that point, had you reached the conclusion that you were going to call the police?

A. Yes, that I was going to call regarding the vehicle.

Q. And did you make the call from inside the house or out?

A. I don't recall. I think part of it was inside and part of it was out because I had a call two different places. And on the video, you could see me riding my brake as I'm making the turn because I had to make an adjustment with the car.

Q. So as you were calling the police, did you hear yelling from across the road?

A. Not at that point.

Q. You saw the other -- the subsequent video in which you're walking Fredo to the left, toward the France house, right?

A. Correct.

Q. What -- was there yelling going on at that point? While you were walking the dog?

A. There was yelling from somewhere, but I don't think it was from the Meles.

Q. All right. Would it be fair to say that the yelling really began when Mrs. Grisanti walked behind the black vehicle?

A. Yes.

(Hon. Mark J. Grisanti -Cross)

1 Q. And the Meles came out together or separately? Who came out first?

2 A. Well, Gina Mele and Joe Mele were on their porch, and Theresa was in
3 the -- like, the door area.

4 Q. The doorway?

5 A. The doorway area. And when the yelling started, Joe came down
6 towards -- there's this -- off the driveway there's a sidewalk that connects
7 from his driveway to his front door.

8 Q. So Joe was the first one down to the driveway?

9 A. He was -- well, he was in the sidewalk. He wasn't in the driveway yet.
10 He was on the -- it's a sidewalk path to the front door and then Gina was
11 behind him, and Theresa was in the window area.

12 Q. Now, in understanding what you were listening to and what you were
13 looking at, you've given us a pretty good description of Mr. Mele. We
14 may disagree about his height, but in terms of his activities in the
15 neighborhood, he had, on other occasions, said to you, "Do you want a
16 shot at the title," right?

17 A. Yes.

18 Q. When did you take that to mean?

19 A. I took it to mean -- well, I asked -- I ignored him on some occasions,
20 other occasions I looked at him and I said, "What are you talking about?"
21 and he just said again, "Do you want a shot at the title?"

22 Q. What do you understand generally that to mean in normal parlance?

23 A. Somebody says they want a shot at the title, that they want to have an
24 altercation.

25 Q. A fist fight, right?

1345



(Hon. Mark J. Grisanti -Cross)

1 A. Right.

2 Q. Did you consider them to be provocative words?

3 A. Well, I did because, I mean, I know that he's said it to other neighbors,
4 and other neighbors have stood up to him and then he backs down, so --

5 Q. Had you ever seen that?

6 A. I've heard -- I heard that from Tony Riccio.

7 Q. He'd also used words like "girl fight" before; is that correct?

8 A. Yes.

9 Q. You'd heard that?

10 A. Absolutely.

11 Q. And including -- I mean, he specifically said fight, right?

12 A. He wanted the girls to fight.

13 Q. Right.

14 A. Right.

15 Q. He said that. "Girl fight"?

16 A. Right.

17 Q. How many times have you heard that?

18 A. Prior to this evening, probably a couple occasions. I know one occasion
19 when Maria and Gina were having a -- you know, a disagreement. He'd
20 be on them, "Well, let them fight. Let them have a girl fight." Another
21 time is when Maria kicked a cup from the garbage that they would dump
22 on -- every Thursday on our side of the street. Maria kicked the cup and
23 that started an argument and he said it again, "I want a girl fight" and then
24 it doesn't show up on the transcript, but when we were kind of wrestling,
25 he's like, "Let's the girl," he's just, "let the girls fight." So --

1346



(Hon. Mark J. Grisanti -Cross)

1 Q. And you had known that Gina had acted violently before, because you'd
2 seen it, right?

3 A. I have seen it, yes.

4 Q. How many times?

5 A. I would say that between half a dozen to a dozen at least, between how
6 she acted with the other neighbors and with their own kids.

7 Q. You've described Joe as an instigator, correct?

8 A. Yes.

9 Q. And you heard your wife testify that she was concerned about the
10 potential for violence between you and Joe as she was walking over,
11 right?

12 A. Yes. I did hear her say that.

13 Q. Did you listen to your attorney's opening statement?

14 A. I did.

15 Q. Did you hear him say that you as well went across the street, knowing of
16 the potential for violence?

17 A. I did.

18 Q. After you were handcuffed, you spoke to Det. Costantino and Detective
19 Moretti on separate occasions about what had happened, right?

20 A. Yes.

21 MR. POSTEL: Can we bring up 13-A, please?

22 The Moretti interview. Page 9, lines 5, 6.

23 BY MR. POSTEL:

24 Q. Did you say to Detective Moretti, "and my wife started walking over
25 towards" -- well, let's go above that. Line 4. "So the girls started arguing

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(Hon. Mark J. Grisanti -Cross)

1 and my wife started walking over towards across the street." Did you say
2 that?

3 A. I did.

4 MR. POSTEL: Line 13, please.

5 BY MR. POSTEL:

6 Q. Did you say, "I go across the street. I'm grabbing my wife by the arm and
7 saying, 'Come on, let's go.'" Right?

8 A. Yes. We were already at the street -- across the street at that point.

9 MR. POSTEL: Let's go to 20, please.

10 MS. TRAPANI: Page 20?

11 MR. POSTEL: Page 20, yeah.

12 BY MR. POSTEL:

13 Q. All right. Looking at lines 1 through 6. "Because they came to the apron
14 in the driveway. My wife was walking over to them and saying, 'Why
15 don't you move the truck?'" Right? You told him that?

16 A. I did.

17 Q. "I go over about three quarters of the way across the street. I'm grabbing
18 her arm." You said that, correct?

19 A. I did.

20 MR. POSTEL: Can we go back to the

21 Muhammad -- I believe it's 12-B?

22 MS. TRAPANI: What page?

23 MR. POSTEL: Page 2, 3 -- bottom of 2, line 25.

24 BY MR. POSTEL:

25 Q. Did you say, "When I came out, these -- the -- these girls, like, they had

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(Hon. Mark J. Grisanti -Cross)

1 Maria in a chokehold"?

2 A. Yes.

3 Q. "And Joe was egging them on, like, 'yeah. Fight. Fight him. Fight him.'

4 So I came over" --

5 MR. POSTEL: Scroll up, please.

6 BY MR. POSTEL:

7 Q. "And I freaking said, 'Joe tell the girls to get off.'" Did you tell that to
8 Costantino?

9 A. I did. That's not correct.

10 MR. POSTEL: Well, let's go to Muhammad
11 page 4. That's 12-B. That's it. Page 4, please. Line 17.

12 BY MR. POSTEL:

13 Q. Did you say -- did you say to Costantino in the back of the car, "and
14 when I come out, back out of the house, she's engaged with the two.
15 Like, a cousin from New Jersey, which is -- which is" his [sic] truck. Did
16 you say that to Det. Costantino?

17 A. I did say that to him.

18 Q. Page -- line 21.

19 A. This is when I was in the police car?

20 Q. Yes.

21 A. Yes.

22 Q. So --

23 A. Very emotional.

24 Q. You then said, "So I ran over there to break it up." Is that what you said?

25 A. I did.

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(Hon. Mark J. Grisanti -Cross)

1 Q. All right.

2 MR. POSTEL: Can we go to 11-A, please?

3 Page 21. Line 21, 25.

4 BY MR. POSTEL:

5 Q. Did you tell Detective -- when the cops were there, were you saying, "My
6 wife was still outside. She walked over and she goes, 'yeah, move the
7 truck.' They frigging bolt from the porch. The girls got her frigging hand
8 in my wife's throat, and that's when I walked over there." Did you say
9 that?

10 A. I did say that.

11 Q. That was right after the event, right?

12 A. It was --

13 Q. It was when you were standing there with Hy and Gehr and Muhammad.

14 A. Yeah. That was pretty much, you know, kind of giving a CliffsNote
15 version. Convolved as to what was going on.

16 MR. POSTEL: Can we go to the Mele video,
17 please, which I believe is 2-A -- excuse me -- 2 and 14-28
18 [sic]. Can we go up to 14? Can we fast-forward it? Yeah.

19 MS. TRAPANI: Do you mean this counter or --

20 MR. POSTEL: Yeah. Last four numbers, 14-
21 28. Because they're all 7s. [07:]14:28. Thank you. A little
22 bit back farther. A little bit further back. Stop that, please.
23 Right there. Can you take a little bit, please? Right there.
24 Well, it won't stop.

25 //

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(Hon. Mark J. Grisanti -Cross)

1 BY MR. POSTEL:

2 Q. But you see that's you and Mrs. Grisanti, right?

3 A. That's correct.

4 Q. And you're ahead of Mrs. Grisanti; is that correct?

5 A. Yes.

6 Q. She's behind you. As -- from this point of view, to the left; is that
7 correct?

8 A. That's correct.

9 Q. And you're closer to the street than she; is that correct?

10 A. I am.

11 Q. And you were pointing at the Meles, right?

12 A. I was pointing at the Meles and at the truck.

13 Q. Well, you had already pointed at the truck.

14 MR. POSTEL: So let's take it back a little bit,
15 please.

16 BY MR. POSTEL:

17 Q. Who are you talking to there?

18 A. Can't tell.

19 MR. POSTEL: Keep going. Let it play.

20 [Video was played.]

21 MR. POSTEL: Right there.

22 BY MR. POSTEL:

23 Q. Right there, you're pointing to them and pointing back to the truck, right?

24 A. Correct.

25 Q. And you're telling them that you're upset about where the truck is parked,

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(Hon. Mark J. Grisanti -Cross)

1 correct?

2 A. Correct.

3 MR. POSTEL: Keep playing, please.

4 [Video was played.]

5 BY MR. POSTEL:

6 Q. So you're pointing back and forth, but you're certainly pointing at the
7 Meles; is that fair to say?

8 A. Yes.

9 Q. And at this point, there was an argument going on; is that correct?

10 A. That's correct.

11 MR. POSTEL: Are we on 42?

12 MS. TRAPANI: Yes.

13 MR. POSTEL: Mark, please, as Commission

14 Exhibit 42, a photograph still from the Mele video.

15 (Commission Exhibit 42 was marked for identification)

16 BY MR. POSTEL:

17 Q. I'm showing you Commission Exhibit 42.

18 A. Thank you.

19 Q. The individual on the left of that photograph is who?

20 A. Maria.

21 Q. And that's the picture looking down from the Mele video onto [REDACTED]
22 Avenue; is that correct?

23 A. That's correct.

24 Q. The individual in the white shirt on the right side is who?

25 A. That's me.

1352



(Hon. Mark J. Grisanti -Cross)

1 Q. It's pretty clear -- or is it fair to say that you're ahead of Maria?

2 A. Yes.

3 Q. So you walked out on the street first; is that fair to say?

4 A. Yes.

5 MR. POSTEL: I offer Commission Exhibit 42.

6 MR. CONNORS: No objection.

7 THE REFEREE: Received.

8 (Commission Exhibit 42 was admitted into evidence)

9 BY MR. POSTEL:

10 Q. And at this point, is it also fair to say that the Meles had not advanced
11 onto the street beyond the end of their driveway?

12 A. That's correct. They were still on their sidewalk. Their pathway to their
13 door.

14 Q. And during the course of the exchange that had preceded you walking
15 onto the street at that point, there had been a fair amount of yelling in the
16 matter, right?

17 A. In the beginning, I was basically telling them that I called the police.
18 Don't worry about it. And as I was coming over, I'm asking him if he
19 could move his truck up. He's got eight feet there. So I wasn't yelling.

20 Q. Had there been yelling? No, I didn't say necessarily you. Was there an
21 argument going on?

22 A. I wasn't arguing. They were swearing at Maria, and he was swearing at
23 me after I finished telling him -- you know, moving their truck up.

24 Q. Was Maria swearing at that point?

25 A. She started swearing when Gina called her some pretty vulgar names.

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(Hon. Mark J. Grisanti -Cross)

1 Q. The swearing began, in fact, between your side of the street and their side
2 of the street right when Maria had gone over to the back of the truck,
3 right?

4 A. When we pulled in? Oh, when she was at the truck?

5 Q. The leg.

6 A. Yeah.

7 Q. Remember the leg?

8 A. Yes. Like, "What's the problem?" was the thing. Yes.

9 Q. And then it escalated from there with the use of profanity; is that correct?

10 A. Correct.

11 Q. And Joe is out there yelling as well; is that correct?

12 A. Correct.

13 Q. So as you're going across the street at this point, did it occur to you that
14 you're a judge of the Supreme Court?

15 A. It did not.

16 Q. As you're going across the street at this point, did it occur to you that the
17 better course of action would have been to wait for the police to arrive?

18 A. It did not at that point.

19 Q. As you were standing --

20 MR. POSTEL: Can we reverse it, please? Let's
21 take it all the way back, please. Right there.

22 BY MR. POSTEL:

23 Q. So would it be fair to say that it's right about this point where the
24 argument ensues from them on their side. They're yelling to Maria.
25 Questioning her about what's going on with the truck, right?

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(Hon. Mark J. Grisanti -Cross)

1 A. Yes.

2 Q. What is she doing, right?

3 A. Yeah. "What's your problem?" Right.

4 Q. And so you have Fredo. At this point, you're behind the truck, right?

5 A. Correct.

6 MR. POSTEL: Play it, please.

7 [Video was played.]

8 MR. POSTEL: Fair to stop, please, but don't
9 stop. Keep playing. All right. Right there.

10 BY MR. POSTEL:

11 Q. Something happens that you're now engaged with the Meles in an
12 argument; is that fair to say? Right around this point.

13 A. I would say that's probably the beginning of it, yes.

14 Q. Why then?

15 MR. CONNORS: I object to the form of the
16 question.

17 A. Why then what?

18 BY MR. POSTEL:

19 Q. Why then did you engage in the argument? Why at that point?

20 THE REFEREE: Overruled.

21 A. I was basically telling him that I've called the police, because he was
22 asking, "What's the problem?" and I said, "I've called the police. Your
23 truck's in my driveway and I called the police."

24 BY MR. POSTEL:

25 Q. When you told him at this point that you had called the police, how did

1355



(Hon. Mark J. Grisanti -Cross)

1 he react?

2 A. Got a little louder.

3 Q. How did Gina react?

4 A. She started swearing at Maria.

5 Q. All right.

6 MR. POSTEL: Play it, please.

7 [Video was played.]

8 MR. POSTEL: Stop.

9 BY MR. POSTEL:

10 Q. The dog to the right of the black Escape is Fredo, right?

11 A. Correct.

12 Q. The dog that you've indicated and we understand, you loved dearly; is
13 that correct?

14 A. Yes.

15 Q. Was he, as a matter of practice, allowed to roam around the yards free?

16 A. Because he was old and he understood commands, I was basically telling
17 him to go in the backyard. He understood commands.

18 Q. So you're pointing at the truck, right?

19 A. Right.

20 Q. You've called the police, right?

21 A. Correct.

22 Q. And the dispute -- the argument is beginning to heat up; is that correct?

23 A. Correct.

24 MR. POSTEL: Play, please.

25 [Video was played.]

1356



(Hon. Mark J. Grisanti -Cross)

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MR. POSTEL: Right there. Stop.

BY MR. POSTEL:

Q. You started to take steps towards the Mele house; is that correct?

A. That's correct.

Q. And you're pointing your arm at them; is that correct?

A. Correct.

Q. At that point, were you thinking, you've told them the cops are coming, "I'm going to wait for the cops"? Were you thinking that?

A. No.

MR. POSTEL: Continue.

[Video was played.]

MR. POSTEL: Stop.

BY MR. POSTEL:

Q. You can tell from the video, such as it is, that you're gesturing with your right arm up and down and pointing at them; is that correct?

A. I'm not sure -- it looks like that --

Q. Well, you're gesturing --

A. -- I'm not sure I'm gesturing about something.

Q. Well, okay. So your right arm is moving up and down, right?

A. Correct.

Q. And it's in the direction of the Mele's porch; is that correct?

A. Correct.

Q. At this point, or on or about right before -- and I'm going to use the word "C-word." You had heard Gina call Maria a "fucking C-word;" is that right?

(Hon. Mark J. Grisanti -Cross)

1 A. Yes. At some point in the beginning.

2 Q. How did that make you feel?

3 A. I thought it was disgusting that she called her that.

4 MR. POSTEL: Continue.

5 [Video was played.]

6 MR. POSTEL: All right. Stop.

7 BY MR. POSTEL:

8 Q. You're almost in the middle of [REDACTED] Avenue. You're approaching the
9 Meles. You know that Joe Mele has asked you for "a shot at the title,"
10 right?

11 A. Yes.

12 Q. Did you at that point consider that the better course would have been just
13 to turn around and wait for the police?

14 A. I did not. I was thinking at that point that I have to -- I have to call, like,
15 his bluff to see, you know. I was thinking about what happened to Tony
16 in the past. Like, calling his bluff --

17 Q. To see if he would fight?

18 A. -- you know? To see what he would do.

19 Q. And that including fighting him, right?

20 A. I tried to end this, know what I mean? And try to end it. Well, I'm
21 hoping there wasn't going to be a fight. I mean --

22 Q. But there was a possibility.

23 A. -- I didn't go over there. Yes. I didn't go over there with the intention to
24 fight. I had a bag of --

25 Q. But you knew it was a possibility.

1358



(Hon. Mark J. Grisanti -Cross)

1 MR. CONNORS: Whoa. Whoa. Wait.

2 A. I did.

3 MR. CONNORS: You didn't let him finish that.

4 I didn't go over with the intention of fighting but --

5 A. I had a bag of dog poop in my hands, so I wasn't going over there with
6 the intention to fight.

7 BY MR. POSTEL:

8 Q. And I just asked you if you knew it was a possibility and you said yes.

9 A. Yes.

10 Q. You knew Maria had had health problems at that point, right?

11 A. I did.

12 Q. She had a bad neck, right?

13 A. She had a bad neck and a bad back.

14 Q. In terms of making your point about where the truck was parked, is it any
15 different in terms of making the point where you had been making the
16 point and where you're going to now make the point? In other words,
17 what's the difference?

18 A. With regards to --

19 Q. Making the point of moving the truck?

20 A. But because I'm trying to tell him that you have room there, can you
21 move the truck up, and he's yelling on top -- he's yelling above me
22 saying, "Come here." And he's saying --

23 Q. "Come on."

24 A. Swear words at me, and I'm telling him you got eight feet here. Move the
25 truck up.

1359



(Hon. Mark J. Grisanti -Cross)

1 Q. And he had said that while you're standing on the sidewalk, right?

2 A. Well, I started to say it as I was walking across the street.

3 Q. Did you -- when you were pointing to the truck before, right?

4 A. Well, that's when I was saying, you know, "Your truck's blocking my
5 apron."

6 Q. And you didn't tell him at that point to move it up?

7 A. I think it was afterwards. And there is a point where I realize it's kind
8 of --

9 THE REFEREE: Wait for the question.

10 THE RESPONDENT: I'm sorry.

11 MR. POSTEL: Can we bring up the transcript
12 please? The Mele transcript. 2-A, I believe. 2-B? 2-A.

13 BY MR. POSTEL:

14 Q. When you got across the street, or as -- let me strike that. As you are
15 coming across the street, Mele was challenging you, wasn't he?

16 A. Yes.

17 Q. And by Mele, I'm talking Joe.

18 A. Yes.

19 Q. He was saying, "Come on," right?

20 A. Yes.

21 Q. And you knew that was a challenge to you to engage in a physical
22 altercation.

23 A. Correct. And I said, "Come on" back to kind of call his bluff.

24 Q. It didn't work, did it?

25 A. It did not. Worst mistake of my life.

1360



(Hon. Mark J. Grisanti -Cross)

1 Q. Is calling a person's bluff on a physical altercation something that a
2 Supreme Court Judge should do?

3 MR. CONNORS: I'm going to object to the
4 form of that question.

5 THE REFEREE: Sustained.

6 BY MR. POSTEL:

7 Q. Do you believe a Supreme Court Judge should be in a situation that he
8 calls the bluff of another individual about an act of physical
9 confrontation?

10 MR. CONNORS: Same objection.

11 THE REFEREE: Sustained.

12 MR. POSTEL: I'm asking for his opinion.

13 THE REFEREE: I'm sustaining to the form.

14 BY MR. POSTEL:

15 Q. What do you think about a Supreme Court Judge doing that?

16 MR. CONNORS: I'm sorry. I didn't hear the
17 end of that.

18 THE RESPONDENT: You want to repeat that?

19 MR. POSTEL: Sure.

20 BY MR. POSTEL:

21 Q. What do you think about a supreme -- what's your conclusion reached
22 about a Supreme Court Judge going across the street to challenge
23 another -- or respond to a physical challenge? Do you believe that's
24 appropriate?

25 MR. CONNORS: I object to the form of the

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(Hon. Mark J. Grisanti -Cross)

1 question.

2 THE REFEREE: I'll overrule that.

3 A. I wasn't thinking about what I did for a living. What I was thinking about
4 is this has to end at some point as far as --

5 Q. I asked you --

6 MR. CONNORS: Let --

7 THE REFEREE: Let him finish.

8 A. -- it has to end at some point as far as, I kept thinking if I challenge him --
9 I mean, I remember Tony said he backs down. So I figured if I do it,
10 maybe this finally can end this. And then there was a point where I knew
11 it was going -- it -- that it wasn't going to happen, and it turned bad
12 quickly.

13 BY MR. POSTEL:

14 Q. And in terms of his challenge to you, you responded back, as you said,
15 "come on," right?

16 A. Correct.

17 Q. So let's look at page 3. Line 17. Is there an example of you saying,
18 "Come on"?

19 A. Yes.

20 Q. He says to you, "You, let's see," right? "Let's see."

21 A. He's -- yeah, he says something in 16 that carries over to 18.

22 Q. He says to you, "Come on you cocksucker. Let's see," right?

23 A. Yeah.

24 Q. And your response at that point, again is, "Come on;" is that correct?

25 A. Yes.

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(Hon. Mark J. Grisanti -Cross)

1 Q. He responds, "What you got, tough guy?" Is that correct?

2 A. Yes.

3 Q. You respond, "Come on," right?

4 A. Correct.

5 Q. Going down to 24. "What do you got?" is what you say to him, right?

6 A. Correct.

7 Q. During this exchange, did it occur to you that this was actually going to
8 turn into a physical confrontation?

9 A. No, because nothing happened at that point other than him pushing
10 Maria's -- when she put her arm out to jam him from coming down, he
11 pushed that -- grabbed it and pushed it, where she says, "You let go. You
12 let go." And --

13 Q. When you're saying to him, "Come on. Come on. Come on. What do
14 you got?" Were you thinking about your office as a Supreme Court
15 Judge?

16 A. I was not, unfortunately.

17 Q. Were you thinking about the impression created in the minds of the
18 public about a Supreme Court Judge saying this?

19 A. I was not.

20 Q. Turning to the next page 4. Mr. Mele says to you, "Take your fucking
21 shot," right?

22 A. Yes.

23 Q. He says it again at 8. "Take your fucking shot," right?

24 A. Yes.

25 Q. Did you turn around and walk away at that point?

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(Hon. Mark J. Grisanti -Cross)

1 A. No. Nothing was happening. It was just words.

2 Q. But it was -- well, did you understand it was a potentially explosive
3 situation?

4 A. I didn't -- at that point, I didn't know what was going to happen.

5 Q. Is there a reason you didn't walk back to your side of the street at this
6 point?

7 A. That's roughly -- that's the time period where he pushed me and then the
8 girls came out. And at that time, I realized, all right, this didn't go the
9 way I -- the way -- you know, calling his bluff, and now Maria's being
10 violently attacked, and I was trying to pull her out throughout the video.
11 And there's a point after where he pushed me where I grabbed around.

12 Q. Turning to page -- I don't have a -- there's no question.

13 A. All right.

14 Q. Turning to page 5. Did you then say to him again, and I believe this is
15 the fifth time? Line 4, "Come on."

16 A. Yes.

17 Q. On line 7 -- excuse me, line 8 for the seventh time, you say "Come on,"
18 right? Again?

19 A. Yes.

20 Q. But in between that you said to him, "Do you think we're done" question
21 mark? Right?

22 A. Yes.

23 Q. So that's not you trying to extract yourself from the circumstance, is it?

24 A. Well, I didn't hit him. I was just still, you know, thinking, all right, he
25 pushed me and I -- see if he was going to do it again and that was it. And

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(Hon. Mark J. Grisanti -Cross)

1 there wasn't any -- anything after that between me and him.

2 Q. Did you consider -- what do you mean there was nothing? Didn't you get
3 into a wrestling match?

4 A. Well, as far as him, like --

5 Q. Challenging you?

6 A. -- like fist fights -- it was kind of like this wresting and then he gave me
7 some shots, yes, but --

8 Q. So in fact, the wrestling match --

9 A. I was trying to get away right at that point.

10 Q. The wrestling match occurred multiple times over the course of the next
11 few minutes, right?

12 A. Yes.

13 Q. You would engage. You would break. You would engage. You would
14 break. You would engage. And you would break, right?

15 A. I would engage, and I would break to pull Maria away and then he would
16 come at me again, and then I would try to pull Maria away until we were
17 on our side of the street.

18 MR. POSTEL: Can we go back to the video,
19 please? Which is Commission Exhibit 2. And the last two
20 items are -- the last two numbers are 05 -- 15:05. Right
21 there.

22 BY MR. POSTEL:

23 Q. All right. So we've got ample testimony about Maria and the girls right
24 at the driveway. The other two Mele women, right? You see them in the
25 foreground?

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(Hon. Mark J. Grisanti -Cross)

1 A. Yes. I see her being choked right now.

2 Q. And behind that, you see yourself and Joe Mele, right?

3 A. Correct.

4 MR. POSTEL: Play from here, please.

5 [Video was played.]

6 MR. POSTEL: Right there.

7 BY MR. POSTEL:

8 Q. Pretty much a Greco-Roman hold on both sides, right?

9 A. That's what I said. While he's pulling my shirt over my head like a
10 hockey --

11 Q. Hockey player?

12 A. Yes.

13 Q. So there you are -- that's fair to say you're in the middle of [REDACTED]
14 Avenue, aren't you?

15 A. I am.

16 Q. And you're engaged in a wrestling match with one of your neighbors.

17 A. Yes.

18 Q. Did it occur to you that a Supreme Court Judge should not be doing that,
19 at that time?

20 A. I was not thinking of my position as a Supreme Court Judge. I was
21 thinking, "I got to get out of this."

22 Q. Did you think at that point about the public impression created by an
23 image such as this?

24 A. Unfortunately, I did not.

25 Q. Did you -- did it occur to you -- well, let's --

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(Hon. Mark J. Grisanti -Cross)

1 MR. POSTEL: Is this 16? Let's play it right to
2 16, please.

3 [Video was played.]

4 MR. POSTEL: So there we go. Stop.

5 BY MR. POSTEL:

6 Q. So you're continuing to wrestle, right?

7 A. Correct.

8 MR. POSTEL: Continue, please.

9 [Video was played.]

10 MR. POSTEL: Right there.

11 BY MR. POSTEL:

12 Q. So now the -- you basically -- have you turned around and you're in the
13 middle of the street. Is this where he's pulling your shirt over your head?

14 A. He was doing it the entire time. He had -- he had my shirt grabbed. I
15 couldn't break out of it.

16 MR. POSTEL: Go ahead.

17 [Video was played.]

18 MR. POSTEL: Stop.

19 BY MR. POSTEL:

20 Q. Okay. You're away, right?

21 A. Yes.

22 Q. Do you grab Maria and go into the house?

23 A. No.

24 Q. At this point, did it occur to you that this is not -- this is something that's
25 got to stop? I have to get away.

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(Hon. Mark J. Grisanti -Cross)

1 A. Yes. That's why I'm not -- I'm not doing anything. I'm standing there.

2 MR. POSTEL: Let's go to 26:28 please. No

3 15:26, I'm sorry. Go ahead. There it is. Play it, please.

4 [Video was played.]

5 BY MR. POSTEL:

6 Q. But once again, you're in a wrestling match, right?

7 A. Yes. After I picked up my shirt, he came at me again.

8 Q. Did you back away?

9 A. I did when he went to take a swing at me.

10 Q. Did you go in the house?

11 A. No. We -- me and Maria --

12 MR. POSTEL: Stop, please.

13 A. -- me and Marie backed up and --

14 BY MR. POSTEL:

15 Q. Did you walk towards your house?

16 A. Stayed out of -- we did. We stayed in our driveway area.

17 Q. I'm saying did you walk towards your house?

18 A. No.

19 Q. Did you walk into your house?

20 A. No.

21 Q. You knew the police were on the way, right?

22 A. Yes. I thought they were going to stop.

23 MR. POSTEL: Let's go back to the Mele

24 transcript. Page 9, please.

25 THE REFEREE: Can we go off the record for a

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(Hon. Mark J. Grisanti -Cross)

1 second? Scheduling.

2 (Recess from 12:00 p.m. to 12:01 p.m.)

3 THE REFEREE: Proceed.

4 MR. POSTEL: Okay.

5 RESUMED CROSS-EXAMINATION

6 BY MR. POSTEL:

7 Q. Page 9, line 2. Did you --

8 MR. CONNORS: Exhibit 2?

9 MR. POSTEL: What?

10 MR. CONNORS: 2-A, right?

11 MR. POSTEL: 2-A.

12 MS. TRAPANI: I'm sorry, can I have the page
13 number again?

14 MR. POSTEL: Page 9, line 1. You all see it,
15 right?

16 BY MR. POSTEL:

17 Q. Judge, you see it?

18 A. Yes, I see it..

19 Q. So you said to him, "You want to go again, tough fucking guy?" Is that
20 what you said?

21 A. I did.

22 Q. Mele's response was, "Come on, motherfucker," right?

23 A. Yes.

24 Q. You say in response, "Tough guy, yeah," right?

25 A. I said, "Tough guy, yeah." Like that. Correct.

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(Hon. Mark J. Grisanti -Cross)

1 Q. "I'll fucking flatten your face again." You said that to him, right?

2 A. Correct.

3 Q. He said, "You ain't flattening nothing, asshole"?

4 A. Right.

5 Q. And you said, "I just did." Is that correct?

6 A. That's correct.

7 Q. And you said that again at 16, "I just did." Right?

8 A. Yes, by backing up and having him fall on his face, yes.

9 Q. What was your tone of voice during this?

10 A. I was basically telling him that --

11 Q. No.

12 A. My tone of voice was -- my tone was basically, you know, informing
13 him, you know, I'll -- I'll move back again and -- and let yourself flatten
14 your face. So it was kind of --

15 Q. You were angry?

16 A. Not so much angry, just saying, you know, see what happens, you know,
17 when you -- when you -- when you want to fight?

18 Q. Were you reveling in the fact that he fell on his face?

19 A. No. I did -- wasn't reveling in it. I was basically telling him, you know,
20 try it again, and you're going to fall on your face again.

21 Q. So were you angry at all during this physical confrontation?

22 A. Oh, I was -- I was not only angry, I was frustrated. I was emotional. I
23 was trying to get to my wife. I wasn't concerned about myself. I was
24 trying to get to -- to Maria on our side of the street.

25 Q. Yeah, but here you are --

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(Hon. Mark J. Grisanti -Cross)

1 A. Which at this point, we did, and that's --

2 Q. Here you are engaging with Mele in an argument and exchanging threats,
3 right?

4 A. I don't consider it a threat. I consider it basically just letting him know --
5 he knows I didn't touch him, and that you're going to fall on your face
6 again if you try that. And then he started spitting.

7 MR. POSTEL: Can we go to page 3, please?

8 BY MR. POSTEL:

9 Q. Line 13, you called him an asshole, right?

10 A. I did, when he was not listening to me and --

11 Q. Did you consider him generally --

12 A. -- telling him to come over.

13 Q. -- as an asshole?

14 A. No, I consider him generally as an individual that was an instigator and
15 liked to start trouble with all the neighbors.

16 MR. POSTEL: Page 6, please.

17 BY MR. POSTEL:

18 Q. Line 19, you called him a fucker; is that correct?

19 A. He called me one, and I called him one right -- he called me one at line
20 18 and I called him one right back at line 19, so unfortunately, I stooped
21 down to his level and apparently under -- you know, you got to
22 (unintelligible) they're -- they're swearing, so I started swearing them.

23 Q. Going back to page 4, line 15, did you call him a fucking asshole?

24 A. I did after he swore at me a couple lines prior to that.

25 Q. And that's an excuse or an explanation?

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(Hon. Mark J. Grisanti -Cross)

1 A. No, it's not an excuse at all. It just put it into context the explanation as
2 to why I called him that. Am I ashamed and embarrassed for my
3 language? Absolutely. I stooped down to his level, unfortunately, and I
4 don't talk like that. That's not my character.

5 MR. POSTEL: Page 13, please.

6 A. Very emotional.

7 BY MR. POSTEL:

8 Q. Line 10 -- excuse me, line 8. Did you tell him to, "Get the fuck out of my
9 driveway. You fucking asshole"?

10 A. There was continuation from Line 3 when I was telling him to get out of
11 our driveway, and then I said it again at line 8 and line 10, and I said it
12 again --

13 Q. On Line 16?

14 A. -- later on.

15 Q. Did you say to him, "Fuck you" in line 16?

16 A. I did say that.

17 MR. POSTEL: Page 13, please. 13, I'm sorry.
18 15, line 20 through 23.

19 BY MR. POSTEL:

20 Q. Did you tell him -- I'm sorry, yeah, 20 to 23, page 15 -- nobody like --
21 "Nobody fucking likes you guys"?

22 A. I did say that to him. I said nobody on the street.

23 Q. Right. And on page 16, line 2, what did you call him?

24 A. I called him a "piece of shit."

25 Q. This was out on the street in front of his house, your house, and in the

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(Hon. Mark J. Grisanti -Cross)

1 public road, ██████ Avenue; is that correct?

2 A. Unfortunately, yes.

3 Q. What public impression is created by a Supreme Court Judge, in your
4 opinion, engaging in profanities in a public way in an excited, upset
5 manner?

6 A. It's -- it's not something that I'm -- it's -- I'm not proud of it. I'm
7 embarrassed by it, and it's not something that you would want a Supreme
8 Court Judge to act in that manner. It -- that's why I went and, you know,
9 sought out counseling as to why I reacted the way I did. But I --

10 Q. You've acknowledged that you attended judicial training, right?

11 A. Correct.

12 Q. And that's down at Rye, the Judicial Institute?

13 A. Yes.

14 Q. Multiple times?

15 A. Yes.

16 Q. You certainly knew that the Rules Governing Judicial Conduct applied to
17 you off the bench as well as on; is that correct?

18 A. I did.

19 MR. POSTEL: Can we go to [07:]18, please, on
20 Exhibit 2? Right there, please.

21 BY MR. POSTEL:

22 Q. All right. What are the Meles doing in that picture?

23 A. I think at that time the -- the --

24 Q. I'm not asking about what was going on, I'm ask you --

25 A. Oh.

(Hon. Mark J. Grisanti -Cross)

1 Q. -- what do you see?

2 A. I see them -- I'm not sure if that's the first or second or third time they
3 started walking towards our house before they came back, but they
4 were --

5 Q. So they're moving towards their house, right?

6 A. They're moving towards -- Joe is, and so was Gina. Theresa's still facing
7 Maria.

8 Q. At this point, when Joe and Gina turned around and moving towards their
9 house, did you go inside?

10 A. No, I stayed on our driveway, waiting for the police.

11 MR. POSTEL: Can we go to [07:]18, [07:]23,
12 please?

13 MR. CONNORS: This is Exhibit 2 we're on?

14 MR. POSTEL: Yes. Right there.

15 BY MR. POSTEL:

16 Q. All right. Where are the Meles?

17 A. In their driveway.

18 Q. Where's Gina?

19 A. Gina Mele?

20 Q. No, I'm sorry. Where's Maria?

21 A. She's in the driveway, in the apron.

22 Q. On your side of the street, right?

23 A. Yes.

24 Q. And where are you?

25 A. On our side of the street on the apron.

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(Hon. Mark J. Grisanti -Cross)

1 Q. And your shirt's torn off by this point, right?

2 A. The shirt was torn off by Mr. Mele, yes.

3 Q. Okay.

4 MR. POSTEL: Play it, please.

5 [Video was played.]

6 MR. POSTEL: All right. Stop.

7 BY MR. POSTEL:

8 Q. At this point, did you go into your home?

9 A. No. We were -- we were walking towards the --

10 Q. You're walking --

11 A. -- towards our driveway area.

12 Q. Right. You're walking away from the Meles, right?

13 A. Yes.

14 Q. But you didn't walk into your house?

15 A. Did not.

16 Q. You knew the police were coming; is that correct?

17 A. Yes. I'm not sure at this point if you can hear the siren or the -- siren or
18 not.

19 Q. Well, let's play it.

20 [Video was played.]

21 MR. POSTEL: All right. Stop, please.

22 BY MR. POSTEL:

23 Q. They're on their side; you're on your side, right?

24 A. Yes.

25 Q. Did you continue to argue?

(Hon. Mark J. Grisanti -Cross)

1 A. I don't recall. I believe there was -- I believe the girls were still arguing.

2 Q. Okay. Again, you didn't go into your house at this point, did you?

3 A. I did not.

4 Q. Right now as you're standing there shirtless, having been engaged in a
5 physical altercation and being in the circumstance where people are
6 exchanging loud dialogue, yelling at each other, did it occur to you -- or
7 excuse me, what did you consider to be the impression that you created of
8 a shirtless Supreme Court Judge standing on the street?

9 A. I was not, at that point in time, thinking of, unfortunately, my position. I
10 was thinking about my wife and how she was doing, and thinking to
11 myself that I should have never gone across the street and thought --

12 Q. Were you --

13 A. -- that I could challenge him.

14 Q. You were thinking that at that point? It had occurred to you?

15 A. I was thinking that I should never went across the street, and thought that,
16 you know, I could call his bluff and pretend to challenge him, because
17 when it -- when he pushed me, I knew then it was too late.

18 MR. POSTEL: All right. I'm done with this
19 section.

20 THE REFEREE: All right. Why don't we take
21 a lunch break?

22 (Recess from 12:12 p.m. to 1:33 p.m.)

23 THE REFEREE: Little after 1:30. We're
24 resuming testimony. Judge, you're still under oath --

25 THE RESPONDENT: Thank you.

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(Hon. Mark J. Grisanti -Cross)

1 THE REFEREE: -- and I think --

2 THE RESPONDENT: Thank you, Judge.

3 THE REFEREE: -- you're still on cross-
4 examination.

5 THE RESPONDENT: Thank you.

6 THE REFEREE: Mr. Postel?

7 RESUMED CROSS-EXAMINATION

8 BY MR. POSTEL:

9 Q. Judge, at a certain point in connection with the Mele's altercation, a
10 police car arrived; is that right?

11 A. Yes.

12 Q. And a black officer and a white officer exited the vehicle; is that correct?

13 A. That's correct.

14 Q. And you and Maria approached the left opening -- the driver's side of the
15 vehicle; is that correct?

16 A. That's correct.

17 Q. And while you were standing there, you were within, what, six -- five --
18 four or five feet of the officer; is that correct?

19 A. Yes.

20 Q. And that was Ofc. Gehr?

21 A. Ofc. Gehr, correct.

22 Q. And Maria was yelling loudly at that point, wasn't she?

23 A. She was yelling, yes.

24 Q. All right. And she was screaming -- yelling obscenities?

25 A. She did yell an obscenity, correct.

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(Hon. Mark J. Grisanti -Cross)

1 Q. And then you observed that Maria walked over to where the Meles were
2 standing in their driveway; is that correct?

3 A. She walked over towards Theresa, right.

4 Q. And did you see her waving her arm up -- Maria waving her right arm up
5 and down?

6 A. Yes.

7 Q. And did she continue to yell obscenities at that point at the Meles?

8 A. If I recall, I believe she was yelling to Theresa about her choking her.

9 Q. Did that include obscenities?

10 A. I don't recall if it included obscenities.

11 Q. Okay. At a certain point while Maria was there in front of the Mele
12 driveway, Ofc. Muhammad walked you both back towards your
13 driveway; is that correct?

14 A. That's correct.

15 Q. And you were generally within what, eight -- between three and eight
16 feet, nine feet of Maria?

17 A. Myself and --

18 Q. You.

19 A. -- Ofc. Muhammad?

20 Q. I'm only worried about you now.

21 A. I would say yes. In our --

22 Q. And --

23 A. In our driveway.

24 Q. In your driveway? Were you -- you were with Muhammad, right?

25 A. Correct.

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(Hon. Mark J. Grisanti -Cross)

1 Q. And you heard Maria continue to scream or -- strike that. You heard
2 Maria continue to yell across the street in the direction of where Ofc.
3 Gehr was standing; is that correct?

4 A. I can -- I really wasn't paying attention to her. I was paying attention to
5 my conversation with Muhammad, but I can hear -- I was picking up a
6 conversation going back between my wife and Ofc. Gehr.

7 Q. Could you hear Ofc. Gehr say to her, "Stop" -- oh, excuse me, "Step
8 back"?

9 A. I heard -- I saw in the video -- I didn't hear it at the time, but I saw in the
10 video when she was talking to Theresa Dantonio, he told her to step back.

11 Q. And then he told her to step back again, correct?

12 A. He told her to, yeah, step back, and that's when we proceeded to our side
13 of the driveway.

14 Q. When she was on your side of the driveway, did he tell her once or twice
15 to step back?

16 A. I don't believe he told her to step back when we were on our driveway.

17 Q. At a certain point -- but while she was on your driveway, she was yelling
18 across at where Ofc. Gehr was standing; is that right?

19 A. Yes.

20 Q. And you were right nearby her at that point; is that correct?

21 A. I was.

22 Q. And you heard her yelling towards Ofc. Gehr; is that right?

23 A. In that direction, yes.

24 Q. And in fact, you told her to stop it; isn't that true?

25 A. I said, "Stop" and put my arm out, yes.

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(Hon. Mark J. Grisanti -Cross)

- 1 Q. You wanted her to stop yelling over to where Gehr and the Meles were
2 standing; is that right
- 3 A. I wanted her to stop because I couldn't hear the conversation I was having
4 with Ofc. Muhammad.
- 5 Q. Now, at a certain point, you caught Ofc. Gehr in your sight moving
6 towards Ms. Grisanti; is that right?
- 7 A. I heard Ofc. Gehr swear at my wife and come running by myself and Ofc.
8 Muhammad, and I heard Ofc. Muhammad state to him, "I got her. She's
9 good. She's good. She's good." At least three times.
- 10 Q. Was that the question that I asked you?
- 11 A. No.
- 12 Q. The question I asked you was at a certain point, you caught sight of Ofc.
13 Gehr; is that correct?
- 14 A. That's correct.
- 15 Q. But since you've raised the use of the vulgarity, is it true that your wife
16 also said to Ofc. Gehr, "You're not going to arrest me?"
- 17 A. He did -- she did say this.
- 18 Q. She said, "No. No, you're not going to"?
- 19 A. Said, "No, I'm not -- you're not going to arrest me."
- 20 Q. Did she say, "Don't fucking arrest me"?
- 21 A. I don't recall.
- 22 Q. So let me get back to where I started. At a certain point, you said you
23 saw Gehr -- was it out of the side of your vision or were you looking in
24 that direction directly?
- 25 A. No, my back was to him, and it was my peripheral vision. I saw him run

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(Hon. Mark J. Grisanti -Cross)

1 by.

2 Q. As you saw him go by you, you took steps to reach where he was; is that
3 correct?

4 A. Correct. I walked behind him.

5 Q. And you were yelling at him while you were walking; is that right?

6 A. I was.

7 Q. You were yelling, "Hey, hey, hey." Is that correct?

8 A. That's correct. I yelled, "Hey."

9 Q. Three times?

10 A. Yes.

11 Q. And at a certain point, you reached where Ofc. Gehr had Maria in by her
12 arm, and she was on the ground; is that correct?

13 A. I -- well, I watched -- when I said, "Hey, hey," I was saying that because
14 he grabbed her arm, and he was spinning her around and performed some
15 maneuver and slammed her on -- or took her down on the ground.

16 Q. Do you believe that in what Ofc. Gehr was doing at that point that he was
17 acting within his authority?

18 A. No. I thought it was very excessive, and I thought it was not proper how
19 he took her down to the ground, based on her yelling on her own
20 driveway.

21 Q. Do you still think that?

22 A. I do.

23 Q. Now, at a certain point, you reached where Ofc. Gehr was; is that
24 correct?

25 A. Yes.

(Hon. Mark J. Grisanti -Cross)

1 Q. And you pushed him; is that correct?

2 A. I did.

3 Q. You told both Ofc. Gehr and Det. Costantino -- you used the word
4 "tackle;" is that right?

5 A. Correct.

6 Q. But you actually didn't tackle him, did you?

7 A. I did not tackle him. Pushed him on his right shoulder.

8 MR. POSTEL: I'd like that marked, please. I
9 think it's Commission 42, a copy of a still photograph of
10 Ofc. Muhammad's video.

11 MS. TRAPANI: Isn't that 43?

12 MR. POSTEL: 43.

13 (Commission Exhibit 43 was marked for identification)

14 BY MR. POSTEL:

15 Q. Showing you 43, Judge.

16 A. Thank you. Thank you.

17 Q. You recognize the house in that video?

18 A. Yes.

19 Q. Is that your house?

20 A. That's my house.

21 Q. And is that on the lawn directly in front of where you engaged Ofc. Gehr?

22 A. Yes.

23 Q. And do you recognize the white object wrapped around your waist?

24 A. That's my t-shirt.

25 Q. All right. At this point your hands were free; is that correct?

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(Hon. Mark J. Grisanti -Cross)

1 A. Yes.

2 Q. And is this a picture of the moment when you were pushing Ofc. Gehr?

3 A. Yes.

4 MR. POSTEL: I'd like to offer 43, please.

5 MR. CONNORS: No objection.

6 THE REFEREE: Received.

7 (Commission Exhibit 43 was admitted into evidence)

8 MR. CONNORS: Oh, may I just voir dire one
9 question?

10 THE REFEREE: Sure.

11 MR. CONNORS: Judge, in Exhibit 43 that's
12 been offered for evidence, you had -- you were asked the
13 question by Counsel that at this time, your hands were free,
14 but I see there's something over in the left-hand side of this
15 photo that looks like it's in one of your hands. What is that?

16 THE RESPONDENT: That -- that may be the
17 bag. It's hard to tell, but it looks like the bag that has the
18 tissue in it containing some of the excrements from the dog.
19 What's -- what's --

20 MR. CONNORS: Was that in your left hand?

21 THE RESPONDENT: Yeah, what's left of it,
22 yes.

23 MR. CONNORS: Okay. So with that
24 clarification, I have no objection to the exhibit.

25 THE REFEREE: Received.

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(Hon. Mark J. Grisanti -Cross)

1 MR. POSTEL: Could we move to the
2 Muhammad video, 12, please? Just bring it up; don't play it
3 yet, please. Would you move ahead, please, to 1:08? No,
4 no, got to go back. It's right at the beginning.

5 MS. TRAPANI: I have to play it to see what
6 the --

7 MR. POSTEL: All right. Play at the beginning,
8 then. Go to the beginning. A little bit before that, please.
9 Right there. Right there. Let's go right there, please.

10 MS. TRAPANI: Yeah, you have to understand
11 that when I'm touching it as it's playing so I can see the
12 time, it's going to start playing.

13 MR. POSTEL: Good. Play it.

14 MS. TRAPANI: So I was -- start it? Do you
15 want me to stop it and then --

16 MR. POSTEL: No, I want you to play it right
17 now, please.

18 [Video was played.]

19 MR. POSTEL: Stop. Okay. Can we take it
20 back just a little bit and stop it? Stop. Good.

21 BY MR. POSTEL:

22 Q. So at this point, are you looking at Maria?

23 A. I'm not sure if I'm looking at Maria or having a conversation with Ofc.
24 Muhammad.

25 Q. You remember the point where Maria said, "Wait till Johnny hears about

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(Hon. Mark J. Grisanti -Cross)

1 this"?

2 A. Yes.

3 Q. So we're pretty much right there in the video. At that point, what were
4 you doing?

5 A. I was talking to Muhammad, and I probably glanced over at her to -- just
6 to hear what she was saying. I don't really recall.

7 Q. All right. We're going to play the video, and you're going to come into
8 the frame, and I'd like you to see how many steps you took before you
9 reached Ofc. Gehr.

10 MR. POSTEL: Play it, please.

11 [Video was played.]

12 MR. POSTEL: All right.

13 BY MR. POSTEL:

14 Q. About how many steps you think you took?

15 A. Approximately eight.

16 Q. All right. While you were walking towards him -- and we see that you
17 were walking; you weren't running, right?

18 A. Correct.

19 Q. Were you -- what were you thinking of at that point as you were
20 approaching?

21 A. What do you mean what I was -- what I was thinking?

22 Q. What was going on in your mind?

23 A. I was thinking that he was being aggressive towards my wife. I was
24 thinking of a reflexive action as being a husband, and I was standing
25 behind him to see basically what he was going to do.

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(Hon. Mark J. Grisanti -Cross)

1 Q. All right. So you took eight steps, and during those eight steps, it's
2 obvious that at some point you decided to intervene into what he was
3 doing, right?

4 A. When I saw her [sic] throw her to the ground, I pushed him.

5 Q. At the time you pushed Ofc. Gehr, did you think that you were acting
6 consistent with the high standards of personal conduct required of a
7 Supreme Court Judge?

8 A. At -- I was not thinking of myself being a judge. I was thinking of
9 myself being a husband, and it was a reflexive action of somebody who
10 was throwing my wife to the ground that I thought was not proper. It was
11 excessive, and it was unlawful.

12 Q. At this time, do you think that you were acting consistent with the high
13 standards of personal conduct required of a Supreme Court Judge?

14 MR. CONNORS: I'm sorry, at this time, you
15 mean now?

16 MR. POSTEL: Right now, yeah.

17 A. At this time, taking everything into consideration and what was
18 happening, I have great remorse and feel absolutely terrible for pushing
19 the officer, and I apologized numerous times afterwards.

20 BY MR. POSTEL:

21 Q. So my question was, do you think that you were acting consistent with
22 the high standards of personal conduct required of a Supreme Court
23 Judge?

24 A. At the time I wasn't thinking that way --

25 Q. My question is right now --

(Hon. Mark J. Grisanti -Cross)

1 A. I understand. I understand. I'm just saying --

2 Q. Can you answer it?

3 A. I can. At the time, I wasn't thinking that way. I was thinking as a
4 husband.

5 Q. You said that already. I'm asking you right --

6 MR. CONNORS: Well, let him answer.

7 MR. POSTEL: He can't -- it's a narrative
8 response to a simple question.

9 A. Right now think --

10 THE REFEREE: He fine.

11 A. Right now and seeing it and knowing everything and in hindsight, I
12 accept my actions and my responsibility, and it was not proper.

13 BY MR. POSTEL:

14 Q. And it was not consistent with the conduct and the high standards
15 expected of a Supreme Court Judge; is that correct?

16 A. Looking back at it, no, it was not. But I wasn't thinking that way at the
17 time.

18 Q. And in fact, it wasn't long after the event that you told Det. Costantino
19 that you knew you shouldn't have done it, right?

20 A. Well, I -- before that, I actually said it to Ofc. Gehr and I did say it to
21 Ofc. Costantino, or Det. Costantino.

22 Q. Now --

23 A. And to the police department.

24 Q. On direct --

25 A. I'm sorry.

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(Hon. Mark J. Grisanti -Cross)

1 Q. You -- is it my turn?

2 A. No, I'm sorry. I was going to say, and then the next morning at the police
3 station and apologized to Moretti when he was giving a statement, all the
4 way through, I realized it.

5 Q. You've mentioned two names, and in connection with the Buffalo Police
6 Department and the environment at that time. You raised the issue on
7 direct examination of George Floyd and a guy named Gugino, correct?

8 A. Correct.

9 Q. At any time did you observe Ofc. Gehr step on Maria's chest?

10 A. No, not at all.

11 Q. Did you observe him step on her back?

12 A. No.

13 Q. And with regard to Gugino, is it absolutely clear that Maria did not suffer
14 the fractured skull that he suffered?

15 A. She -- no, she did not -- she did not suffer a fractured skull. But I --

16 Q. In fact, what Maria said to you as she was there on the ground being
17 cuffed was, "I'm okay." Excuse me, "It's okay."

18 A. Yeah, I didn't really hear that at the time, but I did hear it later on when I
19 watched the video. But I was concerned for her because I knew she
20 had --

21 Q. You'll have an opportunity on redirect, Judge. You know the way it
22 works, right?

23 A. I do.

24 MR. POSTEL: Could we bring up 12-B, please,
25 and go to page 1, line 20? Stop right there.

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(Hon. Mark J. Grisanti -Cross)

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BY MR. POSTEL:

Q. You were talking to Det. Costantino while you were in the police car; is that correct?

A. That's correct.

Q. And if you look at line 20, what you said to Det. Costantino was in reference -- excuse me, Det. Costantino said to you, "They're saying that you pushed an officer. You didn't; you wouldn't do that, would you?" And -- did he ask you that question?

A. He did.

Q. And your response was, "You know what? When he was -- what he was -- when he dragged -- well, he dragged Maria, and the two girls he was -- two girls were on Maria, he was dragging Maria across the street." Did you say that?

A. I did say that.

Q. That's not accurate, is it?

A. It's a very emotional time; not accurate. I was in a police car at this time.

Q. By the time you reached Gehr from where you started and took those eight steps, you absolutely intended to interfere with his physical cuffing of Maria; is that correct?

A. I did not intend to interfere with him cuffing Maria. I was basically trying to tell him, "Hey," you know, "Get off of her."

Q. Did you say that?

A. I did.

Q. And did he do that?

A. No, he did not.

(Hon. Mark J. Grisanti -Cross)

1 Q. So you pushed him?

2 A. I did.

3 Q. Would you consider the pushing an attempt to interfere with what he was
4 doing?

5 A. I don't, because the push, even according to Ofc. Gehr, was not
6 something that prevented him from putting the cuffs on Maria.

7 Q. What were you pushing him for?

8 A. I was pushing him so I could get to Maria.

9 Q. You wanted to push him away from Maria, right?

10 A. Correct.

11 Q. In terms of the public impression created by a judge pushing a police
12 officer who's doing what he believes to be his job, do you think you
13 increased or decreased the public's respect for the office?

14 MR. CONNORS: I think the form of the
15 question, I'm going to object to that.

16 THE REFEREE: Sustained.

17 BY MR. POSTEL:

18 Q. As you did it, did you have any thought about yourself being a Supreme
19 Court Judge?

20 A. I did not. I was thinking of myself as a husband, and it was a reflexive
21 action.

22 Q. How long did it take between when you did the push and when you
23 realized that as a judge shouldn't be doing that?

24 MR. CONNORS: I'm going to object to the
25 form of that question.

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(Hon. Mark J. Grisanti -Cross)

1 MR. POSTEL: Well, I'll -- let me ask -- I will
2 ask -- it's a compound.

3 THE REFEREE: Withdrawn?

4 BY MR. POSTEL:

5 Q. At some point --

6 MR. POSTEL: Withdrawn.

7 BY MR. POSTEL:

8 Q. At some point, you realized you shouldn't have done it, right?

9 A. Yes.

10 Q. How long after the event did you realize you shouldn't have done it?

11 A. Probably when I was having a conversation with Ofc. Muhammad.

12 Q. Probably, or that's when?

13 A. Probably -- that's when.

14 Q. Now, when you were talking to Gehr when he was executing what he was
15 doing, how would you consider when you said, "Hey, hey, hey," what
16 would you consider to be your tone of voice at that point?

17 A. I'd consider my tone of voice to be a -- a tone to try to get attention. So
18 not soft, and not real loud.

19 Q. You were trying to get his attention?

20 A. Correct.

21 Q. All right. And at a certain point, as Ofc. Gehr was cuffing Maria, you
22 said to him, "You better get off my fucking wife," right?

23 A. I did.

24 Q. What was your tone when you said that?

25 A. Probably the same as when I said, "Hey, hey, hey."

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(Hon. Mark J. Grisanti -Cross)

1 Q. And you later yelled at him, "You arrest my fucking wife, you're going to
2 be sorry," right?

3 A. I did.

4 Q. You made -- you yelled at him a third time in terms of, "If you don't get
5 the cuffs off of her right now, you're going to have problems," right?

6 A. Yes.

7 Q. So when you said, "You better get off my fucking wife," what did the use
8 of the word "better" mean?

9 A. What's the use of the word "better"?

10 Q. Yeah. What did you mean by "better"? Better generally means that
11 there's an alternative. What's the alternative?

12 A. It was just basically a -- how the sentence came out. "You better get off
13 my wife." I really didn't take it as any -- having any meaning.

14 Q. So when you used the word "sorry" -- "You arrest my fucking wife,
15 you're going to be sorry" -- your testimony in direct exam was you were
16 thinking then about George Floyd and Gugin and that the officer would
17 be sorry in reflecting on his conduct?

18 MR. CONNORS: That's -- I'm going to object
19 to --

20 BY MR. POSTEL:

21 Q. Is that what you said?

22 MR. CONNORS: I'm sorry. I'm going to object
23 to that only because I don't think it properly recites the
24 direct, obviously.

25 MR. POSTEL: All right. Well, let me ask him.

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BY MR. POSTEL:

Q. When you said "sorry," what did you mean?

A. I meant that it was a very short period of time where he came running across the street. As I said, it was a reflexive action being a husband. His partner was telling him, "She's good. She's good." He takes her down anyways, throws her on the ground. I'm worried about if she's injured. We talked about, you know, you know she has neck and back problems, and what she was doing was not unlawful, yelling in her driveway, and I'm saying, "You're going to be sorry" because when you talk to the neighbors, and you see what the neighbors have to say, you're going to realize that you're incorrect in what you were doing. And a matter of fact, in his own testimony, I believe he realized that by what he said on the stand himself.

Q. Did you ever explain your use of the word "sorry" to him that afternoon -- excuse me, that night?

A. I did.

Q. When you said, "You're going to have problems," what were you referring to with that?

A. It was the same thing, that, you know, you haven't really done an investigation. The way you proceeded to my wife, and the way you took her down to the ground, which I thought was excessive. My reflective [sic] action was, you're going to have a problem; you haven't looked at or talked to anybody in the neighborhood, and that once he sees or talks to people, I think he's going to feel the same way. And I was concerned because, you know, at that point, I could have made a -- I could have

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1 made a bigot of myself. I could make a complaint against him because
2 he's not doing things what I consider to be proper. I'm a citizen. What
3 he's doing is not proper. He was supposed to be taking care of the Meles.
4 We were with Ofc. Muhammad. He came running across the street, and
5 his own partner's telling him, "She's good. She's good." So I remember it
6 was just two weeks ago what happened to Mr. Gugino and being pushed
7 by an officer and his head fractured. And it was only a couple of months
8 prior of the police using excessive force. I thought it -- what he was --

9 Q. That's what you were thinking at that moment when you were --

10 A. Absolutely.

11 Q. -- saying, "You're going to be sorry"?

12 A. He --

13 Q. You were thinking of Gugino and Floyd?

14 A. He -- it was excessive, what he was doing.

15 THE REFEREE: Judge, and for clarification, in
16 the course of your answer, you said the phrase "reflective,"
17 I heard. Did you mean reflective or reflexive?

18 THE RESPONDENT: Reflexive.

19 THE REFEREE: So that the reflective --

20 THE RESPONDENT: It's reflexive action.

21 THE REFEREE: All right.

22 BY MR. POSTEL:

23 Q. You were pointing at the cops, though, weren't you, when you were doing
24 that?

25 A. I don't recall pointing at the officer.

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1 MR. POSTEL: Can we have 2:03 on
2 Muhammad, please? I think, 12.

3 I'm going to withdraw that question.

4 Would you bring that up, please?

5 Mark as the next Commission exhibit.

6 THE RESPONDENT: Oh, sorry.

7 MR. CONNORS: 44?

8 (Commission Exhibit 44 was marked for identification)

9 MS. TRAPANI: Yes.

10 BY MR. POSTEL:

11 Q. You recognize the individual in that picture?

12 A. Thanks. Yes, I do.

13 Q. Who is that?

14 A. It's embarrassing, and I've seen this many, many times.

15 Q. That's not my question. I didn't ask if it was embarrassing.

16 A. I'm sorry.

17 Q. I asked you, do you recognize the individual?

18 A. I do.

19 Q. Who is it?

20 A. That's me.

21 Q. Do you recognize that as the point where you were pointing at Maria in
22 the car and talking to Ofc. Muhammad?

23 A. Yes. I was talking to Ofc. Muhammad, pointing, saying that he needs --
24 meaning Ofc. Gehr -- to get the cuffs off of her.

25 MR. POSTEL: A little before that, please?

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(Hon. Mark J. Grisanti -Cross)

1 BY MR. POSTEL:

2 Q. What was your tone of voice when you were talking to the -- the officers?

3 A. On that -- when I was talking to Muhammad about getting the cuffs off
4 the --

5 Q. Yeah. Or when you were saying, "You better get the cuffs off. You're
6 going to -- you're going to arrest my wife, you're going to be sorry.
7 You're going to have problems." Generally, your tone of voice.

8 A. It was basically a request.

9 Q. So your tone of voice was phrased in the tone of a request?

10 A. As a tone -- exactly.

11 MR. POSTEL: Can we play it please? Play
12 this?

13 [Video was played.]

14 MR. POSTEL: Stop that.

15 BY MR. POSTEL:

16 Q. That's a request? It's your testimony that at --

17 MR. POSTEL: What's the number on this?

18 MS. TRAPANI: It's the two minute and four
19 second mark.

20 BY MR. POSTEL:

21 Q. Your tone of voice was that of a request?

22 A. You need to get the cuffs off her. It was loud.

23 Q. Well, my question is, is that your tone of voice the tone of a request?

24 A. It's a loud request.

25 Q. It's not a demand?

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1 A. I -- if you want to say demand, I mean, you could say demand, request.

2 Q. Well, those are two different things; you understand that, right?

3 A. I do.

4 Q. Is it a demand or is it a request?

5 A. You could take it, I mean, at that time, I'm requesting him to take the
6 cuffs off. I'm not -- I mean, who am I to demand anything?

7 Q. I'm simply asking you the tone of voice that you just heard, was it that of
8 a demand or was it that of a request?

9 A. I believe it's a loud -- you could call it a request; you can call it a demand.
10 I take it the same way. I'm asking him to do --

11 Q. You don't see the difference between a demand and a request?

12 A. I -- in that case, I'm asking him to take her out of the cuffs.

13 Q. You're not demanding that he take her out of the cuffs?

14 A. I'm not somebody to demand anything from him, so --

15 Q. Well, anybody can demand anything. Whether they do it or not is a
16 circumstantial --

17 A. That's true.

18 Q. Are you demanding that he take her out of the cuffs?

19 MR. CONNORS: So I'm going to object to this
20 repetitive --

21 MR. POSTEL: He hasn't answered.

22 A. I'm either -- as I said, I took it as a request to take the cuffs off of her. I
23 wanted to see how she was doing. If people could take that as a demand,
24 or they could take it as a request. I was --

25 //

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1 BY MR. POSTEL:

2 Q. All right. Let's play it.

3 [Video was played.]

4 MR. POSTEL: Stop.

5 BY MR. POSTEL:

6 Q. How would you consider your tone of voice at that point?

7 A. Loud and asking him to take the cuffs off her.

8 MR. POSTEL: Continue, please.

9 [Video was played.]

10 MR. POSTEL: Stop that, please.

11 BY MR. POSTEL:

12 Q. At any point in that conversation did you ask him specifically, "Would
13 you take the cuffs off her"?

14 A. I did not.

15 MR. POSTEL: Let me go back a little bit to the
16 point where the push occurred. All right. Right there.

17 Good. Play it, please.

18 [Video was played.]

19 MR. POSTEL: Stop.

20 BY MR. POSTEL:

21 Q. That's where you identified the "Hey, hey, hey" and you were loudly
22 trying to get his attention, right?

23 A. Correct.

24 MR. POSTEL: Play it, please.

25 [Video was played.]

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MR. POSTEL: Stop that.

BY MR. POSTEL:

Q. "Dude, you better get off my fucking wife." What was your tone there?

A. It was -- that was demanding.

Q. And angry, correct?

A. I was acting as a husband concerned about his wife.

Q. I'm asking you was that an angry tone?

A. Yes.

Q. How did you refer to Ofc. Gehr when you were referring to him in that --

in that get -- better get the cuffs off?

A. I said, "Dude."

MR. POSTEL: Can we please bring up the

12-A, page 4, line 11?

BY MR. POSTEL:

Q. That's your "Dude," right?

A. Yes.

Q. Line 14, what did you say?

A. I said, "Dude, dude."

Q. So that's two more, right? Page 19, please.

A. Correct.

Q. Excuse me, line 19. And that's "dude" again, right?

A. Yes.

Q. So you've got four "dudes" -- five "dudes," right? Excuse me, four.

A. Four.

Q. 11, 14 twice, and 19, right?

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1 A. Right.

2 MR. POSTEL: Go to page 5, please.

3 BY MR. POSTEL:

4 Q. Line 6, end of the line, what did you call him?

5 A. "Dude."

6 Q. Line 9?

7 A. "Dude."

8 Q. Line 24? End of the line.

9 A. "Dude," yes. Yes.

10 Q. So that's more "dudes," right?

11 A. Yes.

12 Q. You didn't once refer to him as Ofc. Gehr?

13 A. At that point, I did not.

14 Q. Do you recognize that as disrespectful?

15 A. Well, I also thought he was disrespectful swearing at my wife and calling
16 me a motherfucker.

17 Q. So that was a reason for your being disrespectful?

18 A. Well, I -- it's -- I have a tendency in my own personal life of I say "dude"
19 a lot.

20 Q. Well, when you refer to your daughter and her position as a police
21 officer, you didn't refer to her as a "dude," did you?

22 A. No, she's a girl.

23 Q. When you referred to your son-in-law [sic] as a firefighter, you didn't
24 refer to him as a -- well, your son, you call him your son --

25 A. Son, right.

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1 Q. -- as a "dude," did you? You called him a firefighter.

2 A. Right.

3 Q. And when you referred to your actual son-in-law as a police officer, you
4 didn't call him a "dude," did you?

5 A. No. I said I'm going to call my -- I --

6 Q. You referred to him as a police officer.

7 A. So my son and daughter are -- my son-in-law and daughter are both
8 police officers.

9 Q. Is there any other police officer you referred to that day other than Ofc.
10 Gehr?

11 A. No.

12 MR. CONNORS: Was that 12, Exhibit 12?

13 MS. TRAPANI: This is 12-A.

14 THE REFEREE: 12-A.

15 MR. CONNORS: 12-A.

16 MR. POSTEL: I'm going to offer that, please.

17 Did I offer the shirt --

18 THE REFEREE: What's that --

19 MR. POSTEL: -- shirtless?

20 MR. CONNORS: 44, you mean?

21 MR. DOYLE: 44.

22 MS. TRAPANI: 44.

23 MR. POSTEL: 44.

24 MR. CONNORS: No objection.

25 THE REFEREE: Received.

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(Hon. Mark J. Grisanti -Cross)

1 (Commission Exhibit 44 was admitted into evidence)

2 BY MR. POSTEL:

3 Q. Now, after Muhammad moved you away from the Mele driveway, did
4 you take an opportunity at that point to go inside and put a shirt on?

5 A. I did not. I was --

6 Q. After Maria was placed in the police car, did you take that opportunity to
7 go inside and put a shirt on?

8 A. I didn't have time to go inside and put a shirt on, no.

9 Q. Did you -- as you were talking to Ashlee on the cell phone, standing
10 under the tree in your yard, did you take that opportunity to go inside and
11 put a shirt on?

12 A. I did not have time -- no, I did not. I didn't have time to go put a shirt on.

13 Q. Well, what did Maria say to you as she was sitting in the back of the
14 police car?

15 A. What did she say to me?

16 Q. Yeah.

17 A. I'm not following the question.

18 Q. Did you go over to the police car to talk to her?

19 A. I did not.

20 Q. Did you ask the police officers if you could go over to the police car to
21 talk to her?

22 A. No, because Ofc. Muhammad said she was going to sit in the car and she
23 was going to sit in the car and calm down.

24 Q. It's unquestioned, isn't it, that during the course of these events, you
25 referred repeatedly to your son-in-law as a Buffalo Police Officer; is that

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1 true?

2 A. Yes.

3 Q. You referred to your daughter as a Buffalo Police Officer; is that correct?

4 A. Yes.

5 Q. And you did it a number of times with both Gehr and Muhammad; is that
6 correct?

7 A. I did it -- I recall doing it with -- I recall doing it with Muhammad, and
8 Gehr was there.

9 MR. POSTEL: Now, can we bring up 1-A,
10 please? Page 1, please. Line 22, 23.

11 BY MR. POSTEL:

12 Q. This is your first contact with the authorities about the parking
13 circumstance, right?

14 A. Correct.

15 Q. Line 22, line 23, did you say to them, "And I have daughters and sons and
16 a son-in-law that are police and that are fire department"?

17 A. I did say that.

18 Q. Did they ask you if you had a relative in the police department or fire
19 department?

20 A. No. I was making --

21 Q. Is there any -- now, my question is --

22 A. Yeah.

23 Q. -- did you ask them?

24 A. No. I was making conversation.

25 Q. Is there any indication about that of any conversation involving any of

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(Hon. Mark J. Grisanti -Cross)

1 your relatives?

2 A. No.

3 MR. POSTEL: Can I get 12-A, please? And
4 page 7?

5 BY MR. POSTEL:

6 Q. Line 9, this is from the Muhammad video. You say, "I'm going to need
7 to call my son and daughter-in-law and their lieutenants right now;" is
8 that correct?

9 A. Yes.

10 Q. Why did you need to refer to the lieutenants in the plural?

11 A. Because I saw -- first of all, what was happening at the point in time, I
12 really couldn't believe what just happened with my wife and I couldn't
13 believe what happened altogether, especially since we called the police
14 department. And when I was saying to call my son and my daughter, I
15 was going to call them, wanted to have my daughter know what's going
16 on so she doesn't hear it through any sort of a scanner, and I basically
17 take this to mean if, you know, I didn't think Ofc. Gehr was handling
18 things properly, and it'd be no different than if you go to a store and
19 there's a manager or there's a person that's not doing things right and you
20 say you want to talk to a manager. So I was going to call my daughter,
21 ask her what the procedure is here, what's going on, I can't believe it, and
22 I was going to ask her if she could talk to her lieutenant.

23 Q. And you had already --

24 A. I don't have a lieutenant's phone number, so I --

25 Q. You had already mentioned to both officers a number of times that your

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1 relatives were police officers; is that correct?

2 A. I mentioned it one time prior to this when Ofc. Muhammad asked me, or
3 said to me, "You're not going to fight a cop." And I said, you know, "I'm
4 not, because my son and daughter -- my son-in-law and daughters [sic]
5 are police officers." I think this is the second time I said it.

6 Q. Other -- until the very end when Ofc. Hy asked you a question about your
7 relatives, had Ofc. Muhammad asked you if you had any relatives in the
8 police department?

9 A. Did Ofc. Hy?

10 Q. Excuse me, Ofc. Muhammad.

11 A. Ofc. Muhammad, he did not. I just told him that --

12 Q. Did Ofc. Gehr ask you if you had any relatives in the police department?

13 A. No. Why would they ask me that? No.

14 Q. Did Ofc. Gehr ask you if you had any relatives in the fire department?

15 A. No.

16 Q. Did Ofc. Muhammad ask you if you had any relatives in the fire
17 department?

18 A. I -- no, I don't know why they would.

19 Q. Now, you invoked the name of Deputy Commissioner Gramaglia, right?

20 A. Yes.

21 Q. All right. And it's unquestioned that Deputy Commissioner Gramaglia is
22 not your cousin; is that correct?

23 A. He is not a cousin.

24 Q. At the time you did this, Byron Brown, as you've said, was the mayor. At
25 the time of this incident, Byron Brown was the mayor; is that correct?

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1 A. That's correct.

2 Q. And you used the phrase, "I'm good friends with Bryan -- Byron Brown,"
3 didn't you?

4 A. I did.

5 Q. Did anyone ask you if you were friends with Byron Brown?

6 A. No. Just having conversation.

7 Q. Did you consider the -- you were having conversation about Byron
8 Brown?

9 A. I was having a conversation, telling them that, look, Byron Brown's a
10 friend of mine; even he knows what goes on around the street.

11 Q. Did you consider the impression created by referring to Byron Brown as
12 a friend in dealing with the police responding at that moment?

13 A. No.

14 Q. At a certain point, you were approached by Ofc. Hy; is that correct?

15 A. I was.

16 Q. And Ofc. Hy told you that he was concerned about the appearance you
17 were creating by seeking special treatment from the police and raising
18 references to the officers, right?

19 A. Yes, I recall that.

20 MR. CONNORS: Well, excuse me. Excuse
21 me. I'm going to object to the form of that question. The
22 characterization of what Hy said -- you can ask him what
23 the words were, but I don't think he can characterize it.

24 MR. POSTEL: Well --

25 THE REFEREE: Sustained.

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1 BY MR. POSTEL:

2 Q. Did you consider that Hy was asking you any -- something about seeking
3 special treatment from the police?

4 A. Yes. I was concerned that he was taking what I said to be different than
5 what I'd meant it to be.

6 MR. POSTEL: Can we bring up 11, please?

7 11-A, I'm sorry. Page 25. All right. Let's go to line -- go
8 down, please. Or -- stop.

9 BY MR. POSTEL:

10 Q. Line 12, it begins, Ofc. Hy, "Okay, let me give you some constructive
11 criticism. You want to drop another copper's name? You want to scream
12 about you know Gramaglia or the mayor? How about you shut the fuck
13 up and you keep -- unintelligible," and then you respond, "Listen." Is that
14 right?

15 A. Yes.

16 Q. And he says, "Shut your goddamn mouth," right?

17 A. Yes.

18 Q. You say, "Listen."

19 A. Yes.

20 Q. At this point, he places the cuffs on you, right?

21 A. Correct.

22 MR. POSTEL: Scroll down, please. Next page.

23 BY MR. POSTEL:

24 Q. He says to you at the bottom of 25 into 26, "You want to -- you want to
25 say, I know all these coppers. I know all these things." Right?

1407



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1 A. Yes.

2 Q. You said, "No, I don't."

3 A. Yes.

4 Q. 24, "You want to make us look dirty, is that what you want to do?"

5 A. Yes.

6 Q. You then say, "I -- it's unintelligible," correct?

7 A. Yes. I was trying to tell him that's not --

8 MR. POSTEL: Keep going down, please.

9 A. Go ahead.

10 MR. POSTEL: Stop, please. Let's go to the
11 next page, please. All right. Let's go back to Muhammad,
12 please, 12-A, line 14.

13 MS. TRAPANI: What page number?

14 MR. POSTEL: Oh, I'm sorry. Page 10, line 22.
15 Oh, I must have it wrong. Let's -- this is Muhammad? This
16 is 12-A, is that right?

17 MS. TRAPANI: Yes, it's 12-A.

18 MR. POSTEL: All right. Let's go to page 22,
19 line 14. And go to the bottom, please. Keep going. All
20 right. Stop.

21 BY MR. POSTEL:

22 Q. Your response to him was, "I appreciate;" is that correct?

23 MR. CONNORS: That's page 23, line 5?

24 MR. POSTEL: Page 23, line 3 and line 5.

25 MS. TRAPANI: Page 22.

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MR. POSTEL: Page 22.

A. Yes.

BY MR. POSTEL:

Q. Okay. Go down to 10. This is where the same -- we just went over. And on -- he says, "You say -- you're saying everybody's fucking name, and you're dropping everybody's name with a badge, and you're expecting special treatment. How does it look like to everybody in this?" And your response at 14 is, "It doesn't look good," right?

A. Correct.

Q. He says, "Environment right now" -- a continuation of line 13. You say again at 16, "It doesn't look good," right?

A. Yes.

Q. He says to you at 17, "It doesn't look good." And you say at 18, "I know, you're right." Correct?

A. Yes.

Q. 20, "You're a hundred percent right." 20 and 22; is that correct?

A. Yes.

MR. POSTEL: Continue down, please. All

right.

BY MR. POSTEL:

Q. Now, Mr. Connors asked you about not filing a civil suit in this action; is that correct?

A. Correct.

Q. You knew as a lawyer and as a judge that you have the ability under the law to file such an action, is that correct, against Ofc. Gehr?

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1 A. That's correct.

2 Q. But you chose not to do that; is that correct?

3 A. Correct.

4 Q. And you were aware of the Buffalo Police Department District-B
5 building; is that correct?

6 A. I'm aware where it is?

7 Q. Where it is.

8 A. Yes. It's a town, so --

9 Q. All right. And then D-District building you know because you were
10 transported there, right?

11 A. Yes.

12 Q. At any time after your -- June 22, 2020, did you ever go to any of those
13 buildings and offices, ask to speak with a supervisor about Ofc. Gehr's
14 actions?

15 A. The next morning, I spoke to Lt. Turello.

16 Q. And how did that happen?

17 A. Because I lost my -- I couldn't find my watch. I thought it was in the
18 police car, so I went there the next morning. I was apologizing and I was
19 telling her that I didn't think it was right as to what he did. She's his
20 lieutenant. And whatever she did for a -- from there, but I didn't talk to
21 any supervisor or write any formal complaint.

22 Q. You knew that you had the authority -- you could under the law, file a
23 complaint with BPD against Ofc. Gehr, right?

24 A. As a citizen, I knew you could, absolutely.

25 MR. POSTEL: I only have a -- a little bit more.

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Can we take a short break?

THE REFEREE: Sure.

MR. POSTEL: I've only got about 20 minutes.

THE REFEREE: Yeah. Five-minute break.

We can even extend it to 10; it probably is needed.

MR. CONNORS: Whatever he wants.

(Recess from 2:22 p.m. to 2:32 p.m.)

MS. TRAPANI: We're back on the record.

THE REFEREE: It's about 2:30. We'll resume testimony. Judge, you're still under oath.

THE RESPONDENT: Thank you.

THE REFEREE: And you can resume the cross.

THE RESPONDENT: Thank you, Judge.

MR. POSTEL: Thank you, Your Honor.

RESUMED CROSS-EXAMINATION

BY MR. POSTEL:

Q. Judge, you've testified at some length about the benefits you've received from being in therapy with Dr. Smidt [sic] and from your sessions, and your evaluative sessions with -- excuse me not Dr. Smidt, Mr. Smidt -- and with Mr. Frigon, right?

A. Right.

Q. You testified about that.

A. Jakob -- yes. Jakob Smidt --

Q. Jakob Smidt and--

A. -- and --

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1 Q. -- Chris Frigon?

2 A. -- Chris Frigon -- Frigon.

3 Q. Frigon. Frigon, Frigon. And in both cases, they had concerns, or were
4 asked to deal with you on the issue anger management, right?

5 A. Correct.

6 Q. And they asked you about your past and whether you had had previous
7 anger related altercations; is that correct?

8 A. Correct.

9 Q. And you will recall both Mr. Smidt and Mr. Frigon referenced an event,
10 an altercation, that took place in February of 2014, right?

11 A. I don't recall -- I don't recall talking to Jakob Smidt about a prior -- but I
12 remember talking about Chris Frigon.

13 Q. And Mr. Frigon included in his evaluation a reference to the prior
14 altercation, right?

15 A. Yes, he had -- yeah. [REDACTED]

16 [REDACTED]

17 Q. That one I think was -- was that Dr. Morra?

18 A. That might have been Josh Morra.

19 Q. Dr. Morra who talked about --

20 A. Might have been.

21 Q. [REDACTED]

22 A. Yeah one -- yeah.

23 Q. So let's take that right off the table.

24 A. Okay.

25 Q. Talking about the prior altercation in 2004, that was at a local casino; is

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1 that correct?

2 A. That was in 2012.

3 Q. '12? Right. I say '14 because Frigon said '14.

4 A. 2012.

5 Q. If Frigon said '14, it was wrong, right?

6 A. Correct.

7 Q. It was 2012?

8 A. Correct.

9 Q. And at a certain point, that became a matter that was reported on by the
10 television news; is that correct?

11 A. The -- with the casino? Yes.

12 Q. Yes. And you and Ms. Grisanti were photographed talking to the press
13 from the table in your dining room?

14 A. Yes.

15 Q. That's the ██████ Avenue dining room?

16 A. Yes, it is.

17 Q. Now I have some perspective on it.

18 A. There you go.

19 Q. That event involved two individuals who came to blows with you; is that
20 correct?

21 A. No, it was --

22 Q. One individual?

23 A. -- it was two individuals that were fighting each other.

24 Q. And you got involved --

25 A. And I was trying to defuse the situation, and I wasn't successful. And

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1 they ended up fighting.

2 Q. -- and you wind up on your bottom?

3 A. I wound up after -- the security guard knew I was a Senator and actually
4 was taking me out, and I actually tripped on all the people that were
5 trying to break up the fight.

6 Q. Did you know those people?

7 A. I did not. I knew the one who -- it was a grandson of the guy, but I
8 didn't -- I didn't know of know him.

9 Q. The guy?

10 A. It was the grandson of the --

11 Q. I don't know who the guy is.

12 A. All right. He was the grandson of the Seneca Nation of Indians president,
13 Barry Snyder, at the time. It was his grandson who was having an
14 altercation with another gentleman.

15 Q. And as we talked about news attention, it's unquestioned that the events
16 on June 22, 2020 received multiple attentions from news organizations
17 locally; is that correct?

18 A. That's correct.

19 Q. And also an organization called Law 360; is that correct?

20 A. That's correct.

21 MR. POSTEL: On the 35, right?

22 MS. TRAPANI: Are you talking about exhibit
23 numbers?

24 MR. POSTEL: Yes, I'm talking to you, Clerk.

25 MS. TRAPANI: 40.

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MR. POSTEL: 45 I mean, right?

MS. TRAPANI: Um-hum.

MR. POSTEL: Okay. You'd think somebody would be next to me feeding these exhibits (unintelligible) --

MR. CONNORS: Apparently, they need to be.

MR. POSTEL: We're going to bring this up on the screen.

MR. CONNORS: Let me see it first. Do you have an extra one?

MR. POSTEL: That is the extra one. We're going to put it in on the screen.

MR. CONNORS: You want this back?

MR. POSTEL: Yeah. Thank you.

And that's an i-Team exclusive, and it states, "Supreme Court Judge Grisanti under investigation after brawl with neighbors."

MR. CONNORS: So it's a newspaper article apparently --

MR. POSTEL: It's dated June 24th. (Commission Exhibit 45 was marked for identification)

MR. CONNORS: Yeah. A newspaper article. I'm going to move cautiously on this. I'm not sure really what the purpose is going to be. I mean, it's clearly hearsay, and it's -- I don't think there's a foundation yet for

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1 it. So we'll see where it goes.

2 THE REFEREE: And you'll reserve your right
3 to object to it with further information.

4 MR. POSTEL: I didn't offer it yet.

5 THE REFEREE: Yes, but he's -- he's saying
6 that just for identification purposes.

7 MR. CONNORS: Yeah, are you -- no. Because
8 you said you're going to post it in front of the hearing
9 officer on the board, so I thought --

10 MR. POSTEL: I meant when we get to it.

11 MR. CONNORS: Okay.

12 MR. POSTEL: 46 is a Buffalo News article
13 dated June 27, 2020. One page, double sided.

14 (Commission Exhibit 46 was marked for identification)

15 MR. POSTEL: 47 is a one page, double sided,
16 news article from Law 360 dated July 8, 2020.

17 (Commission Exhibit 47 was marked for identification)

18 MR. POSTEL: 48 is a two page, double sided,
19 news article dated October 13, 2020.

20 (Commission Exhibit 48 was marked for identification)

21 BY MR. POSTEL:

22 Q. Judge, I'm showing you Exhibits 45 through 48. With regard to Exhibit
23 45, does that indicate to you, to your knowledge, that Channel 7 News
24 here published a report on the incidents of June 20 -- June 22, 2020?

25 MR. CONNORS: So I'm going to register an

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1 evidentiary objection, Judge. If the purpose of marking
2 these exhibits is to prove that there was some media
3 attention in connection with this, we'll stipulate to the fact
4 that there was media attention. But if the purpose is to go
5 into these documents that contain double and triple hearsay,
6 and frankly, several inaccurate factual renditions, then I
7 would object to -- for that purpose.

8 THE REFEREE: What's the relevance of them,
9 just to clarify?

10 MR. POSTEL: So there are two points here.
11 First, this is not the first newspaper article that's come into
12 this proceeding. Respondent used one on cross-
13 examination, which I believe opened the door in terms of
14 what factored there was publicity. The DA and Gina Mele
15 article also dealt with this. My purpose is not for the
16 purpose of the truth, or veracity, of what's in it. I believe
17 these are self-authenticating newspaper articles. My point
18 is only as to the extent, the fact there of an extent to the
19 publicity surrounding the event following its occurrence.

20 MR. CONNORS: So I said I would stipulate
21 there was publicity. But the reference to my use of a
22 newspaper article is asking a witness on the stand as to
23 what she did or didn't say in the newspaper article. That's
24 why.

25 THE REFEREE: That objection -- I mean, that

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1 argument, I'm not holding any sway on that. The articles
2 are coming -- the rationale for the articles being admissible
3 is that they reflect the publicity that the --

4 MR. POSTEL: Surrounding the event. Correct.

5 THE REFEREE: -- and --

6 MR. POSTEL: And solely for that purpose.

7 THE REFEREE: -- solely for that purpose.

8 And I believe Respondent will stipulate that there was
9 considerable media attention. But the actual text of what
10 was said is irrelevant.

11 MR. POSTEL: Correct.

12 MR. CONNORS: We have a deal.

13 MS. TRAPANI: For clarification, those are now
14 entered? 45, 46, 47, and 48; is that -- no?

15 MR. CONNORS: No. I object to them being
16 entered into evidence. In lieu of that, there's a stipulation,
17 that we have just agreed to, that there was publicity
18 surrounding these events.

19 MR. POSTEL: No, that's not my understanding.
20 I'm offering them limited to the fact that they are publicity
21 surrounding the events.

22 MR. CONNORS: You can't do that.

23 MR. POSTEL: I'm not offering them as for the
24 truth.

25 MR. CONNORS: No, you can't do that.

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1 Because what was contained within those documents are
2 factual renditions of events, and they would be improperly
3 prejudicial, they would influence the finder of fact, or
4 eventually the Commission, and they are inadmissible
5 hearsay -- rank hearsay evidence.

6 MR. POSTEL: Well, then let me say this. Can
7 we agree to the fact that on these various dates those media
8 outlets published publicity concerning the event on June 22,
9 2020?

10 MR. CONNORS: So I already agreed that there
11 was publicity --

12 MR. POSTEL: Well, I'm saying specifically
13 those four.

14 THE REFEREE: I mean, just a titular reference
15 to that, on such and such a date, articles were published on
16 WKBW, whatever it is, Buffalo News, Law 360. Two
17 articles.

18 MR. POSTEL: Correct.

19 THE REFEREE: With that --

20 MR. CONNORS: I could agree with that.

21 THE REFEREE: -- okay. Will you agree --

22 MR. POSTEL: And on the dates indicated.

23 THE REFEREE: -- you'll agree to that that. But
24 the point is that the exhibits themselves are not admissible.
25 It's --

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1 MR. POSTEL: Well, that's a ruling you can
2 make.

3 THE REFEREE: -- and I'm making that ruling.
4 But it's -- but I will accept the stipulation that they were
5 published. There were articles published in various media
6 outlets.

7 BY MR. POSTEL:

8 Q. So showing you these four --

9 A. Okay.

10 Q. -- I'm asking you to think back on that day.

11 A. Do you have -- do you have copies?

12 Q. I'm fine.

13 A. All right.

14 Q. Did you yourself read any media outlet publications regarding attention
15 brought this matter?

16 A. The article from -- its Exhibit 45 that's dated June 24, 2020 -- from
17 WKBW I'm familiar with.

18 Q. Did you see that on television?

19 A. I did.

20 Q. And after this event became public in that regard, did you hear anything
21 from any supervising judges?

22 MR. CONNORS: Excuse -- hear anything from
23 who?

24 MR. POSTEL: Any supervising judges about
25 the event?

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1 MR. CONNORS: Well, I'm going to object -- I
2 know that's the next step, but I'm going to object what
3 might have been heard from another judge.

4 MR. POSTEL: What he heard. I'm asking
5 (unintelligible) --

6 THE REFEREE: I'll overrule that objection. It's
7 a yes no question, Judge.

8 THE RESPONDENT: Yeah.

9 A. Not after -- not after this article of June 24th.

10 BY MR. POSTEL:

11 Q. In terms of any of the publicity?

12 A. No. I had contacted my -- I had contacted my administrative law judge
13 the next day after this happened myself.

14 Q. And that was Judge Feroletto.

15 A. I contacted her myself and told her.

16 MR. POSTEL: I have no further questions.

17 REDIRECT EXAMINATION

18 BY MR. CONNORS:

19 Q. Judge, I want to go back and do a review of some of the issues that were
20 raised in cross-examination. Do you recall that counsel for the
21 Commission had asked you a number of questions about your disclosures
22 with respect to the terms and conditions of the sale of your law practice?

23 A. Correct.

24 Q. And you were asked number of questions as to whether or not you had
25 disclosed the fact that you were receiving monies from Mr. Lazroe while

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- 1 he was engaged in some form of practice before you; do you recall that?
- 2 A. I do.
- 3 Q. And I think you -- I believe your answer was that you did not disclose it
- 4 to the parties?
- 5 A. I did -- well, I didn't disclose it to the parties. It was disclosed on my
- 6 financial disclosure that you file annually.
- 7 Q. So that was my question. Did you disclose it publicly?
- 8 A. The financial disclosures are public documents.
- 9 Q. So is that a document that the general public has access to examine if
- 10 they care to?
- 11 A. They do have access to it.
- 12 Q. And does the media have access to it as well?
- 13 A. Yes, they do.
- 14 Q. Are there any restrictions on any individuals from reviewing that
- 15 particular document that you filed with the Office of Court
- 16 Administration?
- 17 A. As far as I know, there's no restrictions on the public gaining access to
- 18 financial disclosures.
- 19 Q. Now, when you decided not to disclose certain information with respect
- 20 to the sale of your practice -- remember you testified to that?
- 21 A. Yes.
- 22 Q. Okay. Did you do so for the purpose of trying to deceive anyone?
- 23 A. No. It was on my financial disclosures. I didn't disclose it to the parties.
- 24 There's nothing -- no intent to deceive anybody.
- 25 Q. Now, you said that you didn't disclose it to the parties, but there was

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1 some proceedings that you did preside over, correct?

2 A. Correct. Out of the -- out of the cases that Mr. Lazroe had, some of them
3 he appeared in front of me, other ones he didn't. The ones that he didn't, I
4 didn't have any knowledge that he was in front of me or that he was
5 actually on the case.

6 Q. Did you preside over those matters, to the best of your ability, fairly and
7 impartially?

8 A. Absolutely. All my cases are like that.

9 Q. Did the fact that Mr. Lazroe was still filling -- fulfilling the terms of the
10 installment contract he had with you for the purchase of your practice
11 influence you in any way with respect either to his appointment, or to the
12 outcome of the matters that appeared before you?

13 A. Absolutely not.

14 Q. You were asked some questions about Exhibit Q.

15 MR. CONNORS: Could you pull that up,
16 please?

17 BY MR. CONNORS:

18 Q. Do you recall that document that is, I believe, marked into evidence as
19 Exhibit Q?

20 A. I do recall that document, yes.

21 MR. CONNORS: Now, if you could scroll
22 down, I guess, we're agreeing on now. Okay. Thank you.
23 And stop at the "Hi, Judges."

24 BY MR. CONNORS:

25 Q. Now this was an email you received, as the record reflects, from

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1 Supervising Administrative Judge Paula Feroletto, correct?

2 A. That's correct.

3 Q. And the line on the first page says -- of the exhibit, says, "Hi, Judges,
4 Andrew sends a reminder to file this report around every year." And you
5 told us Andrew Eisenberg was an assistant to Judge Feroletto?

6 A. Correct.

7 Q. Your filings didn't go to -- as a Court of Claims Judge, your filing does --
8 would not go to the Supreme Court Clerk, would they?

9 A. As a Court of Claims Judge, they would go to Eileen Fazzino, who I
10 believe is in Albany, and those are for -- that's who gets the Court of
11 Claims notification.

12 Q. But there's a distinction between filings that Supreme Court Justices
13 make and Court of Claim Justices -- Judges make, correct?

14 A. Correct.

15 Q. You said, I believe, in your cross-examination that you did not receive a
16 reminder ever from Andrew Eisenberg; do you recall that?

17 A. Yes. I do not recall ever receiving an email such as that, or else I would
18 have looked into it like I did in 2021.

19 Q. Andrew Eisenberg was an assistant to a Supreme Court Justice, not to a
20 Court of Claims Judge, correct?

21 A. Andrew Eisenberg works for the Eighth Judicial District, right. Not --
22 and is an executive assistant of -- I believe to Paula Feroletto.

23 Q. Okay. Your --

24 A. Or one of her AJ's in charge.

25 Q. -- your Court of Claims Supervising Judge at the time was not Paula

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1 Feroletto, was it?

2 A. No. Mine is Richard Sise.

3 Q. But in any event, it's your testimony that you never received a reminder
4 from Andrew Eisenberg with respect to this filing requirement?

5 A. No, I haven't. And it kind of talks about it, because if you haven't -- it
6 talks about if you going five years back.

7 Q. Well that's -- that was my next question. The reminder says, "To all the
8 judges on that list, if you forgot to do it in the past, you can do it now,"
9 correct?

10 A. If you forgot to do it in the previous five years ,which would be at that
11 time that I became a judge, you could do a *nunc pro tunc* filing. That's
12 the first time I saw anything along these lines in an email to me.

13 Q. And for the purposes of the record, *nunc pro tunc* means now for then?

14 A. Right.

15 Q. But you told myself and Mr. Postel earlier that you did not file anything
16 with your supervising judge with respect to outside income; do you recall
17 that testimony?

18 A. Yes, I did not.

19 Q. Why not?

20 A. Because after I looked into it, I felt that the -- the contractual obligation
21 that I had with Matt Lazroe didn't fall within the purview. It was law
22 office activity, not a judicial activity. And there's opinions from -- when
23 I looked into it and talked to other judges, there's opinions in 2014 and
24 opinions in 2022 that touch on this particular issue, and there was also a
25 large article that was just recently put out in Law 360 about it. It's not --

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1 it's was something that -- it's a contractual arrangement that I had as a
2 lawyer. These are things when I was a lawyer, not a judicial activity that
3 judges told me. I don't teach. I didn't perform any wedding ceremonies
4 where I had anything over \$150, so I did not file the -- the -- any sort of
5 statement with a letter to any clerks.

6 Q. And you're not a musician.

7 A. I am definitely not a musician, no.

8 Q. Now, the question was also asked about the down payment that you
9 received for the sale of your old law firm; do you recall questions on
10 cross-examination being asked about that?

11 A. Yes.

12 Q. And I think they refer to Exhibit 15 for that.

13 MR. CONNORS: Please, Kate?

14 BY MR. CONNORS:

15 Q. So we've pulled up Exhibit 15, which has been received into evidence.
16 And I believe you told both myself, and on cross-examination, Mr.
17 Postel, that the down payment amount of \$10,000 reflected there, but
18 there was and additional \$5,000, correct?

19 A. Correct, from Peter Pecoraro.

20 Q. And neither of those were reported on your -- neither of those were
21 reported, as 10,000 or 15,000, part of your sale, but they reported
22 elsewhere; is that your testimony?

23 A. Correct. Those monies were received when I was an attorney. They
24 were not reported. I did not file any statements with the clerk, and they
25 were reported on the financial disclosure, as I stated, as law office

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1 income. And I eventually did a correction in 2015, '16, and '17, because I
2 can understand where, to keep it uniform, it should have been on the line
3 where it was the sale of the law office.

4 Q. The document that you reported the down payment on it, was that a
5 publicly filed document?

6 A. It's the financial disclosure form. That's a public document.

7 Q. Did you ever provide any special consideration to Peter Pecoraro or to
8 Matthew Lazroe because you received that down payment with respect to
9 the sale of your law practice?

10 A. No, absolutely not.

11 MR. CONNORS: Exhibit 29, please?

12 BY MR. CONNORS:

13 Q. So we talked about this document that's it evidence, the *Buffalo Seminary*
14 case; do you recall that?

15 A. Yes.

16 Q. And you said to Mr. Postel that you did not disclose to the participants in
17 this case this that Matt Lazroe had purchased your practice; do you recall
18 that testimony?

19 A. I -- that's correct. I did not.

20 Q. Why?

21 A. It was an *ex parte* motion, there was no appearance. My law clerk looked
22 over the documentation. Stephanie Satterwhite, the defendant in this
23 case, filed a -- or had a confession of judgment that if she didn't make the
24 payments, they could sink -- they could seek order an *ex parte* order to
25 get a default judgment against her, and I signed the order. There was no

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1 appearance, and the default was granted. And this actually was -- this
2 was the -- a case that there was no appearance on.

3 Q. For purposes of the record, what is an *ex parte* order?

4 A. *Ex parte* order is where, based on the documentary -- or based on the
5 documentary documents that are given to the judge, that there's not going
6 to be any appearance that -- it's an order that can be signed without notice
7 to any party. And she actually, the defendant, signed a confession of
8 judgment stating that she does not need, if she defaults, notice of the
9 default. She agreed to it.

10 MR. CONNORS: Exhibit 17, please?

11 BY MR. CONNORS:

12 Q. So this was what we call an RJJ, or request for judicial intervention?

13 A. Correct.

14 Q. And with respect to a case involving E [REDACTED], D [REDACTED], D [REDACTED]?

15 A. Yes. It's a form that gets a judge assigned to a case.

16 Q. There was an order that you did sign in this particular proceeding.

17 MR. CONNORS: And I think if we scroll down
18 we can find that order. Yes. Can I see the top of that?
19 Okay. That's good.

20 BY MR. CONNORS:

21 Q. I wanted to ask you about this, Judge, because I noticed where there's an
22 entry the upper left hand of --

23 MR. CONNORS: And do you have a page for
24 this Kate? Or is there --

25 MS. TRAPANI: Page 3 of the exhibit.

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1 Q. -- page 3 of the exhibit. I see that your name is there, but it's not written
2 or typed in. How does that get on that order?

3 A. Up in the corner, the stamp?

4 Q. Yeah.

5 A. My court clerk.

6 Q. Is that a practice that you used throughout the time that you were both a
7 Court of Claims and Acting Supreme Court Justice?

8 A. Yes.

9 MR. CONNORS: And then if we could scroll
10 down to the signature page? Right there.

11 BY MR. CONNORS:

12 Q. Now, I notice on the signature page, where the actual order is entered,
13 there's a stamp there as well?

14 A. Correct.

15 Q. Will you tell us what the procedure was, with respect to your court in
16 February of 2018, regarding the entry of an -- entry of an order?

17 A. I mean, there should be a signature there, but it could be that the -- the --
18 the wrong document has been uploaded. But there's -- I would have
19 signed the order, and a stamp would have been underneath where it says
20 JSC so this way somebody could read judge's name that signed it, with a
21 granted stamp underneath. That's my Court Clerk, Brigitte Roesetl. I
22 don't know why that's not a signature page.

23 Q. Who takes care of entering the stamps on an order like this? Is that done
24 by you, or is it done by your clerk?

25 A. No, that's done by my Court Clerk, Brigitte.

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1 Q. Not your law clerk, but your court clerk?

2 A. My court clerk, correct.

3 Q. Okay. And I think this was an exhibit as identified as you awarded, or
4 appointed -- someone appointed Matthew Lazroe as a Court Evaluator.
5 And you said that sometimes there's a process in your court where the
6 order is signed, or granted, before the entry of the individual who's being
7 assigned as a Court Evaluator; do you recall that?

8 A. That happens quite often. It's not -- it's not entered until it's -- until it's
9 completed. So yeah.

10 Q. Well, how do you know that a Court Evaluator with sufficient credentials
11 has been entered in that order for you to approve?

12 A. Well, because to be in a Part 36, or for that matter, Attorney for the
13 Children, there's -- you have to qualify. You have to train for, and there's
14 a list that you have to show that you are updated. And if somebody's
15 appointed that's not up -- if somebody's appointed that is not on that list,
16 they would not be appointed. So I basically give the responsibility to my
17 law clerk to appoint the individual to the -- as a Court Evaluator. So I get
18 the order so -- it'll come in the mail, I get it, I review it, and I write hand
19 notes as to what it's actually about, what's the problem in the order show
20 cause. And it's to appoint somebody. And I go ahead, and I take the
21 yellow sheet on my notes, I put it in there, and I hand it to my court clerk,
22 and you know, he knows that there -- there's a sticky I put in there,
23 "Somebody's got to be appointed." He appoints somebody, and then
24 when he's done with it, it goes to my court clerk to then upload and enter
25 it and get it out to the attorney that filed the order show cause with the

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1 date. And they pick the date.

2 Q. So there's --

3 A. My court clerk picks the date.

4 Q. -- excuse me. Are there situations, such as in Exhibit 17, where that
5 process in your court will have been done and completed even before the
6 Court Evaluators name is entered on the order?

7 A. Well it -- when I go through it, and I give it to Doug. He has to go ahead
8 and put his name on there. On this particular one, I'm not sure. But if he
9 puts his name on there, gives it to Brigitte, and then Brigitte uploads it, I
10 don't see it again.

11 Q. Now, you were asked some questions about the Meles. And I know
12 you've told us that you remember that evening of June 22, 2020 vividly,
13 correct?

14 A. Yes. I'll never forget.

15 Q. Mr. Postel asked you a question, "Well, isn't it true that Gina Mele has a
16 right to call City Hall to make a report on you or any other citizen;"
17 remember being asked that question?

18 A. She -- yeah, she has a right to make a call on -- it was with regards to the
19 driveway, where she kept calling, and calling, and asking for -- and I
20 know this because the individual would show up at my house from the
21 City of Buffalo for a few years after I put the drive in.

22 Q. But City Hall is not the only individuals that Ms. Mele has called with
23 respect to you, correct?

24 A. Listen -- correct. She -- when I talked to the gentleman from Public
25 Works, he said -- when I talked to the gentleman from Public Works, he

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1 was under the impression that I did a curb cut. And I told him, "I didn't
2 touch the curb. You guys have the permit. I went ahead and did the part
3 of my driveway above where the apron is. The apron's been there, I
4 never touched the curb or anything along those lines." So the information
5 that he had was incorrect. And I knew that she was writing to City Hall
6 with -- and it was incorrect information. And there's been incorrect
7 information throughout this entire proceeding. Gina Mele had stated --
8 and I -- it was in the Buffalo -- in the Channel 7 article; it was on TV; it
9 was on the news.

10 Q. So my question was, with respect to the curb cut for now, your position is
11 that was inaccurate information?

12 A. It was completely inaccurate information. I never cut the curb; never said
13 I was Judge --

14 Q. We'll get there. Is that the same Gina Mele who wrote to various
15 organizations, agencies, and media sources saying repeatedly that you
16 invoked your judicial office on June 22, 2020?

17 MR. POSTEL: Objection. This is beyond the
18 scope of direct.

19 THE REFEREE: Overruled.

20 A. Yes. She wrote to numerous individuals and administrative offices
21 claiming that I said I was a judge, "I'll have your car towed," or "I'm a
22 Judge. I'll have a police officer's job, or badge," or that we spit or kicked
23 the truck, and numerous other non-truths regarding this incident.

24 Q. So while you agree with Mr. Postel that she has a right to make a
25 complaint, your position is she doesn't have a right to make inaccurate or

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1 false complaints?

2 A. My position would -- exactly. And it's a position with anybody, that you
3 don't have the right to give false premises to start anything.

4 MR. CONNORS: Now, could you pull up

5 Exhibit 40?

6 BY MR. CONNORS:

7 Q. Now, you were shown this exhibit, which has been marked into evidence
8 by Mr. Postel, and you identified both the black truck from New Jersey
9 and Chevy Traverse as Mele vehicles, correct?

10 A. That's correct.

11 Q. But when you when you were pulling your Ford Escape into the driveway
12 at your home on [REDACTED] that wasn't the way in which you came to your
13 driveway, that wasn't the view that you had, correct?

14 A. No. I was coming from -- as I said before, I was coming from the left,
15 the southerly direction --

16 Q. I'm going to pull up --

17 A. -- the left was north, so I was coming deep opposite way south, coming
18 up to my driveway.

19 MR. CONNORS: Pull up Exhibit LLL, please?

20 BY MR. CONNORS:

21 Q. So we're showing you LLL, which has been into evidence, and it is that
22 the view that you had as you were driving your vehicle south down

23 [REDACTED]

24 A. Yes. I was coming from right to left, and the vehicle is -- you can see
25 where it is on the apron. You can see how far it is from the curb. It's at

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BY MR. CONNORS:

Q. Now, I notice that your brake lights went on as you made that turn left into your driveway?

A. Yes.

Q. Why is that?

A. Well, when I was coming down the street, you couldn't see the driveway. So when I came -- normally you would come in you'd make kind of like a wide turn. When I was making the turn -- and Maria's car was there in the right lane, so I made the turn because the truck is edged into the apron. So I had to make the turn. I had to break, and I had to basically, adjust the steering wheel so it could go straight. And that's how, when I was talking to Mr. Postel, how I was able to go straight.

Q. Now, I want to ask you some questions about your conversations with Ofc. Muhammad. You were shown a transcript, or a video, about your conversations with Ofc. Muhammad, who had some body camera at the time, and you made some statements that when you came out of your house, they were already choking Maria -- when you came out -- and that's when you ran to break it up; do you recall being asked those questions in cross-examination today?

A. Yes.

Q. Was your -- the sequence that you described in those statements, was that right or wrong?

A. No. The sequence in that statement with Muhammad, and when I was in the back of the patrol car, and speaking with officers, they were, like, comingled, convoluted. They were -- they were not accurate. It was

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1 taking different portions of what transpired and kind of mashing them
2 together in some sort of a CliffsNote version.

3 Q. So on direct you told us that you came across the street to start a
4 conversation with the Meles about the fact that you called the police; do
5 you recall that testimony?

6 A. Well, it's on the -- it's on the transcript where I'm telling him, "There's
7 eight feet here, there's eight feet here." I was saying that to him as I was
8 coming across the street, trying to have a conversation with him, and
9 asking him to move the truck up

10 Q. So for purposes of the correct sequence, is that when you observed the
11 Mele women and Mr. Mele attack your wife?

12 A. Yes, after he pushed me, that's when -- after he pushed me and grabbed
13 Maria by the arm and -- well, it was too late, and everything happened
14 pretty quickly. It was just -- it wasn't -- I take responsibility. It just
15 wasn't a -- it wasn't smart.

16 Q. So you were asked some questions about what led up to you walking
17 across street with Maria, by Mr. Postel. And why did you go across the
18 street that evening?

19 A. Basically, like I said, I was trying to have a conversation with them. Say,
20 "Hey, you know, could you move it up? I called cops," whatever. I
21 figured that when I mentioned I called the police that they would just,
22 you know, be quiet, or he would go and get the keys and move the truck.
23 So I'm -- he's yelling. There's a lot of screaming going on. I'm crossing
24 the street telling him, "There's eight feet here, there's eight feet here."
25 And you know, he started calling me out. And I would say, "Come on."

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1 I thought that, all right, we're having this conversation; he's not going to
2 come out and move the truck. I'm here at the foot of the -- in his apron,
3 he's coming at me, so I'm going to, basically, try to call his bluff like
4 what happened in the past with another neighbor.

5 Q. Did you have anything in your hands when that happened?

6 A. Yeah, I got a bag of dog excrement.

7 Q. So were you going --

8 A. I didn't have a cigar, didn't have anything like that, like they said that was
9 our stuff. My wife didn't have a scarf. I had a bag of dog poop.

10 Q. Well, were you going over to start a fight with Mr. Mele with a bag of
11 dog excrement in your hand?

12 A. I had absolutely no intention of having a physical altercation with him at
13 all. It was -- like I said, in hindsight it's -- I wish I would have just never
14 have crossed the street. But I was trying to have a conversation with him.
15 I tried to put this to -- basically, to rest, because it's been going on for
16 years and years and years.

17 Q. Was it a bad decision to go across the street that evening of June 22,
18 2020?

19 A. It was the absolute worst decision of my life. That, and so many other
20 decisions that I made were improper that that's why I'm so internally mad
21 at myself, that to this day it's just not going away. I'm internally mad
22 because in essence, it was a situation that jeopardized my wife. It's
23 embarrassing. It's improper on so many levels, and that's why I've taken
24 the steps to do what I have to do to make sure it never happens again.

25 MR. CONNORS: Could you pull up Exhibit

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1 2-A, please? And go to the first page of the transcript?

2 BY MR. CONNORS:

3 Q. So this is Exhibit 2-A, which is in evidence, and it's the transcript of the
4 Mele security camera footage. You've seen this before, correct?

5 A. Yes, I have.

6 Q. And it starts with your wife saying something, "Have they tried" -- but it's
7 unintelligible. And then it says, "unknown, unintelligible." I take it
8 you're unable to create -- to recreate what was said in lines 2 and 3, or for
9 that matter, 4 and 5, are you, at this --

10 A. Yeah, the -- I know that in the beginning there was, "Do you have a -- do
11 you have a F-ing problem?" And then, "What's the problem?" So again,
12 the unintelligible is Ms. Mele saying, "What's the F-ing problem," and
13 Mr. Mele saying, "What's the problem?"

14 Q. Is that why you said at line 9, "There's a problem. Your truck's in my
15 driveway"?

16 A. Yes. And I don't know who the --the other unknown, I don't know who
17 that is saying, "Yeah, Joe."

18 Q. Okay.

19 MR. CONNORS: If you could scroll down a
20 little more, please?

21 BY MR. CONNORS:

22 Q. So you didn't -- you didn't curse at either Gina or Joe Mele when you told
23 them, "There's a problem. Your truck's in my driveway," did you?

24 A. No. I said, "I've already called the cops and your truck's in my
25 driveway." And that's where I'm telling them at line 24, "There's a

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1 whole -- another eight feet here."

2 Q. And were you walking across the street when you started telling him that
3 you called the police and that his truck was -- excuse me, his truck was
4 blocking your driveway?

5 A. When I was saying how much feet he has there, I started walking across
6 the street. I said it numerous times.

7 Q. Okay. So then the first one to interject profanity into this conversation
8 was Gina at line 16, correct?

9 A. Correct.

10 Q. Where she says, "Fuck you, Maria"?

11 A. Yes.

12 Q. And then at line 19, she calls her "a fucking cunt," correct?

13 A. Unfortunately, yes.

14 Q. But you hadn't said any -- issued any profane statements, at all, at that
15 point, had you?

16 A. No, I did not.

17 Q. At 20, you said, "Your truck's in my driveway"?

18 A. Correct.

19 Q. And again at 22 --

20 A. "Okay," I said. Yeah.

21 Q. -- you said, "There's a whole other eight feet." Is that what you're
22 referring to, what you testified to earlier?

23 A. Yes.

24 MR. CONNORS: Would you go to the next
25 page, please?

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1 BY MR. CONNORS:

2 Q. And that whole second page, lines 1 to 24, you don't curse or swear at the
3 Meles at any point, do you?

4 A. No. I was just asking them, "Like, why don't you, like, move it up," and
5 "You have another eight feet here." And then I'm coming across the
6 street -- I'm literally coming across the street, and I'm saying, "You know,
7 I'm going to pull up my cars right up to your driveway apron on
8 Thursdays." And I said on the next page, "Every F-ing Thursday."

9 Q. But at this point you wife's been called some pretty vulgar things already
10 by Ms. Mele, correct?

11 A. Correct.

12 Q. And had Mr. Mele --

13 A. She responded.

14 Q. -- issued any challenges to you at this point?

15 A. No. As I was coming across is when he was saying you know, "Come
16 on, come on."

17 Q. Okay.

18 A. And then I was saying, "Come on."

19 MR. CONNORS: The next page, please?

20 BY MR. CONNORS:

21 Q. So now, Mr. Mele, on line 2 of the next page says, "Park your -- I'm
22 sorry, "Park on top of yours, asshole." And Ms. Mele called somebody a
23 "fuck" again; do you see that?

24 A. Yes.

25 Q. And then Mele issues a challenge to you to, "Come on, Mark," correct?

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1 A. Yes.

2 Q. And that's the first time you say any profane words or language in
3 response to him at line 5, correct?

4 A. Well, I'm saying where I'm going to park my car when it comes to
5 Thursday, when it's not -- you know, when it -- when it switches, to see
6 how he likes it. And then he's saying, "I'm going to park my -- you know
7 what, I'm going to park my car on top of yours, asshole." And I'm
8 already, like in the street and he's like, "Come on, Mark. Come on,
9 Mark." And then he's a chicken -- but he's saying that as he's walking
10 down his walkway, walking towards me -- he's saying that.

11 Q. And he calls you a "motherfucker" too, doesn't he?

12 A. He did. And I'm like -- you know, I'm like, "Jesus," you know? As he's
13 saying that I'm like, "Jesus. Asshole."

14 Q. So was it at that time when it was difficult for you to get Maria out of this
15 controversy, this altercation?

16 A. It was literally right after he pushed me and I stepped back and I had
17 Maria -- like, Maria's coming up, she holds her arm out and I have her
18 other arm, he knocks her arm out of the way, that's when she says "Get
19 off me, get off me." And he pushes me, and I have her arm, and I'm
20 pulling it because they're coming down. You can see in -- it's in the
21 video. And by that time, it's too late, the girls are on her. We didn't even
22 enter into their sidewalk, driveway area, anything like that. It was -- and
23 then it was in front of their driveway, and immediately started, as I'm
24 pulling, going towards the street, all the way over to our side.

25 Q. You were asked several times by the counsel why you didn't just walk

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1 away. Could you walk away at that point?

2 A. I could have walked away, but I'm not going to leave Maria there. I
3 mean, I could have walked away. But when we -- when I pulled her, yes,
4 should I -- and we were on our side, should we have just walked in in the
5 backyard? Absolutely. I mean, because they kept coming back and forth.
6 And once I got her free from there, we should have just walked in the
7 yard. But it was very emotional, Maria was very, very emotional, and it
8 was just a very -- was very -- a situation where not a lot of smart
9 decisions made on my part in order to avoid that.

10 Q. You were asked several times about whether or not you took into
11 consideration the fact that you were a Supreme Court Justice -- an Acting
12 Supreme Court Justice, and a Court of Claims Judge during this
13 altercation; do you recall those questions?

14 A. Yes.

15 Q. Are you more than just a Supreme Court Justice and a Court of Claims
16 Judge?

17 A. Well, I mean, I think I said it before, that I wasn't -- I wasn't thinking of
18 myself as a Supreme Court Judge when I went over there, unfortunately.
19 And these are actually things that I've learned, tools that I've learned, in
20 the counseling over the last two years, to hope, you know, that I never get
21 in this situation again. But you know, I was -- I'm a husband first, you
22 know, looking out for her. I felt terrible because I have internal feelings
23 of me putting her in that position. And you know, I'm a father. I'm a
24 husband. I'm basically -- I'm a human being. It's -- you know, I'm trying
25 to take care of a situation that's been going on for a long period of time,

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1 and the way it went about -- there could have been smarter decisions
2 made on my part.

3 Q. I'm going to jump ahead --

4 A. The odd thing is they don't park on my -- they don't park on my apron
5 anymore.

6 Q. I'm going to jump ahead to the same type of issue you had with Ofc.
7 Gehr. Do you recall telling us about, while you were talking to Ofc.
8 Muhammad, you saw officer Gehr run towards your wife and --

9 A. Yes.

10 Q. -- and you were asked a number of questions about -- first of all, did you
11 hear Ofc. Gehr say to your wife, "Step back;" do you recall that?

12 A. I -- I did not hear him say that when Maria -- Maria was up talking to
13 Theresa, and I was talking to Muhammad. I didn't hear him say to her,
14 "Step back." Muhammad came and got us both, and you know, I saw it
15 on the video that he told her to step back because she was talking to
16 Theresa Dantonio about, you know, "Hey, you choked me here."

17 Q. At some point did you tell Maria to step back and move back onto your
18 property?

19 A. I told Maria -- I told Maria when I was trying to talk to Ofc. Muhammad
20 on my side, I was telling her to stop it because I couldn't hear the
21 conversation that I was trying to have with Ofc. Muhammad. And she
22 was still screaming, and then I was hearing bits of information, but I
23 heard -- the only thing I heard was her saying about, "Wait until my son
24 hears," the officer telling her, "The F- I can't," and then come running
25 over. I didn't hear her say until I saw the video, about her saying that

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1 "You can't arrest me."

2 Q. Did you hear Ofc. Muhammad say, "She's good, she's good, she's good"?

3 A. I did. We were on our driveway. She was on our property. And that's
4 why I thought it was a little extreme Ofc. Gehr --- and excessive -- come
5 running across the street when there's another -- Muhammad's talking to
6 us. He's supposed to be talking to of the Meles.

7 Q. Did you follow behind Ofc. Muhammad or did you precede him when
8 you went towards Ofc. Gehr?

9 A. I -- after he -- after Ofc. Gehr came running by me, I followed behind him
10 to see what he was going to do.

11 Q. And at some point, did you take some actions after you said first, "Hey,
12 hey, hey," three times?

13 A. Yes.

14 Q. All right. What actions did you take?

15 A. I saw him grab her and throw her down to the ground. I was thinking that
16 she was going to be hurt. I thought it was excessive. I didn't think she
17 was doing anything wrong. I mean, she was yelling. I get it -- she was
18 yelling on our property. It's not unlawful to yell. He took her down to
19 the ground. I wanted to see if she was okay, so I -- I say, "Hey, hey," and
20 I pushed him. And I told him, you know, "Get the F- off my wife,"
21 because I wanted to see if she was okay. He still put the cuffs on her.

22 Q. When you did that though, after you made some contact with Ofc. Gehr --
23 once you did that and got his attention, did you stop?

24 A. Yes, I did.

25 Q. You didn't continue to tackle him or fight with him?

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1 A. No, I didn't do anything like that and -- and Ofc. --

2 Q. Muhammad.

3 A. -- Muhammad said to me, "You're not going to fight a cop." And then I
4 said to him, "My daughter and son-in-law are police officers. You know,
5 I'm not going to -- I'm not going to fight a cop."

6 Q. You had mentioned the names in your direct testimony of George Floyd
7 and Mr. Gugino, and that that had some influence on your intervention
8 when your wife was being handcuffed and taken to the ground. Why did
9 you mention those names in your direct examination and your cross-
10 examination, those individuals that -- George Floyd and Mr. Gugino?

11 A. Those items -- the incident with Gugino just took place and it was still in
12 the news for a good two weeks straight, and the George Floyd incident
13 was in the news constantly for months. And those were horrific
14 incidents. You know, what happened to George Floyd was excessive
15 beyond belief, and I felt what happened to Mr. Gugino -- he was standing
16 there, the officer pushed him, and he fell backward. He was an elderly
17 gentleman, you know, this was what was spurring riots all across the
18 nation and in Buffalo. There were riots. And I'm trying to tell this
19 officer, you know, you're a little excessive here. She wasn't doing
20 anything unlawful, and this is what the public perception is things are
21 happening right now.

22 Q. When Ofc. Muhammad grabbed you and held you, did you fight with
23 Ofc. Muhammad?

24 A. No. He had my left arm and he just said, "You're not going to fight a
25 cop." And I said, "My son -- daughter and son-in-law are police officers.

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1 You know, I'm not going to fight a cop." I was, you know, cooperative
2 with him. And then he left, and I went to the car, and I'm -- was telling
3 Gehr to, you know, "You need to get the cuffs off her." I wanted to see
4 how she was doing.

5 Q. You were asked a number of times about you referred to one of the
6 officers as "dude;" remember that?

7 A. Yeah, that's Ofc. Gehr. Right.

8 Q. And did you mean to be disrespectful when you referred to him with that
9 name?

10 A. No. I have a bad tendency of -- of saying dude, and if I call somebody
11 dude I say it a lot. Like, if I don't know somebody's name, or whatever,
12 I'll say, "What's up, dude," or -- it's a bad habit, and I've been working to
13 correct that. I didn't even call -- I didn't even say anything to Ofc.
14 Muhammad, didn't even -- I don't even think I called him officer or
15 anything. I just -- he explained to me what was happening, and I backed
16 away then said, "I'm going to make a phone call."

17 Q. You were asked a number of questions about the tone of your voice that
18 evening. And did the tone of your voice change throughout that evening?

19 A. It did.

20 Q. Tell us roughly when it changed and why it changed?

21 A. Well, I was being -- I was -- at the beginning, I was trying to be
22 explanatory to the Meles, and unfortunately that wasn't working. And
23 when he pushed me, the -- I don't swear and use words. I didn't -- one
24 word is too much. It's embarrassing, I know it's embarrassing for my
25 wife, you know, watching that. We don't talk like that to neighbors. But

1446



(Hon. Mark J. Grisanti -Redirect)

1 I was yelling. I was loud. I was disrespectful. But I was calm and
2 talking to Muhammad, you know, Ofc. Muhammad. And then when
3 Gehr threw her down, I was loud again. I was making requests, or
4 demands, however you want to look at it, and was disrespectful at him,
5 you know, in hindsight looking back.
6 But at that time, I was not looking at it with anything other than, you
7 know, being husband and reflective [sic] actions. And then I was talking
8 to Gehr when he was putting Maria in the car. I was loud. I was talking
9 fine to Muhammad, and then I was talking fine to Ofc. Hy, Ofc.
10 Muhammad, and Ofc. Gehr when I was talking to my daughter Ashlee on
11 the phone. And then it got slightly argumentative when I was telling Ofc.
12 Gehr about, you know, just giving him a little -- you know, apologized to
13 him, but giving him a little constructive criticism as to how he handled
14 Maria. And that's when Hy got in my face, and I shut up because he
15 was -- I thought the guy was going to break my teeth in. And I was
16 basically agreeing him in the sense that, "Hey, you know -- you're --
17 okay, you're taking this the wrong way of how I meant it. I know Maria's
18 not -- she's being calm in the car" --

19 MR. POSTEL: We object this is narrative. And
20 well beyond the scope of cross-examination. If I could
21 have a moment with the bench, please, with Mr. Connors?

22 THE REFEREE: Sure. Off.

23 (Recess from 3:34 p.m. to 3:34 p.m.)

24 MS. TRAPANI: We're back on the record.

25 THE REFEREE: Judge, to clarify the record,

1447



(Hon. Mark J. Grisanti -Redirect)

1 you used a term again in your answer, and it sounded like
2 reflective as opposed to reflexive. Do you mean reflexive,
3 or do you mean reflective?

4 THE RESPONDENT: Reflexive when I -- my
5 mouth's all dry so ---

6 THE REFEREE: sure.

7 THE RESPONDENT: -- (unintelligible) so
8 reflect -- the way I'm saying it, reflective, it's reflect --
9 reflexive.

10 MR. CONNORS: Thank you.

11 THE RESPONDENT: Reflexive action.

12 RESUMED REDIRECT EXAMINATION

13 BY MR. CONNORS:

14 Q. So Judge --

15 THE RESPONDENT: But I reflected a lot, too,
16 that day.

17 MR. CONNORS: And since.

18 THE RESPONDENT: Since.

19 BY MR. CONNORS:

20 Q. Mr. Postel asked you some questions about comments you made to Det.
21 Costantino, who is a relative of yours, correct?

22 A. Correct.

23 Q. And you said, I believe, in response to his question -- do you agree that
24 the transcript reflected that you had mentioned that Gehr had dragged
25 Maria across the street; do you recall that?

(Hon. Mark J. Grisanti -Redirect)

1 A. Yes. That's wrong. I meant to say dragged her from the driveway over
2 to -- I've said that before, but I was mixing -- again, very emotional, now
3 I'm sitting in the back of a police car with handcuffs on explaining
4 something very embarrassing to my younger cousin, and I know where
5 that's going with the entire family now.

6 Q. Did you also apologize to the officers that same evening?

7 A. I did.

8 Q. Who did you apologize to?

9 A. Well, I apologized to Ofc. Gehr. I apologized to Ofc. Muhammad, who
10 was at the station. Also, he gave myself and my wife a ride home. I
11 apologized again there. I apologized to Detective Moretti and told him
12 that I didn't mean to do what I did by pushing the officer. And then the
13 next day when I went to go look for my watch, which I never found, I
14 apologized to Lt. Turello, had a conversation with her, and went on my
15 way.

16 Q. Where the apologies that you issued made before there was any notice
17 that there was a Judicial Commission investigation, begun?

18 A. Absolutely, yes. Yeah, they were made numerous times within a 24-hour
19 period, not even.

20 Q. On cross-examination you were asked some questions about the fact that
21 you mentioned that your daughter and your son-in-law were police
22 officers; do you recall that?

23 A. Yes.

24 Q. You did answer a portion of that question on direct examination, but have
25 you told us why it is that you mentioned those relatives of yours as

1449



(Hon. Mark J. Grisanti -Redirect)

1 Buffalo Police Officers, including that you might call their lieutenants?

2 A. Yes, I recall that. The first time I said it to Ofc. Muhammad is because
3 he said, "You're not going to fight a cop." The next time I said it to him I
4 was asking him, I said, "I'm going to call my daughter, my son -- my son-
5 in-law, and their lieutenants." He was saying, "Go ahead." And I don't
6 have the lieutenant's phone number, so I didn't call my son-in-law. I
7 called my daughter to let her know what was going on, to get some
8 advice from her. When I was on the phone with her, she actually
9 mentioned Gramaglia's name as Ofc. Hy is asking me for information on
10 who my daughter is, where does she work, where does my son-in-law
11 work. And that's why the names got juxtaposed with saying my cousin,
12 because I meant to mention my cousin Mark. But I wasn't -- I wasn't in
13 cuffs at that point. I wasn't trying to curry any favors. And I knew Maria
14 was just sitting in the car to calm down.

15 Q. You also -- incidentally, did Maria suffer some injuries that evening?

16 A. She did.

17 Q. What were the nature of her injuries?

18 A. She had scratches, she had black and blue marks. Her -- you know, her
19 neck was sore, you know, a few days later. She was okay, you know.

20 Q. Then at the end of the evening you had a little bit of an encounter with
21 Ofc. Hy, correct?

22 A. Yes.

23 Q. And I think, in fact, do you recall if had referred to him as "dude" as
24 well?

25 A. I may have, yes. I thought he was going to -- I thought he was going to

1450



(Hon. Mark J. Grisanti -Redirect)

1 smash my teeth out. I really did.

2 Q. Well, you did say in response to a question by Mr. Postel that you were
3 trying to tell him that there was -- his comments to you as to why you
4 drop the names was not why you dropped the names; do you recall that?

5 A. Yes.

6 Q. And --

7 A. He was taking it in entirely different way.

8 Q. So if you just tell us, for the record, what the difference between you and
9 Hy's interpretation was of the names that you mentioned that evening?

10 A. Well, as I said, I mentioned my daughter and my son-in-law, and he was
11 asking me "Where do they work?" And as I said, when he mentioned
12 Gramaglia -- when she mentioned Gramaglia in my ear on the phone, I
13 said Cousin Gramaglia -- I meant to say Cousin Mark. Then I hang up
14 with her and I mentioned Byron Brown because Byron Brown knows
15 what's going on around here, and those are the only names that I
16 mentioned. And he -- and then when I was talking to Ofc. Gehr and I
17 apologized and I was giving him what I consider to be constructive
18 criticism, that he basically said, "Let me give you some constructive
19 criticism, you don't touch a cop," because he wasn't there when I pushed
20 Ofc. Gehr. He wasn't there. He had just came up, and when I said, "I'm
21 sorry that I tackled you," that's the first time I think he heard that I did
22 anything. So he was like, "You touched a cop, and you're dropping
23 names, and this and that," and I'm thinking to myself, "Wait a minute,
24 you were -- you were just asking me where my kids work, and now
25 you're taking this the wrong way." I'm not in handcuffs --

1451



(Hon. Mark J. Grisanti -Redirect)

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MR. POSTEL: Objection.

THE REFEREE: Objection sustained.

THE RESPONDENT: All right.

BY MR. CONNORS:

Q. So, when you were talking to Ofc. Hy, you stopped talking to him all of a sudden; do you recall that?

A. Completely stopped talking to him, yes.

Q. And why was that?

A. Because I was just agreeing with him that -- you know, what he's saying.

I'm just agreeing with him because he's -- he was -- you know, started swearing, he's got his finger in my face, and I'm like, "All right, he's getting aggravated, so I'm just going to be quiet." I tried to tell him in the beginning, you know, I didn't, you know say -- or it says in there I didn't -- I didn't want that -- trying to say, "I wasn't saying it like that, didn't meant it like that," but he didn't want to hear it, just told me to, "Shut up, shut up, shut up," called me a few names. And I just said, "You know what, I'm just going to be quiet."

Q. But before that conversation with Hy began, you were talking with Ofc. Gehr, correct?

A. I was talking to Ofc. Gehr, and I didn't seem to have a problem with Ofc. Gehr. And you know, that's why I said, "Can I take Maria inside, you know, get her out of the car?"

Q. You were not in handcuffs at that time, were you?

A. I was not. And I knew that she was just in the car to calm down. And she was calm, so I'm like, "Can I take her in the house?"

(Hon. Mark J. Grisanti -Redirect)

1 Q. But there came a time when Hy put you in handcuffs; do you recall that?

2 A. Yes.

3 Q. Okay. But nothing had happened from the time you were talking to Gehr
4 and not in handcuffs, until the time Hy put you in handcuffs, correct?

5 A. Nothing happening -- nothing happening other than him listening to the
6 conversation that I was having with Hy -- or with Ofc. Gehr.

7 Q. And was it Hy who took you down to D-District?

8 A. Yes.

9 Q. But before that, you had asked some people to do you a favor and get the
10 cuffs off Maria; do you remember that?

11 A. Yes.

12 Q. Okay. And why did you -- well, first of all, when you said "Do me a
13 favor," did you mean that to be a favor because you knew people who are
14 police officers, or because you had any special status?

15 A. No. I was having a conversation with -- no, they didn't even they didn't
16 even -- they didn't know who I was or anything like that. I never
17 mentioned who I was. And he -- me and Gehr were having a
18 conversation, and what I knew from Ofc. Muhammad -- that Maria was
19 just going to sit there to calm down. She wasn't doing anything in the
20 car; it was quiet. So I was saying, "Can you do me -- you know, do me a
21 favor," figure of speech, "can you get her out of the car, and I'll take her
22 in the house."

23 Q. Were you placed in a car as well?

24 A. Was placed in the car.

25 Q. And were both you and Maria transported to D-District?

1453



(Hon. Mark J. Grisanti -Redirect)

1 A. Maria was in one car. I was in another. We sat in front of my house for
2 two hours, and then finally, I was taken to D-District and handcuffed to a
3 bench for another two hours.

4 Q. While you were down in D-District, did you have a chance to speak with
5 Lt. Turello?

6 A. I spoke to her briefly. She just said how, you know --

7 Q. I just want to know if you talked to her?

8 A. Yeah. I -- I talked to her, not at length. I talked to her the next day -- the
9 next morning.

10 Q. So when you say you apologized to Lt. Turello, was it that evening or the
11 next day?

12 A. It was that evening. I had mentioned to her and Moretti that I'm sorry
13 how things went. And then the next day to Ofc. -- or the Lt. Turello to
14 see if my watch was there.

15 Q. Now, Mr. Postel asked if whether or not you filed a complaint, or a
16 lawsuit, or took any action against Ofc. Gehr; do you recall those
17 questions?

18 A. Yes.

19 Q. And I think you did tell us that you did bring it to the attention of Lt.
20 Turello?

21 A. Correct.

22 Q. At that time, or even later, was the last thing on your mind filing a civil
23 lawsuit or a complaint against the police officer?

24 MR. POSTEL: Objection, leading.

25 THE REFEREE: Sustained.

1454



(Hon. Mark J. Grisanti -Redirect)

1 BY MR. CONNORS:

2 Q. Why? Why would you not file a complaint or a civil lawsuit against Ofc.
3 Gehr?

4 A. Because I wasn't concerned at that point of filing any sort of an action. I
5 knew that there were so many things that went wrong that evening, and I
6 took responsibility for it. And like I said, I believe he was excessive. I
7 think it was unlawful what he did, but I just never did.

8 Q. Now you were asked some questions about the therapy that you
9 underwent and whether you were evaluated for anger management. But
10 did you have a complete behavioral health evaluation?

11 A. I did have a complete behavioral health evaluation. I wasn't -- I'm the
12 one that brought up the anger. It wasn't -- I wanted an evaluation. I was
13 talking with Daniel Lukasik first, and also with grief and loss, and the
14 issue about how I acted the way I did. And he then sent me to Zachary
15 Shaiman, who gave me some items on grief and loss. We talked about
16 anger management. We talked about being able to open up and talk
17 about certain things. Then with Jakob Smidt, we did the anger
18 management and the -- the anger management workbooks.

19 Q. Do you still continue to treat with Jakob Smidt?

20 A. I do.

21 Q. And you told us back on direct examination some of the benefits that
22 you've turn out from that treatment?

23 A. Yes.

24 Q. Mr. Postel did bring up an issue in February of 2014, that he references
25 the Seneca Casino; do you recall that?

1455



(Hon. Mark J. Grisanti -Redirect)

1 A. Yeah it was February 2012.

2 Q. Yeah. It was 2012 --

3 A. Right.

4 Q. -- is the correct date, correct?

5 A. Correct

6 Q. Not 2014?

7 A. That's correct.

8 Q. And there were no charges placed against you were there?

9 A. No. It wasn't --

10 Q. No charges -- no charges placed against Maria?

11 A. No.

12 Q. Is it your testimony that basically, you saw two individuals having an
13 argument and you tried to defuse the situation?

14 A. There were two Seneca Native Americans that were fighting with each
15 other. I tried to defuse it because it was a nice evening. They didn't want
16 to hear it. At some point, I was hit in the back of the head. I was taken
17 away by the security. And because they saw what was going on, there
18 was a lot of people, we fall, and next thing you know, the individuals
19 fought anyway.

20 Q. You were -- well, why were you at the Seneca Casino that evening?

21 A. My daughter was asked to sing for The Scintas, which is a Buffalo
22 band -- family band that actually are in Las Vegas. They were
23 performing a show -- I believe it was for a diabetes foundation to raise
24 money. His sister was ill. He knew my daughter sang. He asked her to
25 come up and sing. And it was at the last minute, and we went up there

1456



(Hon. Mark J. Grisanti -Recross)

1 and watched her perform, and that was it.

2 Q. And finally, you were not a judge or a judicial officer in 2012, were you?

3 A. No. I was in the New York State Senate at the time.

4 Q. Thank you.

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

6 MR. POSTEL: I just have two questions and
7 then I'm offering my compilation video that we'll get to.

8 THE REFEREE: All right.

9 RECROSS-EXAMINATION

10 BY MR. POSTEL:

11 Q. Isn't it true that you told Detective Moretti that if Maria had stuff on her
12 wrists, that was a consequence of your having grabbed her and pulled her
13 away?

14 A. Correct, from pulling at her.

15 Q. Pulling at her?

16 A. Right.

17 Q. And is it also true that as a Judge in charge of court room, if you want to
18 place a disclosure on the record in any case you know you have authority
19 to do so right?

20 A. Yes.

21 MR. POSTEL: I have nothing further.

22 FURTHER REDIRECT EXAMINATION

23 BY MR. CONNORS:

24 Q. So when you were -- in response to that last question about pulling at
25 Maria, why were you pulling at her wrist?

1457



(Hon. Mark J. Grisanti -Further Redirect)

1 A. Because when he -- when he pushed me and I knew he wasn't going to
2 listen and things weren't going the way I thought they might have, I was
3 trying to get her out of there, and I was pulling her from their side of the
4 street back over to our side of the street.

5 Q. From the Mele side of the street back to the other side?

6 A. Yes.

7 Q. Thanks. That's all.

8 MR. POSTEL: Nothing Further. Compilation
9 video. I'm offering it. I believe it's Commission 40? 40 --

10 MS. TRAPANI: 49.

11 MR. POSTEL: -- 49.

12 (Commission Exhibit 49 was marked for identification)

13 THE REFEREE: And it's compiled from all the
14 footage that's --

15 MR. POSTEL: That's correct --

16 THE REFEREE: -- previously been introduced.

17 MR. CONNORS: And that's the only
18 clarification that it was -- it's a compilation --

19 MR. POSTEL: There's nothing in there that's
20 not in the record.

21 MR. CONNORS: -- that's exactly what I
22 wanted to find out. I have no doubt.

23 MR. DOYLE: What's the number? I'm sorry.

24 MR. POSTEL: 49.

25 MR. DOYLE: 49?

1458



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THE REFEREE: Received.

(Commission Exhibit 49 was admitted into evidence)

MR. CONNORS: And that would conclude our proof.

THE REFEREE: Any rebuttal?

MR. POSTEL: None.

THE REFEREE: Then we're finished now. Let's go off record.

MR. CONNORS: Before we do that -- I mean, the only possible thing is we may get together and talk about exhibits that may or may not be --

MR. POSTEL: Yes.

THE REFEREE: Right.

MR. CONNORS: -- we'll do some housekeeping.

THE REFEREE: Okay.

MR. CONNORS: On consent.

THE REFEREE: That's what I wanted to -- Kate, if you could compile what's been identified and what's been received as exhibits. And if there's any oversight, then we can address that later.

MS. TRAPANI: Would you like -- would you want to do it on record now, or off the record?

THE REFEREE: Are you -- are you prepared to do it now, or you want to do it off record later?

(Matter of Mark J. Grisanti)

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MR. CONNORS: This is for additional -- no.

I'm not.

THE REFEREE: We'll do it later.

MS. TRAPANI: Okay.

(Proceedings concluded at 3:51 p.m.)

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EXHIBITS

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P	Memo from Hon. Lawrence K. Marks to Full-Time Judges RE: Reporting of Compensation for Extra-Judicial Activities dated March 17, 2022 (1 p)	1158	1158
Q	Email from Hon. Paula Feroletto to Eighth Judicial District Full-Time Judges RE: 22 NYCRR100.4(H)(2) dated May 20, 2021 (1 p)	1158	1158
R	USPS Certified Mail and Return Receipt for First Class Mail from Mark J. Grisanti to the NYS Ethics Commission dated June 7, 2021 (1 p)	1158	1158
S	Letter from Mark J. Grisanti to the NYS Ethics Commission RE: Financial Disclosure, undated (1 p)	1158	1158



1	T	2020 Annual Statement of Financial Disclosure to the NYS Ethics Commission for Mark J. Grisanti (12 pp)	1158	1158
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3	U	Correction to 2017 Financial Disclosure for Mark J. Grisanti, dated March 5, 2018 (2 pp)	1158	1158
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5	V	Screenshot of Computer Screen showing Webpage Submission of Amendment to 2017 Financial Disclosure for Mark J. Grisanti, undated (1 p)	1158	1158
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8	W	Correction to 2016 Financial Disclosure for Mark J. Grisanti, date illegible (2 pp)	1158	1158
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10	X	Screenshot of Computer Screen showing Webpage Submission of Amendment to 2016 Financial Disclosure for Mark J. Grisanti, undated (1 p)	1158	1158
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14	Y	Correction to 2015 Financial Disclosure for Mark J. Grisanti dated February 19, 2016 (2 pp)	1158	1158
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16	Z	Screenshot of Computer Screen showing Webpage Submission of Amendment to 2015 Financial Disclosure for Mark J. Grisanti, undated (1 p)	1158	1158
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19	AA	Temporary Order of Protection in favor of Linda Chwalinski against Gina Mele, dated August 11, 2014 (1 p)	140	489
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22	BB	Temporary Order of Protection in favor of Victoria Chwalinski against Joseph Mele, dated November 13, 2014 (1 p)	484	488
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1	CC	Temporary Order of Protection in favor of Gerald Chwalinski against Joseph Mele, dated August 31, 2004 (1 p)	485	488
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3	DD	Demonstrative Map of [REDACTED] Avenue (1 p)	76	77
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5	DD-1	Demonstrative Map of [REDACTED] Avenue with	474	474
6	DD-2	Demonstrative Map of [REDACTED] Avenue with names of neighbors on houses (1 p)	1168	1168
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8	EE	Mark and Maria Grisanti's Receipts from June 22, 2020 (4 pp)	1232	1232
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10	FF	Photos of Maria Grisanti's Injuries (3 pp)	1020	1020
11	HH	Mark Grisanti's [REDACTED] Records from [REDACTED] Services dated August 3, 2021 (49 pp)	813	813
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14	II	Mark Grisanti's Treatment Records from Jakob Smidt, LCSW, from June 24, 2021 through February 11, 2022 (35 pp)	583	
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16	KK	RAP sheet for Gina A. Mele (9 pages)	137	
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18	MM	Written Statement by Gina Mele to Buffalo Police Department dated June 22, 2020 (5 pp)	100	
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20	NN	First Page of Letter of Complaint from Gina Mele to the NYS Commission on Judicial Conduct dated June 29, 2020 (1 p)	106	
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22	OO	Email from Gina Mele to the NYS Commission on Judicial Conduct dated July 7, 2020 (4 pp)	114	
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1	PP	Law360 Article, DA Slams Judge's 'Childish' Street Fight But Forgoes Charges, by Frank G. Runyeon, dated July 8, 2020 (2 pp)	120	
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6	RR	Letter from Gina Mele to Governor Andrew Cuomo, dated June 29, 2020 (2 pp)	124	
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19	ZZ	Complaint Summary Report, 911 Call Response to June 22, 2020 incident, dated October 9, 2020 (1 p)	185	
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13	GGG	BPD Incident Report dated September 29, 2017 (1 p)	495	495
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15	HHH	Affidavit of Joseph M. Shur, Esq., dated June 28, 2022 (3 pp), with Biography of Joseph M. Shur from Relin, Goldstein, and Crane LLP, Dated June 28, 2022 (1 p) and Biography of Joseph M. Shur from "Partner - Collections" Undated (1 p)	889	889
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21	JJJ	Resume of Christopher A. Frigon, LCSW (1 p)	951	951
22	KKK	Still Photographs from Mele Home Security Video (12 p)	1003	1004
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CERTIFICATION

I, Chandelle Paccione, do hereby certify that the foregoing is a true and accurate transcript of the audio recording described herein to the best of my knowledge and belief.

Dated: July 25, 2022



Chandelle Paccione

