

Disciplinary Hearing Day 2

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1 BAILIFF: All rise. The  
2 Disciplinary Court is now in session.  
3 The Honorable Brian Cali presiding.  
4 HONORABLE CALI: Good  
5 morning.  
6 ATTORNEY CASALE: Good  
7 morning.  
8 ATTORNEY BURKE: Good  
9 morning, ladies and gentlemen.  
10 HONORABLE CALI: Please  
11 be seated. Good morning, Mr. Bailey.  
12 How are you doing?  
13 ATTORNEY BAILEY: Good  
14 morning, Mr. Cali. Sir, if I might  
15 address something you asked me about  
16 yesterday.  
17 HONORABLE CALI: Sure.  
18 ATTORNEY BAILEY: I did  
19 contact Mr. Stretton. I need your  
20 permission, I only need him for about  
21 three questions telephonically. With  
22 your permission, I can leave my cell  
23 phone on. He will call in and  
24 whenever you tell him to call or do he  
25 can do at that time.

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1 call you.  
2 ATTORNEY BAILEY: I know  
3 that. That's the trouble I have.  
4 HONORABLE CALI: Well,  
5 does your phone vibrate?  
6 ATTORNEY BAILEY: I don't  
7 know. I never use it on vibration.  
8 MR. LEWIS: Excuse me,  
9 yes, sir, I can set it to vibrate.  
10 HONORABLE CALI: Okay.  
11 So why don't Mr. Lewis or Mrs.  
12 Bailey  
13 MRS. BAILEY: --- he never  
14 answers his phone.  
15 HONORABLE CALI: I  
16 understand. Listen, I asked my son  
17 how to fix my phone, but just so it's on  
18 vibrate, they can see it, and take the  
19 call. That's no problem at all. Okay?  
20 ATTORNEY BAILEY: Okay.  
21 Thank you.  
22 HONORABLE CALI: Now  
23 preliminarily before we go, last night  
24 when we left we talked about the  
25 exchange of records and did that occur

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1 HONORABLE CALI: That's  
2 fine. Just you want to leave your cell  
3 phone on to take his call.  
4 ATTORNEY BAILEY: Yes,  
5 sir. So I don't get, violate the rules,  
6 you know.  
7 HONORABLE CALI: Right. I  
8 understand. Just, can it be on vibrate  
9 and one of your people just look at it so  
10 that it's not ringing.  
11 ATTORNEY FULTON: Your  
12 Honor, we have a conference phone  
13 that's built into the system so the same  
14 microphones that you're talking into  
15 and the speakers are all on the  
16 conference line. All I have to do is  
17 have the number and dial.  
18 HONORABLE CALI: Right.  
19 What I think he's doing is try to get a  
20 time in which we can do that.  
21 ATTORNEY FULTON: Oh,  
22 okay.  
23 HONORABLE CALI: Are  
24 you expecting other calls or maybe you  
25 won't even know if somebody else may

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1 or what are you doing?  
2 ATTORNEY BAILEY: Here's  
3 what we did and we agreed. Bob is  
4 going, we went through to save time  
5 here, okay. We went through all of the  
6 exhibits that we had provided him.  
7 We're going to stipulate to the  
8 admission of almost all of them, there's  
9 a few that we withheld and I thought to  
10 be safe we'd let Bob read those and if  
11 that's fine and we can just submit those  
12 to the record.  
13 HONORABLE CALI: Perfect.  
14 Thank you very much.  
15 ATTORNEY BAILEY: I know  
16 that's what you wanted.  
17 HONORABLE CALI: Thank  
18 you.  
19 ATTORNEY BAILEY: Yes,  
20 sir.  
21 ATTORNEY FULTON: Mr.  
22 Bailey had previously marked these  
23 and I'll go by his markings on the  
24 exhibit. It's not marked R1 or anything  
25 like that. It's just marked by number.

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1 HONORABLE CALI: That's  
 2 fine.  
 3 ATTORNEY FULTON: One is  
 4 his petition for writ of certiorari in the  
 5 matter where he was sanctioned by the  
 6 Third Circuit.  
 7 MRS. BAILEY: I don't know  
 8 what Sam gave you, but these are all  
 9 exhibits ---.  
 10 ATTORNEY FULTON: Well,  
 11 I'm going by what I was given. This is  
 12 what I have. I'll read what the citation  
 13 of reports of the opinion of the Third  
 14 Circuit Court of Appeals was filed on  
 15 October 26, 2010, opinion of the Third  
 16 Circuit of Appeals dated October 6,  
 17 2010, memorandum and opinion of the  
 18 Honorable Magistrate Rice dated  
 19 August 5, 2010.  
 20 ATTORNEY BAILEY: Let me  
 21 solve the problem. That is not  
 22 something that we gave Bob, but I will  
 23 not object to it so if you want to admit  
 24 it go ahead. Maybe it's something Sam  
 25 gave him. I don't know. I didn't even

1 what, that's okay. That's fine.  
 2 ATTORNEY FULTON:  
 3 Number 3 is a petition for writ of  
 4 certiorari in the Venesevich versus  
 5 Leonard case marked number 3.  
 6 MRS. BAILEY: They're not --  
 7 -. This is what Sam asked me ---.  
 8 ATTORNEY BAILEY: It's  
 9 okay.  
 10 ATTORNEY FULTON:  
 11 Number 4 is a memorandum  
 12 opinion by Judge Conner in the  
 13 Venesevich case.  
 14 ATTORNEY BAILEY:  
 15 Venesevich. All right. That's  
 16 okay. No objection. I'll object.  
 17 ATTORNEY FULTON:  
 18 Number 7 is a report and  
 19 recommendation of Magistrate Judge  
 20 Carlson in the matter of Lease versus  
 21 Fishel et. al. Number 8 is Don Bailey's  
 22 objections to the Magistrate's report of  
 23 recommendation. Number 9 or I'm  
 24 sorry, number 12 is an order from  
 25 Chief Judge Kane appointing an

1 know he was given that, but I don't  
 2 object.  
 3 HONORABLE CALI: All  
 4 right so.  
 5 ATTORNEY FULTON: It's not  
 6 my case, you know.  
 7 HONORABLE CALI: Is this  
 8 your, this exhibit is coming in so.  
 9 ATTORNEY BAILEY: I have  
 10 no idea where it came from. I've never  
 11 seen it before, but I do know what he's  
 12 talking about and I don't object.  
 13 HONORABLE CALI: All  
 14 right. Thank you.  
 15 ATTORNEY FULTON:  
 16 Number 2 is a petition for writ of  
 17 certiorari to the US Supreme Court by  
 18 Thom Lewis. That's in the matter of  
 19 Lewis, the Lewis 2 matter.  
 20 ATTORNEY BAILEY: Bob, is  
 21 it okay if I stand and look at those with  
 22 you?  
 23 ATTORNEY FULTON: Sure.  
 24 ATTORNEY BAILEY: There's  
 25 some confusion. I don't understand

1 investigator within the District, Hubert  
 2 Gilroy. It also contains a letter directed  
 3 from Judge Kane to Mr. Bailey and  
 4 there is a letter from Mr. Bailey to  
 5 Judge Kane. There is a motion, there is  
 6 a letter from Mr. Bailey, to Mr. Bailey  
 7 from Mr. Gilroy and there is a motion  
 8 to unseal filed by Mr. Bailey with the  
 9 court. Number 13 is a series of  
 10 amending orders that was discussed  
 11 with Judge Conner.  
 12 ATTORNEY BAILEY:  
 13 Adrienne, give me those  
 14 amending orders because this is not  
 15 complete. Adrienne, the amending  
 16 order on Steven Conklin is missing  
 17 here. Check those amending orders.  
 18 That's specifically the one that was  
 19 written by Judge Conner in the Conklin  
 20 case.  
 21 ATTORNEY FULTON:  
 22 Number one, until we can get  
 23 back to that.  
 24 HONORABLE CALI: Okay.  
 25 ATTORNEY FULTON:

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1 Number 14 is a letter from the  
 2 United States Court of Appeals for the  
 3 Third Circuit to David and Pamela  
 4 Morris.  
 5 HONORABLE CALI: Mr.  
 6 Fulton, can I interrupt you just for a  
 7 second. Mr. Bailey, these are  
 8 documents that are exhibits basically  
 9 your exhibits and defense exhibits.  
 10 ATTORNEY BAILEY: Yeah.  
 11 HONORABLE CALI: You're  
 12 concurring that these documents should  
 13 come to us for review?  
 14 ATTORNEY BAILEY: Yeah.  
 15 HONORABLE CALI: Okay.  
 16 Mrs. BAILEY: But not that  
 17 order. ---  
 18 HONORABLE CALI: Mrs.  
 19 Bailey, please.  
 20 ATTORNEY BAILEY: Okay.  
 21 The only thing that, I don't know how  
 22 this occurred because we know what  
 23 was provided so somehow it got mixed  
 24 up. But the amending orders,  
 25 remember we discussed.

1 ATTORNEY BAILEY: We'll  
 2 find them.  
 3 HONORABLE CALI: No  
 4 problem.  
 5 ATTORNEY BAILEY: All  
 6 right.  
 7 ATTORNEY FULTON: Back to  
 8 number 14. That was the letter.  
 9 Attached to the letter is a memorandum  
 10 and order by Judge Conner and I guess  
 11 Magistrate Judge Prince and a  
 12 grievance --- of objections filed by Mr.  
 13 Bailey in that matter, the Morris matter.  
 14 That's collectively 14. Eighteen is the  
 15 transcript of evidentiary hearing that  
 16 was held before Judge Rice. We'll  
 17 brief the submission of those exhibits  
 18 to the Panel for whatever they're  
 19 worth.  
 20 HONORABLE CALI: There  
 21 are additional documents related to  
 22 those amended orders.  
 23 ATTORNEY FULTON: ---  
 24 ATTORNEY BAILEY: There  
 25 were documents even that were

1 HONORABLE CALI: Yeah,  
 2 they were the ones we --- yesterday.  
 3 ATTORNEY BAILEY: The  
 4 only thing I'd like to do at this point if  
 5 you don't mind so we can keep on  
 6 moving through this is with Bob's  
 7 permission add the amending order in  
 8 Mr. Conklin's case which is precisely  
 9 what I attempted to talk to the Judge.  
 10 HONORABLE CALI: We had  
 11 talked about that yesterday.  
 12 ATTORNEY BAILEY: Yes.  
 13 HONORABLE CALI: So I  
 14 don't have a problem with that.  
 15 ATTORNEY BAILEY: Is that  
 16 okay with you?  
 17 ATTORNEY FULTON: Yeah.  
 18 ATTORNEY BAILEY: Okay.  
 19 ATTORNEY FULTON: ---.  
 20 ATTORNEY BAILEY: Okay.  
 21 Find the amended order.  
 22 ATTORNEY FULTON: I don't  
 23 want to waste any more time.  
 24 HONORABLE CALI: That's  
 25 fine.

1 mentioned yesterday, for example, in  
 2 the issues pertaining to Judge Conner.  
 3 There was a motion to recuse. There  
 4 was a motion for --- to the Third  
 5 Circuit. These are all court documents.  
 6 Every one of these is a court document.  
 7 HONORABLE CALI: I  
 8 understand. You want us to review  
 9 them?  
 10 ATTORNEY BAILEY: Yes,  
 11 yes.  
 12 HONORABLE CALI: Do you  
 13 have them ---?  
 14 ATTORNEY BAILEY: I  
 15 provided them to Bob. If we have,  
 16 yeah, we have those here. They were  
 17 provided to Bob. I was personally  
 18 there when they were turned over. Mr.  
 19 Stretton was there who added some to  
 20 it. I would, they're all court documents  
 21 and I would like you to consider them.  
 22 They've all been brought up in this, in  
 23 this  
 24 HONORABLE CALI: Well, if  
 25 they're court documents, recorded

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1 court documents again, what I would  
 2 hope that could be done is that you and  
 3 Mr. Fulton if there's any of these  
 4 documents for the sake of getting these  
 5 documents to us, they can be  
 6 duplicated and given to us.  
 7 ATTORNEY BAILEY: That's  
 8 fine with me.  
 9 HONORABLE CALI: But we  
 10 need to have some concurrence and  
 11 there needs to be some reason for these  
 12 documents to be submitted.  
 13 ATTORNEY BURKE: Your  
 14 Honor,  
 15 HONORABLE CALI: Mr.  
 16 Burke.  
 17 ATTORNEY BURKE: Mr.  
 18 Chairman, I think the issue in my mind  
 19 is, of course the panel will accept  
 20 judicial notice with respect to court  
 21 documents ---.  
 22 ATTORNEY BAILEY: Right.  
 23 ATTORNEY BURKE: If there  
 24 are any issues as between the defense  
 25 and in particular the respondent with

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1 problem with except, not 1-18, but 1  
 2 and the numbers in between that you  
 3 had indicated and there are in the  
 4 document with the amended orders that  
 5 #13 you need to add to those.  
 6 ATTORNEY BURKE: I would  
 7 also recommend that if, if I may Mr.  
 8 Chairman.  
 9 HONORABLE CALI: Sure,  
 10 absolutely.  
 11 ATTORNEY BURKE: I would  
 12 also recommend that to the extent it's a  
 13 document that's been referred to in  
 14 testimony and it is also a court  
 15 document, we're going to receive that  
 16 so you can expect that we'll ---.  
 17 ATTORNEY BAILEY: I think  
 18 that's saves most of it because with  
 19 Judge Conner most of it was discussed.  
 20 We'll go through those.  
 21 ATTORNEY BURKE: Thank  
 22 you.  
 23 HONORABLE CALI: Thank  
 24 you very much.  
 25 ATTORNEY BAILEY: Yes,

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1 regard to the relevance, please bring  
 2 those to our attention before we accept  
 3 them. If there aren't, then we'll accept  
 4 them based upon your joint submission  
 5 that they are both documents subject to  
 6 judicial notice and they're relevant.  
 7 ATTORNEY BAILEY: Yeah,  
 8 what I would ask in that regard which I  
 9 think is fine, those issues and all of  
 10 them are to my knowledge are court  
 11 documents as I said that we had  
 12 submitted, the exhibits, etc. If there are  
 13 any issues that are not, we can, I know  
 14 the record's open. We can raise, we  
 15 can argue the relevancy issues with  
 16 Bob and then just submit that to you.  
 17 HONORABLE CALI: All  
 18 right. We'll decide that later, but you  
 19 need to go through those documents  
 20 hopefully before we leave here at least  
 21 to have some idea of where we're  
 22 going.  
 23 ATTORNEY BAILEY: Okay.  
 24 HONORABLE CALI: But  
 25 these documents, 1-18, no one has a

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1 sir.  
 2 HONORABLE CALI: Before  
 3 any witnesses are called, I again repeat  
 4 what we had decided yesterday with  
 5 respect to the individuals being outside  
 6 the courtroom so I don't know what  
 7 your, who your witnesses are going to  
 8 be yet, and I want to make sure that if  
 9 they're going to be testifying that they  
 10 are going to be outside the courtroom.  
 11 So we ruled on that yesterday so I don't  
 12 know who's in the room this morning  
 13 so I don't want to change any of our  
 14 rulings that we already have.  
 15 ATTORNEY BAILEY: Okay.  
 16 We're covered.  
 17 HONORABLE CALI:  
 18 Covered?  
 19 ATTORNEY BAILEY: Yeah.  
 20 ATTORNEY FULTON: Are  
 21 you a witness, sir?  
 22 MR. DOCK: Yeah.  
 23 ATTORNEY FULTON: You  
 24 need to leave.  
 25 ATTORNEY BAILEY: He's

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1 on. He's on first. He's on.  
2 HONORABLE CALI: He's  
3 our first witness?  
4 ATTORNEY BAILEY: Yeah.  
5 UNIDENTIFIED MALE ONE:  
6 Yesterday you said Mr. Lewis  
7 was your first witness.  
8 ATTORNEY BAILEY: Well, I  
9 changed my mind.  
10 HONORABLE CALI: All  
11 right. So he's going to be your first  
12 witness. That's fine. What's his  
13 name?  
14 ATTORNEY BAILEY: He has  
15 a work requirement that he raised with  
16 me. Is that okay or?  
17 HONORABLE CALI: That's  
18 fine and address it to me. The answer  
19 is yes, it's okay.  
20 ATTORNEY BAILEY: Okay.  
21 I didn't understand what the problem.  
22 HONORABLE CALI: That's  
23 fine.  
24 ATTORNEY BAILEY: Mr.  
25 Dock. Sorry about that.

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1 Judge Jones. He is expected to testify  
2 as to a court order of Judge Jones  
3 relevant to his case. This is a  
4 gentleman whose son was killed in  
5 prison. I questioned Judge Jones rather  
6 extensively about it yesterday. He also  
7 will testify that there were articles put  
8 in the newspaper that Judge Kane was  
9 attempting to or personally attacking  
10 me to try to drive him away from me as  
11 his attorney. That's basically it.  
12 HONORABLE CALI: We're  
13 going to allow him to begin his  
14 testimony and with all the witnesses we  
15 want to give you every opportunity to  
16 be heard. But we also are bound by  
17 what we can and cannot do in the  
18 particular proceeding and what  
19 evidentiary matters are relevant to this  
20 particular proceeding.  
21 ATTORNEY BAILEY: Well,  
22 let me do this, Judge. It will maybe  
23 save some time and help me make  
24 judgments because --- and I worked  
25 very hard half the night on cutting back

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1 ATTORNEY FULTON: As the  
2 Chair's aware and as Mr. Bailey's  
3 aware, I have objected to his offers of  
4 proof and I would ask at this point,  
5 although we have not had a ruling on  
6 that, for an offer of proof as to Mr.  
7 Dock.  
8 HONORABLE CALI: I would  
9 like to have right now your offer of  
10 proof on Mr. Dock.  
11 ATTORNEY BAILEY: Sure.  
12 Sure. Mr. Dock will testify very  
13 briefly. Judge Jones was the judge in  
14 his case.  
15 ATTORNEY FULTON: Should  
16 we have Mr. Dock step outside while  
17 we offer ---?  
18 HONORABLE CALI: Yes.  
19 Mr. Dock, thank you very much. You  
20 can continue, Mr. Bailey.  
21 ATTORNEY BAILEY: Sure.  
22 Mr. Dock as Mr. Fulton well knows  
23 who never objected to the subpoena in  
24 that case is a gentleman who had a  
25 case, who was a client of mine before

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1 things and eliminating issues and  
2 whatnot because of trying to  
3 accommodate what I could from what I  
4 could take from your rulings and  
5 whatnot. If I don't understand the case,  
6 I don't. But I understand that the  
7 allegations, again now they shift  
8 around, but the allegations that I  
9 understand is that I am here because I  
10 wrote in a court document about  
11 judicial ---. I used the words judicial  
12 misbehavior and that was quoted to me  
13 that I did wrong. These issues, and  
14 we've had this running thing with  
15 relevancy that I don't really  
16 understand, but I certainly will, you  
17 know, obviously I'm going to do  
18 whatever you say. But anyway, these  
19 are relevant to the issue whether  
20 they've been accusations or issues of  
21 judicial misbehavior that I addressed at  
22 different times and I addressed with the  
23 judges and the judges in every single  
24 case I asked them about yesterday were  
25 familiar with it.

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1 HONORABLE CALI: I'm not  
2 challenging that.  
3 ATTORNEY BAILEY: No, no.  
4 HONORABLE CALI: What  
5 we want to make sure of is that as we  
6 all know we have a certain procedure  
7 that we need to follow.  
8 ATTORNEY BAILEY: Right.  
9 HONORABLE CALI: We  
10 have, the issues that are before us are  
11 narrower than the issues that you may  
12 have had in your particular cases in  
13 which you litigated. They're not the  
14 same. What we cannot do here today is  
15 relitigate the cases that were before  
16 other judicial bodies. We need to stick  
17 to where, what is relevant, related to  
18 the issues that have been brought  
19 before us so that all, and we have  
20 talked about this, recommended that all  
21 we want to make sure of is that's where  
22 we are. We can't retry cases whether  
23 they were right, wrong, or not. You  
24 have rights within them so we're going  
25 to allow it and allow you to pursue it to

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1 ATTORNEY BAILEY: I was  
2 just trying to gear off of the objections  
3 yesterday that were made at which  
4 almost all of them were upheld on  
5 relevancy which I didn't agree with,  
6 but that's not the point. That's what I  
7 tried to gear this to. That's what the  
8 offer is based on.  
9 HONORABLE CALI: Thank  
10 you.  
11 ATTORNEY BAILEY: I don't  
12 understand the reticence, I don't.  
13 HONORABLE CALI: Well,  
14 let's get started.  
15 ATTORNEY BAILEY: --- and  
16 see where we go. Can I hand him a  
17 document as he comes by? Is it okay?  
18 That I'm going to approach him on.  
19 Bob, is that okay? It's just a court  
20 order.  
21 ATTORNEY FULTON: Yeah.  
22 ATTORNEY BAILEY: Okay.  
23 Take that up with you, Mr. Dock.  
24 STENOGRAPHER: Do you  
25 swear or affirm to tell the truth, the

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1 the extent, but again, hopefully  
2 understanding that we can't retry cases  
3 that have already been decided. So  
4 we're ready to  
5 ATTORNEY BAILEY: See  
6 that's my confusion. I don't know any  
7 case I've tried to retry or even want to.  
8 HONORABLE CALI: I didn't  
9 say you did. I'm just giving you the  
10 parameter when you asked me what our  
11 concern is. I didn't accuse you. I don't  
12 know if you will or not. I just want to  
13 be clear we can't if in fact anyone  
14 would want to. Not that you did. You  
15 didn't present anything yet and I'm not  
16 prejudging you so if you asked me for  
17 the definition of our scope, that's all  
18 we're talking about.  
19 ATTORNEY BAILEY: All  
20 right.  
21 HONORABLE CALI: He can  
22 testify, begin to testify and we want to  
23 make sure obviously it's relevant and  
24 we'll hear any objections if objections  
25 are raised.

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1 whole truth, and nothing but the truth?  
2 MR. DOCK: I do.  
3 ATTORNEY BAILEY: Jeff,  
4 keep your voice up. You have a mic in  
5 front of you there. You don't want to  
6 overdo it. Keep your voice up. Tell us  
7 who you are.  
8 **A: My name is Jeffrey A.**  
9 **Dock.**  
10 Q: Have you had a case  
11 before Judge Jones?  
12 **A: I have.**  
13 Q: As you walked by here  
14 today, I gave you an order. Is that  
15 correct?  
16 **A: That is correct.**  
17 Q: Would you identify the  
18 order for the court here please and for  
19 Mr. Fulton?  
20 **A: It's document #39. It's**  
21 **from the Honorable Judge Jones, III's**  
22 **courtroom.**  
23 HONORABLE CALI: Just for  
24 the record, #39 of the, is that a number  
25 that is your number?

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1 ATTORNEY FULTON: I  
2 believe it's probably the docket  
3 number.  
4 HONORABLE CALI: The  
5 document number.  
6 ATTORNEY FULTON: The  
7 document number that's on the docket -  
8 --.  
9 HONORABLE CALI: Okay.  
10 Are we getting this document in the  
11 documents that you are forwarding to  
12 us?  
13 ATTORNEY FULTON: I don't  
14 think they were included in this stack.  
15 ATTORNEY BAILEY: This  
16 one was not. I only found it last night.  
17 HONORABLE CALI: Well, it  
18 should be at least appropriately  
19 identified and.  
20 ATTORNEY BAILEY: That's  
21 what I'm doing. Yeah, I realize that.  
22 HONORABLE CALI: Do you  
23 have this document?  
24 ATTORNEY FULTON: I do  
25 not.

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1 That's correct. I didn't know what the  
2 numbers were though because we come  
3 in with Bob and going through this  
4 thing back and forth. Sir, could I have  
5 one moment. I'm sorry.  
6 HONORABLE CALI: Just  
7 wait one moment.  
8 ATTORNEY BAILEY: Yeah,  
9 sorry.  
10 ATTORNEY FULTON: I don't  
11 have any problem with the witness  
12 looking at this document.  
13 HONORABLE CALI: Okay.  
14 ATTORNEY FULTON: I will, I  
15 may need to approach him and look at  
16 it since I don't have a copy of my own  
17 if I could.  
18 HONORABLE CALI: That  
19 will be fine. Are we, since the  
20 numerical category characterization of  
21 numbers are out of sequence at the  
22 moment, how are we going to identify  
23 this if you're going to introduce it as an  
24 exhibit?  
25 ATTORNEY FULTON: May I

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1 HONORABLE CALI: Well,  
2 counsel should obviously have it, Mr.  
3 Bailey, so that we know what, we're  
4 following the rules of evidence so I  
5 would appreciate if counsel would look  
6 at the document and tell us if in fact  
7 you have any opposition to the  
8 document. It's going to be, is it going  
9 to be marked separately, Mr. Bailey, so  
10 ATTORNEY BAILEY: Yeah,  
11 that's why I identified it to him as  
12 order. You're right. Make sure you  
13 give him a copy. But he can look at it.  
14 It's very, it's a one-pager.  
15 HONORABLE CALI: All  
16 right. But if it's a document the  
17 Committee is going to be given, it  
18 should be marked and identified if it's  
19 going to be an exhibit.  
20 ATTORNEY BAILEY: That's  
21 what I was going to do, sir.  
22 HONORABLE CALI: But it  
23 wasn't even marked.  
24 ATTORNEY BAILEY: I know.  
25 I should've marked it beforehand.

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1 suggest, we ended at 18.  
2 ATTORNEY BAILEY: No, no,  
3 sir. I would ask that it be marked as  
4 82.  
5 HONORABLE CALI: 82?  
6 ATTORNEY BAILEY: Yes.  
7 HONORABLE CALI: That's  
8 fine. So can we mark that exhibit as  
9 82? Is it respondent's 82 or how is it,  
10 or just 82?  
11 ATTORNEY FULTON: We'll  
12 make it 82 because none of the other  
13 documents are marked with an R.  
14 HONORABLE CALI: Okay.  
15 ATTORNEY FULTON: That's  
16 usually the practice. Do you want me  
17 to mark it?  
18 HONORABLE CALI: That  
19 would be fine. Or the court reporter.  
20 Do you care if who marks it, Mr.  
21 Bailey?  
22 ATTORNEY BAILEY: No, sir.  
23 I don't care. Go ahead. Thanks, Bob.  
24 I appreciate your, thank you, sir.  
25 ATTORNEY FULTON: I don't

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1 want him to have to get up.  
2 HONORABLE CALI: Thank  
3 you.  
4 ATTORNEY BAILEY: Mr.  
5 Dock, the court order that you have in  
6 your hands has been marked I think  
7 R82.  
8 HONORABLE CALI: It's not  
9 marked R82. It's marked simply 82.  
10 We have not marked your exhibits as  
11 R.  
12 ATTORNEY BAILEY: Oh, I  
13 thought he had. Okay. Thank you, sir.  
14 So it's marked exhibit 82. Would you  
15 read the first sentence?  
16 A: "We write entirely for the  
17 parties in this action and thus will not  
18 recite the almost comedic procedural  
19 posture of this case."  
20 Q: Do you know if Judge, to  
21 you at least, what Judge Jones is  
22 talking about as far as his reference to  
23 comedic posture is?  
24 ATTORNEY FULTON:  
25 Objection.

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1 was that we had filed a suit. Some  
2 dismissals had been initially granted to  
3 the defense in December  
4 Q: Speak up a little bit, Jeff.  
5 A: In December of 09 and  
6 after that fact we went for months, for  
7 approximately eight months with no  
8 discovery even though it was my  
9 understanding that discovery had been  
10 requested and applied for repeatedly.  
11 We received no discovery.  
12 Q: Now was any discovery  
13 conducted in the case in which you're  
14 aware of the testimony, you have  
15 deposition discovery?  
16 A: It was after this time  
17 period when Judge Jones dismissed  
18 Trooper Boyer from the case. Lisa  
19 Basial from the Attorney General's  
20 Office who represented Trooper Boyer  
21 graciously volunteered him for a  
22 deposition which we did in early  
23 January of 2010. At a later date Lisa  
24 Basial also provided some  
25 photographs, scene photographs and I

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1 HONORABLE CALI: Basis  
2 of objection.  
3 ATTORNEY FULTON: As to  
4 what Judge Jones meant.  
5 ATTORNEY BAILEY: As to  
6 what Judge Jones meant to him. He  
7 read the order. It's a public order. I'm  
8 asking him what it meant to him.  
9 Judge Jones wrote the order.  
10 HONORABLE CALI: I  
11 understand, but how can we know what  
12 Judge Jones meant in a document that  
13 Judge Jones has wrote.  
14 ATTORNEY BAILEY: All  
15 right. You know, let me change the  
16 form.  
17 HONORABLE CALI: Please.  
18 ATTORNEY BAILEY: Thank  
19 you. What was the procedural posture  
20 of your case?  
21 HONORABLE CALI: Prior to  
22 that order you mean?  
23 ATTORNEY BAILEY: Prior to  
24 the order.  
25 A: The procedural posture

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1 believe that would've occurred  
2 probably in August of 2010.  
3 Q: Were we allowed any  
4 other depositions in discovery?  
5 A: To the best of my  
6 knowledge, we were allowed no other  
7 discovery.  
8 Q: Did Judge Jones at a  
9 subsequent point dismiss the case?  
10 A: He did.  
11 Q: Did Judge Jones indicate  
12 when he dismissed the case that the,  
13 when he dismissed the case that an  
14 amended complaint had or had not  
15 been filed?  
16 A: At some point, I'm not  
17 sure if it was during the dismissal but  
18 at, it's kind of confusing because at  
19 times there were claims that an  
20 amended complaint had not been filed,  
21 but we did do one and we have  
22 documentation to that fact and --- at  
23 some point in August of 2010 and it  
24 was recognized as an amendment in  
25 some paperwork and in other



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1 **paperwork it ---.**  
2 Q: Okay. Did Judge Jones  
3 when he did his, when Judge Jones  
4 dismissed the case, did he indicate that  
5 we could have done discovery, but we  
6 didn't take advantage of that?  
7 A: Yes.  
8 Q: Was that correct?  
9 A: **Not to the best of my**  
10 **knowledge. We would've taken**  
11 **advantage of any opportunities we**  
12 **were given.**  
13 Q: Did we attempt at  
14 different times to get permission from  
15 the Judge to do discovery?  
16 A: **That's my understanding,**  
17 **yes, sir.**  
18 Q: You may cross  
19 examination.  
20 ATTORNEY FULTON: May I?  
21 HONORABLE CALI: Yes,  
22 I'm sorry, yes.  
23 ATTORNEY FULTON: Good  
24 morning, Mr. Dock.  
25 A: **Good morning.**

1 Q: First of all, let me say I'm  
2 sorry for your loss.  
3 A: **Thank you.**  
4 Q: You understood that after,  
5 what's the date on that order, sir?  
6 A: **The date on this order is**  
7 **August 27, 2010.**  
8 Q: The eight-month hiatus  
9 you said was involved in this case,  
10 when did that start?  
11 A: **Around December.**  
12 Q: Of 2010.  
13 A: **Of 2009.**  
14 Q: Of 2009. I'm sorry. The  
15 amended complaint that you spoke of  
16 was filed in August of 2010. Is that  
17 correct?  
18 A: **That is correct.**  
19 Q: Your understanding of the  
20 case was at the time that this hiatus  
21 began was the time when the amended  
22 complaint was supposed to be filed. Is  
23 that correct?  
24 A: **I'm not sure I understand.**  
25 Q: Okay. Sure. At the

1 beginning of December of 2009, all  
2 that was outstanding to your  
3 understanding was the complaint that  
4 was filed, the initial complaint, correct?  
5 A: **That was outstanding?**  
6 Q: Let me go back. I'll  
7 strike, strike that last question. When  
8 was, when was the complaint filed?  
9 A: **The initial complaint was**  
10 **filed on April 7, 2009.**  
11 Q: Then there was some  
12 activity from April of 2009 to  
13 December 2009, correct?  
14 A: **Correct.**  
15 Q: Then from December of  
16 2009 your understanding is there was  
17 no activity until August of 2010,  
18 correct?  
19 A: **Well, there was some**  
20 **activity. There was, there was no**  
21 **discovery occurring during that time.**  
22 Q: Okay.  
23 A: **There were other**  
24 **documents being filed and cross filed,**  
25 **but no activity of discovery during that**

1 **time period.**  
2 Q: Okay. So your complaint  
3 is that there was this hiatus during  
4 which time there was no discovery.  
5 A: **Right.**  
6 Q: Okay. From December of  
7 09 to August of 2010.  
8 A: **Yes. With the exception**  
9 **of the Trooper Boyer deposition in**  
10 **January of 2010.**  
11 Q: Okay. During this period  
12 of time, is it your understanding that  
13 Judge Jones had informed Mr. Bailey  
14 that he should file an amended  
15 complaint?  
16 A: **Yes.**  
17 Q: Do you know when that  
18 was?  
19 A: **The first time was in**  
20 **December of, early December of 2009.**  
21 Q: Okay. But the amended  
22 complaint wasn't filed until August of  
23 2010, correct?  
24 A: **That is correct.**  
25 Q: You also, sir, did you

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1 know that the Third Circuit also ---  
 2 Judge Jones? Were you aware of that?  
 3 **A: No.**  
 4 **Q: Were you aware that Mr.**  
 5 **Bailey took an appeal for Judge Jones'**  
 6 **orders?**  
 7 **A: I'm a little bit lost here.**  
 8 **Q: Okay. So is it fair to say**  
 9 **you didn't know there was an appeal**  
 10 **was taken from those orders?**  
 11 **ATTORNEY BAILEY: I'm**  
 12 **sorry. Could you repeat that question?**  
 13 **ATTORNEY FULTON: Is it**  
 14 **fair to say that he did not know that an**  
 15 **appeal was taken from those orders? Is**  
 16 **that fair to say?**  
 17 **A: I'm not aware of the**  
 18 **appeal that you're talking about. ---**  
 19 **Q: Fair enough. At any time,**  
 20 **first of all was Mr. Bailey your first**  
 21 **attorney?**  
 22 **A: He was.**  
 23 **Q: At any time during the**  
 24 **course of his representation of you up**  
 25 **to and including the time when your**

1 **Mr. Bailey.**  
 2 **Q: Okay. Are you getting**  
 3 **that from that order?**  
 4 **A: I get that from certain**  
 5 **little things that he wrote in**  
 6 **Q: Who wrote?**  
 7 **A: Judge Jones in press**  
 8 **releases that he released to the media**  
 9 **and/or in orders where he criticizes Mr.**  
 10 **Bailey for procedural handling. This**  
 11 **one that I just read at the beginning of**  
 12 **my statement here about the, you**  
 13 **know, cannot recite the almost comedic**  
 14 **procedural posture. My son's dead. ---**  
 15 **without this. Not a thing. So at that**  
 16 **point from reading things like this, I**  
 17 **don't care who wrote it, coming from a**  
 18 **judge or where, it's hard to wrap your**  
 19 **mind around that he's giving us a fair**  
 20 **shake when he writes things like this,**  
 21 **of this nature.**  
 22 **Q: All right. Am I correct,**  
 23 **sir, you are not trained in the law,**  
 24 **right?**  
 25 **A: No, I'm not so**

1 case was filed and dismissed by Judge  
 2 Jones, did Mr. Bailey ever suggest to  
 3 you that the reason that you lost the  
 4 case was because of Mr. Bailey?  
 5 **A: No, Mr. Bailey never**  
 6 **suggested that to me.**  
 7 **ATTORNEY BAILEY: Jeff,**  
 8 **you need to speak up.**  
 9 **ATTORNEY FULTON: Did he**  
 10 **suggest**  
 11 **HONORABLE CALI: Mr.**  
 12 **Dock, can you move that mic a little bit**  
 13 **closer to you so everyone can hear you.**  
 14 **Thank you.**  
 15 **ATTORNEY FULTON: Did he**  
 16 **suggest to you that the reason that you**  
 17 **lost the case was because of Judge**  
 18 **Jones?**  
 19 **A: I don't, I don't know that**  
 20 **he suggested that. We pretty much**  
 21 **concluded that based on bits and pieces**  
 22 **of this paperwork that we do**  
 23 **understand. There was appearances of**  
 24 **personal or, if not personal,**  
 25 **professional bias by the Judge against**

1 **Q: Is it fair to say that you**  
 2 **were not involved in the day-to-day**  
 3 **dealings of this case?**  
 4 **A: I can't say that that's fair.**  
 5 **Q: Okay. Well, let's do it this**  
 6 **way. Obviously you were interested in**  
 7 **the case.**  
 8 **A: Yes.**  
 9 **Q: And the outcome of the**  
 10 **case.**  
 11 **A: Yes. ---**  
 12 **Q: But you were not**  
 13 **involved, you were not involved in the**  
 14 **actual prosecution of the case to the**  
 15 **court, correct?**  
 16 **A: Well, I'm not sure how**  
 17 **you mean that.**  
 18 **Q: Okay.**  
 19 **A: I**  
 20 **Q: Well, did you file any**  
 21 **documents**  
 22 **ATTORNEY BAILEY:**  
 23 **Objection. Let him answer the**  
 24 **question. Let him finish.**  
 25 **HONORABLE CALI: He was**

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1 answering ---. Let him finish.  
2 **A: I was called in many times**  
3 **to Mr. Bailey's office to have**  
4 **conversations about how to proceed,**  
5 **what to do next, and things like that.**  
6 ATTORNEY FULTON: Okay.  
7 Fair enough. But was it, you were not  
8 responsible for what was presented to  
9 the court, correct?  
10 **A: Well, at times I was. I**  
11 **was offered the opportunity to review**  
12 **certain things. I had things explained**  
13 **to me that I assume I understood.**  
14 Q: Did you prepare them?  
15 **A: Did I prepare them?**  
16 Q: Yes.  
17 **A: I did not prepare them. I**  
18 **helped to prepare like the amended**  
19 **complaint. I helped to, I helped to**  
20 **supply certain aspects of it.**  
21 Q: Okay. Well, I mean you  
22 were providing Mr. Bailey with facts,  
23 correct?  
24 **A: Yes.**  
25 Q: As you understood them.

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1 **A: It was.**  
2 Q: So Mr. Bailey files the  
3 original complaint in 2009, December  
4 of 2009. Was that, what was that, sir?  
5 I'm sorry.  
6 **A: The original complaint**  
7 **was filed on April 2.**  
8 Q: Of 2009.  
9 **A: Correct. Which would've**  
10 **been my son's birthday.**  
11 Q: Okay. Then you, from  
12 that point forward you're still giving  
13 him factual information.  
14 **A: As we would discover**  
15 **certain things, yes.**  
16 Q: Okay. I presume that  
17 when you went to Mr. Bailey initially  
18 you gave him as much information as  
19 you possibly could, correct?  
20 **A: Well, initially it wasn't**  
21 **very much, but yes, we gave him, we**  
22 **always gave him as much as we could.**  
23 Q: Okay. Then in April of  
24 2009 he files the complaint and do you  
25 continue from that point forward giving

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1 **A: Yes.**  
2 Q: Mr. Bailey would take  
3 them and he would put them into a  
4 document, correct?  
5 **A: Yes.**  
6 Q: When did you start to give  
7 Mr. Bailey the information that went  
8 into the amended complaint? When  
9 did you begin that process?  
10 **A: There was so much in that**  
11 **amended complaint. Some of it was**  
12 **things, some of it was things that**  
13 **would've been given to him as early as**  
14 **2007 and some of it as late as, some of**  
15 **it as late as a couple of days before the**  
16 **filing.**  
17 Q: Mr. Bailey began  
18 representing you in this case in 2007?  
19 **A: That is correct.**  
20 Q: He filed the action in  
21 2009.  
22 **A: That is correct.**  
23 Q: At the time that he filed  
24 the action, to your knowledge was it  
25 close to the statute of limitations?

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1 Mr. Bailey information about the  
2 cases?  
3 **A: Certainly.**  
4 Q: Did you continue to give  
5 Mr. Bailey information about the case  
6 up until the time that the amended  
7 complaint was filed?  
8 **A: Yes. (end of tape).**  
9 Q: I have nothing further.  
10 HONORABLE CALI:  
11 Redirect.  
12 ATTORNEY BAILEY: Jeff, do  
13 you recollect whether Judge Jones in a  
14 bench order stayed discovery in the  
15 case? Do you know what that means?  
16 **A: I guess I do.**  
17 Q: Did he do that?  
18 **A: Put it on hold. Yes, I**  
19 **remember --- pointing that out to me.**  
20 Q: Do you have a recollection  
21 of my complaining that he was cutting  
22 off our ability to do the case while  
23 attacking us for amending the case  
24 where we didn't have additional things  
25 to put in it? Do you remember that?

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1 **A: Yes.**  
2 **Q:** Do you recollect you and  
3 your family doing an incredible amount  
4 of work to gather information which  
5 we had to get despite the stay order?  
6 **A: Yes.**  
7 **Q:** Do you remember if when  
8 Judge, you addressed questions by Bob  
9 about, who he knows the answer to,  
10 about whether or not we appealed the  
11 case. Do you know whether we  
12 appealed the case to the Third Circuit  
13 Court of Appeals?  
14 **A: ---**  
15 **Q:** All right. Thank you.  
16 Now when the case was appealed to the  
17 Third Circuit Court of Appeals if you  
18 recollect, who were the judges that it  
19 went to?  
20 **ATTORNEY FULTON:** I'll  
21 object to that.  
22 **HONORABLE CALI:** The  
23 document will speak for itself, Mr.  
24 Bailey.  
25 **ATTORNEY BAILEY:** Okay.

1 **HONORABLE CALI:** As to  
2 what it is.  
3 **ATTORNEY BAILEY:** Of  
4 course. Now let me ask you, during the  
5 period of time that this case, that you  
6 worked on this case with me, was there  
7 an autopsy done on Jeremy?  
8 **A: There was.**  
9 **Q:** Do you recollect who did  
10 the autopsy?  
11 **A: Well, there were two**  
12 **autopsies.**  
13 **ATTORNEY FULTON:** I'm  
14 going to object at this point.  
15 Relevancy.  
16 **HONORABLE CALI:** Let's  
17 go back to the relevance and remember  
18 this is redirect examination at this point  
19 and please just give me an idea of what  
20 the relevance of that is.  
21 **ATTORNEY BAILEY:** The  
22 relevance is it's directly responsive to  
23 what was done in the cross  
24 examination. He raised those issues  
25 and he, I let him do it because I want to

1 respond to these things due to certain  
2 things I felt were misleading and I  
3 fashioned these questions to address  
4 issues raised during cross. I should be  
5 allowed to do that if he raised them.  
6 **HONORABLE CALI:** I  
7 understand that. You will be allowed,  
8 but I haven't heard anything related to  
9 an autopsy at all on cross examination  
10 so just please tell me what the  
11 relevance of it.  
12 **ATTORNEY BAILEY:** Sir, he  
13 talked about information that he  
14 provided to me. He talked about  
15 information that I was working on  
16 from, when Mr. Dock first provided me  
17 information. He talks about the  
18 evidence that was being gathered clear  
19 up until the time of the amended  
20 complaint. Now he did not mention an  
21 autopsy, but I think, my view is that's  
22 within the fair parameters of ---.  
23 **HONORABLE CALI:** Mr.  
24 Bailey, I'm going to let you go, but I  
25 think that what we've heard is in cross

1 examination is that Mr. Dock  
2 participated regularly and actively in  
3 assisting you and your office in these  
4 proceedings and that he was actively  
5 involved and I understood the answers  
6 in which he responded to whether or  
7 not he prepared or not, but he clearly  
8 indicated to us how active he was in the  
9 preparation and providing you with  
10 information. I think that's very clear  
11 that he did.  
12 **ATTORNEY BAILEY:** Yes, he  
13 did. Yes, he did.  
14 **HONORABLE CALI:** To his  
15 credit.  
16 **ATTORNEY BAILEY:** Yes.  
17 And to mine.  
18 **HONORABLE CALI:** And to  
19 yours.  
20 **ATTORNEY BAILEY:** Yes.  
21 **HONORABLE CALI:** And I  
22 respect what he said. So I understand it  
23 so again,  
24 **ATTORNEY BAILEY:** There's  
25 an issue here, if you don't mind, Judge,

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1 okay, and I'll do an offer then. There's  
2 an issue here of going out, I labored  
3 prodigiously at, and he did and his  
4 family did to --- where we got an  
5 autopsy where I wrote to the Judge,  
6 Judge Jones trying to get an  
7 opportunity to present this information  
8 were cut off.  
9 HONORABLE CALI: Mr.  
10 Bailey, let me again go back to where I  
11 was before. I want to give you every  
12 opportunity to present your case  
13 relevant to today. The issue with  
14 regard to what you may have been  
15 complaining, you complained about in  
16 your case with Judge Jones, to the  
17 Third Circuit, and the ultimate  
18 decisions that were made, again, when  
19 I indicated I didn't want to, the  
20 Committee didn't want to retry those  
21 issues. We can't unfortunately.  
22 They're not to us to retry. However,  
23 the questions that were asked again  
24 were related to his participation. He  
25 actively participated. So if you're

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1 questions.  
2 ATTORNEY BAILEY: All  
3 right.  
4 HONORABLE CALI: All I'm  
5 trying to do is to get it through what's  
6 relevant. Nobody objected to your  
7 question on the stay. You asked and it  
8 was answered. Go on with your next  
9 question.  
10 ATTORNEY BAILEY: Sure.  
11 ATTORNEY CASALE: May I  
12 approach? Mr. Bailey?  
13 ATTORNEY BAILEY: Yeah.  
14 ATTORNEY CASALE: The  
15 Chair just indicated a moment ago  
16 there was no objection. There was an  
17 objection raised. The Chair gave you  
18 permission to complete that question  
19 that you had just asked.  
20 ATTORNEY BAILEY: I'm  
21 sorry, sir. I may have misheard the  
22 Chair. The Chair said we accept that,  
23 the question that I asked and then there  
24 was quite a bit of advice about entering  
25 into detailed questions. Those were

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1 asking him if there were autopsies and  
2 he provided that information to you, we  
3 accept that to that issue. But again, I  
4 don't want to get in to retrying the case  
5 before Judge Jones or the ultimate  
6 determination that's made.  
7 Unfortunately, that's beyond our ability  
8 and it's within the purview of other  
9 court proceedings.  
10 ATTORNEY BAILEY: Well, I  
11 want to place an objection to your  
12 ruling. This gentleman, this gentleman  
13 cross examined this witness on  
14 procedural aspects of this case. That's  
15 all that I'm doing. I didn't ask for the  
16 details of the autopsy. I didn't ask for  
17 substantive details of evidence. I'm  
18 going through procedurally what we  
19 had to do when we're under a stay.  
20 HONORABLE CALI: All  
21 right. I didn't objection.  
22 ATTORNEY BAILEY: He  
23 knows about  
24 HONORABLE CALI: There's  
25 been no objection to your stay

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1 procedural issues. That's where I was  
2 going. I was cut off very abruptly.  
3 The Chair ruled. I'm abiding by it and  
4 moving on to my next question. That's  
5 as I understand it. Am I right, sir?  
6 HONORABLE CALI: I don't  
7 think so, but ask your next question.  
8 ATTORNEY BAILEY: Okay.  
9 I'll ask my next question. Thank you,  
10 sir. Let me show you what has been  
11 marked as Exhibit 83.  
12 A: Yes.  
13 Q: What is it?  
14 A: It's Section B of The  
15 Daily Item newspaper out of Sunbury,  
16 Pennsylvania dated October 30, 2010.  
17 HONORABLE CALI: Will  
18 you hold for one moment please, Mr.  
19 Bailey? That was Mr. Stretton. He's  
20 in his office, but we'll try to get  
21 through this and then we'll call Mr.  
22 Stretton. Is he going to be available for  
23 MR. LEWIS: Yes, sir.  
24 HONORABLE CALI: Okay.  
25 ATTORNEY BAILEY: Okay.

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1 Thank you. Read the headline on it.  
 2 Identify the paper. What is it?  
 3 **A: It's The Daily Item,**  
 4 **Section B, October 30, 2010.**  
 5 Q: Read the headline of the  
 6 article.  
 7 ATTORNEY FULTON:  
 8 Objection.  
 9 HONORABLE CALI: What's  
 10 the objection?  
 11 ATTORNEY FULTON: Well,  
 12 first of all, it's not relevant because it  
 13 postdates the date that Mr. Bailey filed  
 14 a motion for rehearing en banc. So  
 15 everything that Mr. Bailey stated in  
 16 that has to predate the date filed. But  
 17 this comes in afterwards. He's always  
 18 made his statements about the judges  
 19 and his beliefs about them being  
 20 involved in a conspiracy or being  
 21 involved in judicial misconduct. This  
 22 postdates his allegations against the  
 23 judges so it's not relevant to it.  
 24 HONORABLE CALI: I'll  
 25 allow it to a limited extent of what,

1 **A: There is. "Jones, who had**  
 2 **criticized Bailey previously for failing**  
 3 **to follow court orders, pointed out the**  
 4 **former state auditor general chose to**  
 5 **repeat previously-dismissed allegations**  
 6 **instead of focusing on asserting other**  
 7 **claims including cruel and unusual**  
 8 **punishment."**  
 9 Q: You may cross examine.  
 10 ATTORNEY FULTON: I have  
 11 no questions.  
 12 HONORABLE CALI: Thank  
 13 you, Mr. Dock. Would you leave those  
 14 documents with the stenographer I  
 15 guess at the moment because they  
 16 haven't been duplicated?  
 17 ATTORNEY FULTON: Just  
 18 leave them there ---.  
 19 HONORABLE CALI: Just  
 20 leave them right there. Thank you for  
 21 your testimony.  
 22 **A: Thank you.**  
 23 HONORABLE CALI: From  
 24 the Committee, sorry for your loss.  
 25 Sincerely sorry for that loss. You,

1 there's a newspaper article that's here.  
 2 Obviously if it comes in, we can read  
 3 the article without the necessity.  
 4 ATTORNEY BAILEY: It's  
 5 probative of what I wrote in the paper.  
 6 I agree by the way. Bob is correct.  
 7 Technically it postdates.  
 8 HONORABLE CALI: It is.  
 9 But if you want to admit that, we'll  
 10 review it. We're happy to review it.  
 11 ATTORNEY BAILEY: Thank  
 12 you, sir. Just read the, to save time,  
 13 just read the little headline on the  
 14 article.  
 15 **A: This is a press release that**  
 16 **was out of Williamsport according to**  
 17 **the article here so it was out of the**  
 18 **Judge's chambers up there. The**  
 19 **headline is "Prison Lawsuit Rejected.**  
 20 **Judge Slammed Complainants as ---**  
 21 **Deficient", --- Deficient, I'm sorry.**  
 22 Q: Okay. That's all right. Is  
 23 there a reference made to me in that  
 24 article? Just read that. Not the whole  
 25 article.

1 since you've testified, if you choose to  
 2 stay, you can stay in the courtroom.  
 3 **A: Thank you.**  
 4 HONORABLE CALI: We do  
 5 have Mr. Stretton who is by his phone.  
 6 ATTORNEY BAILEY: Yeah.  
 7 HONORABLE CALI: So if  
 8 we can make that arrangement. Is it all  
 9 right ---, Mr. Bailey?  
 10 ATTORNEY BAILEY: Yes,  
 11 sir. That's great.  
 12 (Dialing Mr. Stretton.)  
 13 UNIDENTIFIED FEMALE:  
 14 Good morning, Mr. Stretton's  
 15 office.  
 16 UNIDENTIFIED MALE:  
 17 Good morning. This is the  
 18 Disciplinary Board in Harrisburg. Is  
 19 Mr. Stretton available?  
 20 UNIDENTIFIED FEMALE:  
 21 Yes, hold please.  
 22 MR. STRETTON: Hello, Sam  
 23 Stretton.  
 24 HONORABLE CALI: Mr.  
 25 Stretton, this is Brian Cali. We are

1 now in the Disciplinary Hearing with  
 2 relationship to Disciplinary Board  
 3 versus Mr. Bailey. Mr. Bailey has so  
 4 indicated that you were going to  
 5 provide testimony. We have allowed  
 6 the telephonic testimony of yourself. If  
 7 this is a good time to do that, we would  
 8 appreciate it if you would answer at  
 9 least is this a good time to take your  
 10 testimony?

11 **A: Yes, it is. ---.**

12 HONORABLE CALI: Mr.  
 13 Stretton, we do, we were informed you  
 14 were involved in a proceeding so ask  
 15 that you be sworn immediately by the  
 16 court and the Committee and we will  
 17 then ask you to be questioned by Mr.  
 18 Bailey and cross examined by Mr.  
 19 Fulton. We are in the Judicial Center  
 20 in Harrisburg and the Committee is  
 21 present. Myself, Mr. Burke, and Mr.  
 22 Casale are here taking the, listening to  
 23 the testimony. So if he can be sworn.

24 ATTORNEY FULTON: Sam,  
 25 it's Bob Fulton.

1 recollection of a meeting, I think it was  
 2 in the office of ODC up in Harrisburg  
 3 where you and I and Mr. Fulton were  
 4 present?

5 **A: Yes. You're referring to**  
 6 **the time when I was representing you**  
 7 **at the prehearing conference which was**  
 8 **done by telephone if I recall and then**  
 9 **we had discussions afterwards.**

10 Q: Yes, sir. At that time, did  
 11 you provide Mr. Fulton some  
 12 information that Judge Munley had  
 13 revealed about Judges McClure, Muir,  
 14 and Rambo?

15 **A: I related to Bob Fulton a**  
 16 **conversation I had with Judge Munley,**  
 17 **who's a friend of mine back during the**  
 18 **time when I was representing --- in a**  
 19 **civil trial which we had before Judge**  
 20 **Munley. That was sometime between**  
 21 **2001 and 2004. Time goes so quickly**  
 22 **for the time we had, time period we**  
 23 **were up in his chambers in Scranton.**

24 Q: What did you tell Bob?

25 ATTORNEY FULTON:

1 **A: Sure.**

2 ATTORNEY FULTON: Do you  
 3 swear or affirm that the testimony you  
 4 are about to enter into evidence in the  
 5 matter now hearing before this court  
 6 shall be the truth, the whole truth, and  
 7 nothing but the truth? Do you so swear  
 8 or affirm?

9 **A: I do swear. Thank you.**

10 ATTORNEY FULTON: Thank  
 11 you, sir.

12 HONORABLE CALI: You'll  
 13 be now subject to direct examination of  
 14 Mr. Bailey.

15 ATTORNEY BAILEY: Good  
 16 morning, Sam.

17 **A: Good morning, Don**  
 18 **Bailey.**

19 Q: Can you hear me?

20 **A: Yes, I can hear you very**  
 21 **well.**

22 Q: All right. I have a very,  
 23 very brief short number of questions.  
 24 We're under time constraints here. The  
 25 first question do you have a

1 Objection.

2 HONORABLE CALI: The  
 3 basis of the objection?

4 ATTORNEY FULTON: It's  
 5 going to be hearsay from Judge Munley  
 6 that Mr. Stretton is going to testify to  
 7 and just because the question is to me  
 8 what did he tell me, it encompasses  
 9 hearsay testimony.

10 ATTORNEY BAILEY: It's  
 11 merely being offered for the proof that  
 12 it was said at that time.

13 HONORABLE CALI: If it is a  
 14 statement from a third party, is it not  
 15 hearsay that would be objectionable for  
 16 us to consider. If Mr. Stretton is  
 17 testifying to a statement made by a  
 18 third party, to me it sounds directly like  
 19 hearsay and that would be excluded.

20 ATTORNEY BAILEY: The  
 21 statement was made by a judge. That's  
 22 the basis for hearsay would be, of  
 23 course, that Judge Munley is not here  
 24 to testify to it. All that I am trying to  
 25 establish is that's what was said to Mr.

Disciplinary Hearing Day 2

1 Fulton. That's all that I'm trying to  
 2 establish that that's what was said.  
 3 ATTORNEY FULTON: Well,  
 4 that's just, that's just trying to get in  
 5 the backdoor when you can't get in the  
 6 front.  
 7 ATTORNEY BAILEY: That's  
 8 a very proper application of the law  
 9 and I  
 10 HONORABLE CALI: You're  
 11 calling Mr. Stretton as your direct  
 12 witness for, and asking us to consider  
 13 third party statements and that third  
 14 party is not available to be cross  
 15 examined. It appears to me to be  
 16 hearsay.  
 17 ATTORNEY BAILEY: Well,  
 18 then you rule it out.  
 19 HONORABLE CALI: Is there  
 20 any exception to the hearsay rule that  
 21 we need to consider? Can we confer  
 22 one minute? Are you still there, Mr.  
 23 Stretton?  
 24 **A: Yes, I'm still here.**  
 25 HONORABLE CALI: We are

1 holding which I believe is correct. I do  
 2 fully understand that it's not being  
 3 offered for the truth of it, but that the  
 4 statement was made.  
 5 HONORABLE CALI: We're  
 6 going to allow the question.  
 7 ATTORNEY BAILEY: Thank  
 8 you, sir. Mr. Stretton, will you respond  
 9 please?  
 10 **A: Yes. I had a conference**  
 11 **with Judge Munley on the Bill Stafford**  
 12 **case. Which I know, Judge Munley is**  
 13 **a pretty good friend of mine. --- before**  
 14 **many times. He pulled me aside and**  
 15 **said to me I see you're trying Don**  
 16 **Bailey's cases and forming a limited**  
 17 **partnership with him to try his cases.**  
 18 **He said be careful because some of the**  
 19 **judges are upset with Don Bailey, some**  
 20 **of the federal judges, Judge Rambo,**  
 21 **Judge McClure, I think it was Judge**  
 22 **Muir. He said perhaps you might**  
 23 **reconsider being involved with Don**  
 24 **Bailey at that time. He was doing it as**  
 25 **a friend to warn me some of the**

1 going to allow the question to be  
 2 answered not for the truth of the  
 3 statement that was made but because it  
 4 was stated to Mr. Bailey and to Mr.  
 5 Fulton, but again, not for the truth of  
 6 the statement that was made.  
 7 ATTORNEY BAILEY: Thank  
 8 you, sir.  
 9 UNIDENTIFIED MALE:  
 10 To Mr. Stretton.  
 11 HONORABLE CALI: To Mr.  
 12 Stretton. That's what we mean. Not  
 13 that it wasn't said, but the statement  
 14 made to Mr. Stretton, we're not  
 15 accepting that for the truth of that  
 16 matter as stated.  
 17 ATTORNEY FULTON: Well,  
 18 then why don't we just admit that a  
 19 statement was made to Mr. Stretton and  
 20 leave it at that because otherwise it's  
 21 hearsay and there's no way around it.  
 22 HONORABLE CALI: Well, -  
 23 --.  
 24 ATTORNEY BAILEY: Yes,  
 25 sir. That's directly a contradiction ---

1 **concerns of the other judges. I then**  
 2 **passed that information on to Don**  
 3 **Bailey and I relayed that to Bob Fulton**  
 4 **and Don Bailey at the time we had our**  
 5 **prehearing conference and I was still**  
 6 **representing Don Bailey before he**  
 7 **terminated my representation.**  
 8 Q: Sam, in, did you say to me  
 9 again, and this goes with what was said  
 10 to Mr., we're talking about here what  
 11 was said to Mr. Fulton, that Judge  
 12 Munley said tell Don, they're out to get  
 13 him?  
 14 ATTORNEY FULTON:  
 15 Objection. That wasn't his  
 16 testimony.  
 17 HONORABLE CALI: That is  
 18 not his testimony and I will sustain that  
 19 objection.  
 20 ATTORNEY BAILEY: Well,  
 21 then  
 22 HONORABLE CALI: He's  
 23 testified as to what he said.  
 24 ATTORNEY BAILEY: Yeah,  
 25 well, that's ---.



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1 HONORABLE CALI: He has  
 2 testified, we've allowed you to ask the  
 3 question.  
 4 ATTORNEY BAILEY: Thank  
 5 you.  
 6 HONORABLE CALI: And  
 7 Mr. Stretton has answered your  
 8 question.  
 9 ATTORNEY BAILEY: Thank  
 10 you. Thank you very much. Okay.  
 11 Okay. Did I, Don Bailey, on numerous  
 12 occasions, dozens of occasions over  
 13 years, tell you that I had placed in  
 14 briefs words that attributed to federal  
 15 source Judge Munley that three federal  
 16 judges were out to get me and had  
 17 never been challenged on that?  
 18 ATTORNEY FULTON: I'm  
 19 going to object. First of all, it is  
 20 extremely leading.  
 21 ATTORNEY BAILEY: I'll go  
 22 back and simplify it.  
 23 HONORABLE CALI: Well,  
 24 Mr. Bailey, we sustain the objection. It  
 25 is obviously leading. We're all

1 Mr. Stretton from hearing this?  
 2 HONORABLE CALI: I don't  
 3 know.  
 4 ATTORNEY FULTON: Can we  
 5 mute that?  
 6 **A: I can put myself on hold if  
 7 you want.**  
 8 ATTORNEY BAILEY: How  
 9 will you get back on?  
 10 HONORABLE CALI: We  
 11 may lose you.  
 12 ATTORNEY FULTON: Well, -  
 13 --  
 14 HONORABLE CALI: We'll  
 15 rely ---. We'll trust obviously in Sam's  
 16 understanding  
 17 ATTORNEY BAILEY: Sam,  
 18 Sam.  
 19 HONORABLE CALI: He  
 20 might've done a hold  
 21 **A: I'm still here.**  
 22 HONORABLE CALI: All  
 23 right, Sam, --- we're just going to leave  
 24 you on and let it go.  
 25 ATTORNEY FULTON: It is

1 competent to understand how these  
 2 questions should be asked so let's  
 3 appropriately not lead the witness and  
 4 ask the questions appropriately please.  
 5 ATTORNEY BAILEY: Did I  
 6 place in numerous briefs over the years  
 7 in federal court references to the three  
 8 federal judges being out to get me?  
 9 ATTORNEY FULTON: Same  
 10 objection.  
 11 HONORABLE CALI: It's the  
 12 same, same decision I made previously.  
 13 Again, there's no foundation I mean to  
 14 any of this, Mr. Bailey.  
 15 ATTORNEY BAILEY: Yes,  
 16 there is.  
 17 HONORABLE CALI: Ask a  
 18 question appropriately.  
 19 ATTORNEY BAILEY: I am,  
 20 sir, yesterday I questioned the judges in  
 21 your presence and the presence of this  
 22 Board about whether or not I was  
 23 challenged by my references in briefs  
 24 ATTORNEY FULTON: Before  
 25 you go further, is there a way to mute

1 muted.  
 2 HONORABLE CALI: It is  
 3 muted. Oh. Okay.  
 4 ATTORNEY BAILEY: I had  
 5 asked questions yesterday of the judges  
 6 to which they responded, I believe  
 7 they, my question eventually became  
 8 why didn't you challenge me to which  
 9 Mr. Fulton objected. They did not  
 10 indicate that they were not aware of,  
 11 my best recollection, of the fact that I  
 12 put in briefs on numerous occasions the  
 13 reference to having three federal judges  
 14 conspire to go out and get me. That's  
 15 an issue he raised directly in terms of  
 16 the so-called complaint that's being  
 17 made against me. It's also an issue  
 18 that's raised in the four corners of the  
 19 document in the Third Circuit and I'm  
 20 simply asking Mr. Stretton if he has an  
 21 awareness, if he needs it rephrased, of  
 22 my putting that challenge, that  
 23 information in numerous briefs. My  
 24 point was, Mr. Cali, that it was never  
 25 responded to.

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1 HONORABLE CALI: All  
 2 right. Mr. Stretton is on the stand.  
 3 That's the problem I'm having. Not  
 4 with any of your theories. Mr. Stretton  
 5 is on the stand. The question is, the  
 6 type, the question before us is the type  
 7 of question you're asking him. I don't  
 8 think he should be led to a conclusion.  
 9 ATTORNEY BAILEY: Yeah,  
 10 that's why I'm going to change the  
 11 form.  
 12 HONORABLE CALI: I think  
 13 that the question should be a direct  
 14 question appropriately phrased and  
 15 again what we're doing here also is,  
 16 you know, we're over a Pandora of  
 17 several years without any timeframes  
 18 developed, without any sense of how  
 19 many briefs, documents, whether he  
 20 reviewed all of your documents,  
 21 whether he's read all of your  
 22 documents, which I'm not sure of the  
 23 relevance of it. I do understand  
 24 whether they're an issue with regard to  
 25 whether or not they have challenged

1 receive information that over the years  
 2 in numerous briefs I placed information  
 3 in briefs and whatnot that the three  
 4 federal judges, even naming them in  
 5 some cases, were out to get me?  
 6 ATTORNEY FULTON:  
 7 Objection.  
 8 **A: Yes. You showed me and**  
 9 **told me.**  
 10 HONORABLE CALI: No, he  
 11 answered the question. He answered it.  
 12 ATTORNEY FULTON: I'm  
 13 sorry. What was the answer?  
 14 HONORABLE CALI: His  
 15 answer is yes, you told me.  
 16 ATTORNEY BAILEY: Now,  
 17 and he said I showed him, too.  
 18 HONORABLE CALI:  
 19 Showed you and told you.  
 20 ATTORNEY BAILEY: Yes,  
 21 sir.  
 22 HONORABLE CALI: You're  
 23 correct.  
 24 ATTORNEY BAILEY: Thank  
 25 you, sir, very much. Now, Mr.

1 you and you've asked those questions -  
 2 --.  
 3 ATTORNEY BAILEY: Okay.  
 4 HONORABLE CALI: So let's  
 5 go on with your question.  
 6 ATTORNEY BAILEY: All I  
 7 want to ask him is if he's aware that I  
 8 put that information in briefs over the  
 9 years.  
 10 HONORABLE CALI: If you  
 11 ask it that way, it's fine.  
 12 ATTORNEY BAILEY: I'll ask  
 13 it that way.  
 14 HONORABLE CALI: Okay.  
 15 Can we get ---.  
 16 ATTORNEY BAILEY: Yes,  
 17 sir. Mr. Stretton,  
 18 HONORABLE CALI: Wait,  
 19 let's make sure he's on.  
 20 ATTORNEY BAILEY: Sam.  
 21 **A: Yes.**  
 22 HONORABLE CALI: Okay,  
 23 Sam, the question is going to be asked.  
 24 ATTORNEY BAILEY: Mr.  
 25 Stretton, are you aware or did you

1 Stretton, did that play a role in your  
 2 getting out of practice with me?  
 3 ATTORNEY FULTON: Did  
 4 what play a role?  
 5 ATTORNEY BAILEY: This  
 6 information that I was putting in these  
 7 briefs and whatnot and I don't know  
 8 whether it did or not. I'm just asking  
 9 him if it did.  
 10 **A: Well, yes to the extent that**  
 11 **one of the briefs when Judge Rambo**  
 12 **sanctioned all of us for what you put in**  
 13 **a brief. I told you that I could not**  
 14 **continue to, at that limited partnership**  
 15 **with you, but I'd still try your cases if**  
 16 **you wanted me to, because you were**  
 17 **putting in language that on some**  
 18 **matters --- too far in these matters.**  
 19 **You and I had a disagreement on that**  
 20 **and then I ended our limited**  
 21 **partnership. But it was really a specific**  
 22 **case. I forget what that was where she**  
 23 **brought all of us, Judge Rambo brought**  
 24 **all of us in the courtroom in 2005 or**  
 25 **2006 and sanctioned you and I ---**

1 **\$40,000 for the language you had in a**  
 2 **brief which I had no knowledge of at**  
 3 **the time and wasn't involved with it.**  
 4 **She said that I was responsible because**  
 5 **we were a partnership. I said well, it's a**  
 6 **limited partnership to try certain cases.**  
 7 **That wasn't one of the cases I was**  
 8 **involved in. --- I can't continue**  
 9 **because, in our relationship if you're**  
 10 **going to put, say certain things in these**  
 11 **briefs. There's another way to present**  
 12 **it I thought at that time. But yes, that**  
 13 **was a consideration and shows why I**  
 14 **stopped my limited partnership with**  
 15 **you. But as you know I think the**  
 16 **world of you and I have tried a lot of**  
 17 **cases for you over the years and still**  
 18 **will.**  
 19 **ATTORNEY BAILEY: I love**  
 20 **you and I respect you. I agree with**  
 21 **you. I'm with you all the way. ---**  
 22 **Sam, if I may, one last question.**  
 23 **During the meeting that we had with**  
 24 **Mr. Fulton, you and I and Mr. Fulton,**  
 25 **and on diverse other times before then,**

1 did I indicate that I had asked for who  
 2 the complainants were, who was  
 3 complaining about me?  
 4 **A: Yes. You always asked**  
 5 **who were the complainants and I told**  
 6 **you that --- Disciplinary Counsel as a**  
 7 **practice won't reveal the names of the**  
 8 **complainants. Sometimes they do,**  
 9 **sometimes they don't, but you asked**  
 10 **repeatedly and we asked at the time of**  
 11 **the prehearing conference. There was**  
 12 **a reference to it ---.**  
 13 **Q: Last, did Mr. Fulton**  
 14 **indicate that the judges complaining**  
 15 **about me were Judges Conner, Jones,**  
 16 **and Scirica?**  
 17 **A: I believe he did say that.**  
 18 **I'm trying to remember if he mentioned**  
 19 **Judge Rambo, too, but I believe he did**  
 20 **reference that during the conversation**  
 21 **that the primary complainants were**  
 22 **Judge Scirica. He was upset, he**  
 23 **thought you alleged that he was not**  
 24 **deciding cases on a wheel or ---**  
 25 **fashion. Then I thought it was Judge**

1 **Conner, ---.**  
 2 **Q: Thank you, Sam.**  
 3 **HONORABLE CALI: Cross**  
 4 **examine.**  
 5 **ATTORNEY FULTON: Good**  
 6 **morning, Sam.**  
 7 **A: Good morning, Bob**  
 8 **Fulton. Nice to talk to you as always.**  
 9 **Q: As I understand, you**  
 10 **indicated that Judge Rambo sanctioned**  
 11 **both Mr. Bailey and yourself for**  
 12 **contents of pleadings or briefs that Mr.**  
 13 **Bailey was filing in cases in which you**  
 14 **were involved as his trial counsel,**  
 15 **correct?**  
 16 **ATTORNEY BAILEY:**  
 17 **Objection. Relevancy. The issue**  
 18 **was that we had the four corners of**  
 19 **what was filed before the, just placing**  
 20 **an objection.**  
 21 **HONORABLE CALI: I'm**  
 22 **just listening to it.**  
 23 **ATTORNEY BAILEY: Sure.**  
 24 **We were told that this time matter was**  
 25 **limited. I realize Sam volunteered**

1 quite a bit, but that this matter was  
 2 limited to the motion for rehearing en  
 3 banc and that's what it was dealing  
 4 with. Now we're back to some matter  
 5 back in Lord knows when.  
 6 **HONORABLE CALI: Mr.**  
 7 **Bailey, you called upon direct**  
 8 **examination. He has a right to cross**  
 9 **examine on the information that he**  
 10 **testified to and I think that's what he's**  
 11 **doing and we will allow.**  
 12 **ATTORNEY FULTON: Thank**  
 13 **you, sir.**  
 14 **A: In answer, yes, but it**  
 15 **wasn't a case I worked on. I tried a lot**  
 16 **of cases for Don Bailey about 1992**  
 17 **until I guess 2004. I must've tried 50 or**  
 18 **60 jury trials, excessive force and**  
 19 **things like that. Don was not a trial**  
 20 **lawyer; I was. This was a case I was**  
 21 **not involved in, but because we had a**  
 22 **partnership, Bailey and Stretton or**  
 23 **Stretton, Bailey and Ostrowski which**  
 24 **was a limited partnership for the cases**  
 25 **we were trying, my name was on his**

1 letterhead and so Judge Rambo brought  
 2 me in to the hearing. I raised the issue  
 3 of my lack of involvement --- case and  
 4 --- the limited partnership and she said  
 5 to me, well, your letterhead doesn't say  
 6 it's a limited partnership so she  
 7 sanctioned all of us. It was an odd  
 8 sanction because she told us we  
 9 wouldn't have to pay until the case was  
 10 granted a verdict of \$1.5 million for  
 11 Don Bailey which was on appeal, until  
 12 that was resolved and for me to let her  
 13 know. Several years later the Third  
 14 Circuit reversed that verdict on the  
 15 sufficiency of evidence. So I called  
 16 Judge Rambo's chambers immediately  
 17 and said they reversed the verdict and  
 18 so --- pay the sanctions. But I want  
 19 you to know and her people, her staff  
 20 called me back and said she didn't  
 21 know what I was talking about, what  
 22 sanctions, and you know, there was  
 23 nothing to it up in the end so I don't  
 24 know if the sanctions existed ---. It  
 25 was a very odd situation.

1 Q: Okay. However, you did  
 2 tell Mr. Bailey that he should cease the  
 3 type of rhetoric that he was putting into  
 4 his briefs. Is that correct?  
 5 A: Don Bailey and I, yes,  
 6 Don Bailey and I are very good friends.  
 7 I have the highest regard to his war  
 8 record, his help of many people, taking  
 9 on different ---, his ---. I've always  
 10 known Don Bailey to be a good person.  
 11 But Don sees the world in black and  
 12 white and I told him there's another  
 13 way to skin a cat. He told me I'm to  
 14 approach adverse judicial decisions ---  
 15 hundreds of cases. You move to the  
 16 next case. Sometimes you're going to  
 17 win, sometimes you're going to lose. I  
 18 tried to give him that perspective. I  
 19 tried --- in my life. Hundreds of  
 20 homicide cases and you just have to  
 21 take them all in perspective. Don  
 22 wasn't a trial lawyer. It was hard for  
 23 him to understand that perspective. He  
 24 did all the pretrial work. Then I would  
 25 come in and try the cases for him. He

1 was so competitive. That's why he was  
 2 such a great athlete, but he just  
 3 personalized it too much. I tried to  
 4 push him off that and take a broader  
 5 perspective with the judges. Don felt so  
 6 strongly that they were not giving him  
 7 fair hearings or being fair --- I could  
 8 never get him away from that  
 9 viewpoint.  
 10 Q: So eventually it was this  
 11 type of writing style or conduct by Mr.  
 12 Bailey that caused you to break off  
 13 your relationship with him, correct?  
 14 A: Yes, the catalyst was that  
 15 sanction hearing that was like \$40,000  
 16 of fines. I told Don that I couldn't be  
 17 subject to sanctions for something I had  
 18 nothing to do with. Therefore, it would  
 19 be better if we were no longer partners  
 20 in any fashion and I would just, you  
 21 know, still try the cases for him any  
 22 time he wanted me to. Just refer them  
 23 down and we'll try them which we still  
 24 do once in awhile, not as much as we  
 25 used to in these matters.

1 Q: Okay. Going back to that  
 2 meeting we had after the initial  
 3 prehearing conference, you were aware  
 4 that our office opens the file against  
 5 Mr. Bailey on our own motion, correct?  
 6 A: You know, that, I was not  
 7 100% sure, but I thought it was because  
 8 of the complaint by the judges, but then  
 9 I think you said at the prehearing  
 10 conference that it was on your own  
 11 motion. See I remember back when  
 12 Patti Bednarick had the initial matters  
 13 before she recused herself and then you  
 14 took over from the District --- District  
 15 recused themselves. But I'm not ---.  
 16 Q: Okay. ---  
 17 A: I'm not clear. I thought ---  
 18 the complaints by the judges, but I  
 19 don't know 100%. --- there was a  
 20 reference to the judges being the  
 21 complaining witnesses.  
 22 Q: You were involved in the  
 23 matter that Patti Bednarick had initially  
 24 instituted, correct?  
 25 A: That's correct. I was

1 **representing Mr. Bailey in that matter**  
 2 **until we had differences of opinion on**  
 3 **how to present it.**  
 4 Q: Then that was as a result  
 5 of a complaint sent over by Judge  
 6 Conner, correct?  
 7 **A: I believe that was true.**  
 8 Q: Then the current instance  
 9 where we are today you understood  
 10 was generated as a result of the motion  
 11 for rehearing en banc that Mr. Bailey  
 12 filed with the Third Circuit, correct?  
 13 **A: I understand that was, the**  
 14 **language in that petition was the**  
 15 **catalyst for your continued**  
 16 **investigation after the resolution of the**  
 17 **Patti Bednarick matter originally. ---**  
 18 **Patti Bednarick because she was the**  
 19 **original disciplinary counsel.**  
 20 Q: These were two separate,  
 21 two separate matters, correct?  
 22 **A: That's correct. ---**  
 23 **resolved itself ultimately and then the**  
 24 **new matter started to come forward.**  
 25 Q: While we were having our

1 your representation was terminated,  
 2 correct? (end of tape)  
 3 **A: Disagreement with Mr.**  
 4 **Bailey on the subpoenas and he wanted**  
 5 **me brought to, he and I had a**  
 6 **disagreement on how to present the**  
 7 **case in terms of what was, I thought**  
 8 **was in his best interest. I can't go into**  
 9 **that anymore, because if I go a step**  
 10 **further, I'll get to attorney-client**  
 11 **privilege.**  
 12 Q: No, I don't want you to go  
 13 there. I have nothing further. Thank  
 14 you, Mr. Stretton.  
 15 HONORABLE CALI: Any  
 16 redirect examination?  
 17 ATTORNEY BAILEY: Thank  
 18 you, Mr. Stretton.  
 19 HONORABLE CALI: Are  
 20 there any more questions, Mr. Bailey?  
 21 ATTORNEY BAILEY: No,  
 22 thank you, sir. Thank you.  
 23 HONORABLE CALI: Okay.  
 24 Mr. Stretton, thank you very much.  
 25 We appreciate your time in stepping

1 meeting, I indicated to both you and  
 2 Mr. Bailey that the upshot of this whole  
 3 thing was his language contained  
 4 within the motion for rehearing en banc  
 5 up to or including but not limited  
 6 Judges Conner, Jones, Kane, correct?  
 7 **A: You did say that --- that**  
 8 **was the ---, yes.**  
 9 Q: You understood yourself  
 10 what the difficulties with that is,  
 11 correct?  
 12 **A: Yes.**  
 13 Q: Did you express that to  
 14 Mr. Bailey at that time?  
 15 **A: --- a pretty frank**  
 16 **discussion about trying to resolve this**  
 17 **matter and also a frank discussion on**  
 18 **how it should be presented to the**  
 19 **Hearing Committee.**  
 20 Q: I'm sorry, what?  
 21 **A: --- as much that day. ---**  
 22 **presence of --- Chair and then the rest**  
 23 **of it after the Chair went back to his ---**  
 24 **we were all sitting there talking.**  
 25 Q: Shortly after that meeting,

1 aside for your other matters. Thank  
 2 you.  
 3 **A: Thank you.**  
 4 HONORABLE CALI: Your  
 5 next witness, Mr. Bailey.  
 6 ATTORNEY BAILEY: David  
 7 Morris.  
 8 ATTORNEY FULTON: I  
 9 request an offer of proof as to this  
 10 witness.  
 11 HONORABLE CALI: Mr.  
 12 Bailey.  
 13 ATTORNEY BAILEY: David  
 14 Morris is an individual who was a  
 15 client of mine and had a case in front of  
 16 Judge Conner. Judge Conner sat on the  
 17 case for over a year and never issued a  
 18 case management order. Mr. Morris  
 19 finally came in and we got a case  
 20 management order. The case was  
 21 assigned to Judge Prince. Judge Prince  
 22 wrote a report of recommendation  
 23 advising Mr. Morris and his wife that  
 24 they should get another lawyer which  
 25 was unlawful and there were objections

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1 made to that. Judge Conner didn't, in  
2 very serious ways, more of my rhetoric  
3 about judicial abuse and Judge Conner  
4 did not comment on that --- Magistrate  
5 Judge. Mr. Morris went to the Judicial  
6 Conduct Board and also I believe  
7 Office of Disciplinary Counsel, I'm not  
8 sure, and as with numerous people that  
9 complained for me the Judicial  
10 Conduct Board and Office of  
11 Disciplinary Counsel never responds.  
12 He objected very strongly and I think  
13 we went to the Third Circuit in the  
14 appeals. It's still pending I guess to  
15 some extent, but he very, but basically  
16 that's what he will tell about.  
17 HONORABLE CALI: Here's  
18 my concern and again, it's not funny.  
19 ATTORNEY BAILEY: No, I'm  
20 sorry.  
21 HONORABLE CALI: It's  
22 serious because it is very serious. But  
23 we all are applicable to the rules that  
24 apply. He may have valid, invalid  
25 claims in other judicial bodies or

1 criticizing judges.  
2 HONORABLE CALI: I know  
3 you, I understand ---.  
4 ATTORNEY BAILEY: That's  
5 exactly what I'm doing. I'm claiming  
6 that I have rights to do that, etc. I  
7 wrote a document, motion to recuse,  
8 and I for the first time heard today on  
9 their own motion, the first time you  
10 heard it, too, that they on their own  
11 motion filed this complaint against me  
12 contrary to what I have been told and  
13 they issue that I was told, I wasn't  
14 allowed to subpoena or bring Mr.  
15 Fulton in here. I wasn't allowed to  
16 bring Mr. Killion in here.  
17 HONORABLE CALI: Let's  
18 stop right there.  
19 ATTORNEY BAILEY: Now  
20 wait.  
21 HONORABLE CALI: No. I  
22 am going to ask you to stop for one  
23 second.  
24 ATTORNEY BAILEY: Sure.  
25 HONORABLE CALI: I

1 proceedings. Whether that be the  
2 Judicial Conduct Board, his rights to  
3 pursue through appeals, but again  
4 where, please explain to me the  
5 relevancy to what has been filed here  
6 and I do understand that he has rights  
7 to complain. Whether or not the  
8 Judicial Conduct Board responds or not  
9 is obviously not our, in our purview  
10 nor can we comment about it nor be  
11 involved in it. What does he have to  
12 add other than the record that has been,  
13 that could be filed of record? We're  
14 bound by those documents and his  
15 appeals so I didn't hear anything you  
16 said, Mr. Bailey, that's directly on why  
17 ATTORNEY BAILEY:  
18 Judicial misbehavior.  
19 HONORABLE CALI: But  
20 where, he's  
21 ATTORNEY BAILEY: On  
22 judicial misbehavior in the four corners  
23 of the document what I'm accused of  
24 doing under the rules that these people  
25 are charging me with. I'm out

1 understand your rights. This  
2 Committee clearly understands your  
3 rights. Let's refocus as to what we're  
4 talking about at the moment. One  
5 witness and a request for us to know  
6 what he's going to testify to. That is  
7 what we're talking about right now.  
8 Your other claims are very, very  
9 intuitively in our brains and we  
10 understand that. What I'm asking you  
11 simply is there was an offer made on  
12 Mr. Morris's testimony. You made the  
13 offer and please clarify to me how he  
14 will provide evidence of this ---. If he  
15 raises a question of judicial misconduct  
16 through the Judicial Conduct Board, it  
17 is outside of the scope of our ability.  
18 That is all I am talking about.  
19 ATTORNEY BAILEY: I am  
20 not bringing him in here, I am just  
21 providing you with information about  
22 what he has done. What he's here to  
23 talk about very simply, Mr. Cali, is  
24 judicial misbehavior by Judge Conner.  
25 HONORABLE CALI: That he

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1 has direct knowledge of.  
 2 **ATTORNEY BAILEY:** Yes.  
 3 **HONORABLE CALI:** Okay.  
 4 Then if that's what you're saying he's  
 5 going to testify to, we'll let him testify  
 6 and if there are objections to his  
 7 testimony we'll deal with it at that  
 8 time. But we're going to hold that to  
 9 what you've just said. That's fine.  
 10 **ATTORNEY BAILEY:** Yes,  
 11 sir. Thank you very much.  
 12 **HONORABLE CALI:** Would  
 13 you please swear Mr. Morris in?  
 14 **STENOGRAPHER:** Do you  
 15 swear or affirm to tell the truth, the  
 16 whole truth, and nothing but the truth?  
 17 **MR. MORRIS:** I do.  
 18 **STENOGRAPHER:** Thank  
 19 you.  
 20 **HONORABLE CALI:** Good  
 21 morning, Mr. Morris.  
 22 **A: Good morning.**  
 23 **ATTORNEY BAILEY:** Dave,  
 24 please keep your voice up there with  
 25 that mic. Just identify yourself and

1 no need to get into all those facts.  
 2 **A: Okay.**  
 3 **HONORABLE CALI:** But we  
 4 do understand the basis of Mr.  
 5 Bailey's, at least --- Mr. Bailey. Is that  
 6 accurate?  
 7 **A: Yes.**  
 8 **HONORABLE CALI:** Thank  
 9 you, Mr. Morris.  
 10 **A: Thank you.**  
 11 **ATTORNEY BAILEY:** To  
 12 what judge was your case assigned?  
 13 **A: At first it was assigned to**  
 14 **Judge Conner.**  
 15 **Q:** Were you ever told to  
 16 change attorneys?  
 17 **A: In a**  
 18 **ATTORNEY FULTON:** Object.  
 19 **HONORABLE CALI:** What's  
 20 the objection?  
 21 **ATTORNEY FULTON:** It's  
 22 hearsay.  
 23 **HONORABLE CALI:** Mr.  
 24 Bailey.  
 25 **ATTORNEY BAILEY:** It's

1 where you're from.  
 2 **A: My name is David L.**  
 3 **Morris. I'm from Hanover,**  
 4 **Pennsylvania.**  
 5 **Q:** Why'd you hire me?  
 6 **A: I hired you because over a**  
 7 **period of two years, now going on four,**  
 8 **I was harassed by my wife's ex and his**  
 9 **police officer brother, and five police**  
 10 **departments. I was arrested for crimes I**  
 11 **didn't commit. They were all thrown**  
 12 **out. The warrants were all thrown out.**  
 13 **It just was a period of them holding me**  
 14 **over and questioning the height of my**  
 15 **truck, the cars I drove, are they stolen,**  
 16 **are they this, they just, it was just pure**  
 17 **harassment. I mean it's, people were**  
 18 **coming on my property.**  
 19 **ATTORNEY FULTON:** I'll  
 20 object at this point. It's not relevant.  
 21 **HONORABLE CALI:** We  
 22 understand you did hire Mr. Bailey and  
 23 the basis of that was what you just said.  
 24 **A: Yes.**  
 25 **HONORABLE CALI:** There's

1 written right in the pleadings and he  
 2 knows it. It's written right in  
 3 documents that have been provided.  
 4 It's written right in the report of  
 5 recommendation. It's written right in  
 6 the response from Judge ---.  
 7 **HONORABLE CALI:** So is  
 8 that what you're referring to?  
 9 **ATTORNEY BAILEY:** Yes.  
 10 **HONORABLE CALI:** Instead  
 11 of a statement by someone?  
 12 **ATTORNEY BAILEY:** Yes,  
 13 sir.  
 14 **HONORABLE CALI:**  
 15 Outside of the scope of those  
 16 documents?  
 17 **ATTORNEY BAILEY:** Yes,  
 18 sir. It's in those documents.  
 19 **HONORABLE CALI:** This is  
 20 in the documents.  
 21 **ATTORNEY BAILEY:** I'll  
 22 change the form for you.  
 23 **HONORABLE CALI:** All  
 24 right. Thank you. ---.  
 25 **ATTORNEY BAILEY:** Yes,

1 sir. Thank you. Do you have, did you  
 2 ever receive any writings which  
 3 advised you to change lawyers?  
 4 **A: Yes. There was an**  
 5 **opinion and a memorandum by Judge**  
 6 **Conner which told me that Donald**  
 7 **Bailey was incompetent, should be**  
 8 **replaced, I should hire someone new or**  
 9 **hire someone to back him up as a**  
 10 **secondary attorney.**  
 11 HONORABLE CALI: Is that  
 12 document one of the documents that we  
 13 have?  
 14 ATTORNEY BAILEY: It's one  
 15 we provided to him.  
 16 HONORABLE CALI: Who's  
 17 him?  
 18 ATTORNEY BAILEY: Mr.  
 19 Fulton, sir.  
 20 HONORABLE CALI: Okay.  
 21 Is that one of the documents that we're  
 22 ATTORNEY BAILEY: It's a  
 23 court document. You said they were  
 24 acceptable and we did provide it as one  
 25 of the exhibits.

1 HONORABLE CALI: Mr.  
 2 Bailey, please speak ---.  
 3 ATTORNEY BAILEY: I'm  
 4 sorry.  
 5 HONORABLE CALI: What  
 6 I'm asking for our clarification is is that  
 7 going to be one of the documents that  
 8 you and Mr. Fulton are going to give to  
 9 us so that we have it. It hasn't been  
 10 identified. Mr. Morris doesn't have it  
 11 in front of him so if we go today  
 12 without seeing it, then we can't read  
 13 what Mr. Morris has testified to. I'm  
 14 only asking it be identified  
 15 appropriately and it be one of the  
 16 documents that we're able to review.  
 17 Fair enough?  
 18 ATTORNEY BAILEY: I tried  
 19 to follow Bob's document ---. Yes, I  
 20 believe so.  
 21 ATTORNEY FULTON: May I?  
 22 I could short circuit it. I do have the  
 23 document.  
 24 HONORABLE CALI: And  
 25 it's going to be one of the documents

1 we're going to get.  
 2 ATTORNEY FULTON: Yes. --  
 3 -  
 4 HONORABLE CALI: Thank  
 5 you very much.  
 6 UNIDENTIFIED MALE:  
 7 What exhibit number will that  
 8 be? What exhibit  
 9 HONORABLE CALI: Will  
 10 that be following your numbered  
 11 sequence?  
 12 ATTORNEY BAILEY: I think  
 13 it should be 84, but she's, the  
 14 newspaper I thought was 83. I could  
 15 be wrong.  
 16 ATTORNEY FULTON: It's 80.  
 17 MRS. BAILEY: 84.  
 18 HONORABLE CALI: --- 84.  
 19 ATTORNEY FULTON: Mark it  
 20 84.  
 21 HONORABLE CALI: Thank  
 22 you.  
 23 ATTORNEY BAILEY: Sure.  
 24 It's okay. You're never wrong. She's  
 25 never wrong. Now, Mr. Morris, you'd

1 indicated that this writing, is that  
 2 writing by Judge Conner or was it  
 3 writing by Magistrate Judge Prince?  
 4 **A: The one opinion, the one**  
 5 **opinion was by Judge Conner and then**  
 6 **the memorandum was, it referred to**  
 7 **Judge Conner and was by I believe**  
 8 **Magistrate Prince.**  
 9 Q: In Judge Conner's  
 10 memorandum, did he indicate that he  
 11 could find no reason to disagree or  
 12 disapprove of what Magistrate Prince  
 13 had written about your complaint and  
 14 about your lawyer and advice to you to  
 15 get another lawyer?  
 16 **A: Yes.**  
 17 Q: Well, tell us --- what your  
 18 reaction to that is?  
 19 **A: I find that over the years**  
 20 **I've been dealing with Attorney Bailey**  
 21 **him to be very honorable and has never**  
 22 **lied to me. I trust him completely so,**  
 23 **of course, I didn't get him replaced. I**  
 24 **didn't look for someone else. I did,**  
 25 **however, take my paperwork,**



1 **everything he had ever written or**  
 2 **received to my attorneys, my other, I**  
 3 **have corporate attorneys. I took them**  
 4 **to them and they read over them. They**  
 5 **said**

6 ATTORNEY FULTON:

7 Objection.

8 HONORABLE CALI: You  
 9 can't testify, Mr. Morris, of what other  
 10 people have told you.

11 **A: Okay, okay. In the**  
 12 **opinion and the memorandum, it said**  
 13 **how there were things misspelled. ---**  
 14 **misspellings and bad punctuation. That**  
 15 **was also in there, but the memorandum**  
 16 **actually had two words misspelled**  
 17 **which confused me. I mean no one's**  
 18 **perfect, but I think he's a great lawyer**  
 19 **and I'm happy with him.**

20 ATTORNEY BAILEY: Thank  
 21 you, Mr. Morris.

22 HONORABLE CALI: Cross  
 23 examine.

24 ATTORNEY FULTON: Yes,  
 25 very briefly, good morning ---.

1 **a replacement lawyer is necessary or**  
 2 **someone to back him up because of an**  
 3 **incompetence.**

4 Q: That was in Magistrate  
 5 Prince's?

6 **A: That was in both I believe.**

7 **I was, I couldn't believe anybody**  
 8 **would even write that in an opinion.**

9 Q: I have nothing further.

10 HONORABLE CALI: Are we  
 11 going to mark Judge Conner's opinion?

12 ATTORNEY FULTON: I don't  
 13 have it.

14 ATTORNEY BAILEY: I'll get  
 15 it and provide it. It's a public record.  
 16 Yes. It's very brief.

17 HONORABLE CALI: Will  
 18 that be number 85?

19 ATTORNEY BAILEY: That's  
 20 85 and I'd also like to, there was a,  
 21 obviously response motion that I had to  
 22 Judge Conner that he opined on. In my  
 23 motion I had recommended, of course,  
 24 that the court not follow the report  
 25 recommendation of Magistrate Prince.

1 **A: Good morning.**

2 Q: Mr. Morris, I just, I know  
 3 you don't have the document in front  
 4 of you and I just want to clarify where  
 5 this information came from that you  
 6 should get rid of Mr. Bailey. Was that  
 7 the memorandum that Magistrate Judge  
 8 Prince signed?

9 **A: That was the**  
 10 **memorandum, yes.**

11 Q: So that language that  
 12 you're talking about would be  
 13 contained within that memorandum,  
 14 right?

15 **A: It's in that memorandum**  
 16 **and Judge Conner did an opinion that**  
 17 **said basically the same thing.**

18 Q: Okay. Judge Conner's  
 19 opinion, because I don't have that, but  
 20 did Judge Conner's opinion just say  
 21 that he agrees with Magistrate Prince's  
 22 memorandum of order? Was it simply  
 23 that?

24 **A: As I recall, it said that he**  
 25 **was unintelligible and something about**

1 I would like that

2 HONORABLE CALI: Why  
 3 don't

4 ATTORNEY BAILEY: All of  
 5 this is filed

6 HONORABLE CALI: Why  
 7 don't we just collectively mark those as  
 8 85?

9 ATTORNEY BAILEY: I think  
 10 that's ---.

11 HONORABLE CALI: Present  
 12 them to Mr. Fulton so that we are  
 13 aware, but get them to us as 85  
 14 collectively.

15 ATTORNEY BAILEY: Can I  
 16 make a suggestion? 84. That will keep  
 17 us in sequence and put them all  
 18 together.

19 HONORABLE CALI: That  
 20 would be, that's acceptable so that  
 21 they, we would have Magistrate  
 22 Prince's opinion, Judge Conner's  
 23 opinion, and the issue of the motion or  
 24 whatever else you provide that are of  
 25 court record we will accept it.

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1 Categorize them as 84 and tell the one  
2 who's never wrong, your wife, that that  
3 will be 84. Thank you.  
4 ATTORNEY BAILEY: I see  
5 the sympathies of the Board ---.  
6 HONORABLE CALI: Yes.  
7 ATTORNEY FULTON: Just,  
8 I'll tell the Committee what I have so  
9 Mr. Bailey knows what he has to  
10 provide to me. I have in this matter  
11 Judge Prince's memorandum of order  
12 and I have your brief in support of  
13 plaintiff's objections. Is that what  
14 we're talking about, Don?  
15 ATTORNEY BAILEY: Yeah,  
16 there's a brief in support of objections.  
17 There was literally a letter. That's  
18 correct. But anyway, those documents  
19 I had provided to you.  
20 ATTORNEY FULTON: So I  
21 don't have Judge Conner's opinion.  
22 ATTORNEY BAILEY: I would  
23 only be providing what is filed ---.  
24 HONORABLE CALI:  
25 Collectively you asked that we

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1 Mr. LEWIS: Yes, sir.  
2 ATTORNEY BAILEY:  
3 Because Mr. Bailey may not  
4 remember.  
5 MR. LEWIS: Yes, sir.  
6 ATTORNEY BAILEY: You're  
7 getting --- me, Judge. Just a minute  
8 please, sir. I'm going to call Mr. Lewis  
9 at this point.  
10 HONORABLE CALI: All  
11 right. It's 10:10. My understanding is  
12 Mr. Lewis is one of your key  
13 witnesses.  
14 ATTORNEY BAILEY: I can  
15 change that by the way.  
16 HONORABLE CALI: All  
17 right. What I'm going to do is take a 10  
18 minute break and then start with Mr.  
19 Lewis. Any offers of proof will be  
20 made at that point and I can rule ---.  
21 Okay.  
22 ATTORNEY BAILEY: That's  
23 great. I may, I may switch them  
24 around a little bit because I  
25 HONORABLE CALI: That's

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1 just make sure that we're consistent  
2 with what we just said.  
3 ATTORNEY BAILEY: Okay.  
4 Now, Judge, Mr. Cali, if you'd keep an  
5 eye on me here. I'm not sure, I'm  
6 sorry.  
7 HONORABLE CALI: He's  
8 done. Do you have a question?  
9 ATTORNEY FULTON: I don't  
10 know if you want Mr. Morris?  
11 HONORABLE CALI: No,  
12 Mr. Morris is excused from the witness  
13 stand. Mr. Morris, as we told the other  
14 witnesses, thank you first of all for  
15 your testimony and coming. Secondly,  
16 if you choose to stay, you are able to  
17 stay now. You're not precluded from  
18 this hearing.  
19 A: Okay.  
20 HONORABLE CALI: Thank  
21 you again.  
22 A: Thank you.  
23 HONORABLE CALI: Mr.  
24 Lewis, you're responsible to tell Mr.  
25 Bailey that that's 84.

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1 okay. 10 after 10, a 10 minute break.  
2 BAILIFF: All rise.  
3 HONORABLE CALI: Thank  
4 you.  
5 BAILIFF: The Court now  
6 stands at recess.  
7 HONORABLE CALI: Please  
8 be seated. Mr. Bailey, did he tell you  
9 that 84 was 84 and not 85?  
10 ATTORNEY BAILEY: No, he  
11 didn't.  
12 HONORABLE CALI: What's  
13 that?  
14 UNIDENTIFIED MALE:  
15 You didn't tell him.  
16 HONORABLE CALI: You  
17 went to the, when you left us for 2  
18 minutes and there was a question  
19 among the exhibits and I wanted to  
20 make sure that someone other than Mr.  
21 Bailey could keep track of the exhibits  
22 and we asked that you be reminded that  
23 collectively we have identified number  
24 84 for exhibits. So Mr. Lewis's job  
25 was to tell you.

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1 ATTORNEY BAILEY: Let the  
 2 record show it was my mistake. Some  
 3 ---. May I have Mr. Snyder please?  
 4 ATTORNEY FULTON: We'll  
 5 ask for an offer of proof.  
 6 HONORABLE CALI: What's  
 7 his, yeah, hold off until we get the  
 8 offer. What's his name?  
 9 ATTORNEY BAILEY: His  
 10 name is Roger Snyder.  
 11 HONORABLE CALI: The  
 12 offer on Mr. Snyder.  
 13 ATTORNEY BAILEY: He is a  
 14 client of mine and he will in the motion  
 15 for a hearing en banc complained about  
 16 abuses by among other judges, Judge  
 17 Yvette Kane. He had a case before  
 18 Judge Kane, has a case, I'm sorry, had  
 19 or has a case before Judge Kane. He  
 20 will testify if permitted, testify, again  
 21 this is one of those things where you're  
 22 talking about probative issues of  
 23 judicial misconduct, that he was  
 24 mistreated by Judge Kane and Marty  
 25 Carlson, that we had a case that we

1 complaints through the Judicial  
 2 Conduct Board or his complaints in the  
 3 process that previously he was  
 4 involved with are beyond, whether we  
 5 want to or not it's beyond our ruling to  
 6 consider and the only, similar to Mr.  
 7 Morris, we will limit his testimony to  
 8 any personal knowledge that he has  
 9 that is not within those purviews, but if  
 10 they're within documents, we would  
 11 consider those documents. But similar  
 12 I believe our Committee's opinion is,  
 13 but similarly to what Mr. Morris has  
 14 done, we will allow, but other than that  
 15 it's beyond our scope.  
 16 ATTORNEY BAILEY: Okay.  
 17 HONORABLE CALI: So if  
 18 we can keep it within that.  
 19 ATTORNEY BAILEY: I ---.  
 20 HONORABLE CALI: What  
 21 was, remind me and I'll clarify it so  
 22 that we're all clear. I'm not precluding  
 23 him from testifying that he took action,  
 24 action was taken, but as to what  
 25 occurred with regard to the action and

1 were settling in front of Judge Sanchez  
 2 who has already --- information ---.  
 3 These questions ask about his dismissal  
 4 of cases over the settlement thing.  
 5 Judge Sanchez contacted the court ---  
 6 testified in a courtroom, put me under  
 7 oath, about settlement discussions. He  
 8 had Mr. Snyder testify under oath and I  
 9 asked Judge Sanchez, I said I'm going  
 10 to put you under oath because you were  
 11 in the same meeting. He refused. It's  
 12 also one of those situations where he  
 13 has made complaints and, of course,  
 14 there's been no response. But you said  
 15 try to take your direction and stay away  
 16 from that because I think you were, as I  
 17 understood it, you didn't feel that's  
 18 something we should be, was inside  
 19 our thing here that we're trying to do.  
 20 HONORABLE CALI: Well,  
 21 the answer to what your, what I said  
 22 before is similar to this offer or not.  
 23 ATTORNEY BAILEY: Yeah.  
 24 HONORABLE CALI: The  
 25 issue with relationship to his

1 what occurred in that process, that's  
 2 beyond us. Okay.  
 3 ATTORNEY BAILEY: That's  
 4 the trouble, and again it's not that he  
 5 has anything to do, it's the fact that  
 6 people that have gone in and  
 7 complained about things relative to me,  
 8 they don't answer, don't respond to,  
 9 neither do they. All I wanted to ask  
 10 them is have you received a response.  
 11 ---  
 12 HONORABLE CALI: Those  
 13 questions, those questions are  
 14 appropriate.  
 15 ATTORNEY BAILEY: Oh,  
 16 okay.  
 17 HONORABLE CALI: But I  
 18 can't get into the detail of what  
 19 occurred and all the processes of all  
 20 these cases that have been previously  
 21 done.  
 22 ATTORNEY BAILEY: No.  
 23 HONORABLE CALI: Do you  
 24 understand, we want you to understand  
 25 we're not precluding their testimony,

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1 but it's got to stay within the realm of  
 2 what we're asking.  
 3 ATTORNEY BAILEY: Well,  
 4 and I can advise them on a question,  
 5 too, that, you know, I don't want to  
 6 hear, we don't want to hear contents  
 7 and substantive, but did you do this,  
 8 did you do that, did you have a  
 9 response.  
 10 HONORABLE CALI: That's  
 11 fine with us.  
 12 ATTORNEY BAILEY: Okay.  
 13 HONORABLE CALI: Mr.  
 14 Burke, did you have a comment?  
 15 ATTORNEY BAILEY: I'm  
 16 sorry.  
 17 ATTORNEY BURKE: As  
 18 long as, I know you're well  
 19 experienced, sir, but we're asking that  
 20 on direct examination you're acutely  
 21 aware that there are open ended  
 22 questions that you're required to ask as  
 23 opposed to leading the witness. I'm  
 24 just offering that for your  
 25 consideration. We'll deal with any

1 Understanding my weaknesses,  
 2 I'll do my best to tighten it up.  
 3 HONORABLE CALI: Thank  
 4 you.  
 5 ATTORNEY BAILEY: I will  
 6 take your advice very seriously.  
 7 HONORABLE CALI: Swear  
 8 the witness please.  
 9 STENOGRAPHER: Do you  
 10 swear or affirm to tell the truth, the  
 11 whole truth, and nothing but the truth?  
 12 MR. SNYDER: I will.  
 13 STENOGRAPHER: Thank  
 14 you.  
 15 HONORABLE CALI: Good  
 16 morning, Mr. Snyder.  
 17 A: Good morning, ---.  
 18 HONORABLE CALI: Mr.  
 19 Bailey.  
 20 ATTORNEY BAILEY: Thank  
 21 you, Your Honor. Mr. Snyder, identify  
 22 yourself, you know, your full name and  
 23 where you're from.  
 24 A: My name is Roger, R-O-  
 25 G-E-R, Snyder, S-N-Y-D-E-R. I'm

1 objections appropriately.  
 2 ATTORNEY BAILEY: I,  
 3 you're right. I'm not a litigator. I  
 4 avoid that because of the way it limits  
 5 my practice to be very honest. I hire  
 6 litigators. But the thing, this is a body  
 7 of experienced lawyers, too. I don't  
 8 have a jury that's going to be affected  
 9 by it. I mean you're factfinders, but  
 10 obviously, you know, you're as  
 11 qualified as any judges so the thing is  
 12 that  
 13 HONORABLE CALI: We're  
 14 going to give you ---  
 15 ATTORNEY BAILEY: A little  
 16 latitude.  
 17 HONORABLE CALI:  
 18 Latitude to make this process  
 19 work. What Mr. Burke has said is  
 20 accurate. We want to do this, and our  
 21 rules say this is similar to the judicial  
 22 hearing of a nonjury trial ---. We'll  
 23 give you the latitude, but be bound by  
 24 the rules. Call your witness.  
 25 ATTORNEY BAILEY:

1 from Elizabethtown, Pennsylvania. The  
 2 street address is 98 West Ridge Road.  
 3 Q: I'm going to try to shorten  
 4 this up. Did you have a proceeding  
 5 before the State Ethics Commission?  
 6 A: Yes, sir, I did.  
 7 Q: Did you prevail?  
 8 A: Yes, I did.  
 9 Q: Associated with that, have  
 10 you been involved in a number of civil  
 11 rights cases?  
 12 A: Yes, sir, I have.  
 13 Q: Amongst others, who has  
 14 been one of your lawyers?  
 15 A: I started out with --- Mr.  
 16 Goldhaber. I went with --- again for  
 17 Mr. Ostrowski, and then you, Mr.  
 18 Bailey.  
 19 Q: Sir, what do you do for a  
 20 living?  
 21 A: --- consulting-type work.  
 22 Q: Are you a public official?  
 23 A: Yes, sir, I am.  
 24 Q: What position?  
 25 A: I'm a supervisor for a

1 township called West Donegal  
 2 township in Lancaster County.  
 3 Q: Roger, very simply are  
 4 you, has Judge Kane mistreated you?  
 5 ATTORNEY FULTON:  
 6 Objection.  
 7 A: Yes, sir, he has.  
 8 HONORABLE CALI: You  
 9 can't answer that question, Mr. Snyder.  
 10 Just one moment. The objection?  
 11 ATTORNEY FULTON: What  
 12 does that mean? I mean I don't  
 13 understand what that question means.  
 14 HONORABLE CALI: I think  
 15 we need to place a foundation, Mr.  
 16 Bailey, and rephrase the question so we  
 17 as a Committee can understand it. So  
 18 please rephrase it.  
 19 ATTORNEY BAILEY: Did  
 20 you and/or do you have proceedings  
 21 before Judge Kane in the Middle  
 22 District of Pennsylvania?  
 23 A: Well, it started out I did.  
 24 Then, do you want me to go through  
 25 the whole?

1 was cut off immediately. He was not  
 2 given any time to do any turn over to  
 3 tell me how to proceed. He was given  
 4 strict orders not to practice law  
 5 anymore so I was on my own. So low  
 6 and behold towards the end of May  
 7 2010, --- I go to the website called ---  
 8 .com. It lists when orders and stuff are  
 9 put on the docket in your case. So low  
 10 and behold I was looking on here.  
 11 Here Chief Justice Yvette Kane is  
 12 taking action on my case doing orders.  
 13 I didn't know anything about this. So I  
 14 sent a letter to Judge Yvette Kane  
 15 saying how come I'm not being  
 16 informed of what's going on with my  
 17 case. I sent this letter in. Never got  
 18 any response. I know they got the  
 19 letter because I asked the clerk docket  
 20 for the case and it was there. I found  
 21 out later it was there. She never  
 22 responded. At the same time I'm  
 23 sending a letter to Philadelphia for a  
 24 judicial complaint, a judicial  
 25 misconduct.

1 Q: Very quickly, very  
 2 quickly.  
 3 A: Okay. In May of 2009  
 4 Mr. Ostrowski and myself filed a  
 5 lawsuit in the Middle District of  
 6 Pennsylvania. At that point it was  
 7 assigned to Judge Yvette Kane, Chief  
 8 Judge Yvette Kane.  
 9 Q: Keep your voice up,  
 10 Roger.  
 11 A: So at that point, that was  
 12 in May of 2009. Towards the end of  
 13 2009, this case got stayed and stayed  
 14 and there was no action. Nothing had  
 15 happened in this case for over five, six  
 16 months. Then in March of 2010 Mr.  
 17 Ostrowski could no longer represent  
 18 me. He got a letter from the  
 19 Disciplinary Board of Pennsylvania  
 20 saying he could no longer represent  
 21 me. So at that point I was, on layman's  
 22 terms I was handling the case pro se.  
 23 So I had no information from the court  
 24 in the Middle District of Pennsylvania.  
 25 When Mr. Ostrowski was cut off, he

1 Q: Okay. Did this have to do  
 2 with the misconduct board, as I  
 3 understand, I don't want you to get into  
 4 the substance of those things, but you  
 5 can say when you did things and if you  
 6 got a response, okay? So you may  
 7 continue.  
 8 A: So I sent this in to the  
 9 Philadelphia court June 2010. So low  
 10 and behold after about six months I  
 11 never got a response. So I sent another  
 12 letter saying hey, I thought I was  
 13 supposed to get a response to figure out  
 14 where this is. No response. Finally,  
 15 almost a year later in June of 2011 I get  
 16 a response from Judge Theodore  
 17 McKee from Philadelphia. He  
 18 basically just blew me off saying hey  
 19 ATTORNEY FULTON:  
 20 Objection.  
 21 HONORABLE CALI: You  
 22 got a response from Judge McKee.  
 23 A: Yes, sir.  
 24 HONORABLE CALI: Okay.  
 25 A: I got a response basically

1 **saying all the fault was blamed on my**  
 2 **former attorney, Mr. Ostrowski, who --**  
 3 **-.**  
 4 HONORABLE CALI: Well.  
 5 ATTORNEY FULTON:  
 6 Objection.  
 7 HONORABLE CALI: Again,  
 8 we're not going to get into their  
 9 rationale and their reason, but you did  
 10 get a response.  
 11 **A: I did get a response. So**  
 12 **then according to this docket or this**  
 13 **letter, I had 35 days to respond. So my**  
 14 **first, my complaint, it was a one-pager**  
 15 **so I thought well, I guess being an**  
 16 **electrical engineer being a professional,**  
 17 **I thought well, I'll take this down to the**  
 18 **minute detail. So I sent a 29-page**  
 19 **document back down there. On the**  
 20 **35th day I go over to Philadelphia**  
 21 **myself. I go right into the, I made sure**  
 22 **the court got it so there was no**  
 23 **questions involved. I spelled out every**  
 24 **--- detail. I said here's the definition of**  
 25 **misconduct, listed all the different**

1 **A: Yes, sir, I did.**  
 2 Q: Was that to settle a case?  
 3 ATTORNEY FULTON: Can we  
 4 get a timeframe?  
 5 HONORABLE CALI: That  
 6 would be helpful.  
 7 ATTORNEY BAILEY: No, I  
 8 agree. This is post the motion for  
 9 hearing en banc or at least  
 10 contemporaneous. I'm going to err on  
 11 the side of caution and say post. But it  
 12 is probative as to the issue of judicial  
 13 misconduct and relates directly to one  
 14 of the judges complained of, Judge  
 15 Kane.  
 16 ATTORNEY FULTON: Well,  
 17 ATTORNEY BAILEY: Now if  
 18 Judge Kane is going to continue to  
 19 engage in misconduct which I allege  
 20 she is and I can demonstrate that there  
 21 are facts which show and demonstrate  
 22 the mistreatment, I would believe that's  
 23 probative of the issues alleged in the  
 24 court en banc. What is the court en  
 25 banc date? Yeah, okay. Anyway that's

1 **definitions, --- all the rules, explained**  
 2 **in minute detail. I'm still waiting to**  
 3 **hear a response back from that. It's**  
 4 **probably been about a month and a**  
 5 **half. There's no question in my mind**  
 6 **there was misconduct.**  
 7 Q: Are you being mistreated  
 8 in your mind because Don Bailey's  
 9 your attorney?  
 10 ATTORNEY FULTON:  
 11 Objection.  
 12 HONORABLE CALI: Again,  
 13 I don't believe he can answer.  
 14 ATTORNEY BAILEY: In his  
 15 mind. Well, can you provide, let me  
 16 rephrase it. Let me  
 17 HONORABLE CALI: Please  
 18 yeah.  
 19 ATTORNEY BAILEY: Well,  
 20 HONORABLE CALI: Just  
 21 try, Mr. Bailey. Rephrase it so we can  
 22 confine this to the rules of evidence.  
 23 ATTORNEY BAILEY: All  
 24 right. Did you have a proceeding in  
 25 front of the Honorable Juan Sanchez?

1 the position --- that's fine.  
 2 HONORABLE CALI: We'll  
 3 allow limited testimony with respect to  
 4 the particular issues if things were  
 5 filed, when they were filed, but if  
 6 proceedings are existing and through a  
 7 process and there are court documents  
 8 that are ---, again, retrying those issues  
 9 are not going to do any good.  
 10 ATTORNEY BAILEY: I'm not  
 11 retrying anything.  
 12 HONORABLE CALI: Well,  
 13 Mr. Bailey, we have an opinion of we  
 14 don't want to. I'm not being  
 15 accusatory. I'm just saying we're not  
 16 going to. So we're going to limit the  
 17 questions and the testimony. If there is  
 18 something he filed with Judge Sanchez,  
 19 when, where, what.  
 20 ATTORNEY BAILEY: That's  
 21 basically it. I'm not trying to.  
 22 HONORABLE CALI: Go to  
 23 it. Let's go to it.  
 24 ATTORNEY BAILEY: I'm not  
 25 trying to retry anything. I want to say

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1 that on record. You keep advising me  
 2 and I'm going to follow you, but I have.  
 3 HONORABLE CALI: I am  
 4 not disagreeing with you, sir.  
 5 ATTORNEY BAILEY: Okay.  
 6 HONORABLE CALI: I'm  
 7 giving you the benefit of ---.  
 8 ATTORNEY BAILEY: ---  
 9 HONORABLE CALI: I'm  
 10 ruling in your favor.  
 11 ATTORNEY BAILEY: I  
 12 understand.  
 13 HONORABLE CALI: So let's  
 14 go for it.  
 15 ATTORNEY BAILEY: I  
 16 apologize.  
 17 HONORABLE CALI: All  
 18 right.  
 19 ATTORNEY BAILEY: I'll be  
 20 very quick with this. I'll be very brief.  
 21 Did you have a proceeding before  
 22 Judge Sanchez?  
 23 **A: Yes, sir, I did.**  
 24 Q: When we came into the  
 25 courtroom, did Judge Sanchez indicate

1 ATTORNEY BAILEY: It's  
 2 already been requested by Mr., yes, sir.  
 3 HONORABLE CALI: So then  
 4 provide those documents to us.  
 5 ATTORNEY BAILEY: All  
 6 right, sir.  
 7 HONORABLE CALI: Okay.  
 8 ATTORNEY BAILEY: Now  
 9 did Mr., did Judge Sanchez place me  
 10 under oath in his courtroom at this  
 11 hearing?  
 12 **A: Yes, sir, he did. He**  
 13 **placed you under oath and also he**  
 14 **placed myself under oath.**  
 15 Q: Did he place opposing  
 16 counsel under oath?  
 17 **A: No, sir, he did not.**  
 18 Q: Did this issue, were we  
 19 discussing the issues raised in the  
 20 settlement conference on the record?  
 21 **A: Yes, sir, we were.**  
 22 Q: Did I testify?  
 23 **A: Yes, you did.**  
 24 Q: Did you testify?  
 25 **A: Yes, I did.**

1 that he had been in contact with the  
 2 Middle District Court?  
 3 ATTORNEY FULTON:  
 4 Objection.  
 5 HONORABLE CALI: You  
 6 can't testify to hearsay.  
 7 ATTORNEY BAILEY: Had  
 8 Judge Sanchez  
 9 HONORABLE CALI: Is there  
 10 a document, Mr. Bailey, of court record  
 11 that we can review?  
 12 ATTORNEY BAILEY: There's  
 13 testimony. This is all on record.  
 14 There's testimony.  
 15 HONORABLE CALI: Are  
 16 you going to provide that testimony ---  
 17 ATTORNEY BAILEY: I'll ---.  
 18 HONORABLE CALI: In a  
 19 court proceeding to us?  
 20 ATTORNEY BAILEY: Yes,  
 21 sir.  
 22 HONORABLE CALI: Is that  
 23 going to be one of the documents  
 24 you're going to talk to Mr. Fulton  
 25 about?

1 Q: Did opposing counsel  
 2 testify?  
 3 **A: No.**  
 4 Q: Did I ask Judge Sanchez  
 5 to testify?  
 6 **A: You did, but he refused.**  
 7 **He refused to be put under oath.**  
 8 Q: Okay. Now I think  
 9 basically, sir, that's pretty much it.  
 10 HONORABLE CALI: Thank  
 11 you very much. Cross examine.  
 12 ATTORNEY FULTON: Good  
 13 morning, Mr. Snyder.  
 14 **A: Good morning.**  
 15 Q: You indicated that Mr.  
 16 Ostrowski could no longer represent  
 17 you in March of 2010, correct?  
 18 **A: Yes, sir.**  
 19 Q: Did he tell you that?  
 20 **A: He sent me a letter.**  
 21 Q: Okay. Was this letter  
 22 informing you that he could no longer  
 23 represent you as of a particular date?  
 24 **A: Yes, sir, it did.**  
 25 Q: When was it then that you

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1 contacted Mr. Bailey to represent you?  
2 **A: Well, ---.**  
3 **Q: Well, answer my question.**  
4 **HONORABLE CALI:**  
5 Answer the question first, Mr.  
6 Snyder.  
7 **A: About, right around**  
8 **September of 2010. I don't know an**  
9 **exact date.**  
10 **HONORABLE CALI:** That's  
11 fine.  
12 **ATTORNEY FULTON:** That's  
13 fine. So in September of 2010 on or  
14 about --- of September you contacted  
15 Mr. Bailey to represent you.  
16 **A: Yes, sir, I did.**  
17 **Q: Did he enter his**  
18 **appearance do you know in the matter?**  
19 **A: ---.**  
20 **Q: Okay. I have nothing**  
21 **further.**  
22 **ATTORNEY BAILEY:** As a  
23 brief, very brief follow-up. Regards to  
24 what Bob was saying in the time  
25 sequence, bearing in mind this question

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1 **HONORABLE CALI:** Mr.  
2 **Fulton?**  
3 **ATTORNEY FULTON:** I have  
4 nothing.  
5 **HONORABLE CALI:** Mr.  
6 **Snyder, thank you very much for**  
7 **coming. Thank you for testifying.**  
8 **ATTORNEY CASALE: ---.**  
9 **HONORABLE CALI:** Yes.  
10 **ATTORNEY CASALE:** I have  
11 one.  
12 **HONORABLE CALI:** I  
13 **apologize. I should've asked first.**  
14 **ATTORNEY CASALE:** Mr.  
15 **Snyder, the period of time that Mr.**  
16 **Bailey was asking you about regarding**  
17 **the actions that were taken that you**  
18 **didn't receive notice of. Was Mr.**  
19 **Bailey representing you at that time?**  
20 **A: No, he was not.**  
21 **ATTORNEY CASALE:** Thank  
22 you.  
23 **HONORABLE CALI:** Mr.  
24 **Burke, any questions? Again, I**  
25 **apologize, gentlemen, for not asking**

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1 is on the time sequence, were motions  
2 to dismiss filed against you while the  
3 matters were pending before Judge  
4 Kane?  
5 **A: Yes, let me explain a little**  
6 **bit.**  
7 **Q: Well, they don't want us to**  
8 **A: ---.**  
9 **Q: ---.**  
10 **A: Yes.**  
11 **HONORABLE CALI:**  
12 **Motions were filed. They're a**  
13 **matter of record.**  
14 **A: And they were acted upon,**  
15 **yes, sir.**  
16 **HONORABLE CALI:** Okay.  
17 **ATTORNEY BAILEY:** But,  
18 **but, but did you get notice of them?**  
19 **A: I never got any notice.**  
20 **Q: Did you have, receive any**  
21 **contact from the Judge?**  
22 **A: No. I even sent a letter**  
23 **and never got a response.**  
24 **Q: I don't have any further**  
25 **questions.**

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1 you if you had any questions. Again, if  
2 you do at any time, please just interrupt  
3 me and ask. Thank you for coming.  
4 Thank you for testifying and as we've  
5 been advising the other witnesses if  
6 you choose to stay, we excluded you  
7 before, but you obviously can stay if  
8 you choose.  
9 **A: Thank you.**  
10 **HONORABLE CALI:** The  
11 **stenographer needs you for a moment.**  
12 **ATTORNEY BAILEY:** Sir, a  
13 **proffer, as I assume will be requested**  
14 **on Col. Charles Breslin which will be**  
15 **very brief.**  
16 **HONORABLE CALI:** Is that  
17 **a witness, Mr. Breslin?**  
18 **ATTORNEY BAILEY:** Yes,  
19 **Col. Breslin is the next witness. Now**  
20 **he'll be asked to testify as per a case**  
21 **that he had before Judge Kane who has**  
22 **recused herself. This is one of those**  
23 **issues where we're talking about time**  
24 **things that were after the motion en**  
25 **banc where I did complain of disparage**



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1 and claim misconduct on Martin  
 2 Carlson, Judge Kane, Conner, Scirica,  
 3 and Jones. His testimony will be of the  
 4 things that are of record. Again, it will  
 5 be supplied. That's basically the  
 6 proffer.  
 7 HONORABLE CALI: Again,  
 8 I think you've dealt with that issue.  
 9 We limited it to what we have done  
 10 with Mr. Morris and Mr. Snyder.  
 11 ATTORNEY BAILEY: Yeah.  
 12 HONORABLE CALI: We'll  
 13 allow you to call Colonel  
 14 ATTORNEY BAILEY: Charles  
 15 Breslin.  
 16 HONORABLE CALI: Breslin  
 17 is it?  
 18 ATTORNEY BAILEY: It's B-  
 19 R-E-S-L-I-N.  
 20 HONORABLE CALI:  
 21 Breslin, I'm sorry.  
 22 ATTORNEY BAILEY: Yeah.  
 23 ATTORNEY FULTON: I'd just  
 24 like to renew my objection.  
 25 HONORABLE CALI: Yes,

1 HONORABLE CALI: Mr.  
 2 Breslin, you'll be sworn.  
 3 STENOGRAPHER: Would  
 4 you raise your right hand? Do you  
 5 swear or affirm to tell the truth, the  
 6 whole truth, and nothing but the truth?  
 7 MR. BRESLIN: I do.  
 8 HONORABLE CALI: Good  
 9 morning, Mr. Breslin. Mr. Bailey has  
 10 some questions for you. Please be  
 11 seated.  
 12 MR. BRESLIN: Thank you.  
 13 HONORABLE CALI: Thank  
 14 you.  
 15 ATTORNEY BAILEY: Chuck,  
 16 I'll refer to you as Colonel. Is that  
 17 okay?  
 18 **A: That's acceptable. Thank**  
 19 **you.**  
 20 ATTORNEY BAILEY: Thank  
 21 you. Yeah, try to pull that mic close.  
 22 That thing's a little bit decibel  
 23 deficient.  
 24 HONORABLE CALI: You  
 25 don't want Bob to be upset because it's

1 sir.  
 2 ATTORNEY FULTON: In  
 3 regard to the timing of any testimony  
 4 after August of 2010 is irrelevant  
 5 because it was whatever was in Mr.  
 6 Bailey's mind up to that date that is,  
 7 that is ---. If this information came to  
 8 Mr. Bailey after that date, it doesn't  
 9 matter because he's already made his  
 10 allegations with regard to the judges in  
 11 the Middle District and the Third  
 12 Circuit.  
 13 HONORABLE CALI: Mr.  
 14 Fulton, I didn't clearly understand that  
 15 timeframe and the issues that you're  
 16 raising. These witnesses are here and  
 17 we'll give them an opportunity. I think  
 18 that this Committee is fully capable of  
 19 distinguishing what we deem to be  
 20 important. We'll value it and  
 21 determine what it is once we look at it.  
 22 But again, they're here. We'll call  
 23 them.  
 24 ATTORNEY BAILEY: Thank  
 25 you, sir.

1 decibel deficient. It's not his fault.  
 2 ATTORNEY FULTON: I didn't  
 3 build it.  
 4 ATTORNEY BAILEY: Just  
 5 identify yourself very briefly.  
 6 **A: My name is Charles ---**  
 7 **Breslin. I'm a resident of Dickinson**  
 8 **Township, Carlisle, Pennsylvania. I'm**  
 9 **a retired Army colonel, 32 years**  
 10 **service, and I currently teach at the**  
 11 **United States Army War College.**  
 12 HONORABLE CALI:  
 13 Where's that?  
 14 **A: In Carlisle.**  
 15 ATTORNEY BAILEY: Did  
 16 you take my services as an attorney on  
 17 for purposes of filing a civil rights suit?  
 18 **A: Yes, I did.**  
 19 Q: Was that case assigned to  
 20 Yvette Kane?  
 21 **A: Yes, it was.**  
 22 Q: Did Yvette Kane  
 23 eventually recuse herself from your  
 24 case?  
 25 **A: Eventually would be the**

1 **term I would use.**  
 2 **Q: More specifically, had a**  
 3 **motion to recuse been filed against**  
 4 **Judge Kane?**  
 5 **A: I did specifically. It was**  
 6 **about the March 2010 timeframe. If I**  
 7 **may explain the circumstances?**  
 8 **Q: Certainly.**  
 9 **A: I was the president of a**  
 10 **citizen's group in Dickinson Township.**  
 11 **I was asked by the township to lead a**  
 12 **citizen's effort to oppose some**  
 13 **warehousing that was coming into the**  
 14 **community. I was elected or appointed**  
 15 **president of the group and in the course**  
 16 **of this warehouse fight I became**  
 17 **acquainted with a Dr. Robert**  
 18 **Thompson. He became a good friend**  
 19 **and I had the occasion to have dinner**  
 20 **with Dr. Thompson in his home as we**  
 21 **strategized our steps in the process of**  
 22 **mounting a citizen's campaign against**  
 23 **this warehousing development that was**  
 24 **occurring in Dickinson Township.**  
 25 **Over the course of dinner one evening,**

1 **that point I thought maybe it's really**  
 2 **not the best thing for me to be doing in**  
 3 **terms of dating a federal judge so I did**  
 4 **not make the phone call. I was**  
 5 **introduced to Judge Kane by Dr.**  
 6 **Thompson at a dinner in March of**  
 7 **2007. Subsequently, we filed a federal**  
 8 **lawsuit citing some civil rights**  
 9 **violations against Dickinson Township**  
 10 **supervisors. At that point I let it be**  
 11 **known that hey, I've got this potential**  
 12 **problem with Judge Kane in that I**  
 13 **never called her and asked her out even**  
 14 **though Dr. Thompson had made**  
 15 **repeated efforts to facilitate that social**  
 16 **engagement. I said is that a problem**  
 17 **because, you know, there's that old**  
 18 **saying in the back of my mind, "hell**  
 19 **hath no fury like a woman scorned". I**  
 20 **didn't call her. I thought will that**  
 21 **prejudice my interests before the court**  
 22 **the fact that she knows me or at least**  
 23 **according to what Dr. Thompson told**  
 24 **me she knew about me, knew who I**  
 25 **was, what I was about in the**

1 **he suggested that I call Judge Yvette**  
 2 **Kane and ask her out on a date. I am**  
 3 **not married. At the time I believe she**  
 4 **wasn't married. I expressed over**  
 5 **several, a couple of months passed and**  
 6 **he would continue to ask me have you**  
 7 **called Judge Kane. I said well, I'm a**  
 8 **little reluctant to because you just don't**  
 9 **pick up the phone and call a federal**  
 10 **judge. I expected that there would be a**  
 11 **number of gatekeepers that would, I**  
 12 **would have to go through to reach a**  
 13 **federal judge realizing that there are**  
 14 **security requirements. It's just not a**  
 15 **common experience at least in my life**  
 16 **to pick up the phone and call a federal**  
 17 **judge. So I asked Dr. Thompson would**  
 18 **you facilitate that phone call. Is there**  
 19 **some way you could get me her**  
 20 **personal telephone call or number so I**  
 21 **could give her a call and ask the Judge**  
 22 **out on a date. He said he would do**  
 23 **that. Well, as the --- warehouse**  
 24 **campaign continued, we realized that at**  
 25 **some point we had to file a lawsuit. At**

1 **community. So I was concerned. I**  
 2 **thought maybe just to insure that**  
 3 **everything was above reproach and**  
 4 **there would be no perceptions of bias,**  
 5 **maybe it would be appropriate for both**  
 6 **the township interests and my own**  
 7 **personal interests in the case that she**  
 8 **recuse herself. So I filed with my**  
 9 **attorney, I asked my attorney to help**  
 10 **me file a request for her recusal. She**  
 11 **subsequently responded stating that my**  
 12 **ATTORNEY FULTON:**  
 13 **Objection.**  
 14 **HONORABLE CALI: Was**  
 15 **that in a court document?**  
 16 **A: It's a court document.**  
 17 **HONORABLE CALI: It's a**  
 18 **court memorandum.**  
 19 **A: Correct.**  
 20 **HONORABLE CALI: Or**  
 21 **order.**  
 22 **A: Or order.**  
 23 **HONORABLE CALI: Is that**  
 24 **one of these documents that we will,**  
 25 **ATTORNEY BAILEY: Yes.**

1 HONORABLE CALI: So the  
 2 document will speak for itself.  
 3 **A: Correct.**  
 4 HONORABLE CALI: Again,  
 5 Colonel, if you can, just summarily,  
 6 you don't need to put, I understand all  
 7 the details, ---  
 8 **A: Correct. She responded**  
 9 **that my complaint was fanciful and**  
 10 **baseless.**  
 11 HONORABLE CALI: Okay.  
 12 **A: That somehow made it to**  
 13 **the newspapers which I didn't**  
 14 **understand why that would show up in**  
 15 **the local media. Subsequently in the**  
 16 **course of our civil rights case here in**  
 17 **depositions last week, it is now on the**  
 18 **record that Dr. Thompson testified that**  
 19 **he in fact spoke**  
 20 ATTORNEY FULTON:  
 21 Objection.  
 22 HONORABLE CALI: You  
 23 can't, that's hearsay so why don't you  
 24 ask your next question because  
 25 **A: Okay.**

1 HONORABLE CALI: But  
 2 there is an order of record recusing  
 3 herself.  
 4 ATTORNEY BAILEY: Who  
 5 assumed duties to case manage the  
 6 case?  
 7 **A: That was Judge Carlson.**  
 8 Q: Are there documents, just  
 9 without getting into the details of them,  
 10 are there documents of record  
 11 regarding falsehoods told by opposing  
 12 counsel that are filed in that case?  
 13 ATTORNEY FULTON:  
 14 Objection.  
 15 ATTORNEY BAILEY: Let me,  
 16 let me  
 17 HONORABLE CALI: Please,  
 18 please get us closer to what we can deal  
 19 with. Again, we're way beyond the  
 20 timeframe of this original complaint. It  
 21 sounds as though there are actions  
 22 pending out there now.  
 23 ATTORNEY BAILEY: There  
 24 are actions pending and there are  
 25 documents including a number of

1 HONORABLE CALI: He's  
 2 responding but there's no question  
 3 really in front of the witness so.  
 4 ATTORNEY BAILEY: I agree.  
 5 We are going to filing that deposition,  
 6 but it is not now ---.  
 7 HONORABLE CALI: It is not  
 8 before this body and we're not trying to  
 9 --- Colonel, but what's relevant we  
 10 need to stick to it so, what question do  
 11 you have?  
 12 ATTORNEY BAILEY: Judge  
 13 Kane, did Judge Kane recuse herself  
 14 from the case unrelated to the denial of  
 15 recusal in your situation?  
 16 **A: To my knowledge, she has**  
 17 **never publicly stated her reason for**  
 18 **recusing herself from the case.**  
 19 HONORABLE CALI: The  
 20 question was was there a recusal order  
 21 issued?  
 22 **A: Yes.**  
 23 HONORABLE CALI: When  
 24 was that approximately?  
 25 **A: I can't recall.**

1 motions to recuse against Judge  
 2 Carlson and there are documents that  
 3 not only is Mr. Fulton aware of, the  
 4 ODC aware, but there are documents  
 5 they have perused and addressed  
 6 including a report of recommendation  
 7 by Judge Carlson filed against me in a  
 8 case before Judge Kane that are part of  
 9 HONORABLE CALI: All  
 10 right. They're a part of those other  
 11 documents you were talking about.  
 12 ATTORNEY BAILEY: Yeah,  
 13 yeah.  
 14 HONORABLE CALI: But I  
 15 think we need to stay on track with  
 16 Col. Breslin in fairness here to what  
 17 we're, where we're at. We're going a  
 18 little bit astray. We're allowing you  
 19 the parameters, but in fairness let's stay  
 20 within the confines of this hearing and  
 21 all of your rights and his rights related  
 22 to those other actions will be pursued  
 23 in those actions.  
 24 ATTORNEY BAILEY: All  
 25 right. Let me try to shorten this up as

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1 best I can. Colonel, do you have a  
 2 recollection of reading orders by Judge  
 3 Carlson attacking me, your attorney?  
 4 ATTORNEY FULTON:  
 5 Objection.  
 6 ATTORNEY BAILEY: These  
 7 are documents.  
 8 HONORABLE CALI: I  
 9 understand they're documents, but if  
 10 the documents exist, we'll be able to  
 11 look at those documents. If they're not  
 12 related to the matter that he's not  
 13 involved in,  
 14 ATTORNEY BAILEY:  
 15 They're related directly to what  
 16 he's involved in. This is his case. I  
 17 mean I asked him, in fact I have to ask  
 18 him if the document exists. I mean I'm  
 19 not asking anything substantively.  
 20 ATTORNEY FULTON: We  
 21 went through this yesterday when  
 22 Judge Conner was on the stand and we  
 23 stopped, we're not even showing the  
 24 witness the document. But in any  
 25 event, if the document exists and it's a

1 you.  
 2 **A: If I may, as a lay person,**  
 3 **the reason why they stand out is my**  
 4 **expectation was that as a judge he**  
 5 **would comment on matters of law and**  
 6 **not comment on things that I view as a**  
 7 **personal attack in a legal opinion.**  
 8 **Frankly, that was the basis for my co-**  
 9 **plaintiffs to seek Judge Carlson's**  
 10 **recusal from the case.**  
 11 Q: Now without getting into  
 12 the substance for purposes of  
 13 identifying the document only, did you  
 14 and your co-plaintiffs, Paul  
 15 Cunningham and Phil Thompson, file  
 16 an affidavit in support of, which is a  
 17 matter of court record, in support of  
 18 Mr. Carlson recusing himself in your  
 19 case?  
 20 **A: Yes, sir.**  
 21 Q: Could the documents, if  
 22 we could maybe refer to them  
 23 collectively as the Breslin case, the  
 24 Breslin matter. I'll give them an  
 25 exhibit number.

1 court document, that's the end of it.  
 2 HONORABLE CALI: Well,  
 3 that's what I'm saying, Mr. Bailey. Is  
 4 there a court document that is related to  
 5 his case that's going to be part of the  
 6 documents that we're going to review?  
 7 ATTORNEY BAILEY: Yes.  
 8 HONORABLE CALI: Then  
 9 they will speak for themselves.  
 10 ATTORNEY BAILEY: Sure,  
 11 but I have to be able to identify them.  
 12 HONORABLE CALI:  
 13 Identify it and do that. Without  
 14 having the document itself be read or  
 15 explained to by the witness.  
 16 ATTORNEY BAILEY: No,  
 17 I'm not doing that.  
 18 HONORABLE CALI: All  
 19 right. Then let's move on.  
 20 ATTORNEY BAILEY: I'm  
 21 doing exactly what you told me to do.  
 22 HONORABLE CALI: Thank  
 23 you.  
 24 **A: My answer is yes.**  
 25 ATTORNEY BAILEY: Thank

1 HONORABLE CALI: 85.  
 2 ATTORNEY BAILEY: Thank  
 3 you, sir.  
 4 ATTORNEY FULTON: I don't  
 5 know that they are.  
 6 HONORABLE CALI: Well,  
 7 you're going to share them with Mr.  
 8 Fulton, but we're going to mark them  
 9 collectively as 85 and then you will  
 10 agree with him as to those being court  
 11 documents and we'll accept them.  
 12 ATTORNEY BAILEY: And to  
 13 round this out, Colonel, did you have  
 14 occasion yourself, if you recollect, to  
 15 participate in discussions, this is  
 16 yourself, with Magistrate Carlson on  
 17 discovery issues and hearings in your  
 18 case?  
 19 **A: I recall the telephonic**  
 20 **conferences that took place.**  
 21 Q: Yes. I have no further  
 22 questions.  
 23 HONORABLE CALI: Cross  
 24 examine.  
 25 ATTORNEY BAILEY: Thank

1 you.  
 2 ATTORNEY FULTON: Good  
 3 morning, Col. Breslin.  
 4 **A: Good morning.**  
 5 Q: Congratulations and thank  
 6 you for your service.  
 7 **A: Thank you.**  
 8 Q: When did you hire Mr.  
 9 Bailey to represent you in this matter?  
 10 **A: Approximately two years**  
 11 **ago, maybe a little bit more.**  
 12 Q: Okay. When you hired  
 13 him, did he ever tell you that he was  
 14 having trouble with any of the courts in  
 15 the Middle District?  
 16 **A: He was very upfront. In**  
 17 **fact, for lack of a better term, he was,**  
 18 **his reputation we found attractive. He**  
 19 **is known as a tenacious, fearless, and**  
 20 **loyal advocate of his clients and that's**  
 21 **what we thought we needed in our**  
 22 **case.**  
 23 Q: Okay. I have nothing  
 24 further.  
 25 ATTORNEY BAILEY:

1 ATTORNEY BAILEY: Yes,  
 2 sir.  
 3 MR. LEWIS: Mr. Bailey,  
 4 he's not here yet.  
 5 ATTORNEY BAILEY: Okay.  
 6 HONORABLE CALI: Do you  
 7 have an alternative witness?  
 8 ATTORNEY BAILEY: Yes,  
 9 sir. Debra Phillis.  
 10 HONORABLE CALI: Debra.  
 11 ATTORNEY BAILEY: Debra  
 12 Phillis.  
 13 HONORABLE CALI: Last  
 14 name Phillis?  
 15 ATTORNEY BAILEY: Phillis,  
 16 P-H-I-L-L-I-S.  
 17 HONORABLE CALI: Just is  
 18 there an offer on her so we?  
 19 ATTORNEY BAILEY: Yeah.  
 20 She has a case before Judge Kane. It  
 21 has always been over and done with  
 22 and through and I will, as I think I'm  
 23 getting the drift of what you want me to  
 24 do here, I can I think --- these questions  
 25 in terms of the court document issue

1 Nothing further, sir. Colonel,  
 2 thank you.  
 3 HONORABLE CALI:  
 4 Colonel, on behalf of all of us,  
 5 thank you for your service. Thank you  
 6 for being here. As I told the other  
 7 individuals who testified, it's your  
 8 prerogative to stay or leave, but you're  
 9 no longer barred from inside because  
 10 you've testified.  
 11 **A: Thank you very much.**  
 12 HONORABLE CALI: Thank  
 13 you for your service. Next witness.  
 14 ATTORNEY BAILEY: Col.  
 15 Phil Thompson.  
 16 HONORABLE CALI: Do we  
 17 have an offer?  
 18 ATTORNEY BAILEY: It's  
 19 exactly the same here and I'll be very  
 20 brief. Double check. He might not be  
 21 here yet and that will solve the  
 22 problem.  
 23 HONORABLE CALI: Is Mr.  
 24 Lewis checking? Is that what he's  
 25 doing?

1 and save a lot of time. These are all  
 2 matters pertaining incidentally to  
 3 matters that are of public record and  
 4 documents in court and filings of which  
 5 I know they're aware of it because we  
 6 discussed it.  
 7 HONORABLE CALI: Again,  
 8 just to be clear, it's not what we want.  
 9 ATTORNEY BAILEY: No, no,  
 10 no.  
 11 HONORABLE CALI: It's  
 12 what we believe we need to adhere to  
 13 the rules of evidence. The  
 14 Committee's role is not a personal we  
 15 belief. It's what the argument is based  
 16 on the applicable rules of the setting.  
 17 With that, call your witness under the  
 18 same parameters that was asked before.  
 19 ATTORNEY BAILEY: Debra  
 20 Phillis. I understand that, Judge. Thank  
 21 you.  
 22 HONORABLE CALI: Mr.  
 23 Bailey, unless Mr. Lewis wants to  
 24 check, the clerk personnel told us that  
 25 she's not, he just came back from the

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1 room and telling us she's not here. If  
 2 someone will check for us. --- maybe  
 3 she's in the ladies room.  
 4 MR. LEWIS: No, sir. She  
 5 stepped out to put money in the meter.  
 6 HONORABLE CALI: Okay.  
 7 Is there any other witnesses you ---?  
 8 ATTORNEY BAILEY: Yes.  
 9 Just a few procedural questions.  
 10 Andrew Kundratic.  
 11 HONORABLE CALI:  
 12 Andrew?  
 13 ATTORNEY BAILEY:  
 14 Andrew Kundratic, K-U-N-D-R-  
 15 A-T-I-C.  
 16 HONORABLE CALI: And  
 17 the offer on Mr. Kundratic?  
 18 ATTORNEY BAILEY: A case  
 19 that ended up in front of Judge Scirica.  
 20 Complaints that were filed with the  
 21 Disciplinary Board which he's not  
 22 going to comment on the substance of  
 23 and whether he's received any response  
 24 just procedurally and to which he will  
 25 reply no.

1 HONORABLE CALI:  
 2 Because we announced that  
 3 when we first began so.  
 4 ATTORNEY BAILEY: I know  
 5 you did. He must've come in. It's my  
 6 error.  
 7 HONORABLE CALI: Mr.  
 8 Bailey, no fault to you. We're just  
 9 repeating it. If there are any witnesses  
 10 here who are going to testify, we're  
 11 going to ask you to leave so, until  
 12 you're called. At this point, it appears  
 13 that there's none. Would you please  
 14 swear the witness in?  
 15 STENOGRAPHER: Do you  
 16 swear or affirm to tell the truth, the  
 17 whole truth, and nothing but the truth?  
 18 MR. KUNDRATIC: Yes, I  
 19 do.  
 20 STENOGRAPHER: Thank  
 21 you.  
 22 HONORABLE CALI: Would  
 23 you state your full name for the record  
 24 please?  
 25 MR. KUNDRATIC:

1 HONORABLE CALI: Under  
 2 the same parameters, we will authorize  
 3 that limited testimony. Is Andrew  
 4 here?  
 5 ATTORNEY BAILEY: Yes,  
 6 sir.  
 7 HONORABLE CALI: You're  
 8 in the courtroom. All right, well.  
 9 ATTORNEY BAILEY: Is he  
 10 here in the courtroom?  
 11 HONORABLE CALI: Yeah,  
 12 he's been in the courtroom.  
 13 ATTORNEY BAILEY: That's  
 14 my  
 15 HONORABLE CALI: ---  
 16 allow that to occur. Would you please  
 17 come forward and take the witness  
 18 stand over there?  
 19 ATTORNEY FULTON: Excuse  
 20 me, Your Honor. Is there any other  
 21 witnesses because none of these were  
 22 on your list yesterday? Is there any  
 23 other witnesses that you're calling that  
 24 might be in the courtroom?  
 25 ATTORNEY BAILEY: No.

1 Andrew Kundratic.  
 2 HONORABLE CALI: Mr.  
 3 Kundratic, Mr. Bailey is going to ask  
 4 you a couple of questions.  
 5 ATTORNEY BAILEY:  
 6 Andrew, this is going to be very  
 7 brief. I don't want you to provide  
 8 substantive information responses.  
 9 They're just procedural questions,  
 10 okay? At different times or I mean did  
 11 you hire me for legal services?  
 12 A: Yes, I have.  
 13 Q: All right. Have you filed  
 14 federal civil rights cases within the  
 15 system?  
 16 A: Yes, I have.  
 17 Q: During that process, did  
 18 you file an appeal that ended up going  
 19 to the Third Circuit Court of Appeals?  
 20 A: Yes.  
 21 Q: Was the head of the panel  
 22 who considered your appeal the  
 23 Honorable Anthony Scirica?  
 24 A: Yes.  
 25 Q: Again, without giving any

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1 substance, have you filed at any time  
 2 any kind of judicial conduct or attorney  
 3 complaint, without getting into the  
 4 substance?  
 5 **A: Yes, I've filed a few.**  
 6 Q: Have you gotten any  
 7 response?  
 8 **A: On one of them I have. I**  
 9 **just recently filed two more.**  
 10 Q: I'm sorry. One moment.  
 11 That's really all I have for you.  
 12 HONORABLE CALI: Cross  
 13 examine.  
 14 ATTORNEY FULTON: Sir, I  
 15 just want to make sure I understand.  
 16 The complaints that you filed were  
 17 against judges?  
 18 **A: Lawyers that represented**  
 19 **me.**  
 20 Q: Okay. Thank you. I have  
 21 nothing further.  
 22 ATTORNEY BAILEY:  
 23 Nothing further, Judge, or Your  
 24 Honor.  
 25 HONORABLE CALI: You're

1 ATTORNEY BAILEY: Could  
 2 you see if, with your indulgence, sir,  
 3 Steve Conklin?  
 4 HONORABLE CALI: Steve  
 5 Conklin.  
 6 MR. SCHNOOK: He's not here  
 7 either.  
 8 HONORABLE CALI: Not  
 9 here. Who else?  
 10 MR. LEWIS: Sir,  
 11 everybody stepped out to put money in  
 12 the meter.  
 13 HONORABLE CALI: All  
 14 right.  
 15 ATTORNEY BAILEY: All  
 16 right. Thom, I'm going to call you  
 17 next.  
 18 HONORABLE CALI: Do we  
 19 have an offer on Mr. Lewis?  
 20 ATTORNEY BAILEY: Mr.  
 21 Lewis is an individual who came to me  
 22 for representation. He is the individual  
 23 Thom Lewis who we questioned Judge  
 24 Jones about repeatedly and about  
 25 which complaints were written. He

1 excused. Thank you for coming. If  
 2 you choose to stay, you're allowed to  
 3 stay or you can leave, whatever your  
 4 prerogative is. Thank you for coming.  
 5 **A: I'm sorry. I didn't know.**  
 6 HONORABLE CALI: That's,  
 7 there's no harm. Thank you very  
 8 much. ---. Could we see if Debra  
 9 Phillis is here? Is that next, Mr. Bailey,  
 10 Debra?  
 11 ATTORNEY BAILEY: If so.  
 12 If not, we're ready to move on. I've got  
 13 three witnesses and these are more  
 14 main witnesses so I'm sorry I'm going  
 15 to let him know.  
 16 HONORABLE CALI: We can  
 17 see if she's back. She doesn't appear  
 18 to be here yet.  
 19 ATTORNEY BAILEY: Mr.  
 20 Schnook.  
 21 MR. SCHNOOK: She is not  
 22 here.  
 23 ATTORNEY BAILEY: Mr.  
 24 Schnook.  
 25 MR. SCHNOOK: Sir.

1 will testify as to a writ of certiorari. He  
 2 will testify as to hearings before Judge  
 3 Rice. This is a witness, one of the  
 4 witnesses with extensive testimony  
 5 which Mr. Fulton is aware. He's made  
 6 his own allegations of judicial  
 7 misconduct. He can speak to those.  
 8 HONORABLE CALI: Again,  
 9 within the parameters of what we have  
 10 discussed as to the parameters of the  
 11 issues that we're here today for and I  
 12 think Mr. Lewis has been here. He's  
 13 heard that so the testimony is going to  
 14 be within those parameters.  
 15 MR. LEWIS: Yes.  
 16 HONORABLE CALI: Would  
 17 you swear the witness please?  
 18 STENOGRAPHER: Do you  
 19 swear or affirm to tell the truth, the  
 20 whole truth, and nothing but the truth?  
 21 MR. LEWIS: Yes.  
 22 STENOGRAPHER: Thank  
 23 you.  
 24 ATTORNEY BAILEY: Mr.  
 25 Lewis, have you filed civil rights suits

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1 in the federal system?  
 2 **A: Yes, I have.**  
 3 **Q: You have to keep your**  
 4 **voice up a little bit. What judges have**  
 5 **handled those cases?**  
 6 **A: Originally the first case**  
 7 **was assigned to Judge Rambo who**  
 8 **recused herself and then it was**  
 9 **assigned to Judge Muir. The second**  
 10 **case was assigned to Judge Jones. I**  
 11 **don't believe I filed any other federal**  
 12 **civil rights suits.**  
 13 **Q: As to Judge Rambo, why**  
 14 **did she recuse herself?**  
 15 **A: Originally I had asked you**  
 16 **to send her a letter because she was**  
 17 **personal friends with one of the**  
 18 **defendants, but I believe she responded**  
 19 **to that letter by telling you she was**  
 20 **recusing herself because she had a**  
 21 **personal friendship with Jessie Smith**  
 22 **who was a different defendant in the**  
 23 **same suit.**  
 24 **Q: Before Judge Muir, did**  
 25 **the Disciplinary Counsel file a motion**

1 **HONORABLE CALI: All**  
 2 **right. I understand, but there is**  
 3 **documentation. If a motion was made,**  
 4 **it was ruled upon by the court I assume**  
 5 **and an order exists, correct?**  
 6 **ATTORNEY BAILEY: Yes,**  
 7 **sir.**  
 8 **HONORABLE CALI:**  
 9 **They're going to be part of the**  
 10 **document.**  
 11 **ATTORNEY BAILEY: Yes,**  
 12 **sir.**  
 13 **HONORABLE CALI: All**  
 14 **right. So you're asking whether a**  
 15 **motion was filed, an opinion was**  
 16 **granted, and that's it. That's for that**  
 17 **issue.**  
 18 **ATTORNEY BAILEY: As to**  
 19 **that issue. The only other issue I was**  
 20 **going to relate to was to ask him, I was**  
 21 **going to ask him whether Bednarick**  
 22 **was sought as a fact witness and**  
 23 **whether it had anything to do with a**  
 24 **disciplinary matter. That's all.**  
 25 **HONORABLE CALI: Okay.**

1 to quash the subpoena to bring Patti  
 2 Bednarick in to testify?  
 3 **ATTORNEY FULTON:**  
 4 **Objection.**  
 5 **HONORABLE CALI: Your**  
 6 **objection?**  
 7 **ATTORNEY FULTON:**  
 8 **Relevance.**  
 9 **HONORABLE CALI: Please**  
 10 **help me with that, Mr. Bailey. What?**  
 11 **ATTORNEY BAILEY: Sure.**  
 12 **This is a matter of a court filing having**  
 13 **to do with, these are documents having**  
 14 **to do with complaints that we have**  
 15 **made about judicial misconduct,**  
 16 **complaints we have made about the**  
 17 **process being unfair to Mr. Lewis and**  
 18 **unfair to me, and it's directly relevant**  
 19 **to those issues. We have complained**  
 20 **in pleadings about this entire process**  
 21 **including Office of Disciplinary**  
 22 **Counsel. These questions are very brief**  
 23 **and they are matters of public record**  
 24 **and they are probative of the kind of**  
 25 **mistreatment I alleged.**

1 **We're going to allow that, but before**  
 2 **we begin, not to embarrass you, with**  
 3 **the gray sweater, ma'am, who just**  
 4 **came in, is that one of the ladies who**  
 5 **you were calling?**  
 6 **MR. LEWIS: No.**  
 7 **HONORABLE CALI: Okay.**  
 8 **Thank you very much. There were a**  
 9 **few missing people so I didn't want to**  
 10 **put you in a bad position. I apologize**  
 11 **for pointing you out. Thank you. So**  
 12 **limited to that, a motion was filed.**  
 13 **ATTORNEY BAILEY: Yeah.**  
 14 **Now as to the exhibit issue, this is the**  
 15 **motion. This is it right here. Maybe**  
 16 **we should give this a number so I'm**  
 17 **going to ask**  
 18 **HONORABLE CALI: 86.**  
 19 **ATTORNEY FULTON: That's**  
 20 **a good number.**  
 21 **ATTORNEY BAILEY: 86.**  
 22 **ATTORNEY FULTON: What is**  
 23 **that?**  
 24 **ATTORNEY BAILEY: His**  
 25 **entire pleadings file I think was Exhibit**



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1 1. We can work that out with Mr.  
 2 Fulton.  
 3 HONORABLE CALI: What is  
 4 that, a motion to do what?  
 5 ATTORNEY BAILEY: This is  
 6 a motion, Office of the Disciplinary  
 7 Counsel to quash subpoena in a civil  
 8 case.  
 9 HONORABLE CALI: Okay.  
 10 ATTORNEY BAILEY: Thom,  
 11 caption, Thom Lewis v. Jessie Smith  
 12 et. al. May 2, it may be May 21, 2007.  
 13 It's hard to read.  
 14 HONORABLE CALI: That's  
 15 the document that was filed and an  
 16 order was received?  
 17 ATTORNEY BAILEY: Yes,  
 18 Your Honor.  
 19 HONORABLE CALI: Okay.  
 20 ATTORNEY BAILEY: The  
 21 subpoena was quashed, yes. All right.  
 22 HONORABLE CALI: So  
 23 attach the order to that please and any  
 24 documents so we can keep sequentially  
 25 all those together.

1 HONORABLE CALI: ---.  
 2 The question that was posed by Mr.  
 3 Bailey was what occurred procedurally  
 4 with respect to the case of Lewis 1.  
 5 That was the question, not the fact, not  
 6 the detail of the entire who testified,  
 7 who didn't.  
 8 **A: Yes, sir. I'm sorry. I**  
 9 **thought that was part of the procedure.**  
 10 HONORABLE CALI: No.  
 11 ATTORNEY BAILEY: No.  
 12 ATTORNEY BAILEY: ---  
 13 object ---. Just do what the court says.  
 14 **A: Yes, sir.**  
 15 Q: Procedurally, try to make  
 16 it a zoom out view of the procedure,  
 17 please.  
 18 **A: After Judge Rambo's**  
 19 **recusal, I believe there were motions to**  
 20 **dismiss. At some point, I'm trying to**  
 21 **remember the date, I believe it was at**  
 22 **some point in 2007 some of the**  
 23 **defendants were dismissed for, I**  
 24 **believe it was qualified immunity or**  
 25 **statute of limitations issue. Some were**

1 ATTORNEY BAILEY: Yeah,  
 2 I'm going, yeah, we're looking for that  
 3 now.  
 4 HONORABLE CALI: Next  
 5 question.  
 6 ATTORNEY BAILEY:  
 7 Procedurally, Thom, what  
 8 occurred, now the motion to quash  
 9 subpoena, was that in Lewis 1, the first  
 10 Lewis case?  
 11 **A: Yes.**  
 12 Q: Procedurally, what,  
 13 procedurally without getting, I mean  
 14 you've heard the rulings on some, you  
 15 know, but in any event just make sure  
 16 you abide by them. The, was there a,  
 17 was the case litigated? In other words,  
 18 Lewis 1, procedurally what happened  
 19 in that case?  
 20 **A: I believe that they**  
 21 **actually, Bridget Montgomery had**  
 22 **listed Patti Bednarick as a witness on**  
 23 **her behalf.**  
 24 ATTORNEY FULTON: I'll  
 25 object.

1 **kept. Several others were dismissed.**  
 2 **After that I believe one defendant was**  
 3 **left, Deb Smith.**  
 4 Q: Was Deborah Smith  
 5 represented by the Attorney General's  
 6 Office?  
 7 **A: Yes, sir, by Tim Keating.**  
 8 Q: Was there an Attorney Joe  
 9 Curcillo who was dismissed as a  
 10 defendant?  
 11 **A: Yes, sir.**  
 12 Q: Did you consequently file  
 13 another action?  
 14 **A: Yes.**  
 15 Q: Were there additional  
 16 defendants in that action?  
 17 **A: Yes.**  
 18 Q: What was the disposition  
 19 of that action?  
 20 HONORABLE CALI: Just  
 21 one moment, Mr. Bailey. Again,  
 22 without embarrassing the young lady  
 23 who just came in, is that one of your  
 24 witnesses, Mr. Lewis?  
 25 MR. LEWIS: No, sir.

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1 ATTORNEY BAILEY: Sir, she  
2 needs to step outside. She would be,  
3 she would be  
4 HONORABLE CALI: Who is  
5 she?  
6 ATTORNEY BAILEY: I think  
7 it's Angela Robinson.  
8 HONORABLE CALI: Is that  
9 you, Ms. Robinson. You may be called  
10 as a witness so at this moment can we  
11 please excuse you out of the  
12 courtroom? Thank you. (end of tape).  
13 --- another action was filed which I  
14 believe to be Lewis 2 which was  
15 referred to as Lewis 2 and that there  
16 were additional defendants of that  
17 action.  
18 **A: Yes.**  
19 ATTORNEY BAILEY: What  
20 happened with that action?  
21 **A: The Lewis 2?**  
22 Q: Yes.  
23 **A: A week after Judge Muir**  
24 **ruled on Lewis 1, Jones had, or I'm**  
25 **sorry, Judge Jones had sat on my case**

1 five days after Judge Muir ruled?  
2 **A: I believe it was five days.**  
3 Q: Were you admonished in  
4 that case for burdening the court with  
5 1300 pages of documents?  
6 **A: I'm not sure which case**  
7 **you're referring to, Mr. Bailey, the first**  
8 **one or the second one.**  
9 HONORABLE CALI: We're  
10 talking about Lewis 2 at the moment.  
11 ATTORNEY BAILEY: This  
12 would be the opinion written by Judge  
13 Jones which is probably correct.  
14 **A: Yes, sir, actually in a**  
15 **footnote he, well, actually he**  
16 **plagiarized from Judge Muir's report**  
17 ATTORNEY FULTON:  
18 Objection.  
19 HONORABLE CALI: You  
20 can't give us an opinion of what your  
21 interpretation of his writings are. Just  
22 answer the question. The question was  
23 related to a court verdict and in  
24 relationship to him making statements  
25 concerning your filing of 1300

1 **for almost a year. A week after Judge**  
2 **Muir dismissed Lewis 1, he decided**  
3 **that that was grounds for a res judicata,**  
4 **I think it's pronounced, dismissal of**  
5 **Lewis 2.**  
6 Q: Had there been any  
7 discovery in the case that Judge Jones  
8 was sitting on?  
9 **A: There was a deposition of**  
10 **Deb Smith. I believe that was in Lewis**  
11 **1.**  
12 Q: That's fine. Was that  
13 deposition sealed?  
14 **A: Yes, sir.**  
15 Q: Was that judgment ---?  
16 **A: I'm sorry, Mr. Bailey. Mr.**  
17 **Thompson just walked in.**  
18 Q: Was that deposition ---.  
19 HONORABLE CALI: Just  
20 one moment, Mr. Bailey, I think that's  
21 Col. Thompson. Unfortunately, we're  
22 going to have to ask you to leave until  
23 you testify. Thank you. I'm sorry.  
24 ATTORNEY BAILEY: Did  
25 Judge Jones rule on that case, it was

1 documents. But please refrain from an  
2 opinion as an attempt to reach a  
3 conclusion in this case. Okay.  
4 **A: Yes, sir.**  
5 ATTORNEY BAILEY: Did  
6 you file 1300 pages in either one or any  
7 of those cases?  
8 **A: No, sir.**  
9 Q: Was there an appeal taken  
10 to the Third Circuit Court of Appeals?  
11 **A: Yes.**  
12 Q: The disposition of that  
13 case was to uphold the District Court's,  
14 is that correct, District Court?  
15 **A: I believe that the appeal to**  
16 **the Third Circuit upheld Judge Jones's**  
17 **ruling, correct.**  
18 Q: Who was the judge on that  
19 case?  
20 **A: I believe it was a panel. It**  
21 **was Judge Scirica, Judge Ambrose, if**  
22 **I'm not mistaken, and I can't remember**  
23 **the third judge.**  
24 Q: Okay. Now, Mr. Lewis,  
25 were sanctions in the forms of requests

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1 for attorney's fees filed before Judge  
 2 Jones?  
 3 **A: Yes, sir.**  
 4 Q: How long after the case  
 5 was closed were those fees filed, those  
 6 requests filed?  
 7 **A: I believe it was roughly**  
 8 **five months.**  
 9 Q: Were you given an  
 10 opportunity to respond?  
 11 **A: No, sir.**  
 12 Q: Judge Jones issued an  
 13 order on attorney's fees filed five  
 14 months after the case was closed and  
 15 granted permission to file attorney's  
 16 fees requesting money from you. Is  
 17 that correct?  
 18 ATTORNEY FULTON: I'm  
 19 going to object. Mr. Bailey continues  
 20 to lead his witnesses. I've allowed it to  
 21 a degree because we are all lawyers,  
 22 but.  
 23 HONORABLE CALI: We  
 24 understand the objection. I think we do  
 25 understand. I'm not going to sustain the

1 ATTORNEY FULTON: I'm  
 2 sorry, sir. The second one?  
 3 **A: Bob Kaufman.**  
 4 ATTORNEY FULTON: Okay.  
 5 ATTORNEY BAILEY: Did  
 6 defense counsel miss any deadlines?  
 7 ATTORNEY FULTON:  
 8 Objection.  
 9 HONORABLE CALI: Mr.  
 10 Bailey, is that --- been already through  
 11 processing of the action, orders have  
 12 been written with relationship to any  
 13 motions related to that. Has the court  
 14 ruled on those issues?  
 15 ATTORNEY BAILEY: Yes.  
 16 But, but if I can't identify them or talk  
 17 about them through the witness with  
 18 very brief procedural questions,  
 19 HONORABLE CALI: You  
 20 can.  
 21 ATTORNEY BAILEY: It's  
 22 very hard for me to defend myself.  
 23 HONORABLE CALI: No, no,  
 24 it's not. We're going to make this,  
 25 we're making this able for you to

1 objection, but we understand that  
 2 procedurally there was a filing, there  
 3 was a request. You testified that you  
 4 weren't given the ability to respond,  
 5 and ultimately your order was issued  
 6 by Judge Jones. Is that accurate?  
 7 **A: Yes, sir.**  
 8 HONORABLE CALI: Is that  
 9 okay, Mr. Bailey?  
 10 ATTORNEY BAILEY: Yes,  
 11 sir. I'm just trying to shorten it up in  
 12 doing this.  
 13 HONORABLE CALI: That's  
 14 all right. You're doing a good job.  
 15 ATTORNEY BAILEY: I'm  
 16 trying.  
 17 HONORABLE CALI: It's  
 18 fine.  
 19 ATTORNEY BAILEY: I'm  
 20 doing my best. Mr. Lewis, just one  
 21 moment. Did defense counsel, who  
 22 was the defense counsel?  
 23 **A: In the sanctions it was**  
 24 **Bridget Montgomery and Bob**  
 25 **Kaufman.**

1 defend yourself on the issues that are  
 2 relevant. I want to make that clear. But  
 3 the appropriate question could be, was  
 4 an order issued in response to any  
 5 filings with relationship to the timing  
 6 of those documents and if there's an  
 7 order issued, we'll have it.  
 8 ATTORNEY BAILEY: I don't  
 9 have your acumen and that's a question  
 10 I can wait, with all due respect, to ask  
 11 after I was doing, in the process of  
 12 doing before the objection was made --  
 13 -.  
 14 HONORABLE CALI: You  
 15 can ask the question.  
 16 ATTORNEY BAILEY: ---  
 17 question. Thank you. Joint motion on  
 18 behalf of defendants Dan Flaherty and  
 19 Frank Stern for lead to file brief nunc  
 20 pro tunc. Do you, that's where I was.  
 21 HONORABLE CALI: Was  
 22 that filed?  
 23 **A: Yes, sir, but it was filed**  
 24 **five months late.**  
 25 ATTORNEY FULTON:

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1 Objection.  
 2 HONORABLE CALI: Again,  
 3 whether he reaches the conclusion of  
 4 the lateness is up to the court to decide  
 5 and not us or him. But again, it was  
 6 addressed in proceedings and the court  
 7 either ruled or didn't rule on it.  
 8 ATTORNEY BAILEY: We  
 9 understand that. I have to ask some  
 10 questions here and in all fairness to me  
 11 and to him he's simply answering the  
 12 question and knowing it was five  
 13 months late in response if a nunc pro  
 14 tunc brief was filed. --- that, I don't  
 15 understand.  
 16 HONORABLE CALI: ---.  
 17 ATTORNEY BAILEY: I don't.  
 18 I don't understand.  
 19 HONORABLE CALI: Mr.  
 20 Bailey, again, conclusions as to the  
 21 lateness, as to language of the judge, or  
 22 reasons for a judge are not for him to  
 23 give opinions. But again it was filed.  
 24 We understand what nunc pro tunc is.  
 25 ATTORNEY BAILEY: ---.

1 months late, I can't presee that. If he's  
 2 trying to do his best to answer the  
 3 questions,  
 4 HONORABLE CALI: ---  
 5 ATTORNEY BAILEY: ---  
 6 cutting the time way down here.  
 7 HONORABLE CALI: We  
 8 have answered, he's answered that  
 9 question and we've accepted it.  
 10 ATTORNEY BAILEY: Okay.  
 11 I'm sorry. I don't understand. I'm just  
 12 not an experienced litigator so I'm  
 13 trying to do my best. Now do you  
 14 recollect whether you appealed Judge  
 15 Jones's order as to sanctions in the  
 16 form of attorney's fees to the Third  
 17 Circuit?  
 18 **A: I appealed Judge Jones's**  
 19 **order for sanctions. That order, again, I**  
 20 **apologize. I'm a little confused. The**  
 21 **actual order.**  
 22 Q: His fine, was it appealed?  
 23 **A: Yes, sir, it was. The fine**  
 24 **was appealed. May I qualify**  
 25 **something?**

1 HONORABLE CALI: It was  
 2 filed, a ruling has been issued, and we  
 3 will review  
 4 ATTORNEY BAILEY: Sir,  
 5 excuse me a minute, please.  
 6 HONORABLE CALI: Excuse  
 7 me.  
 8 ATTORNEY BAILEY: Yes.  
 9 HONORABLE CALI: I'm  
 10 going to be able to finish just as you're  
 11 going to be able to finish. We're going  
 12 to allow you to ask the questions. All  
 13 we're cautioning the witness to do is to  
 14 respond directly to the appropriate  
 15 question to keep this within the  
 16 parameters. Next question.  
 17 ATTORNEY BAILEY: Sir, I  
 18 object to the advisory for this witness.  
 19 It's unfair to me. I am not violating  
 20 any parameter. If he voluntarily comes  
 21 in, I sat here and listened to two judges  
 22 yesterday volunteer question after  
 23 question after question to guide their  
 24 testimony. I haven't planned this with  
 25 him. If he volunteers it was five

1 Q: Certainly ---.  
 2 **A: My understanding was**  
 3 **that Judge Jones issued a sanctions**  
 4 **ruling that did not sanction me that I**  
 5 **was, the request for sanctions against**  
 6 **me was, if I recall correctly, did not is**  
 7 **what he stated.**  
 8 Q: Was the holding of the  
 9 judge, was that appealed?  
 10 **A: Yes, sir.**  
 11 Q: Where was it appealed to?  
 12 **A: The Third Circuit.**  
 13 Q: Who did it go to?  
 14 **A: That would've been Judge**  
 15 **Scirica, Judge Ambrose, and again I**  
 16 **don't recall the third judge.**  
 17 Q: What was the procedural  
 18 decision made by that court?  
 19 **A: They upheld Judge**  
 20 **Jones's award sanction. I'm sorry. I**  
 21 **apologize. I'm a little confused**  
 22 **because it went back. Things were**  
 23 **filed between the District Court and the**  
 24 **Third Circuit Court and it made it**  
 25 **difficult for me to follow what was**

1 **going on. The defendants in the case**  
 2 **actually filed things in the Third Circuit**  
 3 **before they filed it in the Middle**  
 4 **District Court. I'm not positive if**  
 5 **you're asking me the Third Circuit**  
 6 **ruling on a case or the Third Circuit**  
 7 **ruling on the sanctions.**  
 8 Q: Do you have a recollection  
 9 of whether the filings in the Third  
 10 Circuit were timely in nature?  
 11 **A: They were not.**  
 12 ATTORNEY FULTON:  
 13 Objection.  
 14 HONORABLE CALI: Asked  
 15 and answered.  
 16 ATTORNEY BAILEY: Now,  
 17 HONORABLE CALI: We'll  
 18 take judicial ---.  
 19 ATTORNEY BAILEY: The  
 20 hearing, was there some sort of a  
 21 hearing in the Third Circuit?  
 22 **A: Yes.**  
 23 Q: How did that come about  
 24 if you know?  
 25 **A: I believe Judge Scirica**

1 ATTORNEY FULTON:  
 2 Objection.  
 3 HONORABLE CALI: The  
 4 reasons are contained in an order?  
 5 **A: I don't know that they are,**  
 6 **sir.**  
 7 ATTORNEY BAILEY: I don't  
 8 think so.  
 9 HONORABLE CALI: Well,  
 10 then  
 11 ATTORNEY BAILEY: I guess  
 12 we'll have to ask him. He ended up  
 13 doing his own writ so.  
 14 HONORABLE CALI: ---  
 15 there was an opinion or an order issued  
 16 so the order speaks for itself.  
 17 ATTORNEY BAILEY: Okay.  
 18 Yeah, there was. There was an order.  
 19 HONORABLE CALI: Okay.  
 20 ATTORNEY BAILEY: Who  
 21 testified in that Magistrate's hearing?  
 22 **A: I testified, Bridget**  
 23 **Montgomery testified, there was a**  
 24 **woman, I don't recall her name, who I**  
 25 **believe they identified as the**

1 **appointed a Master for a hearing on ---**  
 2 **pressed for sanctions. I mean my**  
 3 **confusion comes from there was a**  
 4 **request for sanctions from Judge Jones**  
 5 **and I believe Judge Scirica appointed**  
 6 **Judge Timothy Rice as, Magistrate**  
 7 **Judge Timothy Rice to hold a hearing,**  
 8 **but it was not for an appeal. It was for**  
 9 **sanctions regarding the actual Third**  
 10 **Circuit filing. It wasn't an appeal from**  
 11 **the filing in Jones's court, I'm sorry,**  
 12 **Judge Jones's court. It was a hearing**  
 13 **for the motion in the Third Circuit or**  
 14 **the sanctions in the Third Circuit.**  
 15 Q: Now did Judge, did  
 16 Magistrate Judge Timothy Rice hold a  
 17 Master's hearing?  
 18 **A: On June 7, 2010 I believe.**  
 19 Q: Were requests for  
 20 witnesses, subpoenas for witnesses  
 21 denied?  
 22 **A: Yes, sir, they were.**  
 23 Q: Was there a reason given  
 24 for why the witnesses were denied if  
 25 you recollect?

1 **bookkeeper for Eckert Seamens, you**  
 2 **testified, Mr. Bailey, and I don't recall,**  
 3 **no, I believe Andy Ostrowski**  
 4 **represented you and I at that hearing,**  
 5 **but I don't recall ---.**  
 6 Q: Do you recollect if the  
 7 defendants in that hearing were given  
 8 three opportunities to supplement their  
 9 billings and filings because the judge  
 10 couldn't figure them out?  
 11 ATTORNEY FULTON:  
 12 Objection.  
 13 **A: No, it was five.**  
 14 ATTORNEY BAILEY: Five.  
 15 Okay.  
 16 **A: That was in each court,**  
 17 **not just --- court.**  
 18 Q: Do you recollect if I  
 19 testified, strike that. Do you recollect  
 20 if I began to testify in the hearing  
 21 before Judge Rice that there were  
 22 problems in the Middle District with  
 23 judges intentionally trying to harm me?  
 24 **A: Actually that was my**  
 25 **testimony also.**

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1 Q: Do you remember if Judge  
2 Rice prevented me from testifying to  
3 that issue?  
4 ATTORNEY FULTON:  
5 Objection.  
6 **A: Yes, he did.**  
7 ATTORNEY BAILEY: I'm  
8 sorry.  
9 **A: Yes, he did.**  
10 ATTORNEY BAILEY: All  
11 right.  
12 HONORABLE CALI: What's  
13 your objection? Just one second, Mr.  
14 Lewis.  
15 ATTORNEY FULTON: Well,  
16 first of all, his testimony is testimony.  
17 Testimony is in the record. It's the  
18 same  
19 **A: May I correct one thing?**  
20 **I'm not positive that I did actually**  
21 **testify to that on the record or just**  
22 **complained in general. But I know you**  
23 **did.**  
24 ATTORNEY BAILEY: Well,  
25 at this juncture, I think you heard what

1 HONORABLE CALI: I'm  
2 confused at the relevance of that  
3 question.  
4 ATTORNEY BAILEY: I am  
5 here because I have had the gall to  
6 criticize and to write into pleadings that  
7 it was a matter of judicial misconduct  
8 why my case or his case, well, actually  
9 it was my case, by that time he had  
10 been out of it, before Judge, that's what  
11 I wrote in this motion for a hearing en  
12 banc. If I can't present it,  
13 HONORABLE CALI: I'm just  
14 asking what the relevance of that  
15 particular  
16 ATTORNEY BAILEY: That's  
17 the relevancy.  
18 HONORABLE CALI: The  
19 question was exactly what if we can get  
20 it so it's clear.  
21 ATTORNEY BAILEY: During  
22 a colloquy with the Judge, Judge Rice,  
23 I had asked him to promise me that he  
24 would read the writing by Mr. Carlson.  
25 All I wanted to establish is that Judge

1 the court has told us to do about  
2 limiting our responses to these types of  
3 things, but did you file judicial  
4 complaints?  
5 **A: Yes, sir.**  
6 Q: Did you get any response?  
7 **A: No, sir. I also filed a**  
8 **complaint with the Pennsylvania**  
9 **Disciplinary Board ---.**  
10 Q: Did you get any response  
11 to that one?  
12 **A: They won't even**  
13 **acknowledge they received it.**  
14 Q: Okay. Now do you have a  
15 recollection of Judge Rice promising to  
16 read Marty Carlson's report and  
17 recommendation to Judge Kane in the  
18 Lease case?  
19 ATTORNEY FULTON:  
20 Objection.  
21 **A: Yes, sir, he made ---.**  
22 HONORABLE CALI: Wait.  
23 The objection is.  
24 ATTORNEY FULTON:  
25 Relevance.

1 Rice, at the hearing and it is in  
2 testimony, if he said he would read it.  
3 HONORABLE CALI:  
4 Answer that question if you  
5 know.  
6 **A: Could you repeat the**  
7 **question, Mr. Bailey?**  
8 ATTORNEY BAILEY: Sure.  
9 Do you remember Judge Rice saying  
10 he would promise to read the, what I  
11 term an attack on me by Judge Carlson  
12 in the Lease case, in a case --- before  
13 Judge Kane?  
14 **A: Yes, sir, I believe he said**  
15 **he would.**  
16 Q: Okay. All right. Now did  
17 you, do you have a recollection of  
18 testifying at that actually hearing to  
19 determine the attorney's fees were  
20 going to be settled with, testifying  
21 about information that you had  
22 provided concerning some sort of cult?  
23 **A: Yes, sir.**  
24 Q: This is very important. I  
25 want you to listen to me carefully now.

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1 As part of the information you had  
2 provided pertaining to that cult, did you  
3 provide information from a young lady  
4 who had been in that cult and up there  
5 with one of her parents?  
6 **A: Yes, sir.**  
7 **ATTORNEY FULTON:**  
8 Objection.  
9 **HONORABLE CALI:** Again,  
10 **ATTORNEY BAILEY:** Your  
11 Honor, I can make a real offer on this  
12 and  
13 **HONORABLE CALI:** Please  
14 make an offer that's relevant to this  
15 proceeding and I assume its relevance  
16 and there's hearsay. There's other  
17 issues that are obviously in front of us  
18 and again, I am assuming those matters  
19 were heard in front of another judicial  
20 panel or body and again the parameters  
21 of our inquiry, right, wrong, or  
22 indifferent, are left to what's in front of  
23 us now and not what somebody is  
24 hearing or heard or made a decision.  
25 **ATTORNEY BAILEY:** Not

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1 following appropriate procedures. No  
2 one is hamstringing anyone here.  
3 **ATTORNEY BAILEY:** Yeah,  
4 I'm sorry, sir.  
5 **HONORABLE CALI:** We  
6 have a disagreement.  
7 **ATTORNEY BAILEY:** I  
8 respect you very much. I disagree with  
9 you.  
10 **HONORABLE CALI:** Fine.  
11 **ATTORNEY BAILEY:** You  
12 are limiting my ability to defend myself  
13 and it's unfair and these are very  
14 reasonable things I'm asking. Let me  
15 provide, every time this guy has an  
16 objection, we've got to entertain all of  
17 this in my case. It's just overdone.  
18 You are judge. You can sort this stuff  
19 out. Here's all I'm asking, sir. This is  
20 the proffer. There was, I am being, I'm  
21 --- here. My livelihood is being  
22 subjected to all of this because I filed a  
23 document for a motion on a hearing en  
24 banc. When that information came  
25 back, it included letters that had to do

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1 what another, sir, you are so  
2 hamstringing me here I can't do my  
3 case. Let me, let me, please let me do  
4 an offer. I get frustrated  
5 **HONORABLE CALI:** ---  
6 offer relevant to this.  
7 **ATTORNEY BAILEY:** I can't  
8 get anywhere because you won't let  
9 me. Let me provide the offer. I asked  
10 for an opportunity to give you an offer.  
11 Let me try to do that.  
12 **ATTORNEY FULTON:** Could I  
13 ask Mr. Lewis to step out?  
14 **HONORABLE CALI:** Excuse  
15 me. The witness will step out.  
16 **ATTORNEY BAILEY:** Sure.  
17 That's fine.  
18 **HONORABLE CALI:** Mr.  
19 Lewis, please step out.  
20 **ATTORNEY BAILEY:** It's  
21 attached to the discipline petition  
22 against me.  
23 **HONORABLE CALI:** Your  
24 offer. All we're doing right now is  
25 asking the witness to leave and

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1 with these allegations that had been  
2 made in the Lewis case dealing with a  
3 cult and the closeness of Judge Jones to  
4 Mr., specifically Dan Flaherty and that  
5 cult. Now I'll tell you what the  
6 significance of these letters are if I can  
7 and all that he can testify to because he  
8 knows it better than I. We alleged that  
9 somebody in the Third Circuit, Judge  
10 Scirica had to have attached those  
11 letters when these matters came back  
12 because they had been struck and they  
13 ended up in this petition from these  
14 folks. Where did they get them? How  
15 did they get them? They weren't part  
16 of the record. They had been stricken.  
17 Now that's a real issue for me in terms  
18 of my argument that somebody in this  
19 great system is out to get me which  
20 they are. That's my own, why can't I  
21 defend myself on that?  
22 **HONORABLE CALI:** You  
23 mix up your statements by saying and  
24 concluding that no one is allowing you  
25 to defend yourself first. We are

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1 allowing you to do that. The question  
 2 with this witness is very specific. What  
 3 information or personal knowledge  
 4 does he have to testify to which is not  
 5 hearsay with regard to these issues? If  
 6 he does not have personal knowledge,  
 7 he cannot testify to hearsay.  
 8 ATTORNEY BAILEY: It's not  
 9 hearsay and all, I have a suggestion that  
 10 could resolve this.  
 11 HONORABLE CALI: What's  
 12 your suggestion?  
 13 ATTORNEY BAILEY: My  
 14 suggestion would be that I be allowed  
 15 to ask him this question. This man  
 16 wrote, by the way so you know, his  
 17 own writ of certiorari for the Supreme  
 18 Court addressing these very issues. I  
 19 simply want to ask him this question if  
 20 you will permit me. Can you, do you  
 21 have any knowledge of letters that were  
 22 struck in the underlying litigation that  
 23 Judge Scirica had to have provided to  
 24 the Disciplinary Board and  
 25 Disciplinary Counsel?

1 respond. I'll lay a foundation question  
 2 for that that might make this more  
 3 understandable also.  
 4 HONORABLE CALI: You're  
 5 still under oath, Mr. Lewis.  
 6 A: Yes.  
 7 ATTORNEY BAILEY: Mr.  
 8 Lewis, let me ask you a couple very  
 9 brief foundation questions. Was I, Don  
 10 Bailey, charged with writing a writ of  
 11 certiorari for you to the United States  
 12 Supreme Court?  
 13 A: Yes, sir, I believe it was  
 14 paragraph 24.  
 15 Q: Were you, a very simple  
 16 question. Do you have any knowledge  
 17 of two letters that were struck and  
 18 what's the history of those letters for  
 19 the court?  
 20 A: There were originally  
 21 information from a Pennsylvania  
 22 attorney named Wendy Witt that was  
 23 stricken from the record I believe the  
 24 Third Circuit, I don't believe it was the  
 25 Middle District, and then subsequently

1 HONORABLE CALI: Well,  
 2 you can ask him about letters that he  
 3 has knowledge of that may have been  
 4 stricken.  
 5 ATTORNEY BAILEY: Okay.  
 6 HONORABLE CALI: --- the  
 7 next level where he has no personal  
 8 knowledge is beyond his ability to  
 9 testify. No one's hamstringing you.  
 10 These are rules of ethics that have been  
 11 propagated by others who we as  
 12 lawyers and this Committee are bound  
 13 by. That is the ramification of what  
 14 we're doing here so get Mr. Lewis  
 15 here. You can ask him ---.  
 16 ATTORNEY BAILEY: I'll just  
 17 ask him some questions about the  
 18 letters.  
 19 HONORABLE CALI: Thank  
 20 you.  
 21 ATTORNEY BAILEY: I think  
 22 he knows enough that he can ---.  
 23 HONORABLE CALI: ---  
 24 leading in it and ---.  
 25 ATTORNEY BAILEY: He can

1 reattached to this complaint. Is that?  
 2 Q: That's what I wanted to  
 3 ask you about.  
 4 A: Yes. Wendy Witt was the  
 5 Q: Could --- this because ---  
 6 hear this. What I'm going to suggest to  
 7 you is not to get into any details. I'm  
 8 sorry. Not any details. I'm going to  
 9 yield to substantively no questions  
 10 about it because as you very  
 11 appropriately pointed out to me these  
 12 are matters of documents in record, etc.  
 13 HONORABLE CALI: Mr.  
 14 Fulton, okay?  
 15 ATTORNEY FULTON: ---.  
 16 A: I'm sorry, sir, I  
 17 misunderstood the question.  
 18 ATTORNEY BAILEY: All  
 19 right. Do you know whether in any of  
 20 the processes either before Magistrate  
 21 Judge Timothy Rice and Third Circuit  
 22 Court Judge Anthony Scirica that you  
 23 were permitted, you or I for that matter,  
 24 were permitted to subpoena any  
 25 witnesses?



1 **A: No, sir, we were not.**  
 2 Q: Do you remember if we  
 3 were allowed to subpoena the person  
 4 who actually did the billings against  
 5 us?  
 6 **A: That would've been David**  
 7 **Schertz I think his name was. We were**  
 8 **not allowed to subpoena him.**  
 9 Q: All right. Mr. Lewis, did  
 10 you compose and write a writ of  
 11 certiorari to the Supreme Court of the  
 12 United States?  
 13 **A: Yes, sir, I did. It was an**  
 14 **appeal from the Third Circuit decision**  
 15 **denying the appeal from Jones, I'm**  
 16 **sorry, Judge Jones's court. I believe**  
 17 **it's called Lewis 2 or referred to as**  
 18 **Lewis 2. I wrote it on my own.**  
 19 Q: Let me ask you some  
 20 specific questions because I've been  
 21 accused.  
 22 **A: Yes, sir, I know.**  
 23 Q: Well, I'm going to ask you  
 24 some specific questions. You're under  
 25 oath here. You understand that?

1 the relevance of Mr. Lewis doing  
 2 anything for a pro se defendant?  
 3 **ATTORNEY BAILEY:** Yes,  
 4 sir. Yesterday in questioning and it  
 5 came out on direct and then I did some  
 6 cross on it. Judge Jones testified that  
 7 he, and Mr. Lewis was here by the way  
 8 so it doesn't do any harm to  
 9 **HONORABLE CALI:** Right.  
 10 **ATTORNEY BAILEY:** Judge  
 11 Jones had testified that he personally  
 12 contacted Paul Killion at the Office of  
 13 Disciplinary Counsel to complain that  
 14 Mr. Ostrowski, excuse me, sir. That  
 15 Mr. Ostrowski was practicing law, you  
 16 know, without a license.  
 17 **HONORABLE CALI:** We  
 18 heard his testimony.  
 19 **ATTORNEY BAILEY:** Okay.  
 20 Well, I just want, you know, I want to  
 21 find out if there, all I want to ask him is  
 22 if there was any investigation done by  
 23 the Office of Disciplinary Counsel and  
 24 whether or not he was questioned or  
 25 Mr., there are also issues I want to ask

1 **A: Completely.**  
 2 Q: Did I assist you or help  
 3 you in any way with the preparation or  
 4 writing of that writ of certiorari?  
 5 **A: Not for one second.**  
 6 Q: Did I have anything at all  
 7 to do with that writ of certiorari?  
 8 **A: I did make a copy at your**  
 9 **office.**  
 10 Q: God bless you.  
 11 **A: I'm sorry about that.**  
 12 Q: Well, pay the bill. ---  
 13 Now do you recollect a case before the  
 14 Honorable John E. Jones, III where the  
 15 plaintiff in the matter was a gentleman  
 16 named Miles Thomas?  
 17 **A: Yes, sir.**  
 18 Q: Do you recollect whether  
 19 you wrote the brief for Miles Thomas  
 20 in that case, brief or complaint,  
 21 something, I don't honestly know,  
 22 when he was pro se?  
 23 **ATTORNEY FULTON:**  
 24 Objection.  
 25 **HONORABLE CALI:** What is

1 him about how he was treated before  
 2 Judge Jones and whether or not there  
 3 was any investigation done into who  
 4 wrote the document for Mr., for Miles.  
 5 That's all.  
 6 **HONORABLE CALI:** I'm  
 7 going to limit that scope very much  
 8 because we heard Judge Jones's  
 9 testimony, but what that has to do on  
 10 this particular case, I'm not sure, but if  
 11 you want to limit your questions related  
 12 to his involvement, very limited  
 13 because I think it's beyond what we're  
 14 here for.  
 15 **ATTORNEY BAILEY:** Okay.  
 16 --- very quick. Did you write a brief  
 17 for Miles?  
 18 **A: I did not write a brief.**  
 19 **What I wrote was Judge Carlson had**  
 20 **issued, unfortunately I was very**  
 21 **involved with Miles Thomas and I**  
 22 **helped him through the whole process.**  
 23 **When Andy was told he was not**  
 24 **allowed to help Miles Thomas**  
 25 **anymore,**

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1 HONORABLE CALI: Is  
 2 Andy Mr. Ostrowski?  
 3 A: Yes, sir, I'm sorry. Mr.  
 4 Ostrowski. An order, and I don't recall  
 5 what it was an order for, I think it was  
 6 a report of recommendation from Judge  
 7 Carlson came down that was just so  
 8 offensive at every level I wrote and  
 9 responded to each and every ---  
 10 allegations, but each and every  
 11 paragraph he put in there and I ---  
 12 online.  
 13 ATTORNEY BAILEY: Did  
 14 anyone ever contact you to investigate  
 15 the matter?  
 16 A: No, sir, but my  
 17 understanding is that --- was ---.  
 18 Q: During the Miles Thomas  
 19 litigation, did Judge Jones attack you in  
 20 any way?  
 21 ATTORNEY FULTON:  
 22 Objection.  
 23 HONORABLE CALI: What is  
 24 the  
 25 ATTORNEY FULTON:

1 ATTORNEY BAILEY: "Lost".  
 2 A: Yes, sir.  
 3 Q: Last, did you make any  
 4 allegations anywhere that Patti  
 5 Bednarick was engaged in the unlawful  
 6 trafficking of ---  
 7 ATTORNEY FULTON:  
 8 Objection.  
 9 ATTORNEY BAILEY: Office  
 10 of Disciplinary Counsel?  
 11 ATTORNEY FULTON:  
 12 Objection.  
 13 HONORABLE CALI:  
 14 Sustained.  
 15 ATTORNEY BAILEY: You  
 16 know what, I don't have anything more.  
 17 HONORABLE CALI: Cross  
 18 examine.  
 19 ATTORNEY BAILEY: I would  
 20 like to point out to the court that there  
 21 are documents that --- to. We'll submit  
 22 those.  
 23 HONORABLE CALI: All  
 24 documents need to be identified and  
 25 reviewed if they're going to be

1 Relevance?  
 2 HONORABLE CALI: Again,  
 3 I'm going to sustain that. Again, that  
 4 case is not relevant to this case. Next  
 5 question.  
 6 ATTORNEY BAILEY: Give  
 7 me one moment, Mr. Lewis. I have a,  
 8 I'm going to try and ---- these  
 9 questions. Just give me a moment to  
 10 look through this very quickly. I may  
 11 be close to being finished.  
 12 HONORABLE CALI: Thank  
 13 you.  
 14 ATTORNEY BAILEY: Thank  
 15 you. Did you ever file a complaint  
 16 with the Pennsylvania Liquor, excuse  
 17 me, not the Pennsylvania Liquor  
 18 Control, the Pennsylvania Office of  
 19 Disciplinary Counsel that was lost?  
 20 A: Yes.  
 21 Q: Don't get into the  
 22 substance of it. Just  
 23 ATTORNEY FULTON: That  
 24 was what?  
 25 STENOGRAPHER: Lost.

1 submitted as we said we would. Okay.  
 2 ATTORNEY BAILEY: Did  
 3 you ever identify in any, did you ever  
 4 identify  
 5 HONORABLE CALI: Not by,  
 6 excuse me, not by Mr. Lewis today.  
 7 By you and Mr. Fulton as we  
 8 previously directed we would accept  
 9 documents that you and Mr. Fulton  
 10 have looked at and reviewed. Not Mr.  
 11 Lewis.  
 12 ATTORNEY BAILEY: I  
 13 misunderstood.  
 14 HONORABLE CALI: Thank  
 15 you.  
 16 ATTORNEY BAILEY: Thank  
 17 you.  
 18 HONORABLE CALI: Cross  
 19 examine.  
 20 ATTORNEY FULTON: Thank  
 21 you. Good morning, Mr. Lewis.  
 22 A: Thank you, sir. Good  
 23 morning.  
 24 Q: I believe that both in your  
 25 direct testimony with regard to Lewis 2

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1 as we're calling it, that was before  
2 Judge Jones, correct?  
3 **A: Yes.**  
4 **Q:** You said that the, first of  
5 all, do you remember complaint was  
6 filed in that matter?  
7 **A: Yes, sir. I believe Lewis 1**  
8 **was filed in**  
9 **HONORABLE CALI:** We're  
10 talking about Lewis 2.  
11 **ATTORNEY FULTON:** Yeah,  
12 we're talking about Lewis 2.  
13 **A: I can't recall the exact**  
14 **date. Lewis 2 was filed roughly four or**  
15 **five months after Lewis 1.**  
16 **Q:** Okay. If I tell you that the  
17 docket reflects that the complaint was  
18 filed on November 2, 2007, does it  
19 sound about right?  
20 **A: Lewis 2?**  
21 **Q:** Yes.  
22 **A: Yes, sir, I would guess,**  
23 **yes.**  
24 **Q:** Okay. I believe your  
25 testimony on the record was that after

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1 Bailey of filing 1300 pages of  
2 documents. Is that accurate? Is that  
3 your testimony?  
4 **A: No, sir.**  
5 **Q:** Okay.  
6 **A: Verbatim Judge Jones**  
7 **copied Judge Muir's statement that I**  
8 **had filed, or I'm sorry, the plaintiff**  
9 **which I assume is myself and Mr.**  
10 **Bailey had filed 1300 pages of**  
11 **documents --- frivolous, but baseless --**  
12 **- it was in fact the plaintiffs who had**  
13 **filed those documents. Not, I'm sorry,**  
14 **sir.**  
15 **Q:** Go ahead and finish.  
16 **A: Judge Jones had verbatim**  
17 **copied from Judge Muir's, I believe it**  
18 **was his opinion.**  
19 **Q:** Okay. That was contained  
20 in the memorandum that dismissed  
21 your case. Is that correct?  
22 **A: I'm not positive that that is**  
23 **the case. It would've been, I believe**  
24 **Judge Jones might've ordered, had two**  
25 **or three different orders and I'm not**

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1 filing this complaint the matter  
2 languished for a year. Is that correct?  
3 **A: I believe the Judge**  
4 **dismissed it, it was a year, or I'm sorry.**  
5 **It would be nine months. I believe it**  
6 **was dismissed July or August so**  
7 **roughly nine months.**  
8 **Q:** It was your, it was your  
9 belief the matter had languished for  
10 that period of time?  
11 **A: I don't recall any specific**  
12 **activity in Jones, or I'm sorry, in Judge**  
13 **Jones for the Lewis 2 case.**  
14 **Q:** Okay.  
15 **A: May I qualify that, sir? I**  
16 **believe there were filings, but I don't**  
17 **recall. We were not in discovery or ---.**  
18 **Q:** Okay. So all you're  
19 talking about you had not had any  
20 discovery during that period of time.  
21 **A: I do believe there were**  
22 **filings back and forth, yes, sir.**  
23 **Q:** Then I believe the  
24 question came up that Judge Jones  
25 either accused you or accused Mr.

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1 **sure which order that --- came in.**  
2 **Q:** Okay. Was there more  
3 than one document that Judge Jones  
4 filed that made mention of the 1300  
5 pages or it was just the one document?  
6 **A: It was raised in our**  
7 **pleadings in both I believe the Third**  
8 **Circuit and in my writ of certiorari I**  
9 **believe and also through the sanction**  
10 **proceedings that went through those**  
11 **same courts, but I don't recall exactly**  
12 **which ones where, where it might've**  
13 **come up other than that.**  
14 **Q:** Okay.  
15 **A: I don't recall if Judge**  
16 **Jones himself specifically ---.**  
17 **Q:** Okay. May I approach?  
18 **HONORABLE CALI:** Yes.  
19 (end of tape).  
20 **ATTORNEY FULTON:** --- Mr.  
21 Lewis, what has been marked and  
22 admitted as ODC 11.  
23 **A: ---**  
24 **HONORABLE CALI:** What  
25 number is it?

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1 ATTORNEY FULTON: 11,  
2 ODC 11. Do you recognize that, sir?  
3 **A: It appears to be a**  
4 **memorandum, but I**  
5 Q: Is there a document  
6 number on it that the court assigned to  
7 it?  
8 **A: Is that the Bates stamp or**  
9 **are we talking ---? Yes, sir, it ---.**  
10 Q: Okay. What document  
11 number would that be on there?  
12 **A: It says document 24.**  
13 Q: Is there a date stamp on  
14 the top?  
15 **A: August 7 of 08.**  
16 Q: If you will,  
17 **A: I'm sorry, sir.**  
18 Q: That's okay. Do you  
19 recognize, have you seen this?  
20 **A: I assume I have, but I**  
21 **honestly ---.**  
22 Q: I want to direct your  
23 attention to the second full paragraph  
24 of page 5 and ask you if that's what  
25 you're referring to about the 1,300

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1 Q: Yeah, why don't you just  
2 read that, just that paragraph.  
3 **A: That paragraph doesn't**  
4 **reference --- documents. Oh, thanks.**  
5 **"On July 29, Judge Muir granted Deb**  
6 **Smith's motion for summary judgment**  
7 **on a 512 case." I need --- 76.**  
8 ATTORNEY BAILEY: It's not  
9 in the case. Objection.  
10 ATTORNEY FULTON: It is in  
11 the case.  
12 HONORABLE CALI: What's  
13 not, what are you talking about?  
14 ATTORNEY BAILEY: I  
15 wasn't allowed to question him about  
16 that, about the substance of those  
17 things.  
18 HONORABLE CALI: He's  
19 not. He's asking him about an order  
20 that's of record. That's all he's reading.  
21 He can testify as to various orders and  
22 things that the Judge had done in an  
23 order and he's cross examining on the  
24 order. That's all. He already has  
25 clarified that he made a mistake in

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1 pages.  
2 **A: I apologize. I misspoke. It**  
3 **would've been Judge Muir who had it**  
4 **in his footnote and I believe, like I said,**  
5 **this is copied verbatim from Judge**  
6 **Muir's footnote.**  
7 Q: Okay.  
8 **A: I believe I testified it was**  
9 **Judge Jones who had placed it in a**  
10 **footnote and I'm sorry for that.**  
11 Q: That's quite all right. So  
12 Judge Jones in his memorandum, this  
13 memorandum of August 7, 2008  
14 reiterates what Judge Muir did in his  
15 case. Is that right?  
16 **A: No, sir. --- the error.**  
17 Q: It reads and correct me if  
18 I'm wrong, it says, "On July 29, 2008  
19 Judge Muir granted Deb Smith's  
20 motion for summary judgment in a 512  
21 case." Is that what it says?  
22 **A: I'm sorry. I can't see ---.**  
23 Q: Oh, I'm sorry.  
24 **A: Would you like me to just**  
25 **read it?**

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1 characterizing Judge Jones versus  
2 Judge Muir and I think he's just  
3 clarifying that. So just, read it. Read  
4 that document.  
5 **A: "Judge Muir found**  
6 **nothing in the record, which included**  
7 **more than 1,300 pages of documents**  
8 **submitted by Lewis, suggesting that**  
9 **Smith had acted under cover of state**  
10 **law or used Lewis's name or license to**  
11 **illegally buy or sell dogs. Judge Muir**  
12 **ordered judgment in Smith's favor and**  
13 **512 case is closed."**  
14 HONORABLE CALI: That's  
15 the end of the paragraph.  
16 **A: Yes, sir.**  
17 ATTORNEY FULTON: Mr.  
18 Lewis, you already testified that you  
19 were, you were not in fact sanctioned  
20 either by Judge Jones or by the Third  
21 Circuit, correct?  
22 **A: Again, I apologize for my**  
23 **confusion. I believe Judge Jones's**  
24 **order said it was denied --- sanctions,**  
25 **but and this is where my confusion**

1 comes from, Bridget Montgomery filed  
2 sanctions requesting sanctions for five  
3 separate cases in Judge John Jones's  
4 court. I'm confused as to which ones  
5 he denied and how and I don't believe  
6 that the same thing occurred in the  
7 Third Circuit. She filed identical  
8 documents for identical --- requesting  
9 fees for five different cases that hadn't  
10 even been in front of them. I'm not, I  
11 don't quite recall how they removed me  
12 from that or denied those requests for  
13 fees. I do know the end result is they  
14 found nothing, that I did nothing wrong  
15 and I was, there was no sanction  
16 against me.

17 Q: However, they did find  
18 that Mr. Bailey had done wrong,  
19 correct?

20 A: To be honest, sir, I don't  
21 know that I've ever seen the word  
22 frivolous used until it was used by  
23 Bridget Montgomery in some unusual  
24 findings.

25 Q: You reviewed Judge

1 qualifies me as his employee.  
2 ATTORNEY BAILEY:  
3 Objection. Where's the  
4 relevancy of this?  
5 HONORABLE CALI:  
6 Sustained.  
7 ATTORNEY FULTON: Other  
8 than the Miles Thomas writing that you  
9 did, have you done any other writing  
10 for Mr. Bailey?

11 A: I don't believe so. I  
12 believe I've been asked to and I don't  
13 recall if it was for Mr. Bailey. I've  
14 been asked to type things, but I wasn't  
15 paid for it.

16 Q: But, I mean you weren't  
17 the one who authored any document  
18 other than the Miles Thomas.

19 A: I didn't author the  
20 document. I published, I responded to  
21 Judge Carlson's

22 ATTORNEY BAILEY:  
23 Objection. Relevancy.  
24 HONORABLE CALI: What is  
25 the relevance of the question?

1 Rice's court recommendation, correct?

2 A: Yes, sir.

3 Q: Didn't he use the word  
4 frivolous?

5 A: He used a lot of words and  
6 to be honest, I don't recall which ones  
7 were there. I guess my response would  
8 be as I've heard lawyers repeatedly say  
9 it's a document that speaks for itself,  
10 but I don't recall. If it is, it is.

11 Q: Are you, are you  
12 employed by Mr. Bailey?

13 A: No.

14 Q: Friend of Mr. Bailey?

15 A: Very much so.

16 Q: Have you done any work  
17 for Mr. Bailey?

18 A: I'm a self contractor who  
19 records video depositions and swears  
20 people in.

21 Q: Okay.

22 A: That's part of his wife's  
23 company. I don't believe, I'm not sure,  
24 if Mr. Bailey employs individuals to  
25 use for depositions, I don't know if that

1 ATTORNEY FULTON: I'll  
2 withdraw the question and I have no  
3 more questions.

4 HONORABLE CALI: Mr.  
5 Bailey.

6 ATTORNEY BAILEY: Just  
7 one follow-up if I may.

8 HONORABLE CALI: Yep.

9 ATTORNEY BAILEY: In a  
10 court ordered document,

11 HONORABLE CALI: Just  
12 identify it for us, Mr. Bailey.

13 ATTORNEY BAILEY: Yeah,  
14 the background of this order is as  
15 follows, it's an order by Judge Jones,  
16 document 41 --- 0211, March 18, 2010.

17 HONORABLE CALI: Is that  
18 Lewis 2?

19 ATTORNEY BAILEY: I  
20 believe so, yes, sir. Do you have a  
21 recollection of Judge Jones writing,  
22 "We shall excuse defendant's counsel's  
23 oversight regarding the timeliness of  
24 the brief. However, we admonish  
25 defensive counsel to pay closer

1 attention to rule changes in the future.”  
 2 Do you recollect that?  
 3 **A: Yes, sir, because there was**  
 4 **an ongoing problem with not receiving**  
 5 **information from the defendants in the**  
 6 **case in a timely, --- timely fashion is**  
 7 **the way to put it.**  
 8 Q: Do you know whether  
 9 Bridget Montgomery was on the  
 10 Middle District Rules Committee?  
 11 **A: I believe I saw her name**  
 12 **posted on the Rules Committee. I**  
 13 **know I heard Judge Jones, --- say that.**  
 14 HONORABLE CALI: Just  
 15 your personal knowledge. The  
 16 question is do you have any personal  
 17 knowledge of whether or not she was  
 18 on that Committee or not.  
 19 **A: I saw it published on the**  
 20 **Rules Committee website and Judge**  
 21 **Jones identified her as on ---. You did**  
 22 **read a letter or she specifically claimed**  
 23 **she was not on this Committee.**  
 24 ATTORNEY BAILEY: Do you  
 25 have a recollection of Bridget

1 Thompson for a very brief.  
 2 HONORABLE CALI: He’s  
 3 here and I think there was another lady  
 4 who went to get, maybe Phillis is also  
 5 here. You want Col. Thompson first,  
 6 Mr. Bailey?  
 7 ATTORNEY BAILEY: Please,  
 8 sir. Please, yes. Right up here,  
 9 Colonel.  
 10 HONORABLE CALI:  
 11 Colonel, welcome. Would you  
 12 swear the witness in please?  
 13 STENOGRAPHER: Do you  
 14 swear or affirm to tell the truth, the  
 15 whole truth, and nothing but the truth?  
 16 COL. THOMPSON: I do.  
 17 STENOGRAPHER: Thank  
 18 you.  
 19 HONORABLE CALI: Would  
 20 you state your full name for the record?  
 21 **A: Phillip, two Ls, Edwin**  
 22 **Thompson, T-H-O-M-P-S-O-N.**  
 23 HONORABLE CALI: Mr.  
 24 Bailey.  
 25 ATTORNEY BAILEY: Can I

1 Montgomery claiming she didn’t get  
 2 her --- rules books?  
 3 ATTORNEY FULTON:  
 4 Objection.  
 5 HONORABLE CALI: We  
 6 understand the order. It’s in the order.  
 7 We have, we’ll have that document and  
 8 it’s self-explanatory.  
 9 ATTORNEY BAILEY: I don’t  
 10 think that’s in the order, but it’s in a  
 11 brief.  
 12 HONORABLE CALI: No, I  
 13 mean your letter, your recitation of  
 14 what the Judge had stated regarding  
 15 defense counsel is in the record which  
 16 has been, is going to be submitted.  
 17 Any other questions?  
 18 ATTORNEY BAILEY: No.  
 19 HONORABLE CALI: Any  
 20 redress?  
 21 ATTORNEY FULTON: No, sir.  
 22 HONORABLE CALI: Thank  
 23 you. You can return to your seat.  
 24 **A: Thank you, sir.**  
 25 ATTORNEY BAILEY: Col.

1 just refer to you as Colonel? Is that  
 2 okay?  
 3 **A: First name is fine.**  
 4 Q: Phil. Can you pull that  
 5 mic closer to you and watch and try to  
 6 keep your voice up? It’s going to be  
 7 very brief. Are you involved in a civil  
 8 rights case that had been filed and was  
 9 referred to Judge Kane?  
 10 **A: Yes.**  
 11 Q: Was that case taken over  
 12 for case management purposes by  
 13 Martin Carlson?  
 14 **A: Yes.**  
 15 Q: As part of your work on  
 16 that case, did you have occasion to read  
 17 a document where Mr. Carlson had  
 18 written a 50-some page report and  
 19 recommendation essentially about me  
 20 that was filed before Judge Kane?  
 21 **A: Yes.**  
 22 Q: As a result of the efforts  
 23 engaged in in that case, were you a  
 24 participant in certain telephone  
 25 conferences among counsel and even

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1 with Mr. Carlson, with Judge Carlson  
 2 in that case?  
 3 **A: Yes.**  
 4 **Q:** Did you eventually file as  
 5 part of court documents an affidavit or  
 6 perhaps any other documents asking  
 7 Mr. Conner, excuse me, Mr. Carlson to  
 8 recuse himself?  
 9 **A: Yes.**  
 10 **Q:** Was the basis of that  
 11 request  
 12 **ATTORNEY FULTON:**  
 13 Objection.  
 14 **HONORABLE CALI:** What  
 15 was the basis of that request?  
 16 **A: I was shocked and**  
 17 **astonished that in Judge Carlson's**  
 18 **previous written motion or orders or**  
 19 **communications, whatever you call**  
 20 **them, that rather than focusing on what**  
 21 **I would've thought would be strictly**  
 22 **legal issues and making commentary**  
 23 **and providing --- on legal issues that**  
 24 **document which I believe was 58 pages**  
 25 **as I recall in my view spun out of**

1 recollect how many times Judge  
 2 Carlson had been asked to recuse  
 3 himself? If you know.  
 4 **ATTORNEY FULTON:** Is that  
 5 in this case?  
 6 **ATTORNEY BAILEY:** I'll  
 7 withdraw it. It's in this case. I'm  
 8 sorry.  
 9 **ATTORNEY FULTON:** Well,  
 10 why don't you ask a question about  
 11 **HONORABLE CALI:** Which  
 12 case are we talking about?  
 13 **ATTORNEY BAILEY:** Again,  
 14 it's this case. The only case we've  
 15 been discussing is the case that he's  
 16 been referring to.  
 17 **HONORABLE CALI:** In his  
 18 case, correct?  
 19 **ATTORNEY BAILEY:** Yes,  
 20 sir.  
 21 **HONORABLE CALI:** All  
 22 right. How many times if you know?  
 23 **A: I'm aware of only one in**  
 24 **written form.**  
 25 **HONORABLE CALI:** Thank

1 **control in a series of personal ---**  
 2 **demonstrating extreme animosity**  
 3 **towards Mr. Bailey. I thought it was**  
 4 **inappropriate. I thought it was**  
 5 **prejudicial to our case to make**  
 6 **comments like that and I thought, quite**  
 7 **frankly, it was unprofessional and not**  
 8 **what I would expect from a federal**  
 9 **judge. My experience has been to**  
 10 **expect objectivity, balance, and**  
 11 **fairness and I felt this was a personal**  
 12 **attack and in the process basically**  
 13 **prejudicing the case that I and two**  
 14 **others had submitted to the court. It**  
 15 **disappointed me.**  
 16 **HONORABLE CALI:** So that  
 17 was filed with the court?  
 18 **A: Pardon?**  
 19 **HONORABLE CALI:** Your  
 20 motion to recuse Judge Carlson was  
 21 bias?  
 22 **A: Yes.**  
 23 **HONORABLE CALI:** Next  
 24 question.  
 25 **ATTORNEY BAILEY:** Do you

1 you. Next question.  
 2 **ATTORNEY BAILEY:** Thank  
 3 you. Have at different times I advised  
 4 you, and I'm not waiving privilege  
 5 except for this very limited question if  
 6 it's acceptable, did I advise you that if  
 7 you had concerns that you should  
 8 consider looking to other attorneys and  
 9 evaluate things because of the severity  
 10 of the situation?  
 11 **ATTORNEY BURKE:** Before  
 12 you answer that, sir, do you concur  
 13 with Mr. Bailey's condition regarding  
 14 waiver? --- waiver?  
 15 **A: Yeah.**  
 16 **HONORABLE CALI:** Thank  
 17 you. --- thank you.  
 18 **A: Yes.**  
 19 **ATTORNEY BAILEY:** I don't  
 20 have any further questions.  
 21 **HONORABLE CALI:** Cross  
 22 examine.  
 23 **ATTORNEY FULTON:** Good  
 24 afternoon, Col. Thompson. I have no  
 25 questions for you, sir.

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1 HONORABLE CALI: You're  
 2 excused, Colonel. Thank you for being  
 3 here. As you are finished with this,  
 4 you are able to stay in the courtroom if  
 5 you choose to or able to leave so it's  
 6 you're prerogative. Again, thank you  
 7 for your service to us all. The next  
 8 witness.  
 9 ATTORNEY BAILEY: Can I  
 10 ask what time you have now?  
 11 HONORABLE CALI: It's  
 12 12:15. You had some witnesses, Ms.  
 13 Phillis and I think it was Phillis that  
 14 were outside and I would like to, you  
 15 said that they were not lengthy so I  
 16 would like to get through them before  
 17 we break for lunch if that's possible.  
 18 ATTORNEY BAILEY: Well,  
 19 what I was going to do was limit the  
 20 witnesses. I have two major witnesses,  
 21 ones that will be time consuming and  
 22 that would be Steven Conklin and  
 23 Andy Ostrowski. What I'm thinking of  
 24 doing is, I don't if Rod Miller has  
 25 arrived yet. I hope he's, he's just a

1 MR. MILLER: I do so help  
 2 me God.  
 3 STENOGRAPHER: Thank  
 4 you.  
 5 HONORABLE CALI: State  
 6 your full name for the record please.  
 7 MR. MILLER: Rodney  
 8 Miller.  
 9 ATTORNEY BAILEY: Rod,  
 10 I've asked you to come in and testify as  
 11 a character witness on my behalf. Is  
 12 that correct?  
 13 **A: That's right.**  
 14 Q: Do you understand that  
 15 this is, it's relatively brief and we  
 16 talked about that a little bit and let me  
 17 just start off and then have you  
 18 comment if you don't mind. Who are  
 19 you and just a little bit about you?  
 20 **A: I'm retired. I was an**  
 21 **electrical engineer with the engineering**  
 22 **company that was involved in nuclear**  
 23 **power plants. I designed the control**  
 24 **rooms and control boards. I am now a**  
 25 **retired citizen. I --- and I suppose I'm**

1 character witness, but I want to use  
 2 that.  
 3 HONORABLE CALI: He's  
 4 sitting in the courtroom.  
 5 ATTORNEY BAILEY: Okay.  
 6 If you don't mind and it is possible and  
 7 Bob doesn't object, if Mr. Fulton  
 8 doesn't object, put Mr. Thompson on,  
 9 or I'm sorry, Mr. Miller on for that  
 10 purpose.  
 11 HONORABLE CALI: Mr.  
 12 Miller, would you approach. He's  
 13 being offered as a character witness.  
 14 ATTORNEY BAILEY: Yes.  
 15 HONORABLE CALI: Okay.  
 16 Swear the witness please.  
 17 ATTORNEY FULTON: Just so  
 18 we're on the right page, character  
 19 testimony is extremely limited.  
 20 HONORABLE CALI: We  
 21 understand.  
 22 STENOGRAPHER: Would  
 23 you raise your right hand? Do you  
 24 swear or affirm to tell the truth, the  
 25 whole truth, and nothing but the truth?

1 **the Vice Chairman of the Berks County**  
 2 **Patriots which by characterization of**  
 3 **others is probably the most, if not the**  
 4 **most prominent tea party in**  
 5 **Pennsylvania.**  
 6 Q: How long have you  
 7 known me?  
 8 **A: Well, at least 20 years.**  
 9 **I'm not going to speculate beyond 20,**  
 10 **maybe 30 at maximum.**  
 11 Q: Very briefly for the court,  
 12 why did you come here today?  
 13 **A: Well, perhaps because**  
 14 **I've known you that long as a person**  
 15 **and when I realized what was taking**  
 16 **place to someone who I considered a**  
 17 **very quality, courageous person that I**  
 18 **would need in a situation where I**  
 19 **wanted counsel, I thought, you know, I**  
 20 **need somebody, if I wanted somebody**  
 21 **that could display the courage and**  
 22 **tenacity that was credited him on the**  
 23 **battlefield that's what I want in the**  
 24 **courtroom and for that reason I'm very**  
 25 **concerned about what's taking place**



1 **for your well being and for your ability**  
 2 **to continue to represent people like**  
 3 **myself in the courtroom. I think if this**  
 4 **travesty continues**  
 5 ATTORNEY FULTON:  
 6 Objection.  
 7 HONORABLE CALI: You're  
 8 here as a character witness. Please  
 9 refrain from any comments about the  
 10 process. You're here to talk about, as a  
 11 character witness for Mr. Bailey if you  
 12 wouldn't mind.  
 13 **A: Well, I simply don't see**  
 14 **this thing as an issue in my perspective.**  
 15 ATTORNEY FULTON: I'm  
 16 going to object.  
 17 HONORABLE CALI: Again,  
 18 you're here, we're all bound by certain  
 19 rules, Mr. Miller, and you need, you're  
 20 here as a character witness so we  
 21 would please ask you to confine your  
 22 testimony to the character witness  
 23 issues that you are being called for, not  
 24 a system itself or what's being charged.  
 25 You're here as a character witness for

1 cross examination.  
 2 ATTORNEY FULTON: No  
 3 cross.  
 4 HONORABLE CALI: Thank  
 5 you very much for coming, Mr. Miller.  
 6 ATTORNEY BAILEY: Thank  
 7 you.  
 8 HONORABLE CALI: It's  
 9 your choice to whether you want to  
 10 stay or leave. It's at your discretion.  
 11 Again, thank you for coming. Are  
 12 there any other witnesses that we have  
 13 that can be disposed of so they can  
 14 decide if they want to leave they can  
 15 leave or not be here, in fairness to them  
 16 we can get them done before lunch so  
 17 they don't have to wait for lunch?  
 18 ATTORNEY BAILEY: If  
 19 Bob's can stipulate, I listed about 50  
 20 character witnesses to burden this court  
 21 and Mr. Fulton, to bring a long litany  
 22 of witnesses if he would stipulate that  
 23 they would testify essentially to the  
 24 same thing that Rod Miller has, I won't  
 25 bring more character witnesses and

1 Mr. Bailey. We respect that.  
 2 ATTORNEY BAILEY: Rod,  
 3 would you give us your opinion of my  
 4 reputation and my propensity for truth  
 5 and veracity.  
 6 ATTORNEY FULTON:  
 7 Objection. That's not appropriate  
 8 character testimony.  
 9 ATTORNEY BAILEY: I think  
 10 that is appropriate character testimony.  
 11 HONORABLE CALI: We'll  
 12 allow.  
 13 ATTORNEY BAILEY: Don't,  
 14 don't, don't ---. You're not  
 15 commenting on the process.  
 16 **A: My knowledge of Mr.**  
 17 **Bailey and his character is one that I'd**  
 18 **say privately in the past one I might**  
 19 **walk the plank for. I highly respect his**  
 20 **integrity, tenacity, and honesty and**  
 21 **abilities to represent my interests so I'm**  
 22 **here to say that this man deserves my**  
 23 **support.**  
 24 Q: Thank you.  
 25 HONORABLE CALI: Any

1 then I would have three more  
 2 witnesses, one very short and two a  
 3 little bit longer.  
 4 HONORABLE CALI: Okay,  
 5 Mr. Fulton.  
 6 ATTORNEY FULTON: I  
 7 haven't seen a list of witnesses. If Mr.  
 8 Bailey wants to enter them in based on  
 9 the list, I have no objection to allow  
 10 him to proceed by way of stipulation.  
 11 However, character testimony in the  
 12 Commonwealth is limited to the  
 13 witness known to Mr. Bailey, to people  
 14 that do know Mr. Bailey, and that their  
 15 understanding of the community's  
 16 opinion of Mr. Bailey. That's the limit.  
 17 HONORABLE CALI: That's  
 18 what they would testify to?  
 19 ATTORNEY BAILEY: That's  
 20 what they would testify, they would  
 21 testify essentially, sir, to the same  
 22 things Mr. Miller did. All of them, and  
 23 by the way, I provided a long list of,  
 24 maybe Bob lost it or I somehow didn't  
 25 verify it for him, but

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1 HONORABLE CALI:  
 2 Regardless of that, Mr. Bailey, --  
 3 - to us with the stipulation that Mr.  
 4 Fulton just proposed that they would  
 5 testify as to your character similar to or  
 6 more clarity as Mr. Fulton has  
 7 indicated?  
 8 ATTORNEY BAILEY: Yeah,  
 9 that's fine, sir.  
 10 HONORABLE CALI: Okay.  
 11 We will accept it.  
 12 ATTORNEY BAILEY: Okay.  
 13 HONORABLE CALI: Now  
 14 you have three witnesses and you've  
 15 indicated that, what we would like is  
 16 witnesses identified in a document  
 17 presented of who they will be. Also  
 18 you have three witnesses. You said  
 19 one is brief.  
 20 ATTORNEY BAILEY: Let me  
 21 get one thing, sir, because I want. You  
 22 want us to identify the list of character  
 23 witnesses.  
 24 ATTORNEY FULTON: If you  
 25 give me a list at lunch, I will make a

1 fine. It's now 12:25, 1:30, why don't  
 2 we do 1:15. Is that enough for  
 3 everyone, 1:15? If it's not, then tell  
 4 me. If not, 1:15 we'll be back.  
 5 BAILIFF: All rise.  
 6 BAILIFF: The Disciplinary  
 7 Court is back in session.  
 8 ATTORNEY BAILEY: I'll call  
 9 Adrienne, I'm sorry. Okay?  
 10 HONORABLE CALI: Yes.  
 11 ATTORNEY BAILEY: I call  
 12 Adrienne Bailey.  
 13 STENOGRAPHER: Do you  
 14 swear or affirm to tell the truth, the  
 15 whole truth, and nothing but the truth?  
 16 Thank you.  
 17 ATTORNEY BAILEY: Young  
 18 lady, please keep your voice up. Get  
 19 close to that mic.  
 20 HONORABLE CALI: They  
 21 are the only instructions you're going  
 22 to be able to give her.  
 23 ATTORNEY BAILEY: --- live  
 24 through the weekend. Okay. ---  
 25 identify yourself and what you do and

1 copy of it for you.  
 2 MRS. BAILEY: We changed  
 3 this.  
 4 HONORABLE CALI:  
 5 Regardless of whether you did,  
 6 Mr. Bailey, --- just have the list  
 7 presented as an exhibit so we have it.  
 8 If it's a couple pages, just copy them.  
 9 ATTORNEY BAILEY: Yeah, a  
 10 couple pages.  
 11 HONORABLE CALI: That's  
 12 fine.  
 13 ATTORNEY BAILEY: Now,  
 14 sir, as to the additional witnesses,  
 15 again, it's just a suggestion. The two  
 16 major witnesses that I have remaining  
 17 would be Mr. Steve Conklin and Mr.  
 18 Andrew Ostrowski. Adrienne, my  
 19 wife, is going to testify. I'm not feeling  
 20 super well. I'm wondering if we could  
 21 do a short lunch first and then come  
 22 back and she may very well not testify  
 23 and then I'll just do Mr. Conklin and  
 24 Mr. Ostrowski.  
 25 HONORABLE CALI: That's

1 then I have some questions for you.  
 2 MRS BAILEY: I'm Adrienne  
 3 Palarino Bailey. I do work in the office  
 4 and I also own my own business.  
 5 ATTORNEY BAILEY: You're  
 6 not ---, are you?  
 7 A: No.  
 8 Q: Okay. I just wanted to  
 9 make sure. All right. Now in the  
 10 practice I believe I described to the  
 11 court, go ahead, in the practice, do you  
 12 assist me in the practice?  
 13 A: Yes.  
 14 Q: Do you, in doing that, do  
 15 you have a computer?  
 16 A: Yes.  
 17 Q: Very brief questions for  
 18 you, Adrienne. Excuse me. What's a  
 19 drop down box?  
 20 A: --- I don't know. I've  
 21 never seen it before. I've been filing  
 22 documents since day one when this  
 23 started and when I attempted to file a  
 24 document in a case related to judges  
 25 that we were suing I went to file a

1 **document and this drop down box**  
 2 **came up and it was like all these**  
 3 **people, like US Attorney, Judge**  
 4 **Scirica's chamber, Judge Conner,**  
 5 **Judge Jones, it was a litany, the**  
 6 **Disciplinary Board, Paul Killion, it was**  
 7 **this list that appeared in filing our**  
 8 **response to a document and it's never**  
 9 **occurred.**  
 10 Q: I want you to try to  
 11 remember that the Chair advised me on  
 12 the issue of being narrow in --- so try to  
 13 be precise. Those drop down boxes  
 14 that you're testifying to, in another  
 15 words, they appeared on the computer  
 16 screen when you were cuing or you  
 17 were using PACER to get a certain  
 18 case.  
 19 **A: When I was filing a**  
 20 **document, yes.**  
 21 Q: Was that in the case of  
 22 Judge Anderson in Lycoming County?  
 23 **A: Correct.**  
 24 Q: Is the judge on that case  
 25 Judge Conner?

1 Would it help? I don't want to waste  
 2 your time, but I can --- to it.  
 3 HONORABLE CALI:  
 4 Continue. Next question.  
 5 ATTORNEY BAILEY: Okay.  
 6 Now do you of your own knowledge  
 7 know whether Stephen Wicks the  
 8 plaintiff in the Judge Anderson case,  
 9 Judge Anderson is a defendant, sir, in  
 10 that case, do you know whether he filed  
 11 complaints?  
 12 **A: Yes.**  
 13 Q: Do you of your own  
 14 knowledge, do you know whether he  
 15 filed complaints of judicial conduct and  
 16 with the gentleman at the ODC?  
 17 **A: Yes. ---.**  
 18 ATTORNEY FULTON:  
 19 Objection.  
 20 HONORABLE CALI: Yeah,  
 21 that's hearsay. Let's not testify to what  
 22 someone else said, but we understand  
 23 there's been. It's been testified to. ---  
 24 ATTORNEY BAILEY: Okay.  
 25 Now do you have knowledge of a

1 **A: Correct.**  
 2 Q: Has Judge Conner  
 3 dismissed that case?  
 4 **A: Correct.**  
 5 Q: Did Judge Conner, these  
 6 are matters of document record, Your  
 7 Honor, did Judge Conner issue an order  
 8 one day before an order he had  
 9 previously filed expired preventing us  
 10 from getting discovery in the case?  
 11 ATTORNEY FULTON:  
 12 Objection.  
 13 **A: Correct.**  
 14 ATTORNEY BAILEY: I'm  
 15 sorry. She answered so I guess there's  
 16 not much.  
 17 HONORABLE CALI: I'll let  
 18 the answer go.  
 19 ATTORNEY FULTON: Okay.  
 20 What was the answer?  
 21 HONORABLE CALI: Yes, I  
 22 think she said.  
 23 **A: Correct.**  
 24 ATTORNEY BAILEY: Do you  
 25 want me to speak to the relevancy?

1 federal district court Judge Munley  
 2 providing information to warn me  
 3 about the federal judges out to get me?  
 4 ATTORNEY FULTON:  
 5 Objection.  
 6 HONORABLE CALI: The  
 7 basis of the objection so he can respond  
 8 to it.  
 9 ATTORNEY BAILEY: This is  
 10 corroboration of testimony that's  
 11 already on the record and it's only for  
 12 the proof that the words were said.  
 13 HONORABLE CALI: Let me,  
 14 let me just answer that question as best  
 15 I can to where we are at. Sam Stretton  
 16 testified with relationship to certain  
 17 statements made. The objection that  
 18 was made was hearsay. It was  
 19 admitted not for the truth of the fact of  
 20 what was said, but it was a statement  
 21 by Mr. Stretton. I don't think there's  
 22 any need to go any further unless she  
 23 has some direct knowledge of what was  
 24 said by Judge Munley or if she's just  
 25 repeating what Sam Stretton said or

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1 something to that effect, we're not  
 2 going to go through that.  
 3 ATTORNEY BAILEY: I don't,  
 4 I'm not going to ask her what she  
 5 understands that Judge Munley said.  
 6 I'm not going to ask her what Sam  
 7 Stretton said. All I want to ask her is  
 8 the question did Sam Stretton impart  
 9 information attributed, not what it is,  
 10 not what the quote is, no hearsay, did  
 11 Sam Stretton impart information  
 12 attributed to Judge Munley in her  
 13 presence. That's all.  
 14 HONORABLE CALI: The  
 15 same information we just  
 16 ATTORNEY BAILEY: No, no,  
 17 it's not, sir, if I can clarify again. I will  
 18 not be asking her any quotes. I'm not  
 19 asking her what Judge Munley said.  
 20 All I'm asking, all I'm asking is if in her  
 21 presence information was imparted,  
 22 and it was Sam Stretton that I'm  
 23 alleging or was going to ask her, if Sam  
 24 Stretton attributed information to Judge  
 25 Munley. I'm not asking her what it is.

1 you.  
 2 HONORABLE CALI: Cross  
 3 examine.  
 4 ATTORNEY FULTON: I have  
 5 no questions.  
 6 HONORABLE CALI: You  
 7 may go back to your table. Thank you.  
 8 And we know this is difficult for you.  
 9 ATTORNEY BAILEY: Your  
 10 courtesy --- my wife, Judge. Thank  
 11 you.  
 12 HONORABLE CALI: Next  
 13 witness.  
 14 ATTORNEY BAILEY: Yeah,  
 15 I'm going to call Mr. Conklin, sir.  
 16 HONORABLE CALI: Before  
 17 I consent, can we, do you have an  
 18 offer?  
 19 ATTORNEY FULTON: Yeah.  
 20 HONORABLE CALI: The  
 21 same?  
 22 ATTORNEY FULTON: Same  
 23 offer of proof.  
 24 HONORABLE CALI: Can  
 25 you just summarize for us?

1 That's the hearsay thing.  
 2 ATTORNEY FULTON: Well,  
 3 it's actually a double hearsay to begin  
 4 with and again, it's getting in the back  
 5 door with what he can't or shouldn't  
 6 get in the front.  
 7 ATTORNEY BAILEY: I  
 8 already got in the front door. But the  
 9 point is and this is as old as law school  
 10 first year, okay. I am not asking her  
 11 about a quote. My question is did you  
 12 receive or are you aware of information  
 13 where things were attributed to Judge  
 14 Munley. That's all.  
 15 HONORABLE CALI: Ask  
 16 that question.  
 17 ATTORNEY BAILEY: Yes,  
 18 sir. Without, I'm warning you now,  
 19 without any quotes, without saying  
 20 what anybody said, okay, did you ever  
 21 receive information where information  
 22 was attributed to Judge Munley by Sam  
 23 Stretton?  
 24 A: Multiple times.  
 25 Q: Then I'm done. I thank

1 ATTORNEY BAILEY: Sure,  
 2 sure. We had extensive testimony,  
 3 there's a quite a foundation here in our  
 4 testimony in the case. This is Steve  
 5 Conklin. This is a case where I was, I  
 6 questioned at length Judge Conner  
 7 about where he alleges that I called him  
 8 a racist. The issues were raised about  
 9 whether or not he attacked or criticized  
 10 to be more polite the client in this case.  
 11 This is litigation in which Mr., he also  
 12 made reference to the fact that Mr.  
 13 Conklin had more cases, including, that  
 14 he had filed on his own sua sponte. It  
 15 has to do with the issues that were  
 16 testified to about emergency motions  
 17 for relief that were filed with the Third  
 18 Circuit. Judge Greenberg commented.  
 19 Mr. Conklin is complicit in all of that.  
 20 HONORABLE CALI: But I  
 21 don't know what he's testified to.  
 22 What is he going to testify to? Again,  
 23 if there are court documents that are  
 24 going to be again submitted that we're  
 25 reviewing, I don't want anybody going

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1 outside of those documents.  
2 ATTORNEY BAILEY: Sir, I  
3 had,  
4 HONORABLE CALI: I'm not  
5 finished.  
6 ATTORNEY BAILEY: I'm  
7 sorry.  
8 HONORABLE CALI: It's the  
9 same parameters that we had discussed  
10 before and we're not changing those  
11 parameters whether it's Mr. Conklin or  
12 anyone else to go beyond that other  
13 than his own personal knowledge.  
14 ATTORNEY BAILEY: Okay.  
15 I'll go back again and --- provide you --  
16 - obviously, is what we're obviously  
17 permitted. I am accused of  
18 complaining that federal judges  
19 misbehaved. Now I have complained  
20 frequently here and I have disagreed  
21 with you, hopefully respectfully  
22 because I respect you, I do, that I don't  
23 think your rulings have given me an  
24 opportunity to do that. You've opined  
25 on that and you've told me. Now the

1 and I think it involved misbehavior, the  
2 only way I can defend myself on Judge  
3 Conner's part. Judge Conner also  
4 wrote criticisms of Mr. Conklin and  
5 dealt with other cases of his. Conklin  
6 was very upset about what the Judge  
7 did and it goes to the issue of whether I  
8 was justified in saying the Judge  
9 misbehaved in terms of how he treated  
10 me and what I complained of in the  
11 Third Circuit. I mean --- not having an  
12 opportunity to present the witnesses  
13 who are the clients who are written  
14 about who advised me, you know, he's  
15 asking Jeff Dock about the advice I  
16 gave him and did I meet with him and  
17 did I talk with him, and all this stuff  
18 and that goes by. But, you know, I  
19 think here we ought to be allowed to  
20 ask some basic questions about what  
21 happened in that litigation because I  
22 asked the Third Circuit, we talked  
23 about Judge Greenberg yesterday. I  
24 asked if, I sought mandamus. Conklin  
25 figures in all of that.

1 issues and questions I have to raise  
2 because the misbehavior I resorted to  
3 relate to court documents and, you've  
4 been very kind to me in terms of what I  
5 can present as to court documents and  
6 all that sort of thing which obviously  
7 are part of record. I want to ask people  
8 about, with questions, about stuff that's  
9 in those court documents. You're not  
10 letting me do that and I think, well,  
11 maybe well-intentioned I respectfully  
12 disagree. I want to ask Mr. Conklin,  
13 for example, let me give you an  
14 example of a question. Did Judge  
15 Conner file a document that he  
16 complained of, Conklin complained of  
17 to me was racist. Now if you're going  
18 to opine that that's not relevant, I  
19 would only add this. Judge Conner  
20 testified that in an order he used the  
21 word attributed to me of a certain  
22 amount of pique and I spelled it for  
23 him. I had asked him about that on  
24 cross examination. Mr. Conklin  
25 figures in that. He also figures in that

1 HONORABLE CALI: Excuse  
2 me a second. You are not being  
3 prohibited in any sense with your  
4 witnesses. In addition, what we are,  
5 what we are discussing is, and we have  
6 discussed, all of these court documents  
7 which are a matter of record will be  
8 submitted. We are going to go a step  
9 further. We are going to give both  
10 counsels the opportunity to highlight  
11 any parts of those records and to  
12 explain to us the relevance and their  
13 bearing on the issues in this matter. So  
14 you are not being excluded to present  
15 any of that. All we're not going to let  
16 happen is the individual witnesses to  
17 testify beyond the scope of the  
18 evidence in this hearing related to what  
19 is alleged against you and we're not  
20 going to be able to give them, they're  
21 not going to be able to testify as to their  
22 interpretation or their opinions as to  
23 what the judges wrote in the orders, the  
24 opinions, etc. That's the extent, in  
25 addition, as I said to you, you are going

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1 to get the opportunity to look at each  
2 and every one of the documents which  
3 we are allowing to be submitted,  
4 highlight them, argue to us their  
5 relevance and how they fit to your  
6 argument. But we're not going to go  
7 beyond that so let's call Mr. Conklin.  
8 Would you swear the witness please?  
9 STENOGRAPHER: Raise  
10 your right hand?  
11 MR. CONKLIN: Are we  
12 raising it to God? ---.  
13 STENOGRAPHER: Do you  
14 swear or affirm to tell the truth, the  
15 whole truth, and nothing but the truth?  
16 MR. CONKLIN: I do.  
17 STENOGRAPHER: Thank  
18 you.  
19 HONORABLE CALI: Would  
20 you state your full name please?  
21 MR. CONKLIN: Steven  
22 Frederick Conklin.  
23 ATTORNEY BAILEY: Steve,  
24 would you try to pull that microphone a  
25 little closer? Steve, just tell us where

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1 HONORABLE CALI: Okay.  
2 Make,  
3 ATTORNEY BAILEY: Yeah,  
4 I'm sorry. That's my error. A  
5 memorandum in response to a motion  
6 to dismiss after it had been briefed?  
7 **A: I believe you're probably**  
8 **referring to the memorandum dated on**  
9 **or about May 16, 2006.**  
10 Q: Yes, sir.  
11 **A: I recall it, yes.**  
12 Q: Now what the court is  
13 advising me and I need to pass on to  
14 you is they don't want commentaries or  
15 opinions on what the Judge wrote  
16 which they're going to give us an  
17 opportunity to do apparently in a  
18 findings of fact or conclusion of --- I  
19 assume when this done. But what, so I  
20 don't want you to do that, but I want to  
21 ask you questions about what occurred  
22 between you and I on that issue. Do  
23 you have a recollection as to whether,  
24 again, not getting into the substance of  
25 it, if you read the memorandum before

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1 you live and just basically, well, are  
2 you from York County?  
3 **A: I live at --- Spangler Road**  
4 **in Lewisberry, PA 17339, York**  
5 **County.**  
6 Q: Did you cause a federal  
7 civil rights lawsuit to be filed that was  
8 assigned to Judge Christopher Conner?  
9 **A: I did. I believe that's**  
10 **1:05-CV-1707 I believe you're**  
11 **referring to.**  
12 Q: Yes, sir. Without going  
13 into the substance of it, do you have a  
14 recollection of Judge Conner filing a  
15 public document which is a motion to  
16 dismiss in your case?  
17 HONORABLE CALI: Judge  
18 Conner filed that?  
19 ATTORNEY BAILEY: I'm  
20 sorry, sir.  
21 HONORABLE CALI: Did  
22 you say Judge Conner filed a motion to  
23 dismiss or?  
24 ATTORNEY BAILEY: I'm  
25 sorry. A memorandum.

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1 I did?  
2 **A: Yes, sir, I did. As a matter**  
3 **of fact, I think I was the first one to**  
4 **read it and you weren't there. There**  
5 **was something that stuck out to me that**  
6 **I interpreted very badly which I took --**  
7 **- to which was to paraphrase, the**  
8 **plaintiff does not so --- children of**  
9 **color be discriminated against on his**  
10 **property.**  
11 Q: Now without getting into  
12 more substance of that, did you express  
13 your directions to me as a client on  
14 how you wanted me to respond?  
15 **A: Actually before you saw**  
16 **it, I showed it to two other attorneys**  
17 **that were there to see if they were**  
18 **seeing what I was seeing and then you**  
19 **saw it.**  
20 Q: Okay. Did you tell me,  
21 did you express your opinion to me?  
22 **A: I did.**  
23 Q: Don't get into the  
24 substance of it.  
25 **A: Yes, I did. I wanted him**

1 **recused because I thought at minimum**  
 2 **aside from the fact that he doesn't**  
 3 **understand, you know, --- associate, he**  
 4 **was missing the fact of racial**  
 5 **insensitivity. I thought he was totally**  
 6 **devoid of it.**  
 7 Q: All right. What was my  
 8 response?  
 9 A: **Actually, you were**  
 10 **defending Judge Conner. You thought**  
 11 **--- and, you know, --- a little bit more.**  
 12 **You, you wanted me to stand down on**  
 13 **the recusal --- to give the Judge a**  
 14 **chance to explain how this occurred.**  
 15 Q: After we discussed this  
 16 issue, did you give me permission to  
 17 file a request, again don't get into the  
 18 substance of it, to vacate and  
 19 reconsider?  
 20 A: **Yes, sir, I did and I**  
 21 **believe that occurred on or about May**  
 22 **24, 06 which I thought was respectfully**  
 23 **written.**  
 24 Q: Okay. Do you have a  
 25 recollection of anything that the Judge,

1 need to wait until the question is asked  
 2 and then respond. Don't assume the  
 3 question before Mr. Bailey concludes  
 4 it.  
 5 ATTORNEY BAILEY: Do you  
 6 recollect if I responded which would be  
 7 a matter of record?  
 8 A: **Yes, sir.**  
 9 Q: Do you remember if I  
 10 A: **Responded to what?**  
 11 ATTORNEY BAILEY: The  
 12 memorandum, the vacate to reconsider  
 13 that it was briefed and whatnot?  
 14 A: **Yes.**  
 15 Q: Okay. Do you have a  
 16 recollection of a rule to show cause on  
 17 some sort of sanction against me?  
 18 A: **Yes, I do. I believe that**  
 19 **came from Judge Conner on or about**  
 20 **June 30, 2006.**  
 21 Q: Do you remember if, and I  
 22 don't remember the sequence, but it  
 23 would be a matter of getting the court  
 24 document, if somewhere in there did  
 25 come a motion to recuse? Just if that

1 I realize these things are going to be in  
 2 order, anything the Judge said about  
 3 you as opposed to your attorney?  
 4 A: **I can't --- it seemed like I**  
 5 **was being attacked.**  
 6 ATTORNEY FULTON:  
 7 Objection.  
 8 HONORABLE CALI: Again,  
 9 ATTORNEY BAILEY: Don't  
 10 get  
 11 HONORABLE CALI: The  
 12 document will speak for itself. Thank  
 13 you.  
 14 ATTORNEY BAILEY: Thank  
 15 you. Do you remember as a  
 16 consequence if  
 17 A: **I do remember**  
 18 HONORABLE CALI: Wait.  
 19 The question is not finished. As a  
 20 consequence.  
 21 ATTORNEY BAILEY: Do you  
 22 remember whether I was served with a  
 23 A: **---**  
 24 HONORABLE CALI: Wait,  
 25 Mr., excuse me, Mr. Conklin. You

1 happened, not the substance.  
 2 A: **Yes, sir.**  
 3 Q: Do you remember if there  
 4 was a response from Judge Conner,  
 5 without getting into the substance of it?  
 6 A: **Response to the**  
 7 Q: Rule to show cause or  
 8 request to recuse.  
 9 A: **There was use of show**  
 10 **cause. First off, the case that he based**  
 11 **on --- didn't seem to apply**  
 12 ATTORNEY FULTON:  
 13 Objection.  
 14 HONORABLE CALI: Yeah,  
 15 please listen to the question. The  
 16 question was very simple to answer.  
 17 Answer the question first. The  
 18 explanation to your answer needs to be  
 19 ---. But please just listen to the  
 20 question and be responsive to the  
 21 question.  
 22 A: **Repeat the question**  
 23 **please.**  
 24 Q: Sure. Do you recollect  
 25 whether, and let me cut across a few

1 questions, at some point a motion for  
2 extraordinary relief was filed with the  
3 Third Circuit Court of Appeals seeking  
4 a mandamus requiring Judge Conner to  
5 recuse himself?

6 **A: Yes, sir.**

7 **Q:** Do you have a recollection  
8 of whether Judge Conner did recuse  
9 himself?

10 **A: I don't think he did, no.**

11 **In fact, he grabbed the next case that**  
12 **came in that was originally assigned to**  
13 **Judge Kane. He gutted that one, too.**

14 **ATTORNEY FULTON:**

15 Objection.

16 **HONORABLE CALI:** Again,

17 **ATTORNEY FULTON:** It's not  
18 responsive.

19 **HONORABLE CALI:** Please,  
20 Mr. Conklin, listen, Mr. Conklin, this is  
21 a judicial proceeding. Just please let  
22 Mr. Bailey ask you a question and  
23 please just respond to his question. We  
24 want to give him the full opportunity to  
25 ask questions and you to respond.

1 pleading on your own related to your  
2 belief about my ability to get things  
3 done in court?

4 **ATTORNEY FULTON:**

5 Objection. I don't know what  
6 relevance that has.

7 **ATTORNEY BAILEY:** You  
8 know, I tell you I really think that's  
9 relevant. It really is because I've tried  
10 to get across the issue of, you know,  
11 I'm an attorney and I'm practicing law  
12 and representing people. I complained  
13 about judicial access because there's no  
14 way to go in the system.

15 **HONORABLE CALI:** I

16 understand. I'm going to let you, I'm  
17 going to overrule the objection. Just  
18 let, just let him answer the question.

19 **ATTORNEY BAILEY:** Okay.

20 **HONORABLE CALI:** The

21 question was did he on his own

22 **ATTORNEY BAILEY:** It was  
23 poorly crafted, Your Honor.

24 **HONORABLE CALI:** Just,  
25 let's

1 **ATTORNEY BAILEY:**

2 Without expressing what they  
3 are and this is important, I want you to  
4 listen to this question, without  
5 expressing your opinions or what they  
6 are, did you review all the things that  
7 we submitted and that Judge Conner  
8 responded with and that the other side  
9 submitted for consideration to Judge  
10 Conner?

11 **A: At one time I did. In fact,**  
12 **I even stayed up a few until midnight to**  
13 **get some things filed in your office.**

14 **Q:** Now without addressing  
15 the substance of them, do you have  
16 strong personal opinions and  
17 evaluations of those things? You  
18 understand you're not permitted to  
19 comment on that. You understand that.  
20 Do you have, the question is very  
21 simple please. Do you have strongly  
22 held personal views on those things?

23 **A: Yes, I do.**

24 **Q:** Did you ever make any  
25 subsequent decisions to do some

1 **ATTORNEY BAILEY:** Let me  
2 rephrase it if you will please. Did you  
3 reach any conclusion, strike that. Did  
4 you subsequently do some pleadings  
5 and submissions to federal and other  
6 courts on your own?

7 **A: I filed, subsequently I**  
8 **filed a federal complaint docketed at**  
9 **1:10-CV-2501 where I questioned**  
10 **whether the judiciary in the Middle**  
11 **District can be fair and impartial based**  
12 **on in part what they were doing to you**  
13 **and what your clients**

14 **ATTORNEY FULTON:**

15 Objection.

16 **HONORABLE CALI:** Again,  
17 Mr. Conklin, the answer to the  
18 question, I assume that the answer is  
19 yes you filed a document. He asked  
20 you whether you filed something on  
21 your own.

22 **A: Yes.**

23 **HONORABLE CALI:** The  
24 answer is yes.

25 **ATTORNEY BAILEY:** My



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1 second question was going to be did  
2 you make that decision in part based  
3 upon what rightfully or wrongfully, no  
4 substantive responses, whether  
5 rightfully or wrongfully you believe  
6 were the court's willingness to  
7 entertain me as a lawyer?  
8 ATTORNEY FULTON: I'm  
9 going to object. I don't know what  
10 relevance that has what Mr. Conklin  
11 thought as to Mr. Bailey.  
12 ATTORNEY BAILEY: Yeah.  
13 You know, Judge, if a client, my  
14 argument is very simple. If a client  
15 decides that they have to go through  
16 things on their own because they  
17 believe, rightfully or wrongfully, that  
18 the court's mistreating me and then I  
19 write in a document in a motion en  
20 banc that I believe the courts were  
21 misbehaving, that's not only  
22 corroborative. That's primary evidence  
23 of people observing things, looking at  
24 things, and then making decisions  
25 affecting

1 justified or not or may have been, I  
2 don't know, but anyway, rightfully or  
3 wrongfully did you make a decision to  
4 do those things about concerns of  
5 whether I would be treated fairly by the  
6 federal court system?  
7 A: Yes, sir.  
8 Q: Okay. That's all. We  
9 finally got there. That's okay. Thank  
10 you. Now if I understand your  
11 previous responses, you did file cases  
12 on your own subsequently. Is that  
13 correct?  
14 A: Yes, sir.  
15 Q: Without getting into the  
16 court's reaction or the reasoning of the  
17 court or whatever, did you, was one of  
18 the complaints that you made to Judge  
19 Kane that Don Bailey, rightfully or  
20 wrongfully in your view, was being  
21 mistreated by federal district court  
22 judges in the Middle District?  
23 A: Yes, sir.  
24 Q: Is it fair to say that you  
25 have some awareness that there were

1 HONORABLE CALI: We're  
2 not going to argue. I'm going to  
3 overrule the objection, allow the  
4 question. Whether or not it reaches the  
5 point of what you're indicating will be  
6 up to this body to entertain. But again,  
7 it's not arguing at this point.  
8 ATTORNEY BAILEY: No  
9 question about that.  
10 HONORABLE CALI: I would  
11 like to just, you know, get on with the  
12 question and answer.  
13 ATTORNEY BAILEY: Did  
14 you hear that advice?  
15 A: Yes.  
16 Q: Okay. All I want you to  
17 do, no, no, we can't, all I want you to  
18 do, okay, I asked you a question. I'm  
19 going to try to redefine it because I  
20 think I poorly, I poorly put the  
21 question. All I want you to do very  
22 simply did you make decisions to go  
23 and file cases on your own due to,  
24 rightfully or wrongfully, they will  
25 make a decision as to whether it's

1 different appeals at different times filed  
2 in some of these cases? Is that correct?  
3 A: I'm not following.  
4 Q: In any of these cases that  
5 there were appeals at times that were  
6 filed relative to some of the decisions  
7 made in these cases by federal district  
8 judges?  
9 A: Yes.  
10 Q: Do you have a recollection  
11 without getting into each comma, every  
12 the, every sentence and paragraph, do  
13 you have a recollection of an amending  
14 order filed by Judge Conner in one of  
15 your cases?  
16 A: Yes. I have one that  
17 comes particularly to mind.  
18 Q: I think it's okay to ask  
19 which one particularly comes to mind.  
20 A: It was dated on or about  
21 March 13, 2007. We're talking about  
22 amending orders, right?  
23 Q: Yes, sir.  
24 A: Okay. That's one that  
25 comes to mind.

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1 Q: Without getting into the  
 2 substance of them, any of them please,  
 3 do you have a recollection of seeing  
 4 amending orders in many other cases  
 5 done by Judge Conner?  
 6 ATTORNEY FULTON:  
 7 Objection.  
 8 HONORABLE CALI: That he  
 9 was involved in?  
 10 ATTORNEY BAILEY: No, he  
 11 wasn't involved in them. I'm just  
 12 asking if he saw those orders. They're  
 13 exhibits here.  
 14 HONORABLE CALI: Well,  
 15 ATTORNEY BAILEY: All  
 16 right. Let me withdraw it.  
 17 HONORABLE CALI: I mean  
 18 --- testimony regarding things that he's  
 19 seen in court processes.  
 20 ATTORNEY BAILEY: I just  
 21 want to know if he was aware of them.  
 22 HONORABLE CALI: Well,  
 23 it's not, next question.  
 24 ATTORNEY BAILEY: Thank  
 25 you.

1 issues of cross examination that I raised  
 2 having to do with judicial misbehavior.  
 3 HONORABLE CALI: You're  
 4 talking about orders that have been  
 5 issued with regard?  
 6 ATTORNEY BAILEY: No, I'm  
 7 talking about this man's review of legal  
 8 work and working with his attorney  
 9 and making decisions about doing  
 10 things on his own because he feels I'm  
 11 not  
 12 HONORABLE CALI: He  
 13 answered that question. You asked  
 14 him that question. Remember  
 15 ATTORNEY BAILEY: I'm  
 16 asking  
 17 HONORABLE CALI: Excuse  
 18 me. You've asked him a question of  
 19 whether or not he had filed things on  
 20 his own and you got the answer. This  
 21 question is, I'm not sure it's the same  
 22 question that you've asked.  
 23 A: No, it's not.  
 24 HONORABLE CALI: You  
 25 know, Mr. Conklin, please leave, we're

1 A: I am ---.  
 2 Q: Don't, that's okay. It's all  
 3 right. Let me see how to put this,  
 4 Steve. Let me let that go. Let me  
 5 finish up here. It's not going to be  
 6 allowed. Just a minute. I may be  
 7 finished. Do you have a general  
 8 recollection of discussions with me  
 9 about consistent, persistent, never  
 10 ending complaints about grammar,  
 11 punctuation, etc. by Judge Conner?  
 12 ATTORNEY FULTON:  
 13 Objection.  
 14 HONORABLE CALI: The  
 15 objection is?  
 16 ATTORNEY FULTON: It's  
 17 leading. It's irrelevant. It's  
 18 immaterial.  
 19 HONORABLE CALI: What's  
 20 the relevancy of it?  
 21 ATTORNEY BAILEY: It all, it  
 22 gets down to the issue of things that are  
 23 already well established in this case by  
 24 him on direct, by Mr. Fulton, I'm sorry,  
 25 by Mr. Fulton on direct yesterday, by

1 going to have some decorum here. It's  
 2 not for you to comment unless you're  
 3 asked a question. Now what exactly is  
 4 the question you're asking?  
 5 ATTORNEY BAILEY: My  
 6 question is a little more specific. In  
 7 fact it's much more specific and it has  
 8 to do with issues relating to the  
 9 amending order and the, what I'm  
 10 alleging was or at least I have alleged  
 11 when I talk about judicial misconduct,  
 12 did it in the Venesevich case, did it in  
 13 other writings, that they are, they're  
 14 HONORABLE CALI: We're  
 15 aware of the amended orders.  
 16 ATTORNEY BAILEY: Well,  
 17 I'm just asking him if he has a  
 18 recollection of seeing those orders  
 19 about putting in commas here and  
 20 grammar  
 21 HONORABLE CALI: Ask  
 22 that question and you can get an  
 23 answer.  
 24 ATTORNEY BAILEY: Okay.  
 25 Do you have a recollection of seeing or

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1 discussing with me, discussing with  
2 your attorney and reviewing for that  
3 matter, I guess that's allowed to be in  
4 there, numerous orders and writings by  
5 Judge Conner about spelling and  
6 punctuation, etc., etc., grammatical  
7 things, writing things, in my cases, in  
8 my orders, his orders to me rather and  
9 my briefs and whatnot ---?  
10 **A: That's the first thing he**  
11 **attacks you for is June 30, 2006.**  
12 HONORABLE CALI: Is your  
13 answer yes, Mr. Conklin?  
14 **A: Yes, including that, yes.**  
15 HONORABLE CALI: All  
16 right.  
17 **A: ---**  
18 HONORABLE CALI: Mr.  
19 Conklin.  
20 UNIDENTIFIED MALE:  
21 Excuse me. There is decorum  
22 here, Mr. Conklin. That's why the  
23 police are here. If you don't stop, it's  
24 going to be disorderly conduct. Now  
25 you've been warned enough times by

1 HONORABLE CALI: Excuse  
2 me, gentlemen.  
3 UNIDENTIFIED MALE: -  
4 --.  
5 ATTORNEY BAILEY: No,  
6 you're not.  
7 HONORABLE CALI:  
8 Gentlemen, I'm going to run this  
9 hearing and if you have a question let's  
10 move on. Next question please.  
11 ATTORNEY BAILEY: Your  
12 decorum, sir, I'm going to object. Tip  
13 staff's ---, look at him right now. This  
14 is improper. Now, you know, Mr.  
15 Conklin, let me say to Mr. Conklin, the  
16 Judge is trying to run a hearing here  
17 and I agree with the court. We have to  
18 maintain decorum here. I honestly did  
19 not witness anything that was improper  
20 and --- justified with what I heard.  
21 Please do the following if you will to  
22 cooperate with the court and don't, no  
23 side comments. The Judge  
24 HONORABLE CALI: Mr.  
25 Bailey, I'm the Chairman of this

1 the bench.  
2 HONORABLE CALI: Just  
3 ask the question and answer it.  
4 ATTORNEY BAILEY: I'm  
5 going to move to strike and I don't  
6 think that's in order and I think that's  
7 improper and I think if the tip staff  
8 wants to say something to you that's  
9 fine. It's not disorder here. If he  
10 doesn't like his attitude,  
11 UNIDENTIFIED MALE:  
12 It's disorder when he continues -  
13 --  
14 ATTORNEY BAILEY: You ---  
15 .  
16 UNIDENTIFIED MALE:  
17 Bench has told him not to.  
18 ATTORNEY BAILEY: You,  
19 sir, are interrupting me.  
20 UNIDENTIFIED MALE:  
21 Yes.  
22 ATTORNEY BAILEY: Don't  
23 do it again.  
24 UNIDENTIFIED MALE: I  
25 am interrupting you.

1 Committee.  
2 ATTORNEY BAILEY: Okay.  
3 HONORABLE CALI: I'd  
4 asked Mr. Conklin before to listen to  
5 the question and answer the question.  
6 I've asked that more than two or three  
7 times at this point and again, let's just  
8 ask the question and Mr. Conklin  
9 answer the question. That's all that's  
10 going to be allowed.  
11 ATTORNEY BAILEY: Steve, I  
12 don't think there's anything to be  
13 gained by going through here. I don't  
14 have any more questions.  
15 HONORABLE CALI: Cross  
16 examine.  
17 ATTORNEY FULTON: I have  
18 no questions.  
19 HONORABLE CALI: Thank  
20 you. Mr. Conklin, you can sit down.  
21 Thank you for coming. If you choose to  
22 stay in the courtroom, you're  
23 authorized to do so. Your next witness,  
24 Mr. Bailey.  
25 ATTORNEY BAILEY: Yeah,

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1 at this point, Your Honor, just a  
 2 moment here. ---. (end of tape). ---  
 3 last witness I think. I'll double check  
 4 this list for you. Yes, sir, Mr.  
 5 Ostrowski. I sent the other, the other  
 6 two witnesses are not going to be  
 7 testifying.  
 8 HONORABLE CALI: That's  
 9 fine. Mr. Ostrowski, please ---.  
 10 UNIDENTIFIED MALE:  
 11 Mr. Chairman,  
 12 HONORABLE CALI: Yes.  
 13 UNIDENTIFIED MALE:  
 14 May I have a moment?  
 15 HONORABLE CALI:  
 16 Absolutely.  
 17 UNIDENTIFIED MALE:  
 18 May we just take a five minute  
 19 recess?  
 20 HONORABLE CALI: Yeah,  
 21 we're going to take a five minute  
 22 recess.  
 23 BAILIFF: The Board is --- in  
 24 session.  
 25 HONORABLE CALI: Do you

1 document which I'm being accused of  
 2 violating rules and whatnot about  
 3 judicial misconduct. My understanding  
 4 of the facts would be well, if they were  
 5 misbehaving, you know, that's an  
 6 offense and that's one of my concerns  
 7 about some of your rulings. We've  
 8 been over all of that stuff. That he  
 9 would be, I would be asking him things  
 10 of that sort.  
 11 HONORABLE CALI: Of  
 12 what sort? I'm just trying to be clear.  
 13 ATTORNEY BAILEY: Sure.  
 14 The issues having to do with whether  
 15 or not, now remember this is not as a  
 16 plaintiff. This is of somebody who  
 17 worked in the office and worked  
 18 around there and whether or not had  
 19 knowledge that he may have of  
 20 situations where I was mistreated  
 21 because of the kinds of cases I brought  
 22 and the judges I brought them before.  
 23 That's the misbehavior that I keep  
 24 trying to demonstrate.  
 25 HONORABLE CALI: But he

1 have an offer or do you want to do an  
 2 offer before?  
 3 ATTORNEY FULTON: Please.  
 4 HONORABLE CALI: You're  
 5 Mr. Ostrowski, correct?  
 6 MR. OSTROWSKI: Yes,  
 7 sir.  
 8 HONORABLE CALI: Would  
 9 you just go out while this is happening  
 10 please? We'll call you right back in.  
 11 ATTORNEY BAILEY:  
 12 Mr. Ostrowski had practiced law  
 13 with Judge Conner ---. He was a civil  
 14 rights lawyer in Harrisburg. At one  
 15 point he had joined up in practice with  
 16 Bailey, Stretton and Ostrowski. That  
 17 practice came apart. I was going to be  
 18 asking him some questions of the same  
 19 type I asked Mr. Conklin as to issues as  
 20 to why that came apart, if they were  
 21 related to the judicial treatment of me.  
 22 My theory being that's part of the, as I  
 23 said to you probably too many times  
 24 you'd like to hear again, but you know,  
 25 this is part of the complaint in the

1 is going to testify as to his personal  
 2 knowledge  
 3 ATTORNEY BAILEY: Oh,  
 4 yeah, yeah.  
 5 HONORABLE CALI: Only of  
 6 and not to opinions that he may have of  
 7 ATTORNEY BAILEY: No, no.  
 8 HONORABLE CALI: Of  
 9 certain things that are, he needs to  
 10 testify to facts.  
 11 ATTORNEY BAILEY: Yeah.  
 12 HONORABLE CALI: Okay.  
 13 ATTORNEY BAILEY: I mean  
 14 just to make it a longer offer in fairness  
 15 to Bob and to you and to the Board, or  
 16 I'm sorry, the Committee, the other  
 17 questions, other fact questions about,  
 18 now let me just say what they are right  
 19 now. I will be asking the same type of  
 20 question I asked Adrienne on whether  
 21 or not he personally received  
 22 information indicating Judge Munley's  
 23 comments without saying what they  
 24 are, about what, what you're shaking  
 25 your head.

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1 HONORABLE CALI: I  
 2 understand the question. You can ask a  
 3 lot of people, Mr. Stretton who had  
 4 indicated. I think it's redundant. You  
 5 can ask that question. You were  
 6 allowed to ask Adrienne, but the  
 7 question is there and the answer is  
 8 forthcoming so what other questions  
 9 that are relevant.  
 10 ATTORNEY BAILEY: I do  
 11 want to ask that and I have purposes in  
 12 HONORABLE CALI: That's  
 13 fine.  
 14 ATTORNEY BAILEY: This  
 15 poor primitive brain of mine, but I do  
 16 HONORABLE CALI: It's not  
 17 a poor primitive brain and nobody's  
 18 referring to that.  
 19 ATTORNEY BAILEY: Well,  
 20 no.  
 21 HONORABLE CALI: You  
 22 have a right to defend your case. It's  
 23 very critically important to you and  
 24 your life and your family. We all  
 25 recognize that and understand it and in

1 your full name for the record.  
 2 MR. OSTROWSKI:  
 3 Andrew J. Ostrowski.  
 4 ATTORNEY BAILEY: Andy,  
 5 I'm going to be asking you a lot of  
 6 questions here. I'm going to presume  
 7 that we're going to get objections.  
 8 When we do, don't talk over it. You  
 9 know what to do. Secondly, issues that  
 10 have to do with anything that may be in  
 11 a pleading, we graciously have been  
 12 allowed to submit those. It goes in the  
 13 record. We will be able, again, I  
 14 assume findings of fact including the  
 15 long type of format in a brief or  
 16 whatever on those issues which will go  
 17 on to the Board.  
 18 **A: Would that be --- be on**  
 19 **public record?**  
 20 Q: Yeah, and here's the thing.  
 21 We don't want to and the orders were  
 22 very clear and have been emphatically  
 23 stated a number of times not to go into  
 24 the details that are in the orders which  
 25 lead to things like your opinion of

1 no sense do we not believe that it's  
 2 serious so get Mr. Ostrowski in.  
 3 ATTORNEY BAILEY: ---  
 4 more important to the rights of  
 5 American citizens. I'm a nutcase on  
 6 that, but that's what I want to do it for.  
 7 I  
 8 HONORABLE CALI:  
 9 Nobody is making ---.  
 10 ATTORNEY BAILEY: I'm not  
 11 ---, no, no.  
 12 HONORABLE CALI: So Mr.  
 13 Ostrowski please take the stand.  
 14 ATTORNEY BAILEY: All  
 15 right.  
 16 HONORABLE CALI: Would  
 17 you swear the witness please?  
 18 STENOGRAPHER: Raise  
 19 your right hand. Do you swear or  
 20 affirm to tell the truth, the whole truth,  
 21 and nothing but the truth?  
 22 MR. OSTROWSKI: I do.  
 23 STENOGRAPHER: Thank  
 24 you.  
 25 HONORABLE CALI: State

1 what's in there and that sort of thing.  
 2 They will speak for themselves in other  
 3 words.  
 4 **A: Well, I don't agree that**  
 5 **they speak for themselves, but I'll try**  
 6 **to follow.**  
 7 Q: Follow what the court  
 8 says.  
 9 **A: You know, I'm not sure**  
 10 **I'm following you exactly, but I'll do**  
 11 **my best.**  
 12 Q: I'm trying and the Judge  
 13 will point it out to us. There will be an  
 14 objection. Just make sure that you  
 15 follow.  
 16 **A: I'll do my best.**  
 17 Q: Do your best. Okay. Now  
 18 with that being said, pretty much,  
 19 Andy, what's the current status of your,  
 20 I almost said driver's license, your  
 21 attorney's license?  
 22 **A: My license is suspended.**  
 23 **I'm under suspension so I guess I**  
 24 **technically have none. I guess there's**  
 25 **still some kind of supervisory**

1 **jurisdiction and reapplication process**  
 2 **when I make that decision.**  
 3 Q: Okay.  
 4 **A: Suspended since February**  
 5 **9, 2010.**  
 6 Q: Okay. Prior to the  
 7 suspension, for what period of time  
 8 have you been succinctly stated, did  
 9 you practice, I realize you haven't  
 10 practiced with me for awhile, but  
 11 during the pendency of Bailey,  
 12 Stretton, Ostrowski, how long was  
 13 that? Do you remember what year?  
 14 **A: Well, yes. I've been**  
 15 **associated with you or working in the**  
 16 **same office as you since I believe it**  
 17 **was February of 2001 or 2000, actually**  
 18 **it was 2001 because I know it was the**  
 19 **year of 9-11. I've been with you,**  
 20 **associated, affiliated, renting office**  
 21 **space, however you want to call it, at**  
 22 **all times since. The law firm of Bailey**  
 23 **Stretton and Ostrowski was probably in**  
 24 **existence from 2003 to 2005, 2002 to**  
 25 **2005, somewhere in there. I had a**

1 Q: Were my reasons that I  
 2 stated was fear that you would be  
 3 abused by association with me?  
 4 **A: Absolutely. Without**  
 5 **deliberation, yes.**  
 6 Q: During the period of time  
 7 that you have known me and I have  
 8 practiced law, do you recollect whether  
 9 I conducted civil rights cases in  
 10 Florida, New York, in addition to  
 11 Pennsylvania?  
 12 **A: I can't**  
 13 Q: If you know.  
 14 **A: I know you talked about a**  
 15 **case you had in Florida, but I knew**  
 16 **nothing about those cases.**  
 17 Q: Okay. Do you have a  
 18 recollection if I ever complained about  
 19 judicial misbehavior of judges in  
 20 Florida or New York or any other place  
 21 outside of Pennsylvania?  
 22 **A: As I recall, you still, I**  
 23 **mean it came up in a conversation not**  
 24 **long ago, you'd love to have an office**  
 25 **in Florida. You told me what happened**

1 **hearing before Judge Rambo in federal**  
 2 **court on a sanctions issue to try to**  
 3 **enforce a judgment saying I vacated the**  
 4 **firm.**  
 5 Q: Okay.  
 6 **A: March 2005 I believe.**  
 7 Q: Now after that we were in  
 8 practice a short while together. Is that  
 9 correct?  
 10 **A: Yeah. We had some**  
 11 **letterhead with both our names on it.**  
 12 **We never shared fees or finances or**  
 13 **split bills or income or anything.**  
 14 Q: Okay. Is it your, do you  
 15 recollect if I was the one that forced the  
 16 breakup after that?  
 17 **A: Oh, yes, yes. You**  
 18 **discouraged me tremendously and**  
 19 **repeatedly time and time and time**  
 20 **again to not associate myself with you**  
 21 **because by that time I had known the**  
 22 **man that you are, I chose to ignore**  
 23 **your advice. But I see today, why you**  
 24 **were giving it and I thank you for**  
 25 **giving me that advice. ---**

1 **in New York and your experiences**  
 2 **with those courts and those judges have**  
 3 **been nothing but positive.**  
 4 Q: Do you have  
 5 **A: I never heard a word of**  
 6 **criticism about the same judge from**  
 7 **any other court.**  
 8 Q: Well, to wrap that up, do  
 9 you have a recollection of my doing  
 10 many cases in the Western District of  
 11 Pennsylvania?  
 12 **A: Oh, yes, sure.**  
 13 Q: Do you have knowledge  
 14 of my ever complaining about being  
 15 unfairly treated by any judge in the  
 16 Western District of Pennsylvania?  
 17 **A: Apart from having**  
 18 **lawyers that you disagree with and**  
 19 **exercise the --- rights, I don't recall the**  
 20 **word abuse or mistreatment or**  
 21 **misconduct or any of those types of**  
 22 **words being associated with any**  
 23 **Western District judge. --- Western**  
 24 **District judges in.**  
 25 Q: Okay. Do you have a

1 recollection of a case where I was  
 2 assessed attorney's fees in an Eastern  
 3 District case about 10, more than 10  
 4 years ago, if you know, if you know?  
 5 **A: Well, I know, but what I**  
 6 **know I know from you and not because**  
 7 **I, I don't think I was with you at the**  
 8 **time.**  
 9 Q: Okay.  
 10 **A: I really don't know. I**  
 11 **mean Don Bailey and I, you know,**  
 12 **were not in each other's office and**  
 13 **planning and talking every day. He**  
 14 **had his civil rights caseload and I had**  
 15 **my civil rights caseload. We became**  
 16 **tremendous friends. He's my best**  
 17 **friend in the world. We talked about**  
 18 **cases like lawyers do in every law**  
 19 **office in the country, but I didn't know**  
 20 **his workload. I don't know his cases**  
 21 **and I know he doesn't know and didn't**  
 22 **know my cases.**  
 23 Q: Did I from time to time  
 24 complain, again don't get into the  
 25 substance please, rightfully or

1 **question.**  
 2 Q: Well, I want what you  
 3 personally experienced and I know,  
 4 look, just.  
 5 **A: I'll answer your question.**  
 6 Q: All right.  
 7 **A: Okay. This was Don**  
 8 **Bailey, you know, he, at this point,**  
 9 **somewhere around 2006, 2007 all of a**  
 10 **sudden Judge Kane started these, this**  
 11 **kind of abusive treatment of Don**  
 12 **Bailey.**  
 13 ATTORNEY FULTON:  
 14 Objection.  
 15 HONORABLE CALI: Again,  
 16 your comments with regard to that,  
 17 you're here for a factual. I think the  
 18 question, Mr. Ostrowski, was a phone  
 19 conversation in the lower office or  
 20 Adrienne's office. That was your  
 21 question. Could you respond to the  
 22 question?  
 23 **A: I'm aware of what the**  
 24 **question was.**  
 25 HONORABLE CALI: Then

1 wrongfully, did I complain that I was  
 2 being unfairly treated by Judge  
 3 Christopher Conner?  
 4 **A: Yes.**  
 5 Q: Did I from time to time,  
 6 again not getting into the substance,  
 7 rightfully or wrongfully, did I complain  
 8 that I was being mistreated by Judge  
 9 Kane?  
 10 **A: Yes, --- yes. Not all**  
 11 **together, not all at once, you know.**  
 12 **Things were staggered. Things**  
 13 **revealed themselves over time from**  
 14 **different judges, but the answer**  
 15 **generally is yes, there were specifics**  
 16 **that --- in terms of time.**  
 17 Q: Don't do that.  
 18 **A: Okay.**  
 19 Q: Now do you recollect my  
 20 asking you to join in a conference call,  
 21 maybe more than one time, but at least  
 22 in one occasion in the lower office, in  
 23 Adrienne's office, with Judge Kane?  
 24 **A: Yes, I know exactly what**  
 25 **you're talking about, but ask your next**

1 let's try to answer that question.  
 2 **A: Sure.**  
 3 HONORABLE CALI: What  
 4 was the timeframe for our sake of that  
 5 phone call? What year, what is the  
 6 timeframe?  
 7 **A: I believe that that was in**  
 8 **2009. I believe it was in the summer of**  
 9 **2009. I do not recall what the case is.**  
 10 **I could probably determine what the**  
 11 **case is. I have not gone back and done**  
 12 **independent research to determine what**  
 13 **the case is.**  
 14 HONORABLE CALI: You  
 15 believe it was the summer of 2009.  
 16 **A: I believe it was the**  
 17 **summer of 2009 if I'm not mistaken**  
 18 **because I do not, actually yes, it was**  
 19 **because I had my disciplinary**  
 20 **proceeding I believe and I thought I**  
 21 **was done ---. Don had approached me**  
 22 **and said hey Andy, I think I just**  
 23 **happened to be standing in the front**  
 24 **office there, a two-floor building. Don**  
 25 **said, hey, Andy, I have this conference**

1 call with Judge Kane at whatever time  
 2 it was. Would you mind sitting in? I  
 3 said no. I mean I did it before and I've  
 4 asked him to help me and he's asked  
 5 me to help him and I gladly sat down.  
 6 I suppose I guess the normal course is  
 7 Don who had --- the phone call, likely  
 8 Adrienne, --- conference calls and he  
 9 patched through to the attorneys. I  
 10 honestly forget who the attorneys were.  
 11 One of them may have been, but I don't  
 12 know David Karamessinis. I'm not  
 13 100% certain of the name spelling.  
 14 Actually I believe that was the only  
 15 other attorney on the line. Come to  
 16 think of it I think there was another  
 17 female attorney, but I don't know. In  
 18 any event Judge Kane got on the phone  
 19 and she picked up the phone and the  
 20 first words out of her mouth and I  
 21 know this may not come across on the  
 22 transcribed records so I want it to be  
 23 known that my voice will be raised and  
 24 will be trying to present the intonation  
 25 which Judge Kane used and I do not

1 A: Yes. I believe it was in the  
 2 Dorcas Holmes case. This was in 2009  
 3 when Judge Kane mysteriously started  
 4 entering these --- cases.  
 5 ATTORNEY FULTON:  
 6 Objection.  
 7 HONORABLE CALI: Could  
 8 you please  
 9 ATTORNEY BAILEY: These  
 10 are his cases.  
 11 HONORABLE CALI: Mr.  
 12 Ostrowski, please, the words of  
 13 mysteriously, they're conclusions. Just  
 14 factually give us the facts. That's all  
 15 we want to hear without opinions or  
 16 conclusions and factually you're being  
 17 asked a question. Subsequent, the  
 18 question was subsequent  
 19 A: Facts, I'll give you the  
 20 facts. Well, the fact is  
 21 HONORABLE CALI: Mr.  
 22 Ostrowski, I'm speaking.  
 23 A: Yes, I understand, sir.  
 24 HONORABLE CALI:  
 25 Factually there was a question

1 exaggerate. She said, Hello, Mr.  
 2 Bailey, how are you today. I shot a  
 3 look at Don and I think I might've  
 4 mouthed to him what in heck was that.  
 5 Don kind of looked at me, and I  
 6 remember him sitting there. He was  
 7 sitting right across the table from me.  
 8 He sat back and he said well, hello,  
 9 Judge Kane, I'm fine and how are you  
 10 today. Then it just proceeded on. That  
 11 was, I was offended. I was shocked  
 12 and I was appalled that a federal judge  
 13 could do what that judge did that day.  
 14 It was like a little school girl sitting and  
 15 saying I know something you don't  
 16 know. That's exactly how it turned out  
 17 to be and no exaggeration, not one  
 18 word. I had, two weeks later, may not  
 19 HONORABLE CALI: Well,  
 20 that's the answer to that question.  
 21 Perhaps there's another question you  
 22 could answer.  
 23 A: Yes.  
 24 ATTORNEY BAILEY: What  
 25 occurred shortly thereafter?

1 posed as to subsequent to that  
 2 telephonic conference did something  
 3 occur.  
 4 A: Okay.  
 5 HONORABLE CALI: Please  
 6 respond.  
 7 A: I had a case, the case is,  
 8 I'm fairly certain that these are the  
 9 parties and this is the case -- 95%  
 10 certainty. The case was Dorcas  
 11 Holmes versus Defense Logistics  
 12 Agency. I represented a lot of those  
 13 folks over there in New Cumberland  
 14 over the course of my career. The  
 15 other attorney was Melissa Swauger  
 16 who is an Assistant United States  
 17 Attorney. The issue before the court,  
 18 the conference call was scheduled on  
 19 my request and my motion for  
 20 sanctions and to compel even though I  
 21 was not getting cooperation. Judge  
 22 Kane, so I directed the onset, set it up,  
 23 there's an informal process here in the  
 24 Middle District where you pick up the  
 25 phone and you call a judge and you



1 explain to the secretary or the law clerk  
 2 that you're having a little problem and  
 3 they set you up on a conference call.  
 4 So we had this conference call. Judge  
 5 Kane, I called Melissa Swauger,  
 6 exchanged our pleasantries, waited for  
 7 Judge Kane and Judge Kane picked up  
 8 the phone. Hi Mr. Ostrowski, how are  
 9 you today. Fine, Your Honor, good  
 10 morning. How are you? Are you  
 11 ready for this hearing? She, Judge  
 12 Kane never once, this was my request.  
 13 This was my request for a phone call  
 14 and Judge Kane launched --- an attack  
 15 on me. It was about me being  
 16 uncooperative. It was about me, she,  
 17 here's what she said, here's what she  
 18 said. Mr. Ostrowski, you're not going  
 19 to tell me how to run my court. I  
 20 thought well, if I'm right, you should  
 21 listen to me and if you consider that  
 22 running your court then that's what it  
 23 is. But the fact of the matter is it  
 24 turned into an assault on me. Judge  
 25 Kane talked the whole time. I tried to

1 say a couple things. I did say a couple  
 2 things. It lasted for about three or four  
 3 minutes and she hung up the phone and  
 4 the most appalling thing that I was  
 5 embarrassed for Judge Kane. I was  
 6 embarrassed for myself. I was  
 7 embarrassed for the legal profession  
 8 when Judge Kane never once during  
 9 that conversation acknowledged the  
 10 other attorney on the phone. Didn't say  
 11 hello. Didn't ask her to say a word.  
 12 Nothing. She picked up the phone.  
 13 She came at me and she got on me and  
 14 didn't let up until she hung up and  
 15 turned it around and made it an issue  
 16 that I was doing wrong. It was abusive  
 17 beyond belief.  
 18 ATTORNEY BAILEY: Did  
 19 you have a case called Chisterer?  
 20 A: Yes.  
 21 Q: Again, don't get into the  
 22 substance of the case. Do you have a  
 23 recollection of whether or not I had a  
 24 case, a plaintiff by the name of  
 25 Mellott?

1 A: Yes. Again, from you  
 2 telling me about it.  
 3 ATTORNEY FULTON: What  
 4 was the name, Don?  
 5 ATTORNEY BAILEY: M-E-  
 6 L-L-O-T-T, Mellott. In the federal  
 7 case that I had Mellott, were the  
 8 defendants federal marshals?  
 9 A: Yes.  
 10 Q: In the Mellott case, the  
 11 Third Circuit panel was then Judge,  
 12 now Justice Alito? Did he write the  
 13 opinion in that case?  
 14 A: Yes. I don't know that  
 15 I've ever seen the opinion. A lot of this  
 16 comes from my conversations with  
 17 you.  
 18 Q: That's okay. No, no,  
 19 that's fine. Don't get into the  
 20 substance anyway. Do you have a  
 21 recollection of whether Marjorie  
 22 Rendell wrote a dissent in that case?  
 23 A: Again, that's my  
 24 knowledge, yes.  
 25 Q: Do you have a recollection

1 of affirmation hearings before the late  
 2 departed Senator Ted Kennedy?  
 3 A: Yes.  
 4 Q: Do you have a recollection  
 5 of what two cases were used by the  
 6 Senate Judiciary Committee to question  
 7 and later argue the nonconfirmation of  
 8 Justice Alito?  
 9 ATTORNEY FULTON:  
 10 Objection.  
 11 ATTORNEY BAILEY: ---  
 12 confirmation ---.  
 13 HONORABLE CALI: Just  
 14 one second. There was an objection.  
 15 ATTORNEY FULTON: It's the  
 16 same objection that's been running  
 17 through this proceeding. I don't see the  
 18 relevance.  
 19 HONORABLE CALI: Yeah,  
 20 I'm having trouble to that extent, Mr.  
 21 Bailey, as to the confirmation hearings  
 22 of Judge Alito to this proceeding.  
 23 ATTORNEY BAILEY: Well,  
 24 here's what I was going to ask him. I'll  
 25 make it very brief and if not, just

Disciplinary Hearing Day 2

1 change the line of questioning. There  
 2 was a noticeable change in the  
 3 treatment, this was when I --- this,  
 4 when this motion was written. Part of  
 5 the reasons for these allegations of  
 6 judicial misbehavior calendar-wise  
 7 were associated in my mind with those  
 8 two cases being used, the two cases,  
 9 and by the way I had nothing to do  
 10 with it. I mean I've got old  
 11 Congressional friends. Don't get me  
 12 wrong, I had nothing to do with it.  
 13 Nothing. Mistreatment, significant in  
 14 terms of Third Circuit appeals in  
 15 particular and questions that were  
 16 raised on appeal.  
 17 HONORABLE CALI: ---  
 18 ATTORNEY BAILEY: We  
 19 discussed and I can withdraw it ---.  
 20 HONORABLE CALI: No, I  
 21 think what the point is that you're  
 22 raising an issue, you're asking this  
 23 witness a question. The answer is, if he  
 24 has personal knowledge of whether or  
 25 not in the Senate confirmation of Judge

1 HONORABLE CALI: Again,  
 2 that's the extent of that answer.  
 3 A: No, it wasn't the extent of  
 4 it.  
 5 HONORABLE CALI: Excuse  
 6 me.  
 7 ATTORNEY BAILEY: No, no,  
 8 no.  
 9 HONORABLE CALI: I'm not  
 10 going to be excused by you. You're a  
 11 witness now please. For the question  
 12 A: Excuse me, but I wasn't  
 13 done with the answer, sir. ---  
 14 HONORABLE CALI: Excuse  
 15 me, Mr. Ostrowski. I was clarifying  
 16 originally the ability to answer that  
 17 question to the extent of whether or not  
 18 there were issues raised. I assume that  
 19 you've testified to the fact that there  
 20 were inquiries relating to it. Again,  
 21 other than that, there's no more  
 22 relevance in this proceeding for that  
 23 question. Next question.  
 24 ATTORNEY BAILEY: Okay.  
 25 Let me just depart from that. It's been

1 Alito these two cases were discussed.  
 2 ATTORNEY BAILEY: That's  
 3 it.  
 4 HONORABLE CALI: If he  
 5 has personal knowledge. Did he listen  
 6 to the hearings? Did he hear the  
 7 testimony?  
 8 ATTORNEY BAILEY: Right.  
 9 HONORABLE CALI: If not,  
 10 then he doesn't even have personal  
 11 knowledge. If the answer's yes or no,  
 12 whatever your recollection is.  
 13 A: My recollection is, I  
 14 received a call from some outfit in  
 15 Washington about the Chisterer case  
 16 and learned from Don that he had  
 17 received some kind of call or  
 18 communication from somebody about  
 19 this Mellott case so yes, I am aware  
 20 that there was interest in or around the  
 21 time that Justice Samuel Alito, he was  
 22 actually appointed to the Supreme  
 23 Court that yeah, there was interest in  
 24 that case around the time of his  
 25 hearings and I know that

1 responded to.  
 2 A: I just ---.  
 3 Q: No, no, no.  
 4 HONORABLE CALI:  
 5 Gentlemen, just presume with a  
 6 question and then an answer.  
 7 ATTORNEY BAILEY: I'm  
 8 sorry.  
 9 HONORABLE CALI:  
 10 Whatever the next question is,  
 11 just ask a question.  
 12 ATTORNEY BAILEY: Okay.  
 13 Now I'm going to jump around here  
 14 just a little bit if you don't mind. It's a  
 15 line of questions connected to the Third  
 16 Circuit and the Chisterer and Mellott  
 17 cases. If I understand the Judge  
 18 correctly, you answered the question on  
 19 familiarity with that issue. I'm just  
 20 going to leave that, okay. Let me go to  
 21 something different at this point which  
 22 is ---.  
 23 HONORABLE CALI: Yes.  
 24 ATTORNEY BAILEY: Okay.  
 25 A: Anywhere you want to go.

1 Q: Okay. Do you have a  
2 recollection of seeing drop down boxes  
3 on a computer scene in the office?  
4 A: Yes, several times.  
5 Q: Who was on those drop  
6 box screens? What offices were, wait a  
7 minute. What office of the inquiry,  
8 was the inquiry if you recollect on  
9 Steve Wick's case on Judge Anderson  
10 up in Lycoming County?  
11 A: There was that case and  
12 there was  
13 ATTORNEY FULTON: Can  
14 you give a timeframe?  
15 A: And there was one other.  
16 HONORABLE CALI: Just a  
17 timeframe ---.  
18 ATTORNEY BAILEY: It was  
19 fairly recently.  
20 A: This was in the past year.  
21 HONORABLE CALI: Post  
22 where we can see, post the filing of the  
23 timeframe on which we're talking  
24 about?  
25 ATTORNEY BAILEY: Yes.

1 recall correctly. There was the United  
2 States Attorneys, the United States  
3 Probation Office, and we can determine  
4 this on the docket by looking at the one  
5 because when I saw it I said Adrienne,  
6 circle every one of them. Click on all  
7 of them and get it out there. So ---.  
8 ATTORNEY BAILEY: Just  
9 answer who they are please.  
10 A: Okay. There were, there  
11 were court reporters, Federal Probation  
12 I think I said that. My gosh, there were  
13 probably, probably 20 different entities  
14 and individuals.  
15 Q: Do you recollect, if you  
16 do, you do, if you don't, you don't. Do  
17 you recollect if Judge Scirica and Third  
18 Circuit clerks?  
19 A: Oh, there were Third  
20 Circuit, Third Circuit, I don't recollect  
21 Judge Scirica's name.  
22 Q: Okay.  
23 A: I do recollect  
24 Q: What about Judge  
25 Carlson's name?

1 It was post.  
2 HONORABLE CALI: ---.  
3 ATTORNEY BAILEY: It was  
4 definitely after.  
5 HONORABLE CALI: All  
6 right. So let's just limit it to where we  
7 were before. We're not going beyond  
8 that because it is post the motion for  
9 rehearing en banc which is in a  
10 pleading.  
11 ATTORNEY BAILEY: Now  
12 do you remember some of the offices  
13 that were in the drop down box?  
14 A: Well, there's a little lack  
15 of clarity in the question because I  
16 believe I remember in two cases.  
17 Q: Okay. But in any event,  
18 just tell the court who then. Who was  
19 monitoring my case? Who ---.  
20 ATTORNEY FULTON: Object.  
21 HONORABLE CALI: Again,  
22 that, the question was to whose names  
23 were in the drop box.  
24 A: There were things like  
25 Office of Disciplinary Counsel if I

1 A: I don't know. I'd have to  
2 go up there and  
3 Q: That's the answer. What  
4 about Keavin  
5 A: I think so. Oh, Keavin  
6 Neary, yes.  
7 Q: Do you know who Keavin  
8 Neary is?  
9 A: Yeah, he's Judge  
10 Carlson's little, what do you call them,  
11 law clerk type of guy, deputy. Not an  
12 attorney, I believe.  
13 Q: By virtue of your own  
14 knowledge, by that I don't mean  
15 discussions in the office, discussions  
16 with Steve Wicks, etc. Do you know  
17 whether Steve Wicks complained, of  
18 your own knowledge, whether he  
19 complained to the Office of  
20 Disciplinary Counsel about misconduct  
21 of an attorney in the case before Judge  
22 Brown in Lycoming County?  
23 A: I do know that he  
24 complained about him, yes.  
25 Q: Do you know whether he

1 ever received a response from, if you  
 2 know, from the Office of Disciplinary  
 3 Counsel, specifically Patti Bednarick?  
 4 **A: Well, what I know is that**  
 5 **Steve Wicks is very upset about gross,**  
 6 **gross ---.**  
 7 Q: No, but just ---  
 8 HONORABLE CALI: Mr.  
 9 Ostrowski, the question was  
 10 **A: Sir, I heard the question.**  
 11 HONORABLE CALI: Well,  
 12 then Mr. Ostrowski  
 13 ATTORNEY BAILEY: Andy,  
 14 please.  
 15 HONORABLE CALI: If you  
 16 heard the question, then you're fully  
 17 capable of answering so please answer  
 18 the question.  
 19 ATTORNEY BAILEY: I know  
 20 your frustration. Please do what the  
 21 Judge says.  
 22 **A: ---.**  
 23 Q: Andy, please, please, do  
 24 what the Judge says, please.  
 25 **A: I know, here's what I do**

1 Ostrowski, please just answer the  
 2 question.  
 3 **A: The question yes, wait, sir,**  
 4 **could you repeat your question again?**  
 5 HONORABLE CALI: My  
 6 question is a repeat of Mr. Bailey's  
 7 question. Do you have knowledge of  
 8 whether or not he got a response? I  
 9 believe your answer was to the best of  
 10 your knowledge he did not.  
 11 **A: Okay. Are you still under**  
 12 **investigation by the United States**  
 13 **Attorney ---.**  
 14 ATTORNEY FULTON:  
 15 Objection.  
 16 HONORABLE CALI: Mr.  
 17 Ostrowski,  
 18 ATTORNEY BAILEY: Andy,  
 19 don't.  
 20 HONORABLE CALI: We are  
 21 going to stop that right now ---, are we  
 22 not?  
 23 **A: Yes. ---**  
 24 HONORABLE CALI: Either  
 25 answer his question,

1 **know that Steve Wicks is upset because**  
 2 **he had not received a response.**  
 3 ATTORNEY FULTON:  
 4 Objection.  
 5 HONORABLE CALI: Again,  
 6 his demeanor is not what the answer is.  
 7 To the best of your knowledge he has  
 8 not received a response.  
 9 **A: To the best of my**  
 10 **knowledge he has not received**  
 11 HONORABLE CALI: ---.  
 12 Next question.  
 13 **A: Sir, you just put words in**  
 14 **my mouth there and that really, that is**  
 15 **totally inappropriate.**  
 16 HONORABLE CALI: Mr.  
 17 Ostrowski, the question was are you  
 18 aware of whether or not he got a  
 19 response. That question could be  
 20 answered yes or no. I'm not going to  
 21 put any words in your mouth. Is your  
 22 answer yes or no?  
 23 **A: I could be treated with a**  
 24 **little better decorum, sir.**  
 25 HONORABLE CALI: Mr.

1 ATTORNEY BAILEY: Andy,  
 2 please, please.  
 3 **A: Okay. I gotcha.**  
 4 ATTORNEY BAILEY: I'm  
 5 asking you ---.  
 6 **A: Yes. Okay. You ask the**  
 7 **question please, Don.**  
 8 Q: Do you recollect if of your  
 9 own knowledge, in other words  
 10 conversations and awareness in the  
 11 office and papers and different things  
 12 you may have seen, I don't know. I  
 13 don't work with you that often. Do  
 14 you recollect if Mr. Wicks, having any  
 15 knowledge of Mr. Wicks filing a  
 16 judicial complaint against Judge  
 17 Conner and Magistrate Judge Prince, if  
 18 you know?  
 19 **A: I don't. I don't have any**  
 20 **recollection of that.**  
 21 Q: That's fine. All right.  
 22 Now when you worked at Mette Evans  
 23 and Woodside, did you, did you  
 24 interface with Judge Conner?  
 25 **A: Mette Evans and**

1 **Woodsid.**  
 2 Q: M-E-T-T-E I think it is?  
 3 A: Yes.  
 4 Q: I apologize for  
 5 mispronouncing it. I know it's a very,  
 6 very prestigious law firm. Now  
 7 HONORABLE CALI: Is there  
 8 a timeframe on that, Mr. Bailey?  
 9 ATTORNEY BAILEY: Sure.  
 10 Do you, can you tell us when you  
 11 served at the?  
 12 A: ---. I worked at Mette  
 13 Evans and Woodside. I believe I  
 14 started there when I was a law clerk  
 15 after my second year of law school  
 16 which would've been probably 1991,  
 17 summer of 1991. I became an  
 18 associate. It was my first job out of  
 19 law school in 1992. I continued the  
 20 employment, but I became an associate  
 21 attorney in 1992. I was there until, I'm  
 22 just going to say approximately May of  
 23 2005, or I'm sorry, did I say 2000 for  
 24 all of those? Ten years earlier 1991  
 25 Q: That's what I thought.

1 **She had the Chisterer case for example.**  
 2 Q: Do you have a recollection  
 3 of a hearing, I think you might've  
 4 referred to it earlier, in front of Judge  
 5 Rambo where there were sanctions  
 6 over, against Bailey, Stretton and  
 7 Ostrowski because of a case that had  
 8 gone back and forth between Judge  
 9 McClure and Judge Rambo?  
 10 A: Yes, I have a recollection.  
 11 I believe it was February or March  
 12 2005.  
 13 Q: Do you have a recollection  
 14 --- if you do whether that was just after  
 15 the allegations surfaced, rightfully or  
 16 wrongfully, that three federal judges  
 17 were out to "get me"?  
 18 ATTORNEY FULTON:  
 19 Objection. First of all, that has  
 20 not been testified to. Secondly, it  
 21 requires hearsay.  
 22 HONORABLE CALI: Mr.  
 23 Bailey,  
 24 ATTORNEY BAILEY: I don't  
 25 know how it requires hearsay. This is

1 A: --- 1995, yes.  
 2 Q: Okay. Now did you have  
 3 cases before Judge Conner when he  
 4 was a federal district judge?  
 5 A: There was no case that I  
 6 filed as lead counsel that was ever  
 7 assigned to Judge Conner.  
 8 Q: Did you, I'm sorry. (end  
 9 of tape) Were you ever unfriendly with  
 10 him, ever have a fight with him or  
 11 anything like that?  
 12 A: No, by all means I was  
 13 very, very friend, very close with his --  
 14 - right now still. Still, we were very  
 15 close friends.  
 16 Q: Okay. Did you have cases  
 17 that were assigned to Judge Rambo?  
 18 ATTORNEY FULTON: Judge  
 19 Rambo?  
 20 ATTORNEY BAILEY: Yes,  
 21 sir, R-A-M-B-O, Judge Sylvia.  
 22 A: Yes. Of all the federal  
 23 judges who I have practiced before, she  
 24 probably had the most, the greatest  
 25 number have been with Judge Rambo.

1 the stuff that Mr. Stretton was  
 2 testifying to. Let me do a foundation  
 3 question on it.  
 4 HONORABLE CALI: Why  
 5 don't you do a foundation because.  
 6 ATTORNEY BAILEY: Sure.  
 7 Do you have a recollection, do not  
 8 quote what was said, do you have a  
 9 recollection of receiving information in  
 10 the presence of or from Mr. Stretton as  
 11 to certain comments made, and I'm  
 12 going to let it go there, don't quote, by  
 13 Judge Munley?  
 14 A: Absolutely, a crystal clear  
 15 recollection.  
 16 Q: All right. Don't, don't say  
 17 it. We got, understandably it's a  
 18 hearsay problem I guess in some ways,  
 19 but in any event the court has been kind  
 20 enough and we got some testimony on  
 21 that.  
 22 A: I do not remember when I  
 23 first heard those, however.  
 24 Q: Okay.  
 25 A: I can give it some context

Disciplinary Hearing Day 2

1 **in that, I had heard**  
 2 HONORABLE CALI: Wait  
 3 again,  
 4 ATTORNEY FULTON: ---  
 5 **A: I'm sorry.**  
 6 HONORABLE CALI: It was  
 7 asked and answered. There's no other  
 8 question being posed at the moment.  
 9 ATTORNEY BAILEY: Okay.  
 10 Thank you. Now, Mr. Ostrowski, do  
 11 you remember the hearing down there  
 12 in front of Judge Rambo?  
 13 **A: Yes.**  
 14 Q: Do you of your own  
 15 knowledge have a recollection of Judge  
 16 Rambo, strike that. Who argued, who  
 17 handled that hearing?  
 18 **A: My recollection is you sat**  
 19 **at counsel table. Sam did the**  
 20 **argument. I sat on the bench behind**  
 21 **you over your right shoulder.**  
 22 Q: Do you remember if  
 23 during part of those proceedings I sat  
 24 back in the audience, if you remember?  
 25 **A: I don't know that, Don. I**

1 timewise. I'm not certain if all of them,  
 2 some of them are not archived.  
 3 HONORABLE CALI: I  
 4 understand.  
 5 ATTORNEY BAILEY: Some  
 6 of them do exist, but there should be,  
 7 I'll try to retrieve them. That's all I can  
 8 do.  
 9 HONORABLE CALI: Well, if  
 10 there's a document that affects you  
 11 where it's words that were said, you  
 12 know, by a court order in a court  
 13 proceeding, again it follows the same  
 14 pattern of all of the other  
 15 documentation we discussed, okay?  
 16 ATTORNEY BAILEY: That's  
 17 fine. Yes, sir.  
 18 **A: There it is.**  
 19 Q: Thank you. I understand.  
 20 Now it takes me a while to --- so don't  
 21 think I, I get it. I have ---.  
 22 HONORABLE CALI: Just  
 23 continue with your question.  
 24 ATTORNEY BAILEY: All  
 25 right. Now after that hearing, did Mr.

1 **recall you sitting at the table.**  
 2 Q: Do you have a recollection  
 3 of my being charged with not  
 4 appearing to be remorseful enough?  
 5 **A: Oh, absolutely.**  
 6 Q: Do you have a recollection  
 7 of a result of the courts, this is a quote,  
 8 "inherent powers" that there were  
 9 sanctions ---  
 10 HONORABLE CALI: Mr.  
 11 Bailey, is this part of an order or  
 12 something that have or is going to be  
 13 submitted?  
 14 ATTORNEY BAILEY: You  
 15 know what, I have tried, I tried for a  
 16 long time to get the transcript, I don't  
 17 think I was, I mean I tried a long time  
 18 to get the transcript of the hearing. I  
 19 think it was Vickie Fox was the court  
 20 reporter. I don't believe I was  
 21 successful, but there. The problem is  
 22 when they started actually putting these  
 23 court things in, archiving these court  
 24 orders, you know, putting them down --  
 25 - that they stopped at a certain point

1 Stretton leave the partnership?  
 2 **A: Probably after that.**  
 3 Q: Okay. If you know, was  
 4 Mr. Stretton concerned with the way I  
 5 said things and  
 6 **A: Sam was always**  
 7 **concerned with the way you said things**  
 8 **and I think it's just the fact that you**  
 9 **said them, because you said things that**  
 10 **were true and you said them**  
 11 **appropriately.**  
 12 Q: All right. Now I think  
 13 we've been over the ground of the  
 14 dissolution --- of your leaving the  
 15 partnership ---.  
 16 **A: I don't know when that**  
 17 **happened. Maybe a year and a half**  
 18 **later.**  
 19 Q: Okay. Now did you at  
 20 some point come to represent clients in  
 21 cases that were assigned to Judge John  
 22 E. Jones, III?  
 23 **A: Yes, I've been fairly**  
 24 **frequently on Judge Jones' docket over**  
 25 **the course of seven, eight years that he**

Disciplinary Hearing Day 2

1 **was on the bench. ---.**  
 2 Q: Yes, sir. Mr. Ostrowski,  
 3 now one of the things this panel may  
 4 not know, I want to ask you is there a  
 5 Middle District practice rule that where  
 6 you have a discovery dispute or  
 7 discovery problem you're supposed to  
 8 informally call up, and with the  
 9 exception of me in a lot of cases, these  
 10 discussions are not put on the record  
 11 and you just talk about them and try to  
 12 resolve them before you get to the  
 13 point of burdening the court, which I  
 14 can understand.  
 15 **A: Do you want me to tell**  
 16 **you my understanding?**  
 17 Q: Particularly for defense  
 18 lawyers, the court with motions to  
 19 compel. Yes.  
 20 ATTORNEY FULTON:  
 21 Objection.  
 22 ATTORNEY BAILEY: This is  
 23 his own knowledge of what  
 24 HONORABLE CALI: What is  
 25 the question? Whether he has

1 case.  
 2 ATTORNEY BAILEY: Every  
 3 time I do we get objections. I just want  
 4 the hearing to flow. That's why I was  
 5 doing that. Laying a foundation.  
 6 HONORABLE CALI: Just  
 7 ask the question.  
 8 ATTORNEY BAILEY: Okay.  
 9 Thank you, sir. Now did you have,  
 10 Andy, please, did you have discussions  
 11 that you participated in about  
 12 subpoenaing the Mayor of Harrisburg  
 13 in a civil rights case which we  
 14 eventually successfully, I successfully  
 15 resolved for Julian Adams, a police  
 16 officer for Harrisburg?  
 17 **A: Yes, I recall having**  
 18 **conferences and I filed a motion to**  
 19 **compel on that, too, ---.**  
 20 Q: Okay. Now if you filed a  
 21 motion to compel, that would've been  
 22 before I took the case or took over the  
 23 case ---.  
 24 **A: Yeah, and I'll be happy to**  
 25 **submit a motion. That should be in this**

1 knowledge  
 2 ATTORNEY BAILEY: Of this  
 3 practice and then talking about cases  
 4 before Judge, Judge Jones and a  
 5 specific question I want to ask has to  
 6 do with a case for a person named  
 7 Julian Adams that he was working on  
 8 just before he was very abruptly  
 9 suspended from the practice of law by  
 10 Judge, in the federal courts by Judge  
 11 Kane.  
 12 HONORABLE CALI: Why  
 13 don't we get to the question that's  
 14 relevant to that rather than if there's a  
 15 practice, if there's a telephone call, if  
 16 there's a telephone conference that  
 17 you're talking about.  
 18 ATTORNEY BAILEY: To  
 19 head off  
 20 **A: That would be my fault. I**  
 21 **should've just said yes I'm familiar**  
 22 **with it and I'm sorry. I didn't mean.**  
 23 HONORABLE CALI: No,  
 24 just get to your question that's pertinent  
 25 to what you believe is relevant to this

1 **record.**  
 2 HONORABLE CALI: Was  
 3 that before or after, what was the  
 4 answer to his question?  
 5 **A: I, you know, I talked and**  
 6 **I'm sorry. What was your question,**  
 7 **Don?**  
 8 ATTORNEY BAILEY: Yeah.  
 9 --- there was a formal motion that was  
 10 filed and it was about the issue with,  
 11 with the Mayor's testimony and certain  
 12 meetings of the Pennsylvania Human  
 13 Relations and all this kind of stuff. Do  
 14 you remember that?  
 15 **A: Yes, I remember that.**  
 16 Q: Okay. So we should be  
 17 able to dig that up.  
 18 **A: Yes.**  
 19 Q: Now, now do you  
 20 recollect a report and recommendation,  
 21 strike that. Before the report and  
 22 recommendation was written, do you  
 23 remember a hearing before Judge  
 24 Smyser in which I participated and  
 25 argued?

Disciplinary Hearing Day 2

1 **A: Yes. It was on the motion**  
 2 **for summary judgment. I attended with**  
 3 **you after I was suspended.**  
 4 Q: Do you have a recollection  
 5 of the report and recommendation  
 6 written by Judge Smyser which  
 7 suggested denial of the motion for  
 8 summary judgment?  
 9 ATTORNEY FULTON:  
 10 Objection. Report and  
 11 recommendation.  
 12 HONORABLE CALI: Again,  
 13 are you asking whether a report and  
 14 recommendation was given, Mr.  
 15 Bailey? I'm assuming that there was a  
 16 report and recommendation. Is that  
 17 one of the documents that we're going  
 18 to get?  
 19 ATTORNEY BAILEY: Yes, it  
 20 is.  
 21 HONORABLE CALI: Okay.  
 22 So whether  
 23 ATTORNEY BAILEY: I'm  
 24 trying to bring its existence out. I  
 25 mean he needs something to cross

1 Well, any of those things that are  
 2 documents if you don't mind I'd like to  
 3 go over with you and then I'll submit  
 4 them and Bob and I can submit them  
 5 for part of this record. Okay. But I'm  
 6 not asking you to comment on it  
 7 substantively. The point, at some point  
 8 before that litigation, the Julian Adams  
 9 case, was, I mean that case was, we, I, I  
 10 guess, successfully ended that case in a  
 11 settlement. Is that correct?  
 12 **A: Yes.**  
 13 Q: Now before that  
 14 happened, were you notified that you  
 15 had been suspended from the practice  
 16 of federal law by Judge Kane?  
 17 **A: Yes. I don't recall when**  
 18 **the hearing was, but it was sometime**  
 19 **within, the first year of that suspension**  
 20 **when that hearing was that I was under**  
 21 **suspension. It had happened after, yes.**  
 22 Q: Do you know whether you  
 23 were granted appeal rights?  
 24 **A: Was I**  
 25 ATTORNEY FULTON: From

1 examine him on.  
 2 HONORABLE CALI: No, but  
 3 what we're talking about is if there  
 4 was, your question was was there a  
 5 report and recommendation. If it's of  
 6 record, then it's going to be one of  
 7 those documents again that you and  
 8 Mr. Fulton are going to submit. Is that  
 9 correct?  
 10 ATTORNEY BAILEY: Yes.  
 11 HONORABLE CALI: Okay.  
 12 ATTORNEY BAILEY: And I  
 13 wasn't going to get into any substantive  
 14 aspects of it.  
 15 HONORABLE CALI: Then  
 16 that's fine.  
 17 ATTORNEY BAILEY: Okay.  
 18 HONORABLE CALI: That's  
 19 a document.  
 20 ATTORNEY BAILEY: Okay.  
 21 **A: It was first assigned to**  
 22 **Marty Carlson and he recused himself**  
 23 **because he was a witness in the case,**  
 24 **and then Judge Smyser, yes.**  
 25 ATTORNEY BAILEY: Okay.

1 what?  
 2 **A: You mean my discipline**  
 3 **or?**  
 4 ATTORNEY BAILEY: Yeah.  
 5 We were talking  
 6 HONORABLE CALI: ---  
 7 ATTORNEY BAILEY: The  
 8 previous question was about  
 9 suspension. Perhaps, perhaps Bob was,  
 10 I don't know. But anyway it was about  
 11 suspension, the previous question is ---  
 12 HONORABLE CALI: Well,  
 13 no, the question was did he have appeal  
 14 rights from  
 15 ATTORNEY BAILEY: The  
 16 suspension.  
 17 ATTORNEY FULTON: Which  
 18 suspension?  
 19 ATTORNEY BAILEY: From  
 20 the federal, for the federal.  
 21 HONORABLE CALI: From  
 22 the federal.  
 23 ATTORNEY FULTON: That's  
 24 ATTORNEY BAILEY: ---  
 25 please. The federal court.



1 **A: Did I have appeal rights?**  
 2 **Well,**  
 3 **Q: If you don't know, if you**  
 4 **know, if you, you know.**  
 5 **A: I know that I got an order**  
 6 **somewhere around March 23, 2010 and**  
 7 **there's a story behind this that tells a**  
 8 **lot that needs to be added to this**  
 9 **record, but I know I got an order that**  
 10 **said Mr. Ostrowski is suspended from**  
 11 **the practice of law effective this date.**  
 12 **Sam Stretton filed a motion for**  
 13 **reconsideration because everybody**  
 14 **believed including Sam and everybody,**  
 15 **nobody denied that I would have 30**  
 16 **additional days to wrap up my affairs.**  
 17 **I had Sam file a motion. I said Sam, do**  
 18 **it right away. I have commitments to**  
 19 **clients that I promised I would fulfill.**  
 20 **File a motion with Judge Kane and**  
 21 **make sure that, you know, we have this**  
 22 **30 days because I thought they were**  
 23 **going to apply Pennsylvania**  
 24 **Disciplinary Rule 217 --- attorneys, but**  
 25 **they never did. He filed a motion and**

1 **that you're going to cut me off at every**  
 2 **turn and I'm trying to throw words into**  
 3 **this record like I'm just spitting them**  
 4 **out there that you're really making it**  
 5 **hard for me to answer these questions**  
 6 **because you keep cutting me off.**  
 7 **HONORABLE CALI: Mr.**  
 8 **Ostrowski, I'm going to cut you off**  
 9 **now because I'm not going anywhere**  
 10 **for you to answer a question how I**  
 11 **want you to answer a question.**  
 12 **A: Yes, you are.**  
 13 **HONORABLE CALI: No,**  
 14 **you're not. No, I am not. Let's be**  
 15 **clear**  
 16 **A: You're putting words in**  
 17 **my mouth.**  
 18 **HONORABLE CALI: Let's**  
 19 **be clear on one thing. Mr. Bailey is**  
 20 **asking you a question. The question**  
 21 **was very easily answered. Do you**  
 22 **know whether or not you had appeal**  
 23 **rights? That is where the question lies.**  
 24 **Whatever your honest answer is, you**  
 25 **will give it. Not an answer any of us**

1 **three days later I got a call from the**  
 2 **Attorney General's Office saying the**  
 3 **word on the street over at the Federal**  
 4 **Courthouse is that**  
 5 **ATTORNEY FULTON:**  
 6 **Objection.**  
 7 **A: You're --- immediately.**  
 8 **I'm sorry.**  
 9 **HONORABLE CALI: You**  
 10 **can't testify what you said. The**  
 11 **question originally was do you know**  
 12 **whether or not you had appeal rights. I**  
 13 **guess, do you know or you don't.**  
 14 **A: Sir,**  
 15 **HONORABLE CALI: I heard**  
 16 **your understanding of the**  
 17 **reconsideration that was filed, but did**  
 18 **you know or not of whether or not you**  
 19 **had appeal rights. That was Mr.**  
 20 **Bailey's question.**  
 21 **A: Yes, sir. For point of**  
 22 **order, answering a question is an**  
 23 **intellectual process and that doesn't**  
 24 **always get right where you want me to**  
 25 **go. It's kind of unfair when I know**

1 here want other than what you know to  
 2 be the honest answer.  
 3 **A: Sir, the question was what**  
 4 **was my understanding of my appeal**  
 5 **rights. I do not, can't answer that yes**  
 6 **or no as to whether or not I had a right**  
 7 **of appeal as I understand the term**  
 8 **appeal after practicing law for some 20**  
 9 **years. The rights that I had I**  
 10 **understood to be derived from the rules**  
 11 **that govern the practice of law. Those**  
 12 **rules are Disciplinary Board rules and**  
 13 **there's a, in Chapter 89 of the Middle**  
 14 **District rules, I believe it's Chapter 89,**  
 15 **they have rules governing disciplinary**  
 16 **proceedings. There is no provision in**  
 17 **the Middle District rules that governs**  
 18 **post-discipline, you know, like a,**  
 19 **whatever Rule 217 is called, formerly**  
 20 **admitted attorneys. So the courts**  
 21 **would have to have made that up.**  
 22 **Back to where I was when I got cut off.**  
 23 **Sam Stretton had filed a motion for**  
 24 **reconsideration and Judge Kane who**  
 25 **knew that I wanted this**

1 accommodation and needed this  
 2 accommodation and more importantly  
 3 that clients needed this accommodation  
 4 entered an order effective immediately  
 5 no further conditions attached period  
 6 end of sentence. March 23, 24, 25,  
 7 2010 I was done practicing before the  
 8 Middle District Court and I do not  
 9 understand that I had a right to appeal.  
 10 HONORABLE CALI: Next  
 11 question.  
 12 ATTORNEY BAILEY: Do you  
 13 know whether Judge Jones called Paul  
 14 Killion who I have not been allowed  
 15 ATTORNEY FULTON:  
 16 Objection.  
 17 HONORABLE CALI: Just  
 18 ask the question. What's the question?  
 19 Do you know whether or not Judge  
 20 Jones called Paul Killion? Is that the  
 21 question?  
 22 ATTORNEY BAILEY: Let me  
 23 redraft it, sir. I did, I did interject  
 24 something and I stand corrected. Mr.  
 25 Ostrowski, do you know whether Judge

1 **Disciplinary Counsel this morning and**  
 2 **you better be careful because Judge**  
 3 **Jones has been calling them asking**  
 4 **them what they can do to make sure**  
 5 **that you can stop, so that you don't, so**  
 6 **that you are not able to help Don**  
 7 **Bailey.**  
 8 Q: All right.  
 9 A: ---. He, it was like he was  
 10 giving me a friendly nudge of advice.  
 11 Q: All right. That's enough.  
 12 Please, please. So Sam called you.  
 13 Okay. Now do you know whether the  
 14 person, strike that. Do you know  
 15 whether Judge Jones ever called  
 16 specifically Paul Killion to report you  
 17 for the unauthorized practice of law in  
 18 the Miles Thomas case?  
 19 A: I don't know how I heard  
 20 it, but I do know that there is an  
 21 outstanding complaint out there that  
 22 after I was suspended Miles Thomas  
 23 had filed something pro se and Judge  
 24 Jones, for some reason I know that  
 25 Marty Carlson's name is tied to this,

1 Jones called Paul Killion at the  
 2 Disciplinary Board?  
 3 A: I believed until you said  
 4 Paul Killion, I believed --- Mr. Fulton.  
 5 Q: That's my error. Let me  
 6 rephrase it.  
 7 A: I don't know. It could've  
 8 been either because there was never a  
 9 name attached to who the information  
 10 came from.  
 11 Q: What are you referring to?  
 12 A: What I'm referring to is  
 13 somewhere right around that same  
 14 time, maybe even the day that the order  
 15 came out suspending me, I was sitting  
 16 in my office and I got a call from Sam  
 17 Stretton. Sam says to me kind of in  
 18 like a hush hush, you know, giving you  
 19 a little advice. Just watch yourself  
 20 because Judge Jones is calling, I was  
 21 in, here's it exactly. Sam said I was in  
 22 court with Disciplinary Counsel this  
 23 morning so we can find that date.  
 24 Q: Just answer.  
 25 A: Okay. I was in court with

1 **too, but Judge Jones and Marty had**  
 2 **taken something off the docket and**  
 3 **filed it**  
 4 ATTORNEY FULTON:  
 5 Objection.  
 6 A: Sent it over to the  
 7 Disciplinary Counsel. I'm answering  
 8 the question.  
 9 HONORABLE CALI: Excuse  
 10 me a second. There's an objection.  
 11 What's the objection?  
 12 ATTORNEY FULTON: It's not  
 13 responsive. The question was did he  
 14 learn that Mr. Killion was called by  
 15 Judge Jones. That was the question.  
 16 HONORABLE CALI: Is the  
 17 answer, could you answer that  
 18 question?  
 19 A: Do you want the facts or?  
 20 HONORABLE CALI: No, I  
 21 want to know the answer to the  
 22 question first. You were asked a  
 23 question. Give the answer to the  
 24 question.  
 25 ATTORNEY BAILEY: Let me,

1 let me  
 2 **A: Well, I know my ---**  
 3 HONORABLE CALI: Just ---.  
 4 Mr. Bailey,  
 5 **A: Keep in mind that that's**  
 6 **what happened.**  
 7 ATTORNEY BAILEY: I'm  
 8 going to redraft the question. It was  
 9 poorly put. I think I can help. Do you  
 10 know whether you were ever accused  
 11 or investigated about the unauthorized  
 12 practice of law in the Miles Thomas  
 13 case?  
 14 **A: I know that I have that**  
 15 **issue waiting for me when I submit my**  
 16 **reapplication to the Board.**  
 17 Q: No, no, that's not the  
 18 question.  
 19 **A: I do not know about**  
 20 **investigation. I don't, what do you**  
 21 **mean by investigation? There's a**  
 22 **whole bunch of things. Looking at**  
 23 **something and pulling it off a docket**  
 24 **and sending it out ---.**  
 25 ATTORNEY FULTON:

1 guy's a better --- lawyer than I am quite  
 2 frankly. But do you know whether you  
 3 guys writing style, do you write the  
 4 same?  
 5 ATTORNEY FULTON:  
 6 Objection.  
 7 ATTORNEY BAILEY: I mean  
 8 do you write similarly?  
 9 HONORABLE CALI: Isn't  
 10 that really difficult, isn't that very, very  
 11 difficult to answer, Mr. Bailey.  
 12 ATTORNEY BAILEY: It's  
 13 poorly crafted. I'm used to doing  
 14 depositions and I'm not ---.  
 15 HONORABLE CALI: I don't  
 16 think that's an answerable question.  
 17 ATTORNEY BAILEY: Okay.  
 18 Let me redo it.  
 19 HONORABLE CALI:  
 20 Relative to what?  
 21 **A: I could answer that.**  
 22 HONORABLE CALI:  
 23 Relative to what, Mr. Bailey?  
 24 ATTORNEY BAILEY: Yeah,  
 25 sure. I wrote in the document that I'm

1 Objection. It's not responsive.  
 2 HONORABLE CALI: Again,  
 3 ATTORNEY BAILEY: If you  
 4 know.  
 5 **A: Yes, I was. I am and I**  
 6 **was.**  
 7 Q: Okay. That's all right.  
 8 Do you know if, of your own  
 9 knowledge, if Mr. Miles Thomas  
 10 submitted a pro se brief at some point?  
 11 This is after he's pro se.  
 12 **A: Yes, I believe he**  
 13 **submitted a few things pro se if**  
 14 **memory serves.**  
 15 Q: Okay. Of your own  
 16 knowledge, do you know if Thom  
 17 Lewis helped him write that?  
 18 **A: Sure. I know that. Thom**  
 19 **wrote something. Sure.**  
 20 Q: All right. Do you and  
 21 Thom Lewis write alike?  
 22 **A: Do Thom Lewis and I**  
 23 Q: If I would read something,  
 24 you've looked at documents I assume, I  
 25 don't know, a writ of certiorari, the

1 being accused of violating rules for  
 2 which I think are atrocious violations  
 3 of the First Amendment as ---  
 4 HONORABLE CALI: ---  
 5 ATTORNEY BAILEY: I  
 6 criticized you, you've heard me pop off  
 7 on that a lot of times. You've been  
 8 very kind to me. The criticisms it's  
 9 specifically what I had directed at me,  
 10 sir, was you accused judges in this  
 11 writing of misbehaving. Okay. Now  
 12 the testimony I've been trying to put  
 13 together here through cross  
 14 examination and what witnesses I can  
 15 bring here are in support of my  
 16 contention that judges were  
 17 misbehaving. Through this process  
 18 partly due to trying to respond through  
 19 cross examination, I think Mr.  
 20 Fulton's, Mr. Fulton's work with the  
 21 two judges yesterday, and my  
 22 witnesses, I'm trying to demonstrate the  
 23 misbehavior that I was talking about  
 24 because I've been accused of making  
 25 these things up.

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1 HONORABLE CALI: Mr.  
2 Bailey, the question was related to the  
3 writing of a document and whether the  
4 writings were similar or not. All I'm  
5 asking you is the relevance of that.  
6 ATTORNEY BAILEY: Sure.  
7 HONORABLE CALI: And to  
8 stay focused to that question.  
9 ATTORNEY BAILEY: You're  
10 quite right. It's my fault. I got a little  
11 far afield there. The relevancy in my  
12 mind of that question relates to  
13 testimony offered by the Honorable  
14 John E. Jones, III, specifically his  
15 testimony about calling Mr. Killion,  
16 which I'm sure you remember as  
17 regards Mr. Ostrowski,  
18 HONORABLE CALI: No, I  
19 remember that testimony.  
20 ATTORNEY BAILEY: Okay.  
21 And accusations that Mr., no  
22 investigation though, remember this, no  
23 investigation done by Judge Jones, no  
24 questions asked, don't call Ostrowski  
25 and ask him a question, don't

1 perfectly legitimate question as to  
2 whether he's looked at his writings and  
3 he's looked at Lewis's writings and  
4 whether they are similar or not. In  
5 other words, if Adrienne wrote  
6 something and I wrote something, you  
7 could probably tell the difference.  
8 HONORABLE CALI: Isn't  
9 the question of whether he wrote  
10 something or not and if his answer is he  
11 didn't write the writ, that's the answer.  
12 ATTORNEY BAILEY: No, I  
13 just want to ask if their writing styles  
14 based on his factual observations and  
15 knowledge are similar. That's all I  
16 wanted to ask him. I don't understand  
17 what the problem is.  
18 HONORABLE CALI: You  
19 can answer that, Mr. Ostrowski. Please  
20 just try to answer it.  
21 **A: If something were**  
22 **presented to me and it was written by**  
23 **Thom Lewis, I would likely know that**  
24 **it was not written by me.**  
25 ATTORNEY BAILEY: All

1 HONORABLE CALI: ---  
2 related to the writing of a document.  
3 ATTORNEY BAILEY: No, no,  
4 it's not in the writing, sir.  
5 HONORABLE CALI: You  
6 asked him about his writing style  
7 versus Mr. Lewis's writing style.  
8 ATTORNEY BAILEY: I'm  
9 trying to impeach the credibility of  
10 John E. Jones who I think was  
11 overzealously and I think I have  
12 evidence of that trying to get at me,  
13 trying to get me, get Don Bailey to stop  
14 practicing law which a group of judges  
15 got together and did. Now what I'm  
16 trying to do, what I'm trying to  
17 establish the relevancy is Judge Jones  
18 had to have some reason for thinking  
19 Mr. Ostrowski wrote that ---. He said,  
20 now wait, Judge, sir, please, sir. He  
21 said, Judge Jones said, you can correct  
22 me if my recollection is wrong. He  
23 said that he thought the writing, he  
24 thought it was Mr. Ostrowski who  
25 wrote it so I'm just asking if their, it's a

1 right. Very, very briefly in the  
2 Chisterer case, of your own  
3 recollection, was there any reference in  
4 any of your briefs or any of that work  
5 which I want you to produce so that we  
6 can trade documents here, about Judge  
7 Rambo?  
8 **A: Yes, I had become, I had**  
9 **become quite critical of Judge Rambo**  
10 **as I had been of other Middle District**  
11 **judges because they grossly exceed**  
12 **their standards of ---.**  
13 ATTORNEY FULTON:  
14 Objection.  
15 HONORABLE CALI: Again,  
16 please do not give opinions or  
17 comments relating to conclusions  
18 regarding the courts.  
19 ATTORNEY BAILEY: Andy,  
20 please.  
21 **A: Okay. Thank you.**  
22 Q: Thanks. The answer to  
23 the question is yes, you did include  
24 references to Judge Rambo.  
25 **A: Yes. --- briefs.**

1 Q: Andy, the opinion was  
 2 written by Justice Alito, is that correct,  
 3 I'm sorry, then Judge Alito.  
 4 A: You know, I don't know.  
 5 I believe it was written by Alito. I  
 6 know he was on the panel and I know  
 7 he had a lot of questions for me. I  
 8 don't know that he wrote the opinion.  
 9 Q: Okay. Thank you.  
 10 A: --- opinion we would find  
 11 that.  
 12 Q: Okay. Sounds good. Now  
 13 affirmative action programs in the  
 14 Ridge administration. Before I ask you  
 15 questions about that and get into that,  
 16 get into any questions like that, did  
 17 Judge Conner have anything to do with  
 18 those policies or any cases appertaining  
 19 to those policies before the Ridge  
 20 administration, if you know, if you  
 21 know.?  
 22 A: Don, I need a little  
 23 foundation. No, he didn't.  
 24 Q: Okay. Then that's the  
 25 way, that's it. --- Give me just a

1 maybe a page and a half letter detailing  
 2 the provable misconduct of Bob Fulton  
 3 and the provable misconduct of Paul  
 4 Killion asking for an investigation and  
 5 a couple weeks later I got a return letter  
 6 about, with Don Bailey and they  
 7 opened a docket on you and asked me  
 8 for more information on the complaint.  
 9 Yes, I am laughing because it is funny  
 10 at some level. It's sad --- and it's  
 11 funny. They have committed this  
 12 crime.  
 13 Q: I'm sorry.  
 14 A: They have committed this  
 15 crime.  
 16 HONORABLE CALI: That's  
 17 not responsive to the question and  
 18 strike that please.  
 19 ATTORNEY BAILEY: Bob,  
 20 I'm going to include those in the  
 21 documents and provide them to you,  
 22 okay.  
 23 ATTORNEY FULTON: Let the  
 24 record reflect that Mr. Ostrowski is  
 25 signaling to counsel's table.

1 moment, sir. Did you have occasion at  
 2 one point to file  
 3 HONORABLE CALI: Mr.  
 4 Bailey, just flip your,  
 5 ATTORNEY BAILEY: Sorry,  
 6 sorry. I rarely get requests to speak  
 7 into a mic. Mr. Ostrowski if I may, sir,  
 8 did you ever file a complaint with the  
 9 Disciplinary Board where they  
 10 responded to you that I wrote it or  
 11 something? Can you straighten me out  
 12 on what occurred?  
 13 A: Well, I filed a complaint  
 14 with the Disciplinary Board against  
 15 Paul Killion and Bob Fulton for the  
 16 engineering of this very process that  
 17 we're involved in here. It was referred  
 18 to the Board of Staff.  
 19 Q: Was that document, did  
 20 that document come back to you  
 21 characterized in the eyes of the ODC  
 22 staff as a complaint against moi, Don  
 23 Bailey?  
 24 A: It sure did. Susie Moore.  
 25 I sent in a complaint. It was about the,

1 HONORABLE CALI: I can't  
 2 see that and if he is, he should not be.  
 3 ATTORNEY BAILEY: Don't,  
 4 don't do that anymore. In any event,  
 5 HONORABLE CALI:  
 6 Anymore questions, Mr. Bailey?  
 7 ATTORNEY BAILEY: Yeah,  
 8 just very briefly a few --- questions. In  
 9 the processes, procedures,  
 10 HONORABLE CALI: Mr.  
 11 Ostrowski, we've already asked you  
 12 not to have any kind of  
 13 A: Sir, Mr. Bailey's tired.  
 14 Mr. Bailey's exhausted from ---.  
 15 HONORABLE CALI: Excuse  
 16 me, Mr. Ostrowski. We've asked you  
 17 twice please just  
 18 A: You asked me once.  
 19 HONORABLE CALI: This is  
 20 going to be the third because you  
 21 interrupted me. Now  
 22 A: ---.  
 23 HONORABLE CALI: You're  
 24 a witness.  
 25 ATTORNEY BAILEY: Andy,

1 please.  
 2 HONORABLE CALI:  
 3 Answer the questions. Mr.  
 4 Bailey has called you. Please, can you  
 5 please just respond to the questions?  
 6 **A: I think I've been doing a**  
 7 **fantastic job.**  
 8 HONORABLE CALI: Well,  
 9 can you please just continue to answer  
 10 the questions.  
 11 **A: ---.**  
 12 HONORABLE CALI: No  
 13 other  
 14 **A: I keep getting interrupted.**  
 15 HONORABLE CALI: No  
 16 other comments are necessary from  
 17 you.  
 18 **A: Do you have contempt**  
 19 **power, sir?**  
 20 HONORABLE CALI: No  
 21 other comments are necessary from  
 22 you. We're conducting this hearing.  
 23 Mr. Bailey, please ask your next  
 24 question.  
 25 ATTORNEY BAILEY: Of

1 right.  
 2 HONORABLE CALI: Again,  
 3 please, Mr. Bailey, we've gone through  
 4 that as to the opinions and of these  
 5 witnesses please.  
 6 ATTORNEY BAILEY: All  
 7 right. Let me try to do it this way. Let  
 8 me try to do it this way. Do you have a  
 9 recollection of Judge Conner staying  
 10 the case with James Martsof for over  
 11 two years?  
 12 **A: Yes.**  
 13 Q: Louder please.  
 14 **A: Yes, at a matter of**  
 15 **considerable upset to James Martsof**  
 16 **and considerable prejudice.**  
 17 ATTORNEY FULTON:  
 18 Objection.  
 19 HONORABLE CALI: Again,  
 20 we ask it be stricken from the record.  
 21 We're asking you to please just  
 22 respond to the question. Your first part  
 23 of the answer was not to be stricken.  
 24 You answered it.  
 25 ATTORNEY BAILEY: Well,

1 your own knowledge, Mr. Ostrowski,  
 2 sir, did you work on a case of a  
 3 Pennsylvania State Police officer who  
 4 was the plaintiff, our client, my client,  
 5 your client I guess at that time that was  
 6 filed, a state police officer that was  
 7 filed before Judge Conner?  
 8 **A: If you're referring to the**  
 9 **James Martsof case, yes. That's the,**  
 10 **we didn't, you didn't say anything.**  
 11 Q: James Martsof. Wrong  
 12 person.  
 13 **A: Yeah, you said**  
 14 **Pennsylvania State Police officer.**  
 15 Q: I'm sorry. All right. Did  
 16 Judge Conner during your tenure,  
 17 during your period of time in dealing  
 18 with that case, case management-wise  
 19 abuse James Martsof's rights?  
 20 **A: Oh,**  
 21 ATTORNEY FULTON:  
 22 Objection.  
 23 HONORABLE CALI: He  
 24 cannot answer that question.  
 25 ATTORNEY BAILEY: All

1 with all due respect, I need to ask some  
 2 questions on the issue that I  
 3 respectfully disagree with the Chair on  
 4 the issue of prejudice to his rights  
 5 because, and let me do it this way.  
 6 Was an agreement reached with the  
 7 Attorney General's Office to do an  
 8 appeal to the Third Circuit, the attorney  
 9 was Mr. Keating, on specific issues  
 10 where the case was partially settled so  
 11 an issue on appeal could be made due  
 12 to the decisions of Judge Conner?  
 13 **A: Yes.**  
 14 Q: Okay. Now during part of  
 15 the work that you did, when you were  
 16 an attorney there working at the time,  
 17 did you have occasion to represent a  
 18 gentleman by the name of Roger  
 19 Snyder?  
 20 **A: Yes.**  
 21 Q: Did you handle a  
 22 proceeding for Roger Snyder before the  
 23 State Ethics Commission where he was  
 24 charged with certain wrongdoings?  
 25 **A: Yes.**

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1 Q: Did Mr. Snyder prevail on  
2 all of those charges before the  
3 Commission?  
4 A: 100%.  
5 Q: Did Judge Kane in Mr.  
6 Snyder's case while Mr. Snyder was  
7 pro se make decisions on motions to  
8 dismiss affecting him?  
9 ATTORNEY FULTON:  
10 Objection. It's part of the  
11 record.  
12 HONORABLE CALI: Again,  
13 is that the same  
14 ATTORNEY BAILEY: I don't  
15 think that is, no, that's  
16 HONORABLE CALI: Are  
17 they going to be part of a record? Are  
18 they court proceedings in which  
19 opinions or orders have been issued?  
20 ATTORNEY BAILEY: I'm  
21 sorry.  
22 HONORABLE CALI: They  
23 were the same issues from before, Mr.  
24 Bailey.  
25 ATTORNEY BAILEY: No.

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1 were held by other judicial bodies.  
2 That has been the consistent ruling of  
3 this Committee. If there are documents  
4 of record that are going to be  
5 submitted, we are going to give you the  
6 opportunity to highlight those  
7 documents and to provide your  
8 arguments as to the relevance to  
9 anything we need to consider. That is  
10 where we are.  
11 ATTORNEY BAILEY: Well, if  
12 I, so I understand you because I don't  
13 want to tramp on your toes and I'm not  
14 going to My understanding is I can't  
15 ask a question not supported by any  
16 documents that I know of as to Judge  
17 Kane failing to do something that  
18 affected Mr. Snyder.  
19 HONORABLE CALI: That is  
20 correct.  
21 ATTORNEY BAILEY: Okay.  
22 I disagree respectfully.  
23 HONORABLE CALI: I  
24 understand you disagree.  
25 ATTORNEY BAILEY: Okay.

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1 Some of the documents will be, but  
2 some of it has to do with the  
3 corroboration of Mr. Snyder's  
4 testimony on what Judge Kane did and  
5 remember, sir, that, you know, our law  
6 and dealing with this case here with all  
7 of these documents has to do with  
8 facts. There's also another side of legal  
9 liability. Acts and omissions.  
10 Everything is, you know, there are  
11 issues of omissions here where the  
12 Judge didn't do things that she  
13 should've done and I just wanted to ask  
14 him questions as to, as to whether she  
15 did certain things.  
16 HONORABLE CALI: The  
17 questions that we've dealt with  
18 repeatedly are that this is not the proper  
19 forum for the resolution of claims in  
20 other courts or jurisdictions. Those  
21 matters that have been --- those  
22 jurisdictions we will look at the orders  
23 and the documents of records. We are  
24 not going to retry as I said before or get  
25 into the merits of those cases which

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1 HONORABLE CALI: But  
2 those rights of whether or not she failed  
3 or didn't fail or did anything are to be  
4 pursued in the jurisdiction who had, in  
5 the forum that had jurisdiction over that  
6 issue and not in this forum and that's  
7 the answer and let's move on to the  
8 next question.  
9 ATTORNEY BAILEY: All  
10 right. But how do I raise them?  
11 A: Yeah, how?  
12 ATTORNEY BAILEY: I'm not  
13 ---, but I'm not raising.  
14 HONORABLE CALI: I'm not  
15 going to decide how you're going to  
16 raise whatever issues. We ruled on  
17 your issues. We're giving you all and  
18 full opportunity with any documents to  
19 explain, highlight, to highlight first and  
20 then explain the relevance and  
21 argument that you have related to those  
22 documents.  
23 ATTORNEY BAILEY: I  
24 understand your word. I'm not going to  
25 ask the question. I respectfully

Disciplinary Hearing Day 2

1 disagree and I don't waive any rights as  
 2 far as  
 3 HONORABLE CALI: I  
 4 understand that.  
 5 ATTORNEY BAILEY: Okay.  
 6 I thank you.  
 7 ATTORNEY BURKE: ---.  
 8 Q: Yes, sir.  
 9 HONORABLE CALI: For  
 10 clarification purposes.  
 11 ATTORNEY BURKE: If I  
 12 may in regard to what the Panel intends  
 13 to afford you and the Office of  
 14 Disciplinary Counsel the opportunity to  
 15 do, if it's your position that a judge in a  
 16 particular matter failed to do something  
 17 he or she should've done, you can  
 18 make that as a matter of argument in  
 19 connection with something that you  
 20 would be pointing out to us was done  
 21 by virtue of the --- from the court.  
 22 ATTORNEY BAILEY: Okay.  
 23 ATTORNEY BURKE: We  
 24 wouldn't accept testimony from a  
 25 witness because that would essentially

1 kind of a  
 2 HONORABLE CALI: Yes.  
 3 In answer to your question, we're  
 4 going to tell you after you're done with  
 5 the testimony, but so there's no  
 6 question, we're going to set some  
 7 ground rules of what documents will  
 8 come in subsequent as we've  
 9 discussed, the time arranged for either  
 10 the briefs or findings of facts and  
 11 conclusions.  
 12 ATTORNEY BAILEY: That's  
 13 fine.  
 14 HONORABLE CALI: You're  
 15 going to have full opportunity as we  
 16 were explaining to you before when  
 17 these documents come in obviously  
 18 you're going to have the benefit of ---  
 19 and arguing as Mr. Burke has just said  
 20 what the relevance of those documents  
 21 are to your argument that you're  
 22 making to your position.  
 23 ATTORNEY BAILEY: Okay.  
 24 HONORABLE CALI: But  
 25 there will be subsequent to today a

1 represent his opinion with regard to  
 2 that, but we would accept and consider  
 3 an argument that you would make as to  
 4 whether certain acts should've been  
 5 done and wasn't.  
 6 ATTORNEY BAILEY: Okay.  
 7 Can I ask, and I think, I do understand  
 8 that and I certainly, I may not agree  
 9 totally with how it's being applied, but  
 10 I do understand that and I do, you put  
 11 me at ease and I thank you as to how I  
 12 would respond to that because in my  
 13 mind there was this vacuous kind of an  
 14 empty area where, my God, what do I  
 15 have, what do I have to base it on.  
 16 Here's what I'd like, is the procedure  
 17 when this is done, if you all can help  
 18 me, are we going to be allowed to do,  
 19 because I've been given different  
 20 advice from different ethics counsel on  
 21 this, okay. Are we going to be  
 22 allowed, and I tell you why I ask this  
 23 particularly because it's reference, Mr.  
 24 Cali, that you raised here. Are we  
 25 going to be allowed to do either some

1 schedule.  
 2 ATTORNEY BAILEY: Each of  
 3 you gentlemen does have a couple of  
 4 wheelbarrows, right?  
 5 HONORABLE CALI: We're  
 6 getting them as we speak. Next  
 7 question if you can.  
 8 ATTORNEY BAILEY: Very  
 9 briefly. Thank you very much. And  
 10 thank you very much. That helped me  
 11 very much. (end of tape). Let me ask  
 12 Mr. Ostrowski, are you familiar with a  
 13 case where you represented a  
 14 gentleman by the name of DeWees?  
 15 A: Yes.  
 16 Q: How do you spell Mr.  
 17 DeWees's name so she gets it good?  
 18 It's frequently misspelled. Is there an  
 19 E on the end?  
 20 A: No. D-E-W-E-E-S.  
 21 Q: Okay. And it's James?  
 22 A: James DeWees. Former  
 23 Deputy Warden  
 24 Q: I'm sorry.  
 25 A: Former Deputy Warden at



1 **the Dauphin County Prison.**  
 2 Q: I think you and I both  
 3 represented him.  
 4 **A: Yes. It was your case and**  
 5 **I was trial counsel.**  
 6 Q: To what judge was that  
 7 case assigned?  
 8 **A: Judge Rambo.**  
 9 Q: Do you have a recollection  
 10 if there was a DeWees case that ended  
 11 up being assigned to Judge Kane?  
 12 **A: Yes.**  
 13 Q: So there was a DeWees  
 14 case assigned to Judge Rambo and one  
 15 assigned to Judge Kane. Is that right?  
 16 **A: Yes, with Rambo being**  
 17 **first and Kane following.**  
 18 Q: I have no idea whether  
 19 this was on the record at the time. Do  
 20 you have a recollection of Judge Kane,  
 21 sorry, Judge Rambo advising you to the  
 22 effect that you will never practice law  
 23 before her court again or something to  
 24 that effect?  
 25 ATTORNEY FULTON:

1 know whether Judge, Andy please, do  
 2 you know whether Judge Rambo's  
 3 comments, which obviously are out of  
 4 the bag anyhow, whether they were on  
 5 the record or not?  
 6 **A: Well, I have an**  
 7 **understanding as an attorney of on the**  
 8 **record, but this gentleman, Mr. Cali,**  
 9 Q: No, no, please.  
 10 **A: I'm, no, Don, please. I'm**  
 11 **trying to answer his question. There**  
 12 **was a court reporter present. I can**  
 13 **testify to the fact that it occurred. We**  
 14 **could probably go back and order a**  
 15 **transcript and pay \$3,000 from five**  
 16 **years ago and find the records to it in**  
 17 **there or I can take about the 45 seconds**  
 18 **it would take to explain it. I'm sitting**  
 19 **here on the stand. I'm here to testify on**  
 20 **your behalf and I'd like to testify to the**  
 21 **facts that I know of. ---**  
 22 HONORABLE CALI: You  
 23 are testifying. Answer the questions  
 24 Mr. Bailey posed.  
 25 **A: Well,**

1 Objection.  
 2 HONORABLE CALI: Is that  
 3 in a record?  
 4 **A: No.**  
 5 ATTORNEY BAILEY: I don't  
 6 know. I'd have to ask him.  
 7 **A: It might be in the trial**  
 8 **transcript, but ---. I can testify to the**  
 9 **facts. Do you want the facts or not?**  
 10 HONORABLE CALI: Mr.  
 11 Ostrowski, Mr. Bailey's asking you  
 12 questions. We're ruling on the  
 13 questions. You know the process of  
 14 the procedure. Is there a record of ---  
 15 that you're aware of?  
 16 ATTORNEY BAILEY: Judge,  
 17 honestly that I don't know. I don't  
 18 know whether that was on the record. I  
 19 remember, I have vivid recollections,  
 20 please, I have vivid recollections of this  
 21 issue being discussed. I don't know,  
 22 that's why  
 23 HONORABLE CALI: Why  
 24 don't you ask that question?  
 25 ATTORNEY BAILEY: Do you

1 HONORABLE CALI: He  
 2 asked, Mr. Ostrowski.  
 3 **A: Sir, don't get so ---.**  
 4 HONORABLE CALI: Mr.  
 5 Ostrowski, you are not following the  
 6 decorum of this court.  
 7 **A: Because you keep ---.**  
 8 HONORABLE CALI: Mr.  
 9 Ostrowski  
 10 **A: ---**  
 11 HONORABLE CALI: Mr.  
 12 Ostrowski, I am going to try to  
 13 carefully ask you to please follow the  
 14 decorum of this proceeding.  
 15 **A: I can't follow the ---.**  
 16 HONORABLE CALI: Mr.  
 17 Ostrowski, I am speaking please.  
 18 **A: I know.**  
 19 HONORABLE CALI: The  
 20 question was raised do you know  
 21 whether there was a record. If you  
 22 believe there was, yes or no, if there  
 23 wasn't. Then we can go on to Mr.  
 24 Bailey's next question.  
 25 **A: Judge Rambo was on the**

1 **bench. There was a court reporter in**  
 2 **the room. It was in a trial. I believe it**  
 3 **was at a side bar. By the reasonable**  
 4 **inference based on those facts**  
 5 ATTORNEY FULTON:  
 6 Objection.  
 7 **A: Is that it is on the record.**  
 8 HONORABLE CALI: Okay.  
 9 So you believe they made that on the  
 10 record?  
 11 **A: ---.**  
 12 HONORABLE CALI: Wait,  
 13 you're not going to ---.  
 14 **A: No, I don't know. I don't**  
 15 **know.**  
 16 HONORABLE CALI: Okay.  
 17 All right. Next question, Mr. Bailey.  
 18 ATTORNEY BAILEY: I don't  
 19 have any more questions.  
 20 HONORABLE CALI: Mr.  
 21 Fulton,  
 22 **A: Can I explain?**  
 23 HONORABLE CALI: Mr.  
 24 Fulton, cross examine.  
 25 **A: This process is totally ---.**

1 either going to ask questions or we're  
 2 going to conclude it. That's it.  
 3 ATTORNEY BAILEY: I  
 4 understand. Just if I could a few more  
 5 questions. These have to do with  
 6 Thom Lewis and they have to do with  
 7 the hearing in front of Magistrate ---.  
 8 **A: Can I explain the Rambo**  
 9 **thing?**  
 10 HONORABLE CALI: No,  
 11 you can't. That's not the question.  
 12 ATTORNEY BAILEY: He's  
 13 not going to let you and he's made an  
 14 order and what I want to do is try to  
 15 continue if I can. If we can't, you  
 16 know, he's the authority. We're not.  
 17 **A: I don't recognize him as**  
 18 **anything.**  
 19 Q: Well, I, okay, but don't.  
 20 HONORABLE CALI: Mr.  
 21 Bailey, Mr. Bailey.  
 22 ATTORNEY BAILEY: Yeah.  
 23 HONORABLE CALI: Please  
 24 let's continue with the questions.  
 25 ATTORNEY BAILEY: All

1 HONORABLE CALI: You  
 2 know, Mr. Ostrowski, please just  
 3 answer the questions.  
 4 **A: ---.**  
 5 HONORABLE CALI: He's  
 6 rested.  
 7 **A: Proceeding ---.**  
 8 ATTORNEY BAILEY: Oh, I'm  
 9 sorry ---.  
 10 **A: What was the question?**  
 11 HONORABLE CALI: Excuse  
 12 me a minute please.  
 13 **A: ---**  
 14 HONORABLE CALI: Would  
 15 you please let this process for Mr.  
 16 Bailey proceed appropriately?  
 17 **A: This is ---. Not for Mr.**  
 18 **Bailey. This is for you to save yourself**  
 19 **and not for Mr. Bailey.**  
 20 HONORABLE CALI: Would  
 21 you please allow Mr. Bailey  
 22 **A: Hold me in contempt.**  
 23 HONORABLE CALI: I don't  
 24 need to hold you in contemp. Mr.  
 25 Bailey, this is your witness. You're

1 right. I'm trying, trying. Did you  
 2 represent Thom Lewis and Don Bailey  
 3 in a hearing held by the Master Mr.  
 4 Rice, I think his first name is Timothy,  
 5 in the Third Circuit Court, actually it  
 6 was held in his courtroom in the  
 7 Eastern District, under the authority of  
 8 Judge Scirica of the Third Circuit. Is  
 9 that correct?  
 10 **A: Yes, I represented you and**  
 11 **Thom in connection with ---.**  
 12 Q: This is very important and  
 13 very quick, short number of questions.  
 14 Try to respond as succinctly as you  
 15 can. Do you recollect if we were  
 16 allowed to subpoena witnesses?  
 17 **A: No, and I candidly**  
 18 **disclosed that to the judge up front and**  
 19 **it was denied. I candidly disclosed**  
 20 **exactly what we wanted to prove and**  
 21 **exactly what they're being charged for**  
 22 **saying now and we wanted to try to**  
 23 **prove it in a court of law on a court of**  
 24 **record --- in an appropriate proceeding**  
 25 **with witnesses and documents and**

1 **everything. We asked and we put it out**  
 2 **there up front and it wasn't, we weren't**  
 3 **given the opportunity so you submitted**  
 4 **the rehearing en banc. We wanted to**  
 5 **prove what you had been saying, what**  
 6 **we know is the truth.**  
 7 ATTORNEY FULTON:  
 8 Objection.  
 9 HONORABLE CALI: Mr.  
 10 Ostrowski, you answered the question.  
 11 ATTORNEY BAILEY: Let me  
 12 ask  
 13 **A: Good.**  
 14 Q: Let me ask, okay. Was  
 15 one of the witnesses who we had  
 16 subpoenaed the very individual who  
 17 had written the sanctions against me,  
 18 I'm sorry, the bills which the sanctions  
 19 against me were based on?  
 20 **A: If you're talking, there**  
 21 **were three, maybe four attorneys**  
 22 **billing. One attorney testified. Her**  
 23 **name is Bridget Montgomery. There**  
 24 **was a fellow named David Schertz**  
 25 **whose name, you know, he's got**

1 said it previously or somebody said it  
 2 before. We understand.  
 3 ATTORNEY BAILEY: Okay.  
 4 During the time that I testified before  
 5 Judge Rice, did I make an effort to  
 6 testify about patterns of misconduct,  
 7 "misbehavior" by judges?  
 8 **A: I believe the record will**  
 9 **reflect that I specifically asked you**  
 10 **questions in that regard and you**  
 11 **attempted and started to answer those**  
 12 **questions.**  
 13 Q: Was I cut off from  
 14 answering those questions?  
 15 **A: Absolutely. Yeah, he shut**  
 16 **you down. He didn't want to hear a**  
 17 **word of it.**  
 18 Q: Did that issue come back,  
 19 if you recollect, this would be in a  
 20 document, never mind. I got that. In  
 21 Judge Rice's opinion. It was a  
 22 question, never mind ---. Let me ask  
 23 this. During that hearing, did Judge  
 24 Rice, strike that.  
 25 **A: He promised you, he made**

1 **\$15,000 to \$20,000 worth of time that**  
 2 **you're paying him for now.**  
 3 Q: Okay.  
 4 **A: Well, no you're not. I**  
 5 **hope we never do.**  
 6 HONORABLE CALI: The  
 7 question was did, it was a very basic  
 8 question. Did you subpoena the  
 9 individuals or?  
 10 ATTORNEY BAILEY: Yeah,  
 11 we subpoenaed the individuals ---.  
 12 HONORABLE CALI: And  
 13 the answer is they wouldn't let him.  
 14 **A: Yeah, they wouldn't let**  
 15 **me.**  
 16 HONORABLE CALI: Okay.  
 17 So I understand.  
 18 ATTORNEY BAILEY: ---.  
 19 HONORABLE CALI: I  
 20 understand. You did not, you were not  
 21 afforded in that court the opportunity to  
 22 subpoena those witnesses.  
 23 **A: Yeah.**  
 24 HONORABLE CALI: Maybe  
 25 even Mr. Lewis said or somebody else

1 **a promise to you.**  
 2 HONORABLE CALI: Mr.  
 3 Ostrowski, there's no question.  
 4 **A: ---.**  
 5 HONORABLE CALI: There's  
 6 no question.  
 7 **A: There's something**  
 8 **bothering me and it's an apology, sir,**  
 9 **because I said something that I did not**  
 10 **mean. I said I do not recognize you as**  
 11 **anything and**  
 12 HONORABLE CALI: That's  
 13 fine.  
 14 **A: And it was an**  
 15 **inappropriate.**  
 16 HONORABLE CALI: That's  
 17 fine. Apology taken. There's no  
 18 question being posed. Do you have  
 19 any more questions, Mr. Bailey?  
 20 ATTORNEY BAILEY: Well, I  
 21 probably have about 5,000, but I don't  
 22 think, I don't think that would  
 23 necessarily behoove me to follow those  
 24 right now. Can you give me one  
 25 minute to confer with my erstwhile

1 legal beagle assistants?  
 2 HONORABLE CALI: Just a  
 3 moment please so we can then subject  
 4 to cross examination ---. Cross  
 5 examine?  
 6 ATTORNEY BAILEY: Yes.  
 7 HONORABLE CALI: Thank  
 8 you.  
 9 ATTORNEY FULTON: Good  
 10 afternoon, Mr. Ostrowski. I just want to  
 11 go back. Mr. Bailey asked you about a  
 12 drop down box on the computer.  
 13 **A: Would you please ask the**  
 14 **question?**  
 15 HONORABLE CALI: Would  
 16 you put that mic in front of you? I  
 17 can't hear.  
 18 **A: Yes, he stopped talking,**  
 19 **but I did not hear a question.**  
 20 ATTORNEY FULTON: Did  
 21 Mr. Bailey mention, ask you a question  
 22 regarding the drop down box on his  
 23 computer?  
 24 **A: I don't know whose**  
 25 **computer it was. I know we talked**

1 stand and  
 2 **A: Yes. ---**  
 3 ATTORNEY BAILEY:  
 4 Objection. Objection.  
 5 **A: ECF.**  
 6 ATTORNEY BAILEY:  
 7 Objection.  
 8 HONORABLE CALI: What's  
 9 your objection, Mr. Bailey?  
 10 ATTORNEY BAILEY:  
 11 Number one to relevancy.  
 12 Number two Mr. Ostrowski is not an  
 13 expert, has not been qualified to talk  
 14 about that EFC system. I agree I asked  
 15 questions about drop down boxes and  
 16 what he saw. Who knows, we had, the  
 17 clerk was supposed to come in here and  
 18 hasn't appeared as a witness.  
 19 HONORABLE CALI: Wait.  
 20 The question was asked if it was the  
 21 system. He seemed to answer that he  
 22 did know. If he doesn't know, I think  
 23 he's qualified to say if he doesn't  
 24 know. If he doesn't know, he doesn't  
 25 know.

1 **about a computer. If you want to make**  
 2 **your question a little more specific or**  
 3 **correct there record, I think the record**  
 4 **speaks for itself in that regard.**  
 5 Q: You were asked a question  
 6 on the record by Mr. Bailey regarding  
 7 drop down boxes. Is that correct?  
 8 **A: Could you tell me what a**  
 9 **drop down box is?**  
 10 Q: Well, apparently you  
 11 knew what it was on direct so I'm  
 12 asking you did Mr. Bailey ask you a  
 13 question about a drop down box?  
 14 **A: I recall the question from**  
 15 **Mr. Bailey about drop down boxes is**  
 16 **what I testified to, not a drop down**  
 17 **box.**  
 18 Q: Okay. Was that from a  
 19 PACER, from a PACER website?  
 20 **A: If ECF and PACER are**  
 21 **the same thing, it was in the ECF**  
 22 **system formally.**  
 23 Q: So this is the thing that the  
 24 courts use to, where attorneys can  
 25 access and find out where their cases

1 **A: It's in the ECF system. I**  
 2 **don't know what they do ---.**  
 3 HONORABLE CALI: That's  
 4 fine.  
 5 ATTORNEY FULTON: No, but  
 6 what it is on your end, on the user's  
 7 end there's a system available to allow  
 8 you to access federal dockets, correct?  
 9 **A: ECF. Can I ---?**  
 10 Q: Well, you've used them  
 11 before.  
 12 **A: Sure, hundreds of times.**  
 13 Q: Okay. When you type  
 14 something into the box, the inquiry  
 15 box, it matches up with what you're  
 16 asking about and that's what a drop  
 17 down box ---.  
 18 **A: No, no, no. This is a**  
 19 **completely different thing than what**  
 20 **you're talking about. I don't know**  
 21 **what you're talking about.**  
 22 ATTORNEY BAILEY: Can  
 23 you keep your voice up, Mr.  
 24 Ostrowski?  
 25 **A: I'm sorry. This is a**

1 **completely different thing than what**  
 2 **you're talking about. This was**  
 3 **something I had never seen before.**  
 4 ATTORNEY FULTON: Okay.  
 5 **A: You do not type anything**  
 6 **in and it comes up automatically on the**  
 7 **screen. I think it's the screen right**  
 8 **before you go to click your enter and**  
 9 **file it.**  
 10 Q: Okay. So you log into the  
 11 system.  
 12 **A: You log into the system.**  
 13 **You load your document in. Like I**  
 14 **said, I've gone through this process**  
 15 **hundreds of times. You log in the**  
 16 **system. You click on what you're**  
 17 **talking about, you type a letter and**  
 18 **there's a drop down box.**  
 19 Q: Right.  
 20 **A: It goes like, it will go**  
 21 **complaint, counter complaint, just list**  
 22 **it so you can click on something and it**  
 23 **tells you what you're filing.**  
 24 Q: Okay. So that's not the  
 25 drop down box you're talking about.

1 **and did not stand before the court and**  
 2 **accept responsibility for them. I do say**  
 3 **that despite all those facts and my fault**  
 4 **that I still would not have been**  
 5 **suspended, no way, if it wasn't for my**  
 6 **association with Mr. Bailey. I think I**  
 7 **can prove that through a clear, clear**  
 8 **record. Judge Kane knew the whole**  
 9 **time. She knew what was going on and**  
 10 **I can prove it. --- she knew what was**  
 11 **going on.**  
 12 HONORABLE CALI: Pardon  
 13 me?  
 14 ATTORNEY FULTON: I have  
 15 no further questions.  
 16 **A: Okay.**  
 17 HONORABLE CALI: Any  
 18 questions? You're excused. Thank  
 19 you, Mr. Ostrowski for your testimony.  
 20 You can remain in the courtroom at  
 21 this point or leave at your discretion. Is  
 22 there any, are there any more  
 23 witnesses, Mr. Bailey?  
 24 ATTORNEY BAILEY: No.  
 25 HONORABLE CALI: None?

1 **A: That's not the drop down**  
 2 **box I'm talking about.**  
 3 Q: Okay. Now and correct  
 4 me if I'm wrong, but I believe on direct  
 5 you said that what was occurring in the  
 6 federal court is what caused your  
 7 suspension from Pennsylvania. Is that  
 8 accurate? Is that what you said?  
 9 **A: No, if I did it didn't make**  
 10 **sense because what you just said didn't.**  
 11 Q: Okay. Was it your  
 12 association with Mr. Bailey that you  
 13 testified has caused your suspension?  
 14 I'm talking about your Pennsylvania  
 15 suspension.  
 16 **A: My association with Mr.**  
 17 **Bailey had a dispositive effect on my**  
 18 **suspension in so far as if it wasn't for**  
 19 **that relationship I never would've been**  
 20 **suspended. I do not say because, sir, I**  
 21 **have a future interest to protect here as**  
 22 **I'm sure you and I will be going over**  
 23 **here in the near future. I do not say**  
 24 **that I did not do the things that I --- to**  
 25 **do and I do not stand before the court**

1 Then we're going to take a 10 minute  
 2 break. Do you have any more  
 3 witnesses? I'm sorry.  
 4 ATTORNEY FULTON: Not at  
 5 this juncture.  
 6 HONORABLE CALI: So you  
 7 don't have any more witnesses today.  
 8 ATTORNEY BAILEY: No.  
 9 ATTORNEY FULTON: Could  
 10 we --- side bar?  
 11 HONORABLE CALI: Sure  
 12 you could.  
 13 ATTORNEY FULTON:  
 14 Whichever way is easiest for Mr.  
 15 Bailey to get there.  
 16 ATTORNEY BAILEY: I'm  
 17 okay. ---.  
 18 HONORABLE CALI: Well,  
 19 we can just ask, if you want to we can  
 20 and if there's matters that need to be  
 21 addressed we can do it.  
 22 ATTORNEY FULTON: Okay.  
 23 Well, we can do that.  
 24 ATTORNEY BAILEY: Give  
 25 me something to stand up on. For

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1 crying out loud.  
2 BAILIFF: The Disciplinary  
3 Court is back in session.  
4 HONORABLE CALI: Please  
5 be seated. We had a brief discussion  
6 off the record before we took a break  
7 and we'll go back on the record now.  
8 The testimony as of today is concluded  
9 so what we as a Committee are going  
10 to direct is that within 20 days of  
11 today's date the documents that we  
12 have been talking about throughout the  
13 last two days that are going to be  
14 submitted will be submitted. We  
15 would also ask specifically that those  
16 areas that are of importance to each of  
17 your positions be so designated if there  
18 are particular areas of the documents  
19 that you want us to look at rather than  
20 giving us a hundred page document and  
21 saying it's somewhere in that  
22 document. We're going to put the  
23 burden upon you if you believe that  
24 document to have relevance and of  
25 some importance that you not only

1 paper brief with relationship, let's call  
2 it a brief, containing findings or facts  
3 and conclusions as to the issue as of  
4 whether or not there was a violation.  
5 We're obviously going to be bound by  
6 the rules of the length of briefs and the  
7 requirements related to the disciplinary  
8 rules with regard to briefing and again  
9 in that brief what will be requested any  
10 specific information relating to the  
11 documents specifically that you believe  
12 are important to any of your positions  
13 and we want you to reference them  
14 please in any document you submit.  
15 We also will give each of you a  
16 response period to that brief so you can  
17 respond to each other's brief at that  
18 time. So at this point we're going to  
19 hold off any of the other matters as to  
20 conclusions so that we can  
21 appropriately let the judicial process  
22 deal with the issues that you have  
23 raised, Mr. Bailey, and any other issues  
24 that are before them. I know there are  
25 some matters before the Federal

1 highlight it, but you designate it in the  
2 record. We also are cognizant of the  
3 fact that there is presently pending  
4 before the State Supreme Court some  
5 motions that Mr. Bailey has filed that  
6 are dispositive of certain issues which  
7 would preclude our ability to conclude  
8 our hearing as to whether or not a  
9 violation has occurred. We are going to  
10 hold any decision with respect to that  
11 issue until such time as the following:  
12 1) the Supreme Court rules on those  
13 motions. If for any reason they rule on  
14 those motions which would allow other  
15 witnesses to testify, then we will hold  
16 another hearing with relationship to  
17 that. If they rule that in fact there was  
18 not going to be the ability to bring any  
19 more witnesses based on those  
20 motions, then the procedure will be we  
21 will issue an order which we have  
22 preliminarily discussed which we  
23 believe will be an order which will  
24 allow approximately 30 days after our  
25 order for each side to present a position

1 District Court in western Pennsylvania.  
2 If that for any reason impacts any of  
3 this, obviously we will be guided  
4 accordingly. So we're not going to  
5 make any decision at this point. We're  
6 going to, again, that 20-day period  
7 from today get those records together  
8 as we've so indicated. It's clear for us  
9 please, we're requesting that you  
10 clearly identify those areas that are  
11 important. Mark them accordingly so  
12 that the Committee can really focus in  
13 on reading the information that any of  
14 you believe to be important.  
15 Gentlemen, if you have anything  
16 further, at this point if I missed a topic,  
17 please add it to wherever we're at. If  
18 there are any questions, we'll try to  
19 answer them at this point.  
20 ATTORNEY BAILEY: The  
21 only, I'm sorry.  
22 ATTORNEY FULTON: Go  
23 ahead.  
24 ATTORNEY BAILEY: Thank  
25 you. The only issue I, just to bring it to

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1 the attention of the record here is I will  
 2 be filing, this will be with the Supreme  
 3 Court and that will be a motion to  
 4 compel or I'm sorry, motion to enforce  
 5 on the subpoenas on those that didn't  
 6 show up and I'll do that directly with  
 7 the Supreme Court. I know we talked  
 8 about it off the record.  
 9 HONORABLE CALI: Yes.  
 10 ATTORNEY BAILEY: Just so  
 11 it's understood.  
 12 HONORABLE CALI: No, no,  
 13 that's.  
 14 ATTORNEY BAILEY: You  
 15 won't be entertaining it's my  
 16 understanding that it's not within the  
 17 purview of the court to really, to  
 18 enforce a subpoena so I'll do that  
 19 directly with the Supreme Court. Mr.  
 20 Cali, I would like to in advance  
 21 because I know this is going to happen,  
 22 ask that the size of the record, you  
 23 know, but the size of the brief that you  
 24 entertain right now an enlargement to  
 25 increase that size because there's no

1 ATTORNEY BAILEY: It is.  
 2 HONORABLE CALI: It is. It  
 3 will be 45 pages.  
 4 ATTORNEY BAILEY: Okay.  
 5 HONORABLE CALI: So that  
 6 would include all of that. The record  
 7 obviously is different.  
 8 ATTORNEY BURKE: Mr.  
 9 Chairman?  
 10 HONORABLE CALI: Yes.  
 11 ATTORNEY BURKE:  
 12 Perhaps 50 pages.  
 13 HONORABLE CALI: 50  
 14 pages is fine.  
 15 ATTORNEY BAILEY: Thank  
 16 you very much.  
 17 HONORABLE CALI: That's  
 18 not a problem.  
 19 ATTORNEY FULTON: I just  
 20 want to be clear on where we're going  
 21 from here. Twenty days from today the  
 22 exhibits that Mr. Bailey had referred to  
 23 during the course of his case,  
 24 documents from the courts and all he  
 25 will supply to me within that.

1 way in the world as I see it we're going  
 2 to be able to address with state rules the  
 3 issues of size of the brief. That's all I  
 4 would ask and maybe Bob would  
 5 concur with that or at least I'm asking if  
 6 you'd concur with it there, Mr.  
 7 Prosecutor.  
 8 HONORABLE CALI: What is  
 9 the size, for lack of ---  
 10 ATTORNEY BAILEY: ---  
 11 HONORABLE CALI: ---.  
 12 ATTORNEY FULTON: 32.  
 13 HONORABLE CALI: 32.  
 14 ATTORNEY BAILEY: Can I  
 15 make a motion to permit us to enlarge  
 16 to 45 or 50 pages? I know we're going  
 17 to need that based on other cases.  
 18 HONORABLE CALI: So  
 19 we're expanding to 45 pages.  
 20 ATTORNEY BAILEY: Now  
 21 does that, as I understand the structure  
 22 of the brief to include findings of fact  
 23 and conclusions of law. Now are those  
 24 included in the 45 pages.  
 25 HONORABLE CALI: Yes.

1 HONORABLE CALI: No.  
 2 ATTORNEY FULTON: He's  
 3 supplying it to you?  
 4 HONORABLE CALI: Well,  
 5 no, you both are going to, my  
 6 understanding is you're going to both  
 7 deal with each other within that 20  
 8 days and then they would be filed with  
 9 us before the, at the 20 days. So I'm  
 10 asking, we're asking the both of you to,  
 11 Mr. Bailey get the documents together,  
 12 review by you and Mr. Fulton, concur  
 13 on those documents, and get those  
 14 documents to us within the 20-day  
 15 period.  
 16 ATTORNEY FULTON: Okay.  
 17 ATTORNEY BURKE: Excuse  
 18 me, Mr. Chairman. My instinct was  
 19 from what I heard if there were 18  
 20 exhibits that you had anticipated into  
 21 exhibits before the hearing began that  
 22 you anticipated, some of those may be  
 23 duplicative which you need to confer  
 24 about that. Then in addition perhaps  
 25 there were certain documents that you

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1 referenced to us during the course of  
2 these proceedings. So all those  
3 documents that you were referring to  
4 we would expect to receive.  
5 ATTORNEY BAILEY:  
6 Exactly.  
7 HONORABLE CALI: You're  
8 not bound, if all that 82 to 81 some of  
9 which you deem not to be necessary,  
10 you don't have to give us the 81.  
11 Hopefully you don't have to need them  
12 all, but if there's meaning to them and  
13 you need them, but you are numerically  
14 up to the 85th or 86th number but  
15 whatever those documents are, we want  
16 obviously to have Mr. Fulton and you  
17 concur.  
18 ATTORNEY BAILEY: Can we  
19 file them in Harrisburg?  
20 HONORABLE CALI: Of  
21 course.  
22 ATTORNEY BAILEY: Well,  
23 we went through some incredible stuff  
24 ---.  
25 HONORABLE CALI: Excuse

1 ONE: Well, under the rules the Hearing  
2 Committee should be served by the  
3 parties.  
4 HONORABLE CALI: Right.  
5 You will serve us. I think they were  
6 talking about filing. Karen.  
7 UNIDENTIFIED FEMALE  
8 TWO: Understand too the Supreme  
9 Court, I think that --- some confusion  
10 because disciplinary cases get filed in  
11 the Western District of the Supreme  
12 Court and I think he had filed initially  
13 in the Harrisburg office. They refused -  
14 --.  
15 ATTORNEY FULTON: What  
16 Mr., I think what we can do. Mr.  
17 Bailey  
18 ATTORNEY BAILEY: If you  
19 may, if I may. We came to this office  
20 without getting into that history. We  
21 were referred to the Western District. I  
22 contacted them out there and they  
23 didn't know what in the heck we were  
24 talking about. That was refused. We  
25 came back here. That's the only reason

1 me. One second. Not to be impolite to  
2 you, she's having a little difficulty  
3 when a couple people are speaking.  
4 Where else, where would they be filed?  
5 ATTORNEY FULTON: Well,  
6 my office, I'm actually in Philadelphia.  
7 HONORABLE CALI: Right.  
8 ATTORNEY FULTON: That's  
9 where my office is. That's where they  
10 would be, I mean it's being prosecuted  
11 here because Mr. Bailey's office is in  
12 Harrisburg. Our District III office  
13 normally would've been prosecuting it,  
14 but the recused themselves from his  
15 cases. I have the great, good fortune of  
16 having it land in my lap and now I'm in  
17 Philadelphia. He has mailed me these  
18 things in Philadelphia.  
19 HONORABLE CALI: Let me  
20 ask you this for filing purposes why  
21 don't we say they will be filed here and  
22 then the offices that are here could  
23 forward them to wherever they need to  
24 be forwarded to. Elaine, is that?  
25 UNIDENTIFIED FEMALE

1 I brought some silly stuff up. All I'm  
2 asking, you're the lawyer, I'm asking  
3 you if we can file it here in Harrisburg  
4 ---.  
5 HONORABLE CALI: Here's  
6 what I would  
7 ATTORNEY BAILEY: If you  
8 need me to get an independent copy to  
9 you, I'll do it. If you need me to do  
10 that, I'll do it.  
11 ATTORNEY FULTON: Well,  
12 he has to give me the exhibits.  
13 HONORABLE CALI: Right.  
14 ATTORNEY FULTON: So that  
15 I can look at them before they give  
16 them to the Panel. Then I can either  
17 object to them or I can agree with them  
18 and then when that is all done then we  
19 forward them to each Panel member.  
20 ATTORNEY BAILEY: Let me  
21 solve this  
22 HONORABLE CALI: Let me  
23 ask you a question before, just for my  
24 edification because I don't know.  
25 When documents are going to be



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1 submitted to the Panel, do they also get  
2 filed in some office?  
3 UNIDENTIFIED FEMALE  
4 TWO: They get filed in my office ---.  
5 HONORABLE CALI: Right.  
6 So I think you're asking can you file  
7 though, the ones that need to be filed in  
8 an office that they could be filed.  
9 ATTORNEY FULTON: No, no.  
10 What we're talking about are exhibits.  
11 HONORABLE CALI: That is  
12 correct.  
13 ATTORNEY FULTON:  
14 Exhibits don't ever, as far as I  
15 know, they never go to the Board  
16 because the Board  
17 HONORABLE CALI: By the  
18 Board, do you mean this Committee?  
19 ATTORNEY FULTON: No, the  
20 Board, the --- go to the Board.  
21 HONORABLE CALI: All  
22 right. So they don't get copies. We're  
23 at the hearing stage.  
24 ATTORNEY FULTON: Right.  
25 HONORABLE CALI: We

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1 HONORABLE CALI: All  
2 right. So they don't need, Mr. Bailey  
3 doesn't need to file these documents or  
4 these exhibits with any Board. ---  
5 occurs that the Panel will receive their  
6 copies so they can be mailed or shipped  
7 to us.  
8 ATTORNEY BAILEY: That's  
9 what I was asking if I could bring them  
10 here to file them and provide them to  
11 you because typically that's what we  
12 did.  
13 HONORABLE CALI: Well,  
14 can't they just be forwarded to us in the  
15 mail?  
16 ATTORNEY BAILEY: Yes.  
17 And I just want to make sure I do the  
18 right thing because it's a horror story.  
19 HONORABLE CALI: What I  
20 would ask you to do is to mail to each  
21 of the Panel members those documents  
22 and obviously Mr. Fulton the  
23 documents after you gentlemen have  
24 done your diligence in attempting to  
25 agree on those documents.

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1 would've gotten the exhibits.  
2 ATTORNEY FULTON: You  
3 would get the exhibits as if you were  
4 given them today.  
5 HONORABLE CALI: Mr.  
6 Fulton, who sends us those normally?  
7 How do we get them? I never ---.  
8 ATTORNEY FULTON: Well,  
9 usually they're given to you at the time  
10 of the hearing.  
11 HONORABLE CALI: I know,  
12 but in other proceedings when there's  
13 subsequent documentation, would they  
14 be directly sent to us by counsel?  
15 ATTORNEY FULTON: Well,  
16 for example, the brief because that  
17 could be the next thing after the  
18 hearing.  
19 HONORABLE CALI: Right.  
20 ATTORNEY FULTON: The  
21 brief would be submitted by each party  
22 to the Panel.  
23 HONORABLE CALI: Not  
24 ATTORNEY FULTON: Not to  
25 the Board. It goes directly to the Panel.

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1 ATTORNEY BAILEY: Do you  
2 need individual copies?  
3 HONORABLE CALI: Yes,  
4 we do.  
5 ATTORNEY BAILEY: Is that  
6 convenient? Would you please make  
7 that point?  
8 HONORABLE CALI: We do  
9 need individuals, Mr. Lewis. We do  
10 need individual copies because we're at  
11 different places and we need our own.  
12 ATTORNEY FULTON: Now  
13 that we've solved that.  
14 ATTORNEY BURKE: ---.  
15 Mr. Chairman, just a point of order.  
16 How do these submissions become part  
17 of a formal record? We've got a court  
18 reporter here that's kept the record of  
19 these proceedings. We're accepting  
20 both documents that have been  
21 referenced in the proceedings and  
22 additional documents. If they're only  
23 sent to us as three members of the  
24 Hearing Committee, how do they  
25 become part of the formal record of

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1 these proceedings to preserve these  
 2 parties rights to ---?  
 3 HONORABLE CALI: That's  
 4 a good, wonderful question. That's why  
 5 I thought these were, I'm using the  
 6 wrong word filing, but given to  
 7 somebody so they're part of this  
 8 record.  
 9 UNIDENTIFIED FEMALE  
 10 ONE: When they're filing exhibits with  
 11 the Committee, it's still with the  
 12 Committee so you file the copies with  
 13 them. When they file the report and  
 14 recommendation with the Board, they  
 15 will forward those exhibits with it. But  
 16 when you're talking about briefs, briefs  
 17 you serve the Hearing Committee and  
 18 you file a copy with the Board.  
 19 ATTORNEY BAILEY: This is  
 20 what I intend to do and if it provides  
 21 toilet paper for somebody, I'm glad to  
 22 do it. This is what I'm going to do.  
 23 First of all, I'm going to bring and I'm  
 24 going to file a copy of whatever  
 25 exhibits we have here and I'm bringing

1 ATTORNEY FULTON: ---. In  
 2 the event that reasonable minds can't  
 3 meet on these exhibits and Mr. Bailey  
 4 wants to submit them to the  
 5 Committee, shall you receive that over  
 6 my objection or how would you handle  
 7 that?  
 8 HONORABLE CALI: Here's  
 9 what I would propose. The ones that  
 10 are agreed upon you submit.  
 11 ATTORNEY FULTON: Okay.  
 12 HONORABLE CALI: In the  
 13 same package. The ones that you  
 14 disagree upon with each of your  
 15 positions you submit that to us and  
 16 we'll rule on those exhibits.  
 17 ATTORNEY FULTON: Okay.  
 18 HONORABLE CALI: But  
 19 just so you characterize them as to  
 20 what's agreed upon and what is not  
 21 agreed upon.  
 22 ATTORNEY CASALE: As  
 23 long as Mr. Fulton ---, we have that ---.  
 24 The Chair has made certain rulings that  
 25 indicate that documents which will we

1 it to you. You folks can have it here.  
 2 You can put it in a corner. You can do  
 3 whatever. I'm going to send an  
 4 individual copy of what I'm doing to  
 5 each individual member of this  
 6 Committee as a convenience to the  
 7 member of the Committee and, of  
 8 course, you and I will beforehand done  
 9 all this, worked this out as per your.  
 10 HONORABLE CALI: That's  
 11 ordered.  
 12 ATTORNEY BAILEY: Okay.  
 13 With the brief, I'm going to file a copy  
 14 with you here, okay, and I'm going to  
 15 file an individual copy with you guys --  
 16 - and this gentleman here.  
 17 HONORABLE CALI: That's -  
 18 --.  
 19 ATTORNEY BAILEY: That's  
 20 wonderful. Now I understand and ---.  
 21 HONORABLE CALI: Do you  
 22 have another question?  
 23 ATTORNEY FULTON:  
 24 Actually I have two.  
 25 HONORABLE CALI: Okay.

1 will be issuing judicial notice will be  
 2 accepted.  
 3 ATTORNEY FULTON: Yeah.  
 4 It's  
 5 ATTORNEY CASALE: It's not  
 6 a rehashing.  
 7 ATTORNEY FULTON: It's not  
 8 the court documents. I'm not referring  
 9 to them. The second part is if I  
 10 understand correctly you are  
 11 bifurcating the case and we are briefing  
 12 you on the guilt phase, if you will,  
 13 phase of the case first. If you make a  
 14 determination one way or the other, if  
 15 you make a determination one way,  
 16 that's one thing. If you make a  
 17 determination the other way, we get the  
 18 disciplinary aspect of the hearing  
 19 HONORABLE CALI: That is  
 20 correct.  
 21 ATTORNEY FULTON:  
 22 Sentencing aspect. That will be  
 23 separate and apart.  
 24 HONORABLE CALI: That is  
 25 separate and apart. If that is necessary,

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1 then we would have a day that we  
 2 would schedule to come back. The  
 3 reason that we're doing this is  
 4 obviously because there's many  
 5 outstanding issues that would preclude  
 6 our ability to do it any other way.  
 7 ATTORNEY FULTON: Okay.  
 8 ATTORNEY BAILEY: I  
 9 understand we would do the, I don't  
 10 know why there should be any  
 11 difficulty with the stuff on exhibits  
 12 because it was all public record stuff  
 13 and the additional, the earlier parts of  
 14 the exhibits where there was confusion  
 15 that we had provided earlier, I don't  
 16 have any objections, but we can go  
 17 over that. Now when the, we get these  
 18 things to you within 20 days of these  
 19 issues with these exhibits involved,  
 20 etc., now when does the clock start  
 21 ticking on the brief?  
 22 HONORABLE CALI: Not  
 23 until such time as we essentially get  
 24 some documents from the Supreme  
 25 Court with regard to your

1 HONORABLE CALI:  
 2 Correct.  
 3 ATTORNEY BAILEY: Then at  
 4 that point that's when the brief ---.  
 5 HONORABLE CALI: No.  
 6 We're going, let me just be clear unless  
 7 I misspoke. We are going to allow the  
 8 briefs and findings of facts once the  
 9 Supreme Court rules on your motions.  
 10 ATTORNEY BAILEY: Okay.  
 11 HONORABLE CALI: If we,  
 12 if the Supreme Court's rule would  
 13 require us to have an additional time  
 14 for hearing for more witnesses,  
 15 ATTORNEY BAILEY: Right.  
 16 HONORABLE CALI: We  
 17 will take those witnesses first.  
 18 ATTORNEY BAILEY: ---.  
 19 HONORABLE CALI: Then,  
 20 then, then we will get the briefing  
 21 schedule after that.  
 22 ATTORNEY BAILEY: So  
 23 you're not going to, the briefing is  
 24 going to be done, facts, proposed  
 25 findings of fact, conclusions of law will

1 ATTORNEY BAILEY:  
 2 Subpoenas.  
 3 HONORABLE CALI:  
 4 Motions that are out there. In  
 5 fairness, I don't see how we can  
 6 preliminarily make rulings until such  
 7 time as those issues are resolved so  
 8 we're going to send a separate order as  
 9 to the briefing schedule, but that's  
 10 going to be subsequent to the Supreme  
 11 Court ruling.  
 12 ATTORNEY BAILEY: So  
 13 what will happen is we submit these  
 14 briefs or whatnot I'm presuming at  
 15 some point in your mind, in time, space  
 16 time you get an order from the  
 17 Supreme Court resolving these other  
 18 issues. You'll then make  
 19 HONORABLE CALI: No, the  
 20 briefs are not going to come until after  
 21 that.  
 22 ATTORNEY BAILEY: Yeah,  
 23 well, the adjudication then will be  
 24 made on whether or not you believe  
 25 there had been a rule violation.

1 be done before you make a  
 2 determination, presuming the Supreme  
 3 Court, let's just pretend, Supreme  
 4 Court comes back and says no more  
 5 witnesses ---. You get your exhibits  
 6 out, you've got your exhibits out there.  
 7 That's been done. You'll start the  
 8 clock on the briefing schedule by  
 9 notifying us.  
 10 HONORABLE CALI: We'll  
 11 give you notice.  
 12 ATTORNEY BAILEY: Then  
 13 you'll make the rule determination.  
 14 HONORABLE CALI: We  
 15 will make the rule determination. Then  
 16 if there is a finding of a violation  
 17 ATTORNEY BAILEY: Okay.  
 18 HONORABLE CALI: Then  
 19 we will go to the next step and allow a  
 20 subsequent day to provide any  
 21 witnesses or testimony or arguments  
 22 related to that issue.  
 23 ATTORNEY BAILEY: That  
 24 sounds clear. Now if I, and this is a  
 25 bench order and I do believe I

1 understand it and I'll probably go home  
2 tonight and get confused, but will the  
3 young lady, are you going to be doing a  
4 written order for us to follow up. Is  
5 there any need to? Can I get the tapes  
6 from you right away, copies of the  
7 tapes? Then I'll do it myself. Okay.  
8 HONORABLE CALI: I don't  
9 think we need to do an order on that.  
10 ATTORNEY BAILEY: No,  
11 you don't have to. I just didn't know.  
12 HONORABLE CALI: All  
13 right. Is that clear to everyone now?  
14 Any other questions? Thank you very  
15 much for your patience and your time.  
16 Everybody have a safe trip home.  
17 BAILIFF: All rise. The court  
18 is now adjourned.