

COMMONWEALTH OF PENNSYLVANIA
COURT OF JUDICIAL DISCIPLINE

IN RE: :
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 DAVID W. TIDD :
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 FORMER MAGISTERIAL DISTRICT JUDGE: NO. 3 JD 2016 :
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 MAGISTERIAL DISTRICT 03-2-04 :
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 THIRD JUDICIAL DISTRICT :
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 :
 NORTHAMPTON COUNTY :

VOLUME 1
PAGES 1 THROUGH 174

BEFORE: HONORABLE DAVID J. BARTON, CONFERENCE JUDGE
HONORABLE JEFFREY P. MINEHART
HONORABLE MICHAEL J. BARRASSE

DATE : JANUARY 18, 2017, 9:43 A.M.

PLACE : PENNSYLVANIA JUDICIAL CENTER
601 COMMONWEALTH AVENUE
HARRISBURG, PENNSYLVANIA

BY : BETHANN M. MULAY, NOTARY PUBLIC
REGISTERED PROFESSIONAL REPORTER

APPEARANCES:

COMMONWEALTH OF PENNSYLVANIA
JUDICIAL CONDUCT BOARD
By: ELIZABETH A. FLAHERTY, ESQUIRE, DEPUTY COUNSEL
MELISSA L. NORTON, ESQUIRE, ASSISTANT COUNSEL
TONI I. SCHREFFLER, LEGAL ASSISTANT
PENNSYLVANIA JUDICIAL CENTER
601 COMMONWEALTH AVENUE
SUITE 3500
HARRISBURG, PENNSYLVANIA 17120
(717)234-7911

FOR - JUDICIAL CONDUCT BOARD

LAW OFFICE OF SAMUEL C. STRETTON
By: SAMUEL C. STRETTON, ESQUIRE
301 HIGH STREET
WEST CHESTER, PENNSYLVANIA 19382
(610)696-4243

FOR - RESPONDENT

TABLE OF CONTENTS

W I T N E S S

<u>LISA LEVAN</u>	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u>	<u>RECROSS</u>
BY MS. FLAHERTY	30	-	106	-
BY MR. STRETTON	-	86	-	-
<u>DIANE KALE</u>				
BY MS. FLAHERTY	113	-	-	-

E X H I B I T S

<u>BOARD EXHIBIT</u>	<u>PAGE</u>
NUMBER 1-154 BINDERS I AND II (NOT ATTACHED)	4

1 JUDGE BARTON: Good morning, everyone.
2 We're starting a little bit late. This is the matter of
3 In Re: David W. Tidd at this Court's Docket Number 3 JD
4 2016. Might I ask counsel to identify yourselves for
5 the record.

6 MS. FLAHERTY: Yes. Good morning. My
7 name is Elizabeth A. Flaherty, deputy counsel to the
8 Judicial Conduct Board.

9 MS. NORTON: I'm Melissa Norton. I'm
10 assistant counsel to the Judicial Conduct Board.

11 MR. STRETTON: I'm Sam Stretton, and of
12 course I represent former Judge Tidd in the matter. I
13 was waiting for Toni to identify herself. I always
14 think we ought to make her a lawyer.

15 JUDGE BARTON: The lawyers all know it's
16 the support staff that are far more important than the
17 lawyers.

18 MR. STRETTON: I keep threatening to hire
19 her someday. They say no, no. We're ready to proceed.

20 JUDGE BARTON: Joining me on the panel
21 this morning are two of our newer judges, Judge Minehart
22 and Judge Barrasse. Gentlemen, welcome. Ms. Flaherty,
23 you may proceed.

24 MS. FLAHERTY: Yes. I just want to take
25 care of a few housekeeping matters initially. The Board

1 has prepared exhibit notebooks for the Court. The
2 exhibits have been discussed with opposing counsel.
3 This case involves a significant number of pertinent
4 documents. Each set of documents is contained within
5 two very large notebooks which are labeled and tabbed
6 for your reference. Those that will be crucial to
7 proving the case during the trial itself will be
8 identified during the proceeding according to the tab
9 numbers. I wanted to ask Your Honors' permission to
10 have those exhibits handed up to the Court.
11 Mr. Stretton has assured me that he has no objection to
12 the authenticity or admissibility of those exhibits.

13 JUDGE BARTON: Mr. Stretton.

14 MR. STRETTON: That is true with the
15 exception if there are statements of witnesses they
16 still have to put the witnesses on, but everything else
17 is fine.

18 JUDGE BARTON: That's fine. Please
19 distribute the materials.

20 MR. STRETTON: When we're doing that, I
21 was just going to request sequestration of any
22 overlapping testimony if there's no objection.

23 JUDGE BARRASSE: Are these in order?

24 MS. FLAHERTY: Pardon me?

25 JUDGE BARRASSE: Are these in order, the

1 exhibits?

2 MS. FLAHERTY: Yes.

3 JUDGE BARRASSE: Volume 1 is what we'll
4 be starting with?

5 MS. FLAHERTY: Yes. And our witnesses
6 are all sequestered at this time.

7 MR. STRETTON: Our witnesses aren't here
8 obviously.

9 JUDGE BARTON: The Court knows the
10 witnesses are sequestered. You may proceed, Counsel.

11 MS. FLAHERTY: I do want to point out
12 that Exhibit 11 is a plastic sleeve containing a thumb
13 drive with the three videos to be shown here today
14 marked 11-A through C. Within that sleeve are operating
15 instructions for viewing the videos. As you will see
16 when our legal assistant, Toni Schreffler, puts those
17 videos up on the screen, they will also be shown on the
18 computer screens before you, and they will be shown in
19 two side-by-side screens in order to give a dual view of
20 the courtroom and also have the audio playing
21 simultaneously.

22 Exhibit 12, those are the transcripts of
23 the three videos, and those are labeled 12-A through C.
24 I will move for the admission of those exhibits at the
25 close of testimony.

1 Late yesterday afternoon we filed
2 joint -- proposed joint stipulations of fact with the
3 Court. I apologize for the lateness of the filing, but
4 we just reached agreement on those yesterday. So those
5 are before you. I imagine that you were traveling and
6 probably haven't had an opportunity to review them as of
7 yet.

8 JUDGE BARTON: I did see them. Thank
9 you. The late filing certainly that's the nature of the
10 process and impending trial. I was curious the title
11 proposed are they, in fact, agreed upon by counsel?

12 MS. FLAHERTY: Those are agreed upon by
13 counsel. The word proposed included because it's up to
14 the Court whether or not to accept those stipulations.

15 JUDGE BARTON: Very good. Thank you.

16 MS. FLAHERTY: I would like to now move
17 for the admission of those joint stipulations of fact.

18 MR. STRETTON: No objection. I apologize
19 for the delay. It's all my fault. But we finally did
20 it. And that's what happens when you have too many
21 other trials at one time.

22 JUDGE BARTON: The Court will admit the
23 proposed stipulations of joint fact. And as we noted a
24 moment ago, they are agreed-upon facts submitted to the
25 Court. The Court's admission of these stipulation I

1 think doesn't necessarily assign particular weight to
2 them, and the Court may look through them and accept or
3 reject different ones as they choose.

4 MS. FLAHERTY: Thank you, Your Honor. I
5 don't know if Mr. Stretton has any housekeeping matters
6 before we begin opening statements.

7 MR. STRETTON: Other than the
8 sequestration of witnesses which we've already taken
9 care of, Mr. Tidd mentioned to me he wondered if he
10 could around 11:00 have a break because he has to run
11 out and feed a meter for his car. Other than that,
12 we're fine.

13 At the end of today I'll ask you whether
14 I should bring my witnesses in tomorrow or Friday in
15 this matter. And I guess we'll have a better sense
16 where the case is going at that point. I have about
17 eight or nine witnesses. All of them will be rather
18 quick. Of course the essence of the case from our
19 standpoint will be former Judge Tidd.

20 JUDGE BARTON: That's fine. Remind us at
21 three minutes before 11:00.

22 MR. STRETTON: Thank you.

23 MS. FLAHERTY: Shall I begin?

24 JUDGE BARTON: Please.

25 MS. FLAHERTY: Your Honors, disrespect,

1 disregard, and disrepute, those three words succinctly
2 describe the factual basis for the Board complaint
3 against former magisterial district judge, David W.
4 Tidd.

5 The evidence and witness testimony will
6 illustrate that Judge Tidd thwarted the efforts, advice,
7 and warnings for those who worked with him on a daily
8 basis and those who supervised him to change his
9 conduct, to treat others in a dignified manner, and to
10 abide by the rules, policies, and procedures that form
11 the basis for a reputable and functional district court.

12 Disrespect. Beginning in 2011 and
13 continuing through his resignation in July 2016 Judge
14 Tidd demonstrated an undignified, disrespectful attitude
15 toward many of the individuals he encountered at his
16 district court. The disrespect presented itself in a
17 myriad of ways, and his court clerks bore the brunt of
18 it. Judge Tidd was discourteous, impatient, and rude to
19 his clerks. He was loud, argumentative, and nasty to
20 them. He yelled at his clerks, belittled them, and
21 bullied those who were new to the court system and
22 trying to learn their job duties.

23 Judge Tidd also demonstrated disrespect
24 for litigants who appeared before him in civil and
25 criminal matters. He made vulgar, derogatory, and snide

1 remarks about them. Police officers, litigants, and
2 members of the public witnessed Judge Tidd's impatient,
3 disrespectful conduct which took place in the public
4 area in the reception area of the district court.

5 Today you will hear testimony from six
6 court clerks who worked at District Court 03-2-04 with
7 Judge Tidd during the time span of January 4th, 2010
8 when he assumed the bench through July 25th, 2016 when
9 he resigned.

10 Two of the clerks had decades of
11 experience working in Northampton district courts before
12 Judge Tidd assumed the bench in 2010. The other four
13 were new to the job of court clerk when they were
14 assigned to his court between 2011 and 2015.

15 Some of those court clerks will describe
16 how and when they communicated with Northampton court
17 administration seeking assistance in the untenable
18 situation at Judge Tidd's court. When Court Clerks
19 Linda LeVan, Diane Kale, and Brenda Anthony first
20 complained in 2011, court administration instructed them
21 to put it in writing, which they did.

22 In January 2012 Deputy Court
23 Administrator Debra French met with the court clerks at
24 the district court building and encouraged them to
25 continue a written record of their concerns. The

1 diligent efforts of those court employees is well
2 documented. The Board exhibits include written
3 documentation in the form of notes, memorandums,
4 e-mails, chronological logs, and calendar pages.

5 Additionally, the Board will present
6 audio-video recordings from the closed circuit TV and
7 DVR with audio system installed at Judge Tidd's court at
8 his request and under his supervision on October 4th,
9 2013. The audio-video recordings speak for themselves.
10 I ask the Court to focus on those images which clearly
11 depict the disrespectful conduct charged in the Board
12 complaint.

13 The August 28th, 2014 video shows Judge
14 Tidd mumbling as he walks behind Court Clerk Cassandra
15 Bettler who has a hearing deficit. When Cassie said,
16 huh, Judge Tidd behaves in an indignant, intolerant
17 manner and yells at her in front of other clerks, a
18 defendant, and an officer.

19 In the May 19, 2015 video on primary
20 election day you will see Judge Tidd raging at Court
21 Clerk Brenda Anthony in front of Police Officer Bencsics
22 for not clearing his schedule on primary election day.
23 Although Judge Tidd asserts that he told his clerks not
24 to schedule hearings on that day, the clerks' testimony
25 will prove the opposite.

1 Finally, the February 19, 2016 video
2 demonstrates that Judge Tidd ignored all warnings to
3 retaliate against his staff. Upon receipt of the
4 Board's NOFI, he confronted Clerk Cassie Bettler calling
5 her a liar in front of her coworker, and he challenged
6 her to show him from the audio-video monitor the
7 instances when he had cursed at her and called her,
8 quote, a mother fucker, unquote.

9 You will also learn the impact of Judge
10 Tidd's conduct and the stress it needlessly created in
11 the workplace. You will hear testimony about how his
12 conduct affected the court clerks, their jobs, their
13 quality of life, and even their health.

14 Tomorrow you will hear from police
15 officers who will corroborate the testimony of the
16 clerks. The officers will state that they observed
17 Judge Tidd yelling at his staff and cursing in their
18 presence at the district court. The incidents that each
19 clerk and the officers will testify to were not isolated
20 but part of an ongoing pattern.

21 Disregard. The witness testimony and
22 exhibits will clearly show that Judge Tidd ran his court
23 in the most expedient way possible minimizing the amount
24 of time he spent at court deciding cases. His unusual
25 freestyle method of adjudicating matters fell outside

1 the gamut of the rules and procedures applicable to
2 Pennsylvania District Court.

3 An overarching concern was Judge Tidd's
4 regard for the rights of litigants to be heard. You
5 will hear testimony from court clerks, from the police
6 officers, and from Deputy Court Administrator Debra
7 French that Judge Tidd demonstrated an ongoing disregard
8 for the procedures set forth in the Pennsylvania rules
9 of court and local court procedures pertinent to summary
10 trials, preliminary hearings, and arraignments.

11 The advice offered to him from
12 experienced court clerks about how to properly conduct
13 proceedings in a courtroom while wearing judicial robes
14 was disregarded by Judge Tidd. They also advised him
15 and he disregarded the procedural requirements for video
16 and in-person arraignments, disregarded the information
17 provided in introductory classes for new MDJs, the
18 lessons taught at the continuing education classes for
19 MDJs.

20 Tomorrow five police officers will
21 testify about Judge Tidd's disregard for conducting
22 court proceedings by the book. Each has appeared on
23 multiple occasions before Judge Tidd. The officers will
24 testify that Judge Tidd often discussed plea
25 negotiations with the officer outside the presence of

1 the defendant or his attorney. Each will testify that
2 Judge Tidd negotiated guilty pleas on their cases
3 without the officer being present and without the
4 officer's knowledge. Those amount to ex parte
5 communications.

6 The officers will describe Judge Tidd's
7 focus on speed rather than form or substance in court
8 proceedings. He would accept guilty pleas, sign
9 criminal complaints and arrest warrants, and set bail
10 without an understanding of the underlying facts of the
11 case.

12 The officers will confirm that Judge Tidd
13 conducted court proceedings at the front counter in
14 street clothes without donning a robe or offering the
15 parties an opportunity to be heard in the courtroom.

16 Additionally, the evidence will show
17 Judge Tidd's disregard for September 11th advisory
18 opinion issued to him by the Special Court Judges
19 Association Ethics and Professionalism Committee about
20 conflicts of interest between his judicial role and his
21 law practice where he specialized in bankruptcy matters.

22 Tomorrow you will also learn that Judge
23 Tidd disregarded the rules pertaining to conflicts of
24 interest and lacked an effective tracking system to
25 prevent conflicts with his law practice.

1 One of Judge Tidd's former clients,
2 Leslie Ziegler Repyneck, will take the stand tomorrow.
3 She will testify that Judge Tidd entered into an
4 agreement to represent her in a bankruptcy proceeding
5 even though her bad credit case was pending in his
6 district court.

7 Judge Tidd has stipulated to some of the
8 averments about conflicts of interest arising from his
9 friendship with Attorney Burke. Documentary evidence
10 and testimony from his clerks will prove that Judge Tidd
11 did have a duty to recuse from cases where Burke
12 represented clients and that holding back warrants on
13 parking tickets for Attorney Burke amounted to special
14 consideration, not professional courtesy.

15 Judge Tidd's clerks will testify that
16 even when they alerted him about the need to transfer a
17 case involving a landlord of his district court Judge
18 Tidd retained the case.

19 Tomorrow you will also hear from former
20 President Judge Kimberly McFadden of Northampton County
21 and Deputy Court Administrator Debra French who will
22 testify that Judge Tidd was on notice as early as
23 August 2011 and February 2012 that he must change his
24 demeanor toward his court clerks, he must wear his robe
25 and conduct hearings in the courtroom, he must avoid

1 conflicts with his judicial duties and not to retaliate
2 against his court clerks. That same warning was
3 emphasized in the 'Board's February 19, 2016 notice of
4 full investigation. Unfortunately Judge Tidd ignored
5 those warnings, and he now stands before you with an
6 additional charge of retaliation.

7 Disrepute. Judge Tidd's misconduct is
8 not comprised of isolated mistakes. Instead the
9 evidence will prove that Judge Tidd knew that his
10 demeanor and his behavior were unacceptable, that his
11 methods of conducting court proceedings were not in
12 keeping with the rules and procedures.

13 The community referred to Judge Tidd's
14 district court as the fast food court, the drive-through
15 court. The court clerks were aware of the gossip and
16 deemed the court to be an embarrassment in the county.

17 Early on Judge Tidd had an opportunity to
18 treat his clerks with courtesy and dignity that they
19 deserved, to operate his court in accord with standard
20 procedures and to keep separate and prioritize his court
21 business from his law practice.

22 Moreover, Judge Tidd knew that he was
23 walking a fine line in managing his bankruptcy practice
24 while adjudicating credit matters in his district court.
25 Yet he chose to continue the pattern of misconduct that

1 was so egregious that it brought disrepute upon himself
2 and upon the judiciary.

3 All of the evidence presented over the
4 next few days will demonstrate by clear and convincing
5 evidence that Judge Tidd violated the rules governing
6 the standards of conduct of magisterial district judges
7 and the provisions of the Constitution of this
8 Commonwealth as charged in the Board complaint. Thank
9 you.

10 JUDGE BARTON: Thank you, Ms. Flaherty.
11 Mr. Stretton.

12 MR. STRETTON: Thank you. Good morning,
13 everyone. There are -- it's not a lot of factual
14 dispute in this case. It's how you interpret things. I
15 think you need some context before we discuss some of
16 the allegations and the defenses because we will defend
17 this vigorously.

18 Judge Tidd practiced law for a number of
19 years. Before that he had been an auto mechanic, ran a
20 shop, went to law school a little later in life, and
21 then though not a native of Northampton County was
22 elected as a district judge, began serving on
23 January 4th, 2010 and continued in that role until he
24 resigned from his judicial position on July 25th, 2016,
25 now has a small private practice and has relocated to

1 Berks County where he lives.

2 This case has a number of factors you
3 have -- you're going to hear, and although I know you
4 will, I'm going to emphasize you want to keep an open
5 mind on this. You're going to hear a lot of people come
6 in and say some nasty things. But I'm going to present
7 a number of lawyers, police officers, constables,
8 others, and my client who are going to give a very
9 different view of how this court was run during those
10 years.

11 The reality, though, this case really
12 comes down to Judge Tidd's testimony. And I want you to
13 keep in mind other than Ms. Repyneck whose husband ran
14 against him in 2015 unlike Merlo, Mancuda, you're saying
15 he's a bad judge he yelled at me because there isn't any
16 such evidence in this matter.

17 Now, there's another part of this you
18 have to understand. First, the court and the courthouse
19 where he worked, and you'll hear this from him, it's
20 very, very small, no security, none whatsoever. He had
21 complained for years about lack of security. You'll
22 hear that. He had asked for years to have a phone in
23 his judicial office. They wouldn't give him one. So he
24 would sit out where the secretary clerks would sit.
25 It's a desk, had a phone. He did that, one, because the

1 phone was there; two, because of lack of security. He
2 wanted to see who was coming in, who wasn't coming in,
3 in these particular matters.

4 At some point the AOPC put a video system
5 in there which also had audio components, and that was
6 at least his understanding more for security purposes
7 than anything else. But it's a very small, confined
8 area, and his office he rarely was in. He was outside
9 in the area where the clerks sat.

10 He was a very hands-on judge. He
11 would -- new to people in the area. Every district
12 judge has a different role than common pleas and other
13 judges, and when people would come in, he would address
14 them, ask what their case was, things of that nature.

15 The major issue here and the context that
16 you have to understand is that his secretaries weren't
17 loyal to him -- or clerks. It's one of the most
18 difficult things, and I've seen this a lot in recent
19 cases where district judges are brought before Judicial
20 Conduct Board.

21 His secretaries are pretty much told by
22 Ms. French to report to her. Ms. French who is the
23 court administrator for district judges or deputy court
24 administrator would countermand his instructions. And
25 the clerks felt that they could constantly call

1 Ms. French if they disagreed. And, in fact, Ms. French
2 told them starting in 2011 to keep a weekly book on
3 everything he did. So from 2011 till he left and
4 resigned, every week his clerks would keep records,
5 submit them to Ms. French and others.

6 And that's a very important thing because
7 I suggest if you're a law clerk or your secretaries or
8 your officers who you're close to are working against
9 you reporting everything, every time you had a bad day,
10 every time you raised your voice, every time you engaged
11 in this banter with them, and then none of this is given
12 to us until February of 2016, awfully hard to defend.

13 There was three meetings in '11, '12 with
14 then President Judge McFadden, no real specifics other
15 than on bankruptcy and wear your robe. That was it.
16 And suddenly he has to now defend.

17 Keep in mind we have and will continue to
18 raise statute of limitations or laches. Three-quarters
19 of these allegations are back in 2011, 2012.

20 So that's the context. He couldn't blow
21 his nose incorrectly without it being reported over a
22 5-6 year period during this time period. And although
23 there are allegations of misconduct and always yelling,
24 there's only three videos. They could have had them
25 all. Three times. And when you look at those three

1 times, I want you to put things in context. Judge Tidd
2 is not a well man. He suffers from a chronic intestinal
3 problem which at times causes his hospitalization. He's
4 in a great deal of discomfort and pain. And also he had
5 initially fought lung cancer, turned out not to be, had
6 an operation. And some of these times where you see him
7 perhaps acting badly he wasn't feeling well. He'll tell
8 you about that.

9 If you look at some of these matters, you
10 have to put them in context. Although he was not
11 pleased with the performance of a number of his clerks,
12 gave them some bad, some mediocre ratings, there was
13 one, Brenda Anthony, who he gave excellent ratings until
14 he found out that she had betrayed him. In fact, she
15 had come to him for help in 2004, and she asked him to
16 lend her \$750. And he did. He had no idea during this
17 time period she was working against him.

18 You'll hear as you'll see the May 19,
19 2015 that was election day when he was in a very
20 difficult race for his judicialship. He was running
21 against a relative of the prior judge, same last name up
22 there. He'll tell you that he had discovered that
23 Brenda Anthony was supporting his opponent and providing
24 information from the office to him. He'll tell you
25 there was no question that he had canceled and

1 instructed all those hearings to be canceled on
2 May 19th, Tuesday, election day. Yet he gets a call
3 from Brenda Anthony at 9:00 election day when he's
4 standing in his polling place fighting for his
5 reelection saying how come you're not here. Yes, he
6 blew his top. He came in and he was angry. But I
7 suggest that's not the basis for judicial discipline.
8 It was a human being.

9 The April 19 or 18th or 17th meeting
10 where he closed the door because he found out that the
11 investigator's going around interviewing everyone about
12 his conduct and he heard his clerks had a complaint
13 against him, he was shocked. You'll hear what he says.
14 He was shocked. There's explanations.

15 Another time you'll hear he just came out
16 of a major operation. He had asked for a month off.
17 The court wouldn't give it to him. He was in a lot of
18 pain. That was his lung operation. And one time he was
19 angry.

20 The uh-huh, yes, he could have been nicer
21 to her, but that was always her response to him, uh-huh.
22 He finally said I had enough, answer me. Right,
23 absolutely could be better. That's not the subject of
24 judicial discipline. And, by the way, this is over a
25 six-year period, three times, four times under the

1 general statements, oh, he did this, he did that, no
2 opportunity to respond, no opportunity to deal with it.

3 Let's talk about the allegations. Having
4 tried 6,000 or 7,000 preliminary hearings and other
5 matters in my career of 44 years all over the state,
6 I've been before hundreds and hundreds of district
7 judges, we would present evidence from the lawyers the
8 exact way he did, at least up in that county. He'll
9 tell you that's what a lot of judges do. I can give you
10 testimony of what I've seen.

11 But a district judge has a lot of
12 flexibility. He would handle many things at the
13 counter, not trials. Every trial would go into his
14 courtroom. He would put his robe on. At the counter he
15 didn't have a robe on many times, and he would speak to
16 the officers, speak to the client -- not the client, the
17 defendant or litigant, and if there's a resolution, he
18 would handle that at the counter.

19 And a lot of lawyers will tell you how --
20 what a good system it was, how he was well respected
21 among members of the bar, and how he handled things and
22 would run very efficiently in that manner.

23 He will deny ever negotiating pleas, but
24 he did have a practice of when people would come in ask
25 have you talked to the officer, will you consider a

1 lesser plea. And then when the officer came, he would
2 put them together and accept a lesser plea which is a
3 common practice among district judges. We have done
4 that 10,000 times, many times in small matters.

5 There are times -- this is where it gets
6 a little dicey. Remember, you've got these secretaries
7 they're writing away. No one tells him straighten this
8 out years ago, you know, give someone a chance with
9 specificity not just, oh, we met with Judge McFadden
10 three times, put your robe on, you've got a conflict
11 here, whatever.

12 At times the officers would not show up
13 on time. Now, a lot of judges will just throw it out,
14 not here, they give you 10 minutes, not guilty. He
15 didn't do that. He would ask them to call the officers.

16 There's one particularly related to one
17 of his courts, her son was having a lot of difficulty,
18 custody and other personal matters and was always late,
19 and he would call his mother to try to cover for him.
20 You'll hear from this gentleman. Times that he would
21 call and say the person's here, do you want to make an
22 offer because oftentimes they're speeding, so it's not
23 unheard of that district justice will accept an over
24 five plea -- an under so there's no points, some is 10
25 and under, so there's limited points as opposed to

1 whatever and traffic, violating traffic median
2 standards, and the officers would agree many times. At
3 least that was his understanding. And he would accept
4 those pleas. But everyone recorded years and years and
5 years, now they dump it on.

6 As to his robe, he has a high regard for
7 his robe and always wore it in court. At the counter
8 I'll present lawyers will tell you not judges up there
9 they'll tell you when he was practicing don't wear their
10 robes when they're standing at the counter as district
11 judges. There is a requirement obviously to wear a robe
12 as we all know standards for district judges. Those are
13 the standards for common pleas or appellate judges and
14 the rules.

15 These secretaries or clerks, and it gives
16 you a show of their mean spiritedness, at times as I
17 told you he was ill, didn't feel good, hadn't slept
18 well. Sometimes he would go into his office not where
19 he normally sat, close the door, lay on the floor and
20 sleep for a while because he was tired. At times he
21 would use the robe as a pillow. This is in private.
22 And once or twice they walked in. Of course they
23 immediately submitted it on, and then they took a photo
24 of his robe laying on the ground. And this is the kind
25 of things that they're suggesting are serious acts of

1 misconduct. Of course that's for you to determine. And
2 he's going to explain there was no disrespect at all.
3 He didn't feel well.

4 Mr. Burke, a lawyer, Jim Burke's a fairly
5 well-known lawyer up in Bethlehem -- Northumberland and
6 Lehigh County, known him for years. As Judge Tidd will
7 tell you, Burke at times had a number of parking
8 tickets. A lot of them was because his son would use
9 his car in Mr. Burke's name and not tell his dad that he
10 was picking up tickets. But you'll hear that from Judge
11 Tidd.

12 And Mr. Burke like a lot of lawyers, you
13 know the old shoemaker's children don't take care of
14 their own business timely. They accumulate parking
15 tickets. Mr. Burke had a history of doing that. He was
16 someone former Judge Tidd knew pretty well as a lawyer
17 and someone who appeared before him, but no favorable
18 treatment.

19 The only thing he would do, and you have
20 to decide if this is wrong, he was a member of the bar,
21 so when Mr. Burke got the citations and didn't pay, the
22 next step of course is issue a warrant for his arrest.
23 So the judge -- former Judge Tidd would do.

24 But as a matter of courtesy, the old way
25 of doing business is through courtesy before everything

1 got electronic. Now we don't know clerks, now we don't
2 know secretaries, barely see the judges because they're
3 locked away. And lawyers used to talk to each other
4 instead of now different world. He would say call him,
5 tell him if he doesn't come in and pay it I'm going to
6 issue a warrant. That's their special consideration.
7 You gotta decide if that's wrong or if that's just old
8 fashioned courtesy because if he hadn't come in to pay
9 it, a warrant would have been issued. And, remember,
10 we're looking everything condensed now what we're
11 looking at a judge who's handled thousands and thousands
12 of cases each year.

13 As to the bankruptcy, he had a bankruptcy
14 practice, started to slow down. But you'll hear from
15 others that he prioritized his judicial business. He
16 normally didn't go into his law firm until 2:00 or
17 3:00 or 4:00 in the afternoon when his hearings were
18 done. He would always try to have hearings scheduled in
19 the morning if he could. But he was always available
20 and would come back if needed. His office was a mile
21 away from his judicial office.

22 He originally had a law clerk, a
23 gentleman named Attorney Cook, and then Mr. Cook in 2010
24 went into practice and went his own way. Mr. Tidd
25 continued with his practice during that time secondarily

1 to his judicial duties. Now, he always got his clients
2 not from his judicial duties but from other sources.
3 And when he testifies, he'll go through his calendar
4 because they used to write on his calendar where the
5 client came from. So this wasn't, oh, I got the
6 judgment, tell them to come to my office. That's not
7 the way it worked. You'll hear his testimony in that
8 regard.

9 There were times, though, when there were
10 conflicts unknown to him where he had handled a case as
11 a judge and entered a judgment, default judgments, and
12 the person either came to him later or come to him
13 before and he didn't put two and two together. Keep in
14 mind default judgments usually done routinely, no one
15 shows, the paperwork is signed, that's it.

16 And you'll also hear from Mr. Tidd when
17 he testifies that he routinely we'll present on cases
18 where he recognized conflicts notified the Court,
19 President Judge, Judge Baratta or Judge McFadden,
20 depending on the timing and asked for a change of venue,
21 so cases were assigned elsewhere.

22 He also sought the state judiciary's
23 District Judges Ethics Committee for advice. They
24 determined in a certain way whether he was wrong. He
25 simply tried. He'll say he called that committee

1 several times for advice on these areas. But there was
2 no intent to take advantage of his practice in these
3 particular matters.

4 As to the clerks, I've already discussed
5 that. Some were good. Some were bad. But he had no
6 idea of the disloyalty. And the anger he had at them at
7 the end when he felt betrayed by the people he trusted,
8 you know, keep in mind I don't have to tell you three,
9 all been judges a long time, at times you need to be
10 able to blow off some steam, talk to your law clerk,
11 talk to your secretaries. Sometimes if you feel you
12 have friendships with them you use a little more vulgar
13 language. Now it's all reported. And he contends he
14 never intended to embarrass them, do anything. He
15 thought they were his friends, people he could talk to,
16 people he could trust, and he was wrong.

17 And so when he started to find out they
18 were betraying his trust, in the April 15 day when he
19 locked the door and yelled at them for 20 minutes -- or
20 May 19th when it was scheduled for election day -- on
21 February 19 -- it was '15 and '16 when he got an
22 official letter notifying him when he came to me and we
23 responded. And he met with them and yelled at them,
24 said, how could you say these things because he felt
25 betrayed.

1 Yes, he did ask for some of them to be
2 transferred because they weren't doing their jobs, and
3 he felt he couldn't work with them anymore. How can you
4 work with people, your law clerk or your secretaries,
5 were turning against you and you find out every week
6 they're communicating everything you're doing
7 countermanding your orders. You'll hear from them.

8 He discovered problems with constables.
9 He asked that things be given to other constables and
10 Deputy French being the court administrator
11 countermanded that order.

12 Anyway, I said enough. But I want you to
13 look at it from another perspective, at least know
14 what's coming because there are two different stories
15 here, although a lot of the facts aren't disputed as
16 you'll find in the stipulations. It's how you interpret
17 those facts. It's our position that these facts do not
18 warrant any real findings of misconduct, perhaps on the
19 robe issue and that's questionable because it's a
20 counter, and in the courtroom you always wear your robe,
21 things of that nature. But you have to hear the
22 evidence in this particular matter. Thank you.

23 JUDGE BARTON: Thank you, Mr. Stretton.
24 Ms. Flaherty.

25 MS. FLAHERTY: Yes, I'm mindful of the

1 time. I do know that my first witness will be on for
2 more than a half hour to -- it's 10:30 now.

3 JUDGE BARTON: Why don't we begin, and at
4 some point we will take a break.

5 LISA LEVAN, called as a witness, having
6 been duly sworn, testified as follows:

7 MS. FLAHERTY: Your Honors, the Board has
8 called Lisa LeVan, and with your permission, I would
9 like to sit during the direct exam.

10 JUDGE BARTON: Absolutely.

11 MS. FLAHERTY: Thank you.

12 DIRECT EXAMINATION

13 BY MS. FLAHERTY:

14 Q. Good morning.

15 A. Good morning.

16 Q. Ms. LeVan, would you please introduce
17 yourself to the Court and spell your last name for the
18 court reporter.

19 A. I am Lisa LeVan. My last name is L-e capital
20 V-a-n.

21 Q. And may I call you Lisa during your
22 testimony?

23 A. Absolutely.

24 Q. Where do you reside?

25 A. Full address?

1 Q. Certainly.

2 A. _____
3 _____

4 Q. And what years did you work with Judge Tidd?

5 A. January 2010 to August 31st, 2012.

6 Q. Would you please inform the Court of your
7 educational background.

8 A. High school graduate, have a degree --
9 business degree in legal secretarial sciences,
10 associate's degree.

11 Q. And where is that from?

12 A. Allentown Business School.

13 Q. And describe your employment history.

14 A. Well, once I -- I worked for my mother-in-law
15 while I was married. That was very early on in my 20s.
16 And when I got my divorce, I went back to school and got
17 my degree, and I worked for a few months at Michael
18 Ronca's construction. And then I was offered a position
19 at the district court in the fall of 1988, and I went to
20 the district court.

21 Q. And which district court were you assigned
22 to?

23 A. Judge Repyneck, 03-2-04.

24 Q. And is that the same court where Judge Tidd
25 was then assigned in 2010?

1 A. Yes.

2 Q. Were you part time or full time when you
3 worked for former Judge Repyneck?

4 A. Full time.

5 Q. So how many years total did you work as a
6 court clerk?

7 A. Twenty-three and a half.

8 Q. At the time that Judge Tidd came to the
9 district court who were the other clerks that were
10 working there?

11 A. Jan Rufe and Carol Bubori.

12 Q. That was in 2010?

13 A. Yes.

14 Q. And then was there a turnover in those clerks
15 at that time?

16 A. Jan retired April of 2010. Diane Kale took
17 her position. Carol retired April of 2011. Brenda
18 Anthony took her position.

19 Q. So during the pertinent times you did have
20 that we're going to discuss here today, in 2011 who were
21 the court clerks working with you?

22 A. Brenda Anthony and Diane Kale.

23 Q. Could you describe your working relationship
24 with Judge Tidd?

25 A. It was -- there was no -- it wasn't very

1 social. I came in and did my job.

2 Q. And with your years of experience tell us
3 your thoughts when Judge Tidd came on board and took
4 over the court.

5 MR. STRETTON: Objection.

6 JUDGE BARTON: Sustained.

7 BY MS. FLAHERTY:

8 Q. Could you please describe Judge Tidd's
9 demeanor towards you?

10 MR. STRETTON: Objection, unless she has
11 specific dates and times.

12 JUDGE BARTON: Overruled.

13 THE WITNESS: It was never very friendly.
14 You know, sometimes -- I wasn't sure which way he would
15 be from moment to moment, you know.

16 BY MS. FLAHERTY:

17 Q. Did he treat you in a respectful manner?

18 A. Not always.

19 MR. STRETTON: I'm sorry, I couldn't hear
20 what she said.

21 JUDGE BARTON: Not always.

22 THE WITNESS: Not always.

23 BY MS. FLAHERTY:

24 Q. What kind of language did he use at district
25 court?

1 MR. STRETTON: Objection, unless they can
2 be specific. I mean, how can -- we're talking seven,
3 six years ago. I need to know dates and times.

4 JUDGE BARTON: Ms. Flaherty, your
5 response.

6 MS. FLAHERTY: I'll be happy to rephrase
7 the question.

8 JUDGE BARTON: By all means.

9 BY MS. FLAHERTY:

10 Q. Lisa, did Judge Tidd curse at you?

11 MR. STRETTON: Objection.

12 JUDGE BARTON: Basis of your objection?

13 MR. STRETTON: We're way beyond the
14 statute of limitations, way beyond the laches issues.
15 If they're going to say he was cursing, screaming,
16 yelling, give me dates and times. It's impossible to
17 defend six, seven years later someone comes in, oh, he
18 yelled at me, he cursed at me F words, MF words,
19 whatever they're going to say, without me having dates
20 and times.

21 JUDGE BARTON: Ms. Flaherty, do you have
22 a response?

23 MS. FLAHERTY: Yes. There will be very
24 specific instances where this testimony will come out.
25 I'm giving the witness an opportunity to give us her

1 general recollections.

2 JUDGE BARTON: Okay. We'll allow
3 Ms. Flaherty some latitude to establish a foundation,
4 and I think that's also a proper subject for
5 cross-examination, so that objection is overruled.

6 MR. STRETTON: Thank you.

7 BY MS. FLAHERTY:

8 Q. When you worked with Judge Tidd, where did he
9 conduct summary traffic trials generally?

10 A. At the counter.

11 Q. And what was his attire?

12 A. Polo shirt/jeans, polo shirt/khakis.

13 Q. Did he conduct summary traffic trials in the
14 courtroom?

15 A. Not unless a hearing was specifically
16 requested.

17 Q. Did you ever observe Judge Tidd engage in
18 plea deals with defendants in the absence of police
19 officers?

20 A. Yes.

21 Q. What was the frequency?

22 MR. STRETTON: Objection. I need
23 specifics. I mean otherwise how can I defend this?
24 We're talking 2010, 2011? Tell me which case, which
25 day. Then we can respond to it. So I object.

1 MS. FLAHERTY: The specific cases will be
2 presented in short order, Your Honor.

3 JUDGE BARTON: Overruled.

4 BY MS. FLAHERTY:

5 Q. Did Judge Tidd conduct waivers of preliminary
6 hearings at the counter of the court?

7 A. Yes.

8 Q. Was he wearing his robe?

9 A. No.

10 Q. Did Judge Tidd ever instruct you to handle
11 matters in his absence?

12 A. Yes.

13 Q. Can you describe the instructions he gave to
14 you?

15 A. If he would be late, he would say I'm going
16 to be late, just handle whoever comes in, I'll sign the
17 paperwork when I get there.

18 Q. Did you ever tell Judge Tidd that you prefer
19 not to do that?

20 A. No.

21 Q. Why not?

22 A. I was afraid to.

23 Q. What were you afraid of?

24 A. Losing my job.

25 Q. In 2011 were you aware of a meeting between

1 Judge Tidd and President Judge McFadden and court
2 administration?

3 A. Yes.

4 Q. How did you become aware of the meeting?

5 A. David told us he had to appear with him, he
6 was getting called down before them.

7 Q. Did he tell you what it was about?

8 A. It would have been about not wearing his robe
9 and about swearing.

10 Q. During that August 2011 meeting, do you
11 recall if it involved a letter from Attorney Tobey?

12 A. Yes.

13 Q. What can you tell the Court about that?

14 MR. STRETTON: I'm sorry, letter from
15 who? I couldn't hear.

16 MS. FLAHERTY: Attorney Tobey.

17 MR. STRETTON: Can you reference that
18 letter in the exhibits?

19 MS. FLAHERTY: It's at Exhibit 28.

20 BY MS. FLAHERTY:

21 Q. Do you recall what that letter was about?

22 A. About a civil case that had been held at our
23 court that David had also had dealings with in his
24 private law practice as a bankruptcy.

25 Q. And that case we can get into more detail

1 about later. It was called the Nieves matter. Does
2 that ring a bell for you?

3 A. Yes.

4 Q. And did Mr. Tidd at any time discuss that
5 being called into the meeting with President Judge
6 McFadden and Debra French?

7 A. No.

8 Q. Did he share with you that there had been an
9 anonymous complaint to court admin or President Judge
10 McFadden about that conflict?

11 A. Yes.

12 MR. STRETTON: Objection, leading.

13 JUDGE BARTON: Sustained.

14 BY MS. FLAHERTY:

15 Q. Can you describe an incident where you
16 discussed Attorney Tobey's letter and that anonymous
17 complaint with Judge Tidd?

18 A. Yes. I was in the back in the conference
19 room. We kept old files there. And I was looking
20 through some files. And Attorney Tidd came in and
21 closed the door behind him, positioned himself between
22 me and the door and began to question me as to who from
23 the office sent that letter, it had to have come from
24 the office.

25 Q. And how did you respond?

1 the objection?

2 MS. FLAHERTY: Yes. She's discussing
3 laying the foundation for the creation of the note
4 taking and the logs, so I would ask for a little
5 latitude on that.

6 JUDGE BARTON: And Ms. French will be a
7 witness in this?

8 MS. FLAHERTY: Yes. She will be
9 corroborating that as well.

10 JUDGE BARTON: Overruled.

11 THE WITNESS: And her advice to the three
12 of us was to keep regular notes and mail her weekly,
13 mail the notes to her weekly, and that's what we started
14 to do.

15 BY MS. FLAHERTY:

16 Q. So sometime in 2011 you began keeping notes?

17 A. Yes.

18 Q. And then you began -- who in your office was
19 keeping the notes?

20 A. We all kept the notes.

21 Q. And how did they get submitted to Ms. French?

22 A. I would type them up at the end of the week
23 and mail them to her.

24 Q. So were the notes -- you typed them up, so
25 were they handwritten at that point and then you typed

1 them?

2 A. Yes.

3 Q. Was it a collaborative effort?

4 A. Yes.

5 Q. After you typed them, did you offer an
6 opportunity for the other clerks to review?

7 A. Yes.

8 Q. And then how did they get submitted to
9 Ms. French?

10 A. I mailed them to her personal and
11 confidential so no one would open them down at the
12 courthouse except for her. It's what she recommended we
13 do.

14 Q. And who would take charge of typing up those
15 notes if you were on vacation or a day off?

16 A. Brenda.

17 Q. Could you say her full name, please.

18 A. Brenda Anthony.

19 Q. Thank you. You shared earlier that you had
20 worked for Judge Diane Repyneck for how many years?

21 A. Twenty-one years.

22 Q. Twenty-one years. And could you compare her
23 methods in conducting court matters to those of Judge
24 Tidd?

25 MR. STRETTON: Objection. How do you

1 compare 21 years Judge Repyneck? We have no records for
2 her, nothing -- I have no idea whether there were
3 complaints made against Judge Repyneck. I'm going to
4 object. It's just general useless testimony. We have
5 to be specific here about what he did, not what Judge
6 Repyneck did or didn't do in these particular matters.

7 JUDGE BARTON: Ms. Flaherty.

8 MS. FLAHERTY: Yes. Mr. Stretton raised
9 in his opening remarks that he planned to introduce
10 testimony from his witnesses about how courts are run in
11 Northampton County. Court clerks in Northampton County
12 who have worked with other judges over the years have a
13 bird's eye view of how court matters are handled.

14 JUDGE BARTON: Limited to office
15 procedures, I will overrule the objection. As to court
16 proceedings, I think there's a lack of foundation.

17 BY MS. FLAHERTY:

18 Q. When you worked for Judge Repyneck, did she
19 go into the courtroom?

20 A. Yes.

21 Q. For what purposes?

22 A. Hearings, arraignments, waivers.

23 Q. Did she conduct any of those matters at the
24 counter?

25 A. No.

1 Q. When she conducted summary traffic trials,
2 did she wear her robe?

3 A. Yes.

4 Q. When she conducted those summary traffic
5 trials, were they conducted in the courtroom?

6 A. Yes.

7 Q. When she conducted waivers of preliminary
8 hearings, did she wear her robe?

9 A. Yes.

10 Q. And were those in the courtroom?

11 A. Yes.

12 Q. When she conducted arraignment -- preliminary
13 arraignments, did she wear her robe?

14 A. Yes.

15 Q. And were those conducted in the courtroom?

16 A. Yes.

17 Q. When you worked at Judge Tidd's court, was
18 there a video recording system in place?

19 A. Yes.

20 Q. Can you describe it, please.

21 A. It had been installed a number of years prior
22 to that by the State, and it was just a large TV screen.
23 And there was a camera out in the one corner of the
24 lobby that videotaped whatever area it saw of the court.

25 Q. The reception area?

1 A. Yes, the reception area and our desks.

2 Q. Was there any audio recording at that time?

3 A. No.

4 Q. Were you working or present at the district
5 court when Judge Tidd -- let me back up. Were you aware
6 that Judge Tidd had a meeting with President Judge
7 McFadden and Ms. French on February 13, 2012?

8 A. Yes.

9 Q. Do you recall Judge Tidd telling you what had
10 gone on at that meeting?

11 A. Regarding his swearing.

12 Q. Would it be helpful to you to review a log
13 entry from that date to refresh your recollection?

14 A. Yes.

15 MR. STRETTON: I'm sorry, there's no log
16 entries from this witness.

17 MS. FLAHERTY: This is Exhibit 10. May I
18 approach the witness, Your Honor.

19 JUDGE BARTON: One second first,
20 Ms. Flaherty. Mr. Stretton, she's using this to refresh
21 the witness's recollection, so it's my understanding at
22 least that you'll show it to her and then take it back.
23 She won't be testifying from the document, correct?

24 MS. FLAHERTY: Correct.

25 MR. STRETTON: I've objected. I've been

1 given everything. I have no reference that she had any
2 log entries. The statement she made said she shredded
3 all her notes.

4 JUDGE BARTON: Well, I think that's --
5 the objection is overruled. You can explore that on
6 cross-examination. Ms. Flaherty can use a teddy bear to
7 refresh the witness's recollection if it's helpful.

8 MR. STRETTON: If she did it, but it's my
9 understanding that she didn't do it, there's no logs
10 existing from her.

11 JUDGE BARTON: Overruled. You may
12 approach the witness.

13 BY MS. FLAHERTY:

14 Q. Lisa, let's -- I think we can clear up
15 Mr. Stretton's concerns with a couple of questions about
16 the log entries. So you had previously testified that
17 after Ms. French advised you to put it in writing you,
18 Brenda Anthony, and Diane Kale kept notes, correct?

19 A. Correct.

20 Q. And you also testified that he typed up those
21 notes and then sent them to Ms. French?

22 A. Correct.

23 Q. So in your report of interview that I believe
24 Mr. Stretton is referring to you stated that you -- did
25 you state that you shredded your copy of the notes?

1 A. The ones that I had taken with me when I
2 retired, yes.

3 Q. However, the notes that you sent to
4 Ms. French were out of your possession at that time,
5 correct?

6 A. Correct.

7 Q. Thank you.

8 MR. STRETTON: Again, my objection. It
9 would have been nice if someone would have told us that.
10 Remember I got hundreds and hundreds of documents. It
11 didn't say these are Ms. LeVan's notes in these matters.
12 I got all kinds of confidential anonymous complaints.
13 So I would object to any reference to that.

14 MS. FLAHERTY: We submitted lists of the
15 exhibits that would be presented to Mr. Stretton, and we
16 gave him discovery in a timely manner. He has these
17 documents in his possession.

18 MR. STRETTON: But I don't know who did
19 them. That's a big difference.

20 JUDGE BARTON: Overruled. You can
21 explore it in cross-examination.

22 BY MS. FLAHERTY:

23 Q. Lisa, after you had reviewed the notes or
24 your log entry, do you now recall that you received a
25 call from Judge Tidd on that day?

1 A. Yes.

2 Q. And do you recall what he said to you?

3 A. He called me after his meeting, and he said
4 that they tell me that I say fuck all the time, do I do
5 that, and I said, yes, you do. He said, oh, okay. Then
6 he hung up. And then when he came back into the office,
7 he came in the door and said, fuck, fuck, fuck, fuck,
8 fuck, that's all they tell me I ever say.

9 Q. And at that time did he state whether or not
10 the meeting included discussions about court --
11 conducting court at the counter?

12 A. Yes.

13 Q. And what was he told to do?

14 A. To have hearings in the courtroom.

15 Q. And did Judge Tidd -- did he state his plan?

16 A. He said he would do that and wear his robe.

17 JUDGE BARTON: Mr. Stretton had asked for
18 a short break at 11:00. It's a few moments before that.
19 At this point the court will be in recess for 10
20 minutes.

21 (Recess taken)

22 JUDGE BARTON: Ms. Flaherty, you may
23 proceed.

24 BY MS. FLAHERTY:

25 Q. Are you ready, Lisa?

1 A. Sure.

2 Q. Just before break we were discussing
3 Exhibit 10 which is a log entry from February 13, 2012,
4 and you had talked about a phone conversation with Judge
5 Tidd --

6 A. Yes.

7 Q. -- and then also his conduct when he came
8 back to the court.

9 A. Yes.

10 Q. And you shared that he was told to change
11 where he held court?

12 A. Yes.

13 Q. And where was he to hold hearings?

14 A. In the courtroom.

15 Q. And what was his attire to be?

16 A. In his robes, judicial robes.

17 Q. And who had told him that?

18 A. Judge McFadden.

19 Q. And was there also a court administrator at
20 that meeting?

21 A. Debra French.

22 Q. I think if I could give this back to you to
23 help you refresh. It was another court administrator at
24 the time?

25 MR. STRETTON: Objection. Is she

1 testifying what my client told her or what she heard
2 from Debra French?

3 MS. FLAHERTY: No. She's testifying
4 about her phone conversation with Judge Tidd and his
5 conduct and comments to her when he came back from the
6 meeting with -- and it wasn't Ms. French. I'm trying to
7 clarify that with the witness.

8 JUDGE BARTON: Rephrase the question I
9 think.

10 BY MS. FLAHERTY:

11 Q. Do you recall if Court Administrator Jim
12 Onembo was at that meeting?

13 A. Yes.

14 Q. Do you recall if he conducted Mr. Tidd how to
15 conduct himself at court?

16 A. Yes.

17 Q. When Judge Tidd returned to the court and
18 told you what had gone on and discussed how things would
19 change, did he refer to the video system at all?

20 A. Yes. He asked if there was audio with that.
21 We said, no, there's no audio, it's just video.

22 Q. And how did he respond?

23 A. He said, well, there will be from now on.

24 Q. Other than that instance of cursing, do you
25 recall any other specific instances?

1 A. Yes. He made a comment regarding the
2 defendant the one time after she had left that she was
3 fucking stupid as a pile of rocks.

4 Q. And we're going to look at a case called --
5 that you're referring to called Sterling Jewelers versus
6 Echenberg. And that's at exhibit -- Board Exhibit 31.
7 The language you quoted is just a little different
8 from --

9 MS. FLAHERTY: I ask for your indulgence
10 for just a moment, Your Honor.

11 JUDGE BARTON: Take a moment.

12 MS. FLAHERTY: More specifically the log
13 entry is at Exhibit 7, Page 16, and if I may allow the
14 witness to review just for a moment to refresh her
15 recollection.

16 MR. STRETTON: I'm sorry, I'm confused.
17 You had us at Page 31 where it's clear there's a log
18 exhibit for that matter. Is this repeated again in
19 Exhibit what 7?

20 MS. FLAHERTY: Exhibit 7 has the full
21 log, and the pages are numbered within that.

22 MR. STRETTON: So Exhibit 7, Page 16 is
23 the exact same thing as Exhibit 31?

24 MS. FLAHERTY: Well, I appreciate that,
25 and I apologize if there's some overlap with that.

1 MR. STRETTON: That's okay. I just
2 wanted to make sure.

3 MS. FLAHERTY: May I approach the
4 witness?

5 JUDGE BARTON: You may.

6 BY MS. FLAHERTY:

7 Q. If you could refresh your recollection, it's
8 just down there at the bottom.

9 A. He said, she's as dumb as a pile of fucking
10 dirt.

11 Q. And he was referring to whom?

12 A. The defendant.

13 Q. Had the defendant left when he said that?

14 A. Yes.

15 Q. And were there others in the court at that
16 time?

17 A. Yes.

18 MS. FLAHERTY: The next case is Trexler
19 versus Gamble. That's Exhibit 32.

20 MR. STRETTON: Just out of curiosity,
21 where are those -- I know the one's -- where are those
22 Trexler in the complaint? I don't see -- maybe I'm
23 missing it, but I don't see those.

24 MS. FLAHERTY: Paragraph 36.

25 MR. STRETTON: That's with the comment

1 about being dumb itself. But where's the next one, the
2 new issue, the new case?

3 JUDGE BARTON: I think Mr. Stretton is
4 asking whether the matter of Trexler versus Gamble is
5 reflected in the complaint.

6 MS. FLAHERTY: Yes, at Paragraph 36.

7 MR. STRETTON: All right.

8 JUDGE BARTON: Do you have any questions
9 for this witness?

10 MS. FLAHERTY: Yes.

11 BY MS. FLAHERTY:

12 Q. Do you recall being at the court the day that
13 the case Trexler versus Gamble, Kreative Kitchens was
14 heard? It was a civil matter with an Attorney Andres.

15 A. Yes.

16 Q. And do you recall that the plaintiff wanted a
17 hearing in that matter?

18 A. Yes.

19 Q. And do you recall Judge Tidd's reaction?

20 A. He said that we have a way to fuck up my
21 morning by having a civil case that's defended.

22 Q. Did Judge Tidd object to conducting civil
23 hearings?

24 A. Yes.

25 Q. How do you know that?

1 A. He didn't -- he just didn't like doing them.
2 He didn't want to go in the courtroom. He didn't want
3 to have to be in there in his robes -- robe.

4 Q. Did he express that to you?

5 A. Yes.

6 Q. And were there other clerks present when
7 Judge Tidd made this comment?

8 A. Yes.

9 Q. And were the parties present?

10 A. I do not recall that.

11 Q. How about Attorney Andres?

12 A. Yes, he was present.

13 Q. Did you observe Attorney Andres' reaction?

14 A. Yes.

15 Q. How would you describe it?

16 A. He was very startled.

17 Q. After that February 13, 2012 meeting with
18 President Judge McFadden and Jim -- Court Administrator
19 Jim Onembo did Judge Tidd's conduct change?

20 A. Briefly.

21 Q. In what way?

22 A. He wore his robe, and he went into the
23 courtroom for hearings.

24 Q. And did that change last long?

25 A. No.

1 Q. How long did it last?

2 A. Maybe a week.

3 Q. And then what happened?

4 A. It went back to hearings at the counter,
5 everything conducted at the counter.

6 Q. And how about his demeanor?

7 A. No robe, not very amiable.

8 Q. Did he resume cursing?

9 A. Yes.

10 Q. Directly at you?

11 A. Sometimes.

12 Q. And what about other times?

13 A. Sometimes he was in a very good mood and
14 wouldn't curse.

15 Q. Did you hear him curse at others?

16 A. Yes.

17 Q. Do you recall on April 30th, 2012 case
18 Commonwealth versus Zick? It has since been expunged.

19 MS. FLAHERTY: This is Exhibit 7, log
20 Page 10.

21 BY MS. FLAHERTY:

22 Q. In that case a defendant arrived to make a
23 payment in a payment plan, and do you recall Judge Tidd
24 eating lunch at the counter?

25 A. Yes.

1 Q. And do you recall what he said to that
2 defendant about his attire?

3 A. Pull his pants up -- pull your pants up, I
4 don't want to see your fucking ass crack while I'm
5 eating lunch.

6 Q. And was there -- do you recall Officer
7 Piotrowski being present?

8 A. Yes.

9 Q. We're now going to shift to discussions about
10 summary traffic citations and summary trials on those
11 citations. Did Judge Tidd discuss summary traffic
12 citations with defendants before officers arrived for a
13 summary trial?

14 A. Yes.

15 Q. How often did he do that?

16 A. Very often.

17 Q. Did Judge Tidd ask defendants if they agreed
18 to enter a plea to a lesser charge?

19 A. Yes.

20 Q. Did he do that before the officer arrived?

21 A. Yes.

22 Q. Did you ever witness Judge Tidd calling a
23 police officer on the phone to tell him that the
24 defendant was there and had agreed to a lesser plea?

25 A. Yes.

1 MR. STRETTON: This is pure leading. I
2 mean, why have a trial? We might as well just give her
3 a script. She's just feeding answers. We have no
4 dates, no times, no officers. This is seven years ago,
5 six years ago.

6 JUDGE BARTON: Ms. Flaherty, do you have
7 a response?

8 MS. FLAHERTY: Yes, trying to establish
9 the standard operating procedure at Judge Tidd's court.
10 We will have some specific instances. And I apologize
11 if I'm leading. I anticipated more stipulations of fact
12 for some of these matters, so I'm doing the best I can.

13 MR. STRETTON: I'm going to object. I
14 mean, I stipulated to a lot. I'm not going to stipulate
15 to things like that.

16 JUDGE BARTON: Well, look, the
17 stipulations are what they are. She's asking a yes or
18 no question. The witness can answer yes. The witness
19 can answer no. That's not leading. Overruled.

20 BY MS. FLAHERTY:

21 Q. In those instances where an officer agreed to
22 accept a plea -- excuse me, in those instances where a
23 defendant agreed to a lesser charge and Judge Tidd
24 called the officer, did the officers generally agree
25 over the phone to accept that plea?

1 A. Yes.

2 Q. Did you ever witness Judge Tidd permitting
3 defendants to use the court phone to speak with officers
4 about entering pleas?

5 A. Yes.

6 Q. How about when police officers would arrive
7 prior to the defendant for summary traffic trials, did
8 Judge Tidd discuss the cases with the officers?

9 A. Yes.

10 Q. Did he ask the officers if they were willing
11 to change the charges to lesser offenses?

12 A. Yes.

13 Q. Was that before the defendants arrived?

14 A. Yes.

15 Q. After the defendant arrived, did Judge Tidd
16 speak directly to the defendant, ask if he was willing
17 to enter a plea to a lesser charge?

18 A. Yes.

19 Q. Do you recall Judge Tidd asking officers did
20 you work out a deal?

21 A. Yes.

22 Q. Did that happen frequently?

23 A. Yes.

24 MR. STRETTON: Just again I just object
25 to all this leading. I mean, why have a case if you're

1 just going to let her spoonfeed, did you do this, this
2 specific, then that, what did he say, what did he do,
3 not did he do this to an officer, did he ask that. I
4 mean, this is seven years ago. If she had to give
5 general answers, she couldn't answer. But if you
6 spoonfeed her, sure. I just object. I don't think
7 that's -- if that isn't leading questions, I don't know
8 what are leading questions.

9 JUDGE BARTON: Ms. Flaherty, your
10 response.

11 MS. FLAHERTY: My response is that when
12 I -- I can give the opportunity to the witness to
13 provide a narrative. However, I've had objections to
14 that already that the questions were too general, so
15 I've tried to make them more specific. And that line of
16 questioning is coming to an end. I have one more
17 question.

18 JUDGE BARTON: Let's move on.

19 MS. FLAHERTY: Looking at the case
20 Commonwealth versus Groves which is at Paragraph 72 in
21 the Board complaint and it's at -- the docket and case
22 is at Exhibit 42, and the log entry is Exhibit 7,
23 Page 16.

24 BY MS. FLAHERTY:

25 Q. This is a case called Commonwealth versus

1 Groves. Were you still working at the court on
2 January 23rd of 2012?

3 A. Yes.

4 Q. Do you recall in this case that Officer
5 McCartney was not present?

6 A. Yes.

7 Q. Do you recall if Judge Tidd told the
8 defendant he could enter a lesser plea?

9 A. Yes.

10 Q. A plea to a lesser charge, excuse me.

11 A. Yes.

12 Q. What happened when McCartney arrived at the
13 court?

14 A. He wasn't happy with that.

15 MR. STRETTON: Objection.

16 JUDGE BARTON: What's your objection,
17 Mr. Stretton?

18 MR. STRETTON: It's called hearsay,
19 someone comes in who's not here and clearly said
20 something and she's testifying to it.

21 JUDGE BARTON: I think the question was
22 what happened when McCartney came to court.

23 MR. STRETTON: And she said he wasn't
24 happy. Usually that means the officer said something.
25 She heard that. I'd like to confront that officer.

1 JUDGE BARTON: I'm looking forward to the
2 cross-examination, but that objection is overruled.

3 BY MS. FLAHERTY:

4 Q. Do you recall what Judge Tidd said to Officer
5 McCartney?

6 A. He said, we took care of your 10:15 or
7 whatever the hearing time was, it's been taken care of.

8 Q. Were you present -- this is the same day. Do
9 you recall the case involving Attorney Matthew Potts and
10 a case where he represented a defendant and arrived
11 before Police Officer Gunshore?

12 A. Yes.

13 Q. Do you recall -- what do you specifically
14 recall about that case?

15 A. I recall Judge Tidd and Attorney Potts going
16 into the judge's office. They came out. And when
17 Officer Gunshore arrived, he said, we have the deal all
18 worked out for your case.

19 Q. And what did Gunshore say?

20 MR. STRETTON: Objection.

21 THE WITNESS: I don't have any deal with
22 you.

23 MR. STRETTON: Just note my hearsay
24 objections.

25 JUDGE BARTON: Excuse me?

1 MR. STRETTON: My hearsay and
2 confrontational objections. Remember these are
3 quasi-criminal cases, judicial proceedings, and the
4 right to confront.

5 JUDGE BARTON: Ms. Flaherty, do you have
6 a response?

7 MS. FLAHERTY: Yes. These -- this
8 information is recorded in logs, and it is recorded at
9 the precise moment when the statement was heard, and
10 it's being offered to demonstrate Judge Tidd's methods
11 of conducting trials not necessarily for the truth of
12 the matter.

13 MR. STRETTON: So we now have an
14 exception to hearsay if they recorded them
15 contemporaneously that you don't need to bring anyone
16 in.

17 JUDGE BARTON: The document may not be
18 hearsay. It may contain hearsay. But in this case I
19 think the witness is testifying to a statement that she
20 heard Judge Tidd make.

21 MR. STRETTON: She said -- witness said
22 what Mr. Potts said and what Officer Gunshore said.
23 That was what I objected to.

24 JUDGE BARTON: I'll sustain that
25 objection. You may proceed, Ms. Flaherty.

1 MS. FLAHERTY: The next case is
2 Commonwealth versus Desmond, and that docket and case is
3 at Exhibit 43. The log entry --

4 MR. STRETTON: I just want the prior
5 testimony stricken as hearsay.

6 JUDGE BARTON: The Court will strike that
7 prior answer.

8 MR. STRETTON: Thank you.

9 BY MS. FLAHERTY:

10 Q. In Commonwealth versus Desmond that occurred
11 on January 25th of 2012. Were you present at the court
12 that day?

13 A. Yes.

14 Q. And in that case a police officer had not yet
15 arrived for a traffic summary trial. Do you recall
16 Judge Tidd discussing the case with the defendant?

17 A. Yes.

18 Q. Do you recall that the defendant confirmed
19 his car was not yet inspected?

20 A. Yes.

21 Q. And do you recall what Judge Tidd said?

22 A. I don't. Sorry.

23 JUDGE BARTON: Ms. Flaherty, are you
24 going to show the witness?

25 MS. FLAHERTY: I apologize. May I show

1 Exhibit 7, Page 18 to 19 in the log to the witness to
2 refresh her recollection?

3 JUDGE BARTON: Have you established her
4 inability to recall?

5 MS. FLAHERTY: Yes. She did state that
6 she couldn't recall what was said, I believe.

7 BY MS. FLAHERTY:

8 Q. Do you recall what Judge Tidd said in that
9 circumstance?

10 A. I do not.

11 JUDGE BARTON: You may show the witness.

12 MS. FLAHERTY: Thank you.

13 MR. STRETTON: What pages are you showing
14 the witness again?

15 JUDGE BARTON: Ms. Flaherty, what page of
16 Exhibit 7 is that again? Mr. Stretton asked.

17 MS. FLAHERTY: Exhibit 7, Pages 18 to 19.

18 BY MS. FLAHERTY:

19 Q. Do you now recall what Judge Tidd said to --

20 A. Yes. He said, it's not inspected, you can
21 change your plea to guilty if you want. And the officer
22 wasn't present.

23 Q. And did the defendant agree to do so?

24 A. Yes.

25 MS. FLAHERTY: The next case is

1 January 30th, 2012, Commonwealth versus Garippa. The
2 docket and case file are at Exhibit 44. The log entry
3 is at Exhibit 7, Page 21. And this is addressing
4 Paragraph 75 in the complaint.

5 BY MS. FLAHERTY:

6 Q. Do you recall this case, a summary traffic
7 trial where Officer Fragano had not yet arrived?

8 JUDGE BARTON: I'm sorry, you have to
9 indicate verbally.

10 THE WITNESS: I'm sorry, I do not. I do
11 not recall it.

12 MS. FLAHERTY: May I approach?

13 JUDGE BARTON: You may.

14 MS. FLAHERTY: Thank you.

15 THE WITNESS: Yes. The case was -- the
16 charge was changed to a lesser charge without the
17 officer present.

18 MS. FLAHERTY: And the last one in that
19 section is Commonwealth versus Freed, and that's at --
20 the docket and case file are at Exhibit 45 and 46, and
21 the log entry is at Exhibit 7, Page 21, and it's at
22 Paragraph 76 in the complaint.

23 BY MS. FLAHERTY:

24 Q. Were you present at court on January 31st,
25 2012?

1 A. Yes.

2 Q. Do you remember the case Commonwealth versus
3 Freed in which Attorney Joachim had not yet arrived for
4 the hearing?

5 A. Yes.

6 Q. Do you recall Judge Tidd telling the
7 defendant to call his attorney?

8 A. Yes.

9 Q. And what did the attorney say?

10 A. He was going to be late.

11 MR. STRETTON: Objection.

12 JUDGE BARTON: Sustained. You can lead
13 to a point, but I think the witness needs to answer the
14 question.

15 BY MS. FLAHERTY:

16 Q. Do you recall the outcome of that?

17 A. The defendant was told by Judge Tidd that he
18 could not -- he couldn't wait. I do not recall the
19 complete outcome. I'm sorry.

20 MS. FLAHERTY: May I approach again?

21 JUDGE BARTON: You may.

22 MR. STRETTON: You're showing her
23 Exhibit 7?

24 MS. FLAHERTY: Exhibit 7, Page 21.

25 THE WITNESS: Okay, the --

1 JUDGE BARTON: There's not a question
2 pending.

3 BY MS. FLAHERTY:

4 Q. Has that refreshed your recollection?

5 A. Yes.

6 Q. And could you tell the Court what happened
7 that day?

8 A. Yes. The defendant was waiting for his
9 attorney. It was Attorney Applebaum. Judge Tidd said
10 to call his attorney and was told that Attorney
11 Applebaum wasn't going to be present but Attorney
12 Joachim was and he was going to be late, and the
13 defendant was told by Judge Tidd that we're just going
14 to have to go on without him being present and then told
15 the defendant that either we can possibly get it changed
16 to a charge that didn't carry jail time.

17 Q. And so what was the outcome?

18 A. That the defendant pled to the lesser charge
19 of driving under suspension, the one that was not DUI
20 related.

21 Q. And did Judge Tidd seek the approval with
22 Officer Gunshore? Did he ask him if it would be okay?

23 A. No.

24 MR. STRETTON: Objection. Gunshore
25 wasn't involved in that case.

1 JUDGE BARTON: I don't know that that's a
2 basis for an objection, but you can certainly
3 cross-examine her on her answers, so that's overruled.

4 BY MS. FLAHERTY:

5 Q. I think we had established in that case in
6 the beginning that Officer Gunshore was present. Do you
7 recall that now? I understand it's hard to be looking
8 at these log summaries back and forth.

9 A. I thought it was a different officer. I'm
10 sorry.

11 Q. That's not a problem. I didn't mean to cut
12 you short. If you would like an opportunity to look at
13 that log again to clarify who the officer was that was
14 present.

15 A. Sure.

16 MS. FLAHERTY: I apologize to the
17 witness. I believe that the name of the officer is not
18 listed within that log entry, that we gleaned that from
19 the docket and the other information. I apologize for
20 that, Your Honor.

21 Okay, so now we would be moving on to the
22 section in the complaint on failure to accord full right
23 to be heard.

24 BY MS. FLAHERTY:

25 Q. Could you explain to the Court what you

1 observed about Judge Tidd's methods of conducting
2 preliminary arraignments?

3 A. He would briefly read the complaint and set
4 bail, and then we would process the paperwork.

5 Q. And where was that done?

6 A. At the counter.

7 Q. Did Judge Tidd ever conduct waivers of
8 preliminary hearings in the courtroom?

9 A. Rarely.

10 Q. When did he conduct them in there?

11 A. The few times after he had been told that he
12 needed to, you know, have cases in the courtroom.

13 MS. FLAHERTY: May we have a moment, Your
14 Honor.

15 JUDGE BARTON: Certainly.

16 MR. STRETTON: Can we see you at sidebar
17 for something.

18 JUDGE BARTON: Yes, sir. We're off the
19 record.

20 (Discussion held off the record at
21 sidebar)

22 JUDGE BARTON: We're back on the record.

23 Ms. Flaherty, if you need a few moments to conclude this
24 examination, that's fine.

25 MS. FLAHERTY: Your Honor, after

1 reviewing, it does appear that this would be an
2 opportune time to take that lunch break. We have still
3 some sections to go, although it will be much more
4 expedient with the change in format.

5 JUDGE BARTON: The time being just a few
6 minutes before noon, this court will be in recess until
7 1:00. Thank you.

8 (Recess taken)

9 JUDGE BARTON: Good afternoon, everyone.
10 Are you ready to proceed, Ms. Flaherty? Is that a yes?

11 MS. FLAHERTY: Yes.

12 BY MS. FLAHERTY:

13 Q. Good afternoon, Lisa.

14 A. Good afternoon.

15 Q. We're going to continue on tracking the Board
16 complaint at Section F, Page 31, Failure to Accord Full
17 Right to be Heard. Lisa, we are changing the format.
18 In some instances I'll be making a statement and asking
19 you if you agree with that statement or not. Other
20 instances I'll be asking you to talk about particular
21 circumstances. You've already informed us during
22 earlier testimony that Judge Tidd conducted proceedings
23 at the counter of the reception area. Is that correct?

24 A. Correct.

25 Q. And that he talked to the defendant or police

1 officer, whoever got there first?

2 A. Yes.

3 Q. And what type of proceedings did he conduct
4 at the counter?

5 A. All types of proceedings, traffic summary
6 hearings, waivers, civil cases, arraignments.

7 Q. In order to appear for a summary traffic
8 trial, had those defendants entered pleas?

9 A. Yes.

10 Q. And what kind of plea would they have
11 entered?

12 A. Not guilty.

13 Q. And do they have to specifically request a
14 summary traffic trial?

15 A. Yes.

16 Q. So when those defendants appeared at the
17 court, they wanted to have a trial, correct?

18 A. Correct.

19 MR. STRETTON: Objection. She wouldn't
20 know that, and that's not the practice. 90 percent of
21 people that show up at a district judge want to work a
22 plea deal.

23 JUDGE BARTON: Sustained. I think the
24 fact that they entered a not guilty plea speaks for
25 itself.

1 BY MS. FLAHERTY:

2 Q. Did Judge Tidd routinely encourage defendants
3 to enter a plea at the counter?

4 A. Yes.

5 Q. And did Judge Tidd routinely conduct
6 preliminary arraignments at that counter?

7 A. Yes.

8 Q. Did Judge Tidd -- when conducting those
9 waivers of preliminary arraignments, did Judge Tidd
10 explain the proceedings to the defendant?

11 A. No.

12 Q. Do you recall how it was handled?

13 A. For an arraignment or a waiver or both?

14 Q. Let's start with a waiver.

15 A. Well, we would have paperwork printed, and he
16 would tell the defendant to sign here, this is your
17 waiver that you're giving up your right to have a
18 hearing and sign it and waiver of counsel if there was
19 no counsel present then.

20 Q. And did he -- did Judge Tidd take the time to
21 answer questions from the defendants?

22 A. No.

23 Q. Did he tell you to answer the questions?

24 A. Sometimes.

25 Q. And what happened at other times?

1 A. He would answer questions if he had to.

2 Q. Did he ever tell the defendants that their
3 questions could be answered down at the county?

4 A. Yes.

5 Q. Did that happen on more than one occasion?

6 A. Yes.

7 Q. When pro se criminal defendants appeared at
8 the district court, did Judge Tidd offer to continue
9 their matters or tell them it had to be heard that day?

10 A. He would tell them that it had to be heard
11 that day.

12 Q. I couldn't hear you.

13 A. He would tell them it had to be heard that
14 day.

15 Q. Was that true whether or not they agreed to
16 waive their preliminary hearing?

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

18 Q. I probably didn't phrase it well, so I
19 apologize for that. When criminal defendants appeared
20 for preliminary hearings, did Judge Tidd encourage them
21 to waive those preliminary hearings?

22 A. Yes.

23 Q. And if the defendant was unsure, did Judge
24 Tidd say the hearing had to be either waived or heard
25 that day?

1 A. Yes.

2 MR. STRETTON: Objection. She answered
3 yes to both parts. It's either one or the other.

4 JUDGE BARTON: Sustained. Do you want to
5 rephrase?

6 MS. FLAHERTY: Sure.

7 BY MS. FLAHERTY:

8 Q. When defendants appeared for preliminary
9 hearings pro se, did Judge Tidd encourage them to waive
10 the preliminary hearings?

11 A. Yes.

12 Q. Did those defendants ever request a
13 continuance, those pro se criminal defendants?

14 A. Yes.

15 Q. And what would Judge Tidd tell them?

16 A. He would tell them that they -- he would tell
17 them that they can deal with a lot of this down at the
18 county level, and if they were adamant, it would get
19 continued.

20 Q. When Judge Tidd conducted waivers of
21 preliminary hearings at the counter, did he inform the
22 defendants of the charges?

23 A. No.

24 Q. What did he tell them to do?

25 A. Sign here, sign here.

1 Q. Did he tell them to read the complaint?

2 A. No.

3 Q. When Judge Tidd conducted preliminary
4 arraignments, did he review the complaint and the
5 affidavit?

6 MR. STRETTON: Objection. How would she
7 possibly know if Judge Tidd reviewed the complaint? He
8 could have been sitting in his office. He could have
9 had it the night before. I mean, I don't understand
10 that kind of question.

11 JUDGE BARTON: I think that question can
12 be -- is ambiguous and can be taken several ways, so I'm
13 going to sustain the objection.

14 BY MS. FLAHERTY:

15 Q. Let's talk about another instance. And we're
16 at Paragraph 132. Did Judge Tidd ever tell you to
17 handle court matters?

18 A. Yes.

19 Q. And what did that mean? Can you explain that
20 in detail, please?

21 A. Have them sign their paperwork, whatever
22 needed to be signed at the counter. Then he would sign
23 it. And then it would get -- if it was a criminal case,
24 it would get sent down.

25 Q. Were there instances where Judge Tidd would

1 be absent from the courtroom and he'd tell you to handle
2 matters?

3 A. Yes.

4 Q. What kind of matters did you handle?

5 A. Whatever was scheduled that we could handle.

6 Q. Did you accept plea deals to summary traffic
7 citations that were scheduled for summary trials?

8 A. Yes.

9 Q. Did you handle waivers of preliminary
10 hearings?

11 A. Yes.

12 Q. While Judge Tidd was absent from the court?

13 A. Yes.

14 Q. And how would those be processed? How would
15 the paperwork be processed?

16 A. We would have the defendant sign the
17 paperwork, and then later when the judge came in, he
18 would sign.

19 Q. Did you ever hear Judge Tidd say they don't
20 pay me enough to hold hearings?

21 A. Yes.

22 Q. And did you ever hear him say this is nothing
23 but traffic court?

24 MR. STRETTON: I'm sorry, I can't hear
25 what you're saying.

1 MS. FLAHERTY: Me or the witness?

2 MR. STRETTON: You.

3 JUDGE BARTON: Ms. Flaherty, I think he's
4 referring to you.

5 MS. FLAHERTY: Okay, thank you.

6 BY MS. FLAHERTY:

7 Q. Did you ever hear Judge Tidd say this is
8 nothing but traffic court?

9 A. Yes.

10 MS. FLAHERTY: I'm going to be looking at
11 Paragraph 138 in the complaint. The dockets and case
12 files pertinent to that paragraph are located at
13 Exhibit 59 through 67, and there is a log entry at
14 Exhibit 7, Page 11.

15 BY MS. FLAHERTY:

16 Q. Lisa, were you present in court on
17 December 1st, 2011?

18 A. Yes.

19 Q. Do you recall whether Judge Tidd was present
20 or not present at court that day?

21 A. I do not recall.

22 MS. FLAHERTY: I'd like to approach the
23 witness with a log entry pertinent to this matter.

24 MR. STRETTON: I have no problem if she
25 reads it.

1 MS. FLAHERTY: I'd prefer to do it this
2 way in this instance, thank you.

3 JUDGE BARTON: Okay, you can approach the
4 witness and show her this document.

5 MR. STRETTON: This is Page 11,
6 Exhibit 7?

7 MS. FLAHERTY: Yes.

8 BY MS. FLAHERTY:

9 Q. Lisa, has that document helped to refresh
10 your recollection?

11 A. Yes. He wasn't present.

12 Q. And had Judge Tidd instructed the clerks to
13 handle matters those days -- that day?

14 A. Yes.

15 Q. And did you participate in handling some of
16 those matters on that day?

17 A. Yes.

18 Q. Did you believe it was proper for you to
19 handle those matters? Take your time.

20 A. No.

21 Q. Did you voice an objection to Judge Tidd?

22 A. No.

23 Q. Do you need a break?

24 A. No.

25 Q. Why didn't you voice an objection?

1 A. I was afraid to.

2 Q. Why were you afraid?

3 A. I was afraid for my job.

4 Q. Do you recall a January 12th, 2012 hearing,
5 Commonwealth versus Bortz. In that case Judge Tidd --
6 I'll give you a chance to respond. Do you recall that
7 matter?

8 A. I don't.

9 Q. I'm going to read you what's written into the
10 complaint, and you can let me know if that helps you.
11 Judge Tidd arrived 25 minutes late at district court and
12 did not provide a reason for his late arrival. The
13 defendant requested a hearing, and Judge Tidd acted
14 annoyed. Judge Tidd put on his robes and said to the
15 defendant, go into the courtroom now. Do you recall
16 that?

17 A. I do recall that. Yes, I recall.

18 Q. And do you recall that after the hearing do
19 you recall what Judge Tidd said after he came out of the
20 courtroom?

21 A. Yes. He came out. He threw down the traffic
22 citation and said, he's guilty, nobody stands a chance
23 in a hearing with me today.

24 Q. Now referring to Paragraph 143 of the Board
25 complaint, on February 6th, 2012 would you have been

1 still working at the court during that time period?

2 A. Yes.

3 Q. Do you recall Judge Tidd telling you about a
4 problem he had with the Polycom videoconferencing
5 device?

6 A. Yes.

7 Q. And did he tell you what he did when it was
8 slow warming up?

9 A. Handled the arraignments over the phone.

10 Q. Did he have any video feed during that time?

11 A. No.

12 Q. Do you recall that he handled a number of
13 video -- excuse me, a number of arraignments in that
14 manner?

15 A. Yes.

16 Q. Do you recall that Judge Tidd would tell you
17 about his meetings with court administrators and
18 President Judge McFadden?

19 A. Yes.

20 Q. And do you recall if Judge Tidd would tell
21 you about his phone calls with Ms. French?

22 A. Sometimes.

23 MS. FLAHERTY: Paragraph 144, I'm making
24 reference to that paragraph.

25 BY MS. FLAHERTY:

1 Q. On February 8th, 2012 Ms. French had a
2 conversation with Judge Tidd about an upcoming
3 February 13th meeting. Do you recall him telling you
4 about that phone conversation?

5 A. I do not.

6 Q. Generally do you recall him telling you that
7 topics to be discussed at that February 13th meeting
8 included his unavailability for court hearings?

9 A. Yes.

10 Q. And another topic was again conducting
11 hearings at the counter?

12 A. Yes.

13 Q. You've stated previously that you and Brenda
14 Anthony and Diane Kale contacted Ms. French with
15 complaints about Judge Tidd. Is that correct?

16 A. Yes.

17 Q. Besides -- well, what did you complain about?

18 A. The lack of hearings, the time and
19 information accorded to defendants.

20 Q. What was that last statement? I didn't
21 understand you.

22 A. The not explaining cases to the defendants,
23 not telling them what the procedure was and how
24 challenging it was to schedule hearings just in the
25 first half of the day.

1 Q. Can you explain that, the scheduling?

2 A. The scheduling, we scheduled hearings from
3 usually around 8:45 until noontime, and then that was it
4 for the day unless it was a very rare, you know,
5 instance.

6 Q. And why was that? Why were they restricted
7 to noon?

8 A. So Judge Tidd could go to his private office
9 for the second half of the day.

10 Q. Did he tell you not to schedule hearings in
11 the afternoons?

12 A. Yes.

13 MS. FLAHERTY: Tracking the complaint to
14 Paragraph 249.

15 MR. STRETTON: 249 or 149?

16 MS. FLAHERTY: Paragraph 249. And this
17 is also at Exhibits 126 through 128, and there's a log
18 entry at Exhibit 7, Page 16.

19 BY MS. FLAHERTY:

20 Q. On January 12th, 2012 you were still working
21 at Judge Tidd's court, correct?

22 A. Yes.

23 Q. And on that date three summary traffic trials
24 were scheduled in the matter Commonwealth versus Zheng.
25 Do you recall that matter? Without referring you to the

1 case, because it's really about what happened during
2 that time frame, do you recall Judge Tidd being in his
3 office with a closed door that day?

4 A. Yes.

5 Q. And do you recall that Mr. Zheng's matters
6 were handled at the counter while Judge Tidd was in his
7 office?

8 A. Yes.

9 Q. Did you knock on Judge Tidd's door about a
10 telephone call that day?

11 A. Yes.

12 Q. What were your observations?

13 A. That he was asleep on the floor in his robe.

14 Q. Were you surprised to see that?

15 A. Yes.

16 Q. What was your reaction?

17 A. I was a little startled, but then I just
18 said, David, there's a call.

19 Q. Were you working at the court on
20 January 23rd, 2012?

21 A. Yes.

22 Q. Do you recall knocking on Judge Tidd's door
23 that day as well?

24 A. Yes.

25 Q. And how did you find him?

1 A. Asleep on the floor again using his coat or
2 his robe for a pillow bunched up.

3 Q. I believe that was -- let me track this in
4 the complaint for one moment. Is it possible that he
5 was sleeping on the floor in his robe again that day?

6 A. Yes.

7 Q. And do you recall which way it was now that
8 I've mentioned that to you? Do you recall if you
9 observed him on two occasions sleeping on the floor in
10 his robe?

11 A. Yes, yes.

12 Q. Thank you. How did working at Judge Tidd's
13 court affect you?

14 MR. STRETTON: Objection, not a civil
15 case. We're not looking for damages.

16 MS. FLAHERTY: I'm not arguing for
17 damages in this case. I understand. I'm asking for her
18 impressions how these matters affected her day-to-day
19 life at work.

20 JUDGE BARTON: If they're not
21 impressions, I'll permit the question, overrule the
22 objection.

23 BY MS. FLAHERTY:

24 Q. Yes, you may respond.

25 A. It was very stressful.

1 Q. Did that stress affect your quality of life?

2 A. Yes.

3 MR. STRETTON: Objection.

4 JUDGE BARTON: One second. There's an
5 objection.

6 MR. STRETTON: Did stress affect your
7 quality of life, how does that deal with violation of
8 these rules? It has nothing to do with that.

9 JUDGE BARTON: Sustained.

10 BY MS. FLAHERTY:

11 Q. Lisa, I'm going to try and rephrase that
12 question. Did Judge Tidd's conduct affect the workplace
13 environment?

14 A. Yes.

15 Q. In what way?

16 MR. STRETTON: Objection.

17 JUDGE BARTON: One second, please.

18 MR. STRETTON: Objection, not relevant to
19 the relevant issues we're here for.

20 JUDGE BARTON: Do you want to respond?

21 MS. FLAHERTY: Yes, that Judge Tidd's
22 conduct impacted the -- not only the way that matters
23 were handled for the litigants, but it also impacted the
24 day-to-day existence for these clerks. May I expand for
25 a moment, Your Honor?

1 JUDGE BARTON: You may.

2 MS. FLAHERTY: Additionally, these clerks
3 in observing Judge Tidd's conduct were also making --
4 forming impressions about disrepute upon the court
5 system, if a judge in his position is acting in this
6 manner does it bring disrepute upon their court and the
7 court generally.

8 JUDGE BARTON: I don't think their
9 impressions on whether it does or doesn't bring
10 disrepute is relevant or admissible. That's a factual
11 determination and a question of law answered ultimately
12 by the Court. I'm going to sustain Mr. Stretton's
13 objection.

14 MS. FLAHERTY: Well, if I might add for
15 argument sake, and I certainly accept the ruling, but
16 there was in the case In Re: Berkheimer the conduct of
17 that judge impacted those court clerks, and it was
18 addressed within the legal findings under disrepute.

19 BY MS. FLAHERTY:

20 Q. Lisa, I think we've accomplished a great
21 deal. I appreciate you coming in here today. Would you
22 just provide me with information. Did Judge Tidd ever
23 express to you that he was having difficulty deciding
24 which way to rule in a particular case?

25 MR. STRETTON: Objection.

1 JUDGE BARTON: What's the basis of your
2 objection?

3 MR. STRETTON: Maybe I'm wrong. Maybe
4 I'm forgetful. But I don't think that's charged in
5 here.

6 JUDGE BARTON: Is that a part of the
7 complaint, Ms. Flaherty?

8 MS. FLAHERTY: No, it is not, Your Honor.

9 JUDGE BARTON: Okay, sustained.

10 MS. FLAHERTY: I think I've completed the
11 direct exam of this witness.

12 JUDGE BARTON: Mr. Stretton, do you have
13 any questions of this witness?

14 MR. STRETTON: Just a few. I wish that I
15 didn't but just a few.

16 CROSS-EXAMINATION

17 BY MR. STRETTON:

18 Q. Let me just ask you a few questions. You
19 were fired by Judge Tidd in the summer of 2012. Am I
20 correct?

21 A. No, that's not correct.

22 Q. He was the one that recommended you be --

23 A. That I retire.

24 Q. You retired but you knew he had recommended
25 it?

1 A. Yes.

2 Q. He wanted to terminate you. Am I correct?

3 A. He told me I could fight it if I chose.

4 Q. So you chose to retire?

5 A. I did.

6 Q. And you were a little bit upset with him at
7 that point?

8 A. I was.

9 Q. Now, let me just go back. You had worked for
10 21 years with Judge Repyneck, is it?

11 A. Yes.

12 Q. And you were aware later that that judge's
13 relative ran against Judge Tidd for that seat. Am I
14 correct?

15 A. Correct.

16 Q. Now, you mentioned Judge Repyneck doing
17 certain things about never doing things at the counter.

18 A. Correct.

19 Q. If I told you lawyers had told me that she
20 would do -- handle matters at the counter, would that
21 refresh your recollection?

22 A. No.

23 Q. If I told you Judge Tidd used to appear
24 before her and will testify that she used to handle
25 pleas and other matters at the counter, would that

1 refresh your recollection?

2 A. No.

3 Q. Now, let me just go back a little. When you
4 work for a district judge, you have a sense of loyalty
5 to that particular judge. Am I right?

6 A. Yes.

7 Q. And that's expected of all the employees to
8 be somewhat loyal to the judge even though he's not the
9 person paying their salary, that's the Commonwealth of
10 Pennsylvania. Am I right?

11 A. No.

12 Q. Or county.

13 A. It's the county.

14 Q. Northampton County.

15 A. Yes.

16 Q. And you'd agree with me that you and the
17 others stopped being loyal to Judge Tidd early on in his
18 tenure as a new judge?

19 A. It was after 18 months in his tenure.

20 Q. Now, if I recall, you started to complain to
21 Ms. French on a regular basis. Am I right?

22 A. As of about August of 2011.

23 Q. And Ms. French told you keep a record and
24 every week send it to me. Am I right?

25 A. Yes.

1 Q. And some of the documents we've looked in
2 Exhibit 7 and the other exhibits are your typed notes
3 almost on a daily basis of what you saw or didn't see.
4 Am I right?

5 A. Yes.

6 Q. You never showed these to Judge Tidd?

7 A. No.

8 Q. And Ms. French never showed them to Judge
9 Tidd, those written notes, did she?

10 A. Not as far as I know.

11 Q. So no one ever sat down with Judge Tidd with
12 specifics to tell him on this day this or this day that
13 as you're telling us now. Am I correct?

14 A. We didn't.

15 Q. Now, you shredded all your notes in 2015
16 according to the interview you gave to the investigator.
17 Am I right?

18 A. Correct.

19 Q. You said too much time has passed. Am I
20 right?

21 A. I did.

22 Q. Now, let's make sure I understand, Judge Tidd
23 would always come in the office around 7:30, 7:45 in the
24 morning?

25 A. No.

1 Q. You don't remember that?

2 A. No.

3 Q. When did he supposedly come in to your
4 recollection?

5 A. It was usually between 8:30 and 9:00.

6 Q. And he would sit in the area where you would
7 sit?

8 A. Yes.

9 Q. Because he had no phone in the judicial
10 office?

11 A. There was a phone in his office.

12 Q. If I told you there wasn't one and I have
13 letters of him requesting a phone in there, would that
14 refresh your recollection?

15 A. No. There was a phone in there.

16 Q. Now, you say that he would do hearings at the
17 counter. Is that my understanding of your testimony?

18 A. Yes.

19 Q. He never did a hear at the counter, he just
20 did waivers of hearings or pleas, correct?

21 A. Correct.

22 Q. All hearings if someone said I want a hearing
23 on my traffic case or I want a preliminary hearing were
24 always done in his courtroom. Am I right?

25 A. Yes.

1 Q. And when he was in his courtroom, Judge Tidd
2 from day one would wear his robe, put the robe on when
3 he walked in the courtroom. Am I right?

4 A. No.

5 Q. Well, tell me how many times he didn't have
6 the robe on in the courtroom.

7 A. I would say the majority of the time that he
8 went into the courtroom he didn't have it on.

9 Q. Well, you weren't in the courtroom, you were
10 in your area where the clerks were. Am I right?

11 A. You're right.

12 Q. So you didn't see whether he had a robe on or
13 not?

14 A. No. I could see his robe hanging in his
15 chambers.

16 Q. Well, the door would be closed.

17 A. No. The door was open to his office.

18 Q. Now, you knew that Judge Tidd was suffering
19 from some physical ailments during that time period of
20 2010, '11, and '12 after you left. Am I correct?

21 A. Yes.

22 Q. He had suffered from a pretty severe
23 intestinal ailment. Am I right?

24 A. Yes.

25 Q. And that often caused him to stress and made

1 him tired. Am I correct?

2 A. Yes.

3 Q. And you were also aware that at some point in
4 2011 he had to have surgery because there was concerns
5 about whether he had a cancerous problem in his lungs or
6 whether it was some benign tumor. Am I right?

7 A. I don't recall that.

8 Q. But you knew that he did not feel well
9 because of this colitis type of condition that he
10 suffered from. Am I right?

11 A. I didn't realize that he didn't feel well
12 often. I knew he had this condition.

13 Q. And although you would say he would curse and
14 things like that, most of the time he sat there and
15 there would be the normal discussions or banter between
16 you, he, and the first two people who were there, later
17 Brenda Anthony and Ms. Kale. Am I right?

18 A. No.

19 Q. There was no discussions, nothing?

20 A. There was sometimes. Sometimes there wasn't.

21 Q. And sometimes he would talk and let his hair
22 down a little and talk about a difficult hearing or
23 things of that nature. Am I right?

24 A. No.

25 Q. Well, just let me ask you a few questions on

1 some of the things that you covered early on. You were
2 never at the meetings with Judge McFadden. Am I right?

3 A. Correct.

4 Q. And on the case that was in paragraph I think
5 it was 31, Sterling Jewelry versus I forget the
6 defendant's name, the one where you said he criticized
7 the defendant as dumb as dirt or something like that.
8 Am I right?

9 A. Yes.

10 Q. That was a case where the defendant in a
11 civil case had not filed a notice of intent to defend
12 timely. Am I right?

13 A. Yes.

14 Q. That person didn't file anything, just showed
15 up and said I want a hearing?

16 A. Yes.

17 Q. And Judge Tidd was a little annoyed because
18 that person had been sent clear instructions to appear
19 to advise the Court in advance as everyone is supposed
20 to that they were going to make it a horse race at the
21 civil matter. Am I right?

22 A. Correct.

23 Q. And when the person appeared, the judge then
24 gave them a date for the hearing?

25 A. I don't recall that they were given a

1 specific date, but they were told that it would be
2 continued.

3 Q. And then the date would come in due course?

4 A. Yes.

5 Q. And after the person left, he made a comment
6 that she's stupid or something like that to you or one
7 of your colleagues who were clerks. Am I right?

8 A. Yes. If I recall correctly, there was
9 another person at the court at the time filing a civil
10 case.

11 Q. You remember something like that that
12 occurred five years ago. Am I right?

13 A. Yes.

14 Q. In the notes, if I looked at them correctly,
15 I don't believe there's a reference to any other person
16 other than you and the other clerks.

17 A. Okay.

18 Q. I'm just asking. Don't always agree with me.
19 I want you to listen to what I'm saying. Do you recall
20 putting a name in or anything like that?

21 A. I do not.

22 Q. Now, you had mentioned about on April 30th
23 Paragraph 49 Mr. Zick who the judge complained about
24 this gentleman not having pants that would stand up. Am
25 I correct?

1 A. Yes.

2 Q. The pants kept slipping down so the
3 individual's rear end would be exposed to some extent.
4 Am I correct?

5 A. Yes.

6 Q. And after that person left, Judge Tidd to you
7 or to the other colleague, the clerks there mentioned
8 that he was upset that this fellow didn't dress properly
9 and showed his rear end, maybe in a little more graphic
10 terms as you said, but am I correct?

11 A. Yes.

12 Q. There was that give and take. He was allowed
13 to let down his hair a little with his clerks, his
14 employees. Am I right?

15 A. Yes.

16 Q. I mean, are you telling me that -- let me say
17 it this way, he felt comfortable talking to you and
18 Brenda Anthony and Ms. Kale and others about things. It
19 was his way of letting off steam a little when no one
20 else was around. Am I correct?

21 A. Okay, sure.

22 Q. You don't have to agree with me. I just want
23 you to think of my questions and answer. But it was
24 give and take in that office even during the time that
25 you were there. Am I right?

1 A. A little.

2 Q. Don't you think it would have been fair by
3 the time you left or in 2012 if Judge McFadden,
4 President Judge McFadden, or Ms. French or you guys had
5 actually sat down with him and showed him these
6 complaints so he could have corrected his behavior?

7 MS. FLAHERTY: Objection. He's asking
8 for conjecture of what should have been. She
9 utilized --

10 JUDGE BARTON: I'm going to sustain the
11 objection. That was a whopper of a question. If
12 there's a question in there, you can distill it. I
13 might appreciate it more.

14 BY MR. STRETTON:

15 Q. It would have been fair if you had showed him
16 these notes at some point or asked Ms. French to show it
17 to him so he could have corrected his behavior. Am I
18 correct?

19 A. No.

20 Q. So it was okay just day after day week after
21 week send volumes of complaints over but never tell him?

22 MS. FLAHERTY: Objection. He's badgering
23 the witness. She's responded to his questions already.

24 JUDGE BARTON: I'll permit the question.

25 BY MR. STRETTON:

1 Q. It was okay to do that?

2 A. Yes.

3 Q. You knew you could have complained to the
4 Judicial Conduct Board at any time? Besides Ms. French,
5 you could have done that, right?

6 A. I didn't realize we could do that.

7 Q. Now, let's go to the case in Paragraph 73 or
8 74. I believe it was the Desmond case about the car
9 inspection where you said Judge Tidd stated, I'm going
10 to find you guilty because you don't have your car
11 inspected. Remember that?

12 A. Yes.

13 Q. That was the case where the person was
14 charged without having his car inspected timely by the
15 police officer. Am I right?

16 A. Yes.

17 Q. And when he came in, his car was in the
18 parking lot, and Judge Tidd saw the car, and it still
19 had an old inspection sticker on it. Am I right?

20 A. Yes.

21 Q. And the person admitted he didn't have an
22 inspection sticker. Am I right?

23 A. Yes.

24 Q. So Judge Tidd said to him, you might as well
25 plead guilty, you haven't changed it. Am I correct?

1 A. Yes.

2 Q. Because the practice with most judges are if
3 you come in and fix it usually you'll get a break. Am I
4 right? That's the way your judge used to do it. Am I
5 correct?

6 A. Correct.

7 Q. Now, on the case involving Officer Fragano,
8 Paragraph 75, when judge -- there were times when police
9 officers did not show up timely for hearings. Am I
10 correct?

11 A. Occasionally. It happens to everyone.

12 Q. We're not blaming the officers. We
13 understand.

14 A. Occasionally.

15 Q. I'm as guilty as most for not showing up
16 timely. But in that one, 75, Officer Fragano wasn't
17 there initially. Am I right?

18 A. Yes.

19 Q. But Judge Tidd would always call the officer
20 to find out where they were, correct, or have one of you
21 guys do it?

22 A. No, not always.

23 Q. Well, normally he would call and see if the
24 officer -- if the officer was going to be late, call to
25 see if the officer was willing to work out a plea or

1 offer a deal. He would do that. You'd hear him do
2 that, right?

3 A. Yes.

4 Q. And that's what he did with Officer Fragano
5 when he didn't show up, he asked him. Am I correct?

6 A. I don't recall.

7 Q. The alternative would have been he could have
8 just thrown the case out for lack of prosecution or not
9 guilty since no evidence was presented. Am I right?

10 A. He could have had it been time for the man's
11 hearing. I don't think the officer was late. I think
12 it was prior to the hearing -- scheduled hearing time.

13 Q. In Paragraph 76 involving Mickey Applebaum's
14 firm and Mr. Joe Joachim, his associate, Judge Tidd
15 called or had one of you guys call Mr. Applebaum,
16 Attorney Applebaum, in Bucks County to find out where he
17 or his associate was. Am I correct?

18 A. Yes.

19 Q. And you were told that Mr. Joe Joachim -- I
20 may be butchering that a little bit, but I think we know
21 who we're talking about -- was going to show up late
22 because he had another hearing elsewhere and was coming
23 from there. Am I right?

24 A. Yes.

25 Q. And only a plea was worked out. Am I

1 correct? You testified to that already.

2 A. Yes.

3 Q. But that was after Mr. -- Judge Tidd had
4 talked to Attorney Joachim he agreed to that deal. Am I
5 right?

6 A. Yes.

7 Q. Almost every time there was a deal made when
8 the officer wasn't there, Judge Tidd had called the
9 officer to see what they wanted to do. Am I right?

10 A. No.

11 Q. Most of the cases, the ones I just asked you,
12 Fragano, Joe Joachim, those cases where -- Joe Joachim
13 the officer was there, they were ready to proceed. Am I
14 right?

15 A. Yes.

16 Q. Now, you had mentioned a case where Attorney
17 Andres came in, and you said Judge Tidd made a comment
18 like, oh, you -- I'm not going to say the word, but I'll
19 use the first initial -- oh, you're f'ing wasting my
20 time or hearing or something to that effect. Do you
21 remember saying that this morning?

22 A. Yes.

23 Q. Judge Tidd and Attorney Andres are pretty
24 good friends. They knew each other. Am I right?

25 A. I'm not aware of that.

1 Q. You don't know if they were friends and knew
2 each other?

3 A. I knew that they were colleagues that knew
4 each other. I didn't know whether they were friends or
5 not.

6 Q. Did you ever think he was just saying to a
7 friend in a teasing way, oh, you're going to make me
8 work today or something like that?

9 A. No.

10 Q. Did you ever think it could have been an
11 innocent statement?

12 A. No.

13 Q. Now, at the counter Judge Tidd would stand
14 there when people came in to help to organize his list.
15 Am I correct?

16 A. No.

17 Q. Well, he would always be there, and when
18 defendants came in, he would ask them if their case was
19 scheduled today. Am I right?

20 A. Yes.

21 Q. He would ask them if they wanted to do a plea
22 or work something out or if they wanted a hearing. Am I
23 right?

24 A. Yes.

25 Q. And if they said they wanted a hearing and

1 that was their final decision, then when everyone was
2 ready a hearing would be held that day?

3 A. Not usually.

4 Q. Well, if they wanted a hearing, he would give
5 them a hearing?

6 A. It wasn't always that day.

7 Q. And then if there's going to be a plea, if
8 the officer was there, he'd ask the officer or he'd ask
9 the defendant and then ask the officer or put it
10 together, then a plea would be worked out. Am I
11 correct?

12 A. It wasn't always that way, no.

13 Q. Are you aware that the statistics for those
14 years of Judge Tidd, and I'll present them during his
15 testimony, show that he was one of the top producing
16 district judges in terms of moving cases during the
17 years that everyone's complaining about? You're aware
18 of that, right?

19 A. No.

20 Q. I guess that would shock you. Am I right?

21 A. No.

22 Q. And you're aware that he was audited
23 regularly and had got glowing reports from the auditors
24 in terms of the handling of cases in his office?

25 A. In terms of the financial --

1 Q. Handling moneys in his office, sorry, not
2 cases. You're aware of that?

3 A. Yes.

4 Q. Now, on the robe situation the two times you
5 saw him sleeping on his robes he was in his actual
6 office. Am I right?

7 A. Yes.

8 Q. Door was closed?

9 A. Yes.

10 Q. He wasn't feeling well.

11 A. Okay.

12 Q. And someone walked in and he was taking a nap
13 using his robe as either a pillow or something to cover
14 him if it was chilly. Am I right?

15 A. Yes.

16 Q. Other than sleeping those two times, you
17 never saw him do anything to his robe, did you?

18 A. No.

19 Q. And I guess you asked him about it, how come,
20 Judge, you're sleeping on your robe. He said, I was
21 tired, it was in the privacy of my office.

22 A. No.

23 Q. But you put all of those little complaints to
24 Ms. French until the day you retire. Am I right?

25 A. Yes.

1 Q. And a lot of your complaints you would sit
2 down with your colleagues there and make collective
3 complaints. Am I right? You were sending them on?

4 A. Yes.

5 Q. And then they continued to your knowledge
6 after you left all those years making complaints almost
7 of daily activities. Am I right?

8 A. Yes.

9 Q. It never crossed your mind that you might be
10 disloyal to the person you were supposed to serve?

11 A. No.

12 Q. Did you ever sit down with Judge Tidd and
13 talk to him about ideas to run his courtroom, just talk
14 to him, say, Judge, I don't think you should be standing
15 at the counter?

16 A. No.

17 MR. STRETTON: Thank you.

18 JUDGE BARTON: Ms. LeVan, before you step
19 down, the Court has a couple questions for you, and then
20 I'll afford you some redirect as well.

21 BY JUDGE BARTON:

22 Q. In Paragraph 138 of the complaint, and I'm
23 going to read it to you, it says, on December 1st, 2011
24 the following cases were scheduled and, quote, handled,
25 unquote, in Judge Tidd's court by his court staff per

1 his November 30, 2011 instructions. And then there's a
2 list of looks like 10 cases, and they seem to be a mix
3 of some traffic cases, some civil cases, and there's one
4 criminal case. The title of that criminal case is
5 Commonwealth versus Lance, Junior at CR-440 of 2011, and
6 then in that list there's the case name, the docket
7 number, the disposition. It says, bail set. Now, I
8 know from reading some of the other exhibits I think
9 that may have been at or around the time when Judge Tidd
10 had some surgery. My question, though, for you pertains
11 to the specific case where the disposition reflects bail
12 set on that criminal case that was one of those 10 cases
13 handled by the staff on December 1st, 2011. Would bail
14 have been set by a staff member in Judge Tidd's absence?

15 A. In so much as if it was a criminal case that
16 got waived, there was always bail attached to a case as
17 it went down to county level. When they waived, it was
18 usually an unsecured bail. So, yes, technically bail
19 was set.

20 Q. Do you know whether that case on that day was
21 a preliminary arraignment or scheduled for a preliminary
22 hearing?

23 A. It would have been a preliminary hearing.
24 There's no way we would have done a preliminary
25 arraignment.

1 Q. And so that I understand your testimony
2 correctly, the staff would have been the individual that
3 made the decision as to what the bail arrangement or the
4 bail order would be, printed that order, and then the
5 defendant would have signed that order. Is that fair?

6 A. Yes.

7 JUDGE BARTON: Thank you. Ms. Flaherty,
8 any questions based upon redirect or questions from the
9 Bench?

10 MS. FLAHERTY: Yes. Thank you.

11 REDIRECT EXAMINATION

12 BY MS. FLAHERTY:

13 Q. Lisa, again referring to the question just
14 posed from the Bench, would those -- when you did a
15 waiver or when a clerk did a waiver of a preliminary
16 hearing that involved bail, would that have been held
17 for Judge Tidd to sign when he returned to court?

18 A. Yes.

19 Q. And would the -- in the instances where he
20 planned for you to handle matters would he instruct you
21 what the bail should be if you were to accept a waiver?
22 Would he do any of that ahead of time knowing he
23 wouldn't be there?

24 A. No.

25 Q. Was there a standard amount of bail that

1 would be set in these RORs?

2 A. No.

3 Q. I guess my final question on that is,
4 although it's been printed and signed by the defendant,
5 it has yet to be signed by Judge Tidd?

6 A. Correct.

7 Q. So nothing would have been submitted to the
8 Court yet unless he were to approve it and sign it. Is
9 that correct?

10 A. Correct.

11 Q. Perhaps I misspoke. Nothing would be
12 submitted to -- where would you send those things to?

13 A. Down to the clerk of criminal courts.

14 Q. Just a couple of follow-up questions to
15 Mr. Stretton's cross. When Judge Repyneck was at that
16 district court and you worked with her for did you say
17 22 years?

18 A. Twenty-one.

19 Q. Twenty-one years. Did she utilize her
20 chambers, her judicial office? Did she refer to the
21 office as chambers? Where the desk was for Judge
22 Repyneck and later for Judge Tidd, did you refer to it
23 as chambers?

24 A. Yes.

25 Q. So within the chambers when Judge Repyneck

1 was there, was there a telephone in that chambers?

2 A. Yes.

3 Q. When Judge Tidd assumed office, did he spend
4 time -- much time in his chambers?

5 A. No.

6 Q. Where did he choose to sit?

7 A. Usually out in the office with us.

8 Q. Was there an extra desk there?

9 A. No.

10 Q. Not at the time you worked there?

11 A. No.

12 Q. Well, how many desks were there?

13 A. Three desks, three phones, phone in chambers,
14 phone in the conference room.

15 Q. When you were keeping notes about Judge
16 Tidd's conduct, was that following your complaining to
17 court administration?

18 A. Yes.

19 Q. And were you directed to keep notes?

20 A. Yes.

21 Q. So you were following a directive?

22 A. Yes.

23 Q. Were you concerned about Judge Tidd
24 discovering that you were keeping the notes?

25 A. Yes.

1 Q. And why were you concerned about that?

2 A. Just again for my job because he could get
3 very angry.

4 Q. So were you concerned if he knew you were
5 keeping notes that he would become upset?

6 A. Yes.

7 Q. Lisa, during his cross-examination,
8 Mr. Stretton said that no one ever told Judge Tidd what
9 he was doing wrong. Is that correct?

10 A. Yes.

11 Q. I'm asking no one, not just -- I didn't say
12 none of the clerks. I'm asking did he hear about those
13 complaints from court administration?

14 A. Yes.

15 MR. STRETTON: Objection. She wouldn't
16 know that, and that's not true.

17 JUDGE BARTON: Sustained.

18 BY MS. FLAHERTY:

19 Q. Did Judge Tidd ever tell you that the
20 president judge had told him or -- did Judge Tidd relay
21 to you that President Judge McFadden told him what he
22 was doing wrong?

23 A. Yes.

24 Q. Did Judge Tidd tell you that Mr. Onembo told
25 you what he was doing wrong?

1 MR. STRETTON: Objection. I object. She
2 wasn't there. And this is going to be specific. You
3 will hear from our side of the case it's very clear he
4 wasn't given any specifics of those meetings.

5 JUDGE BARTON: The question, and maybe I
6 heard it wrong, the question was did Judge Tidd ever
7 tell this witness that this occurred.

8 MR. STRETTON: But just general. We're
9 talking page after page, case after case.

10 JUDGE BARTON: That's what your client's
11 testimony can cover. Overruled.

12 MR. STRETTON: But I don't think she --

13 JUDGE BARTON: Rephrase the question and
14 ask it again.

15 BY MS. FLAHERTY:

16 Q. In your earlier testimony we discussed the
17 date of February 13th, 2012 that there was a meeting
18 between Judge Tidd, President Judge McFadden, and
19 Mr. Onembo?

20 A. Yes.

21 Q. Following that meeting, did Judge Tidd call
22 the office and speak with you on the phone?

23 A. Yes.

24 Q. During that phone call, did he tell you the
25 issues that were raised in complaints against him?

1 A. Yes.

2 Q. Following that phone call upon his return to
3 court, did Judge Tidd continue to describe the feedback
4 he received at that meeting with the president judge and
5 Mr. Onembo?

6 A. Yes.

7 Q. Did that feedback include a discussion of
8 complaints about his conduct at court?

9 A. Yes.

10 Q. In his cross-examination Mr. Stretton
11 questioned why you should remember a comment such as
12 referring to a defendant as being dumb as a fucking pile
13 of dirt. Is there a reason you might remember that?

14 A. Because I was surprised by it.

15 Q. Were you offended by it?

16 A. Yes.

17 Q. The same question applies to when the
18 gentleman defendant was at court and his -- he was
19 wearing his jeans low on his hips and Judge Tidd made a
20 critical remark about him as well. Is there a reason
21 why you should remember that language?

22 MR. STRETTON: Objection. If we're going
23 to do this, I'll go back to the other way and I'm going
24 to check everything. I mean, I'm trying to -- are we
25 just going to go through it again? She already

1 testified to this. I asked my questions. If we're
2 going to do it this way, then we'll go back to the
3 old-fashioned way and they'll drag it out inch by inch
4 if they can get it out. This seems to me this is --

5 JUDGE BARTON: Ms. Flaherty, we've
6 certainly covered this already, and I know as a lawyer
7 when the judge says -- when the judge complains, look,
8 we get it, we've heard it, at least in my mind I always
9 go ding because I've succeeded in proving that point.

10 MS. FLAHERTY: Certainly.

11 JUDGE BARTON: I think this is the point
12 at which you should be going ding, I've succeeded in
13 proving that point because Mr. Stretton's correct, we've
14 covered it, and I don't think it's an efficient use of
15 the Court's time to re-cover it in the absence of some
16 significant disparity.

17 MS. FLAHERTY: Certainly.

18 JUDGE BARTON: Any other questions?

19 MS. FLAHERTY: No other questions.

20 MR. STRETTON: I have no other questions.

21 JUDGE BARTON: Counsel, is there any
22 reason Ms. LeVan ought not to be excused?

23 MR. STRETTON: None that I can think of.

24 MS. FLAHERTY: No.

25 JUDGE BARTON: Ms. LeVan, thank you for

1 Northampton County?

2 A. Magisterial district technician.

3 Q. And is that the same term as a court clerk?

4 A. It's pretty much the same thing.

5 Q. If I refer to it as clerk --

6 A. That's fine, yes.

7 Q. -- you will respond? So magisterial
8 district?

9 A. Technician.

10 Q. Technician, thank you. So what year did you
11 begin as a court clerk?

12 A. 1990, January of 1990.

13 Q. And tell us about your employment history.

14 A. I worked for Judge Walter Auch when I started
15 in 1990. Then he retired, and I worked for Steve
16 DiVietro. And then I worked for Ralph Litzenberger for
17 three terms. He was in for 18 years. And at the end of
18 that a new judge came in, and I was with her for 60
19 days, and then she had me reassigned. And that's when I
20 ended up at Judge Tidd's court.

21 Q. So do you recall the month and date that you
22 joined Judge Tidd at his court?

23 A. It was April 2010.

24 Q. And what were your work responsibilities when
25 you worked at his court?

1 A. We scheduled hearings. We took payments. We
2 dealt with civil, non-traffic, traffic, and criminal
3 court cases, scheduled preliminary hearings. I did
4 monthly reports. I did warrant reports, DL reports.
5 Pretty much everything that went on in the district
6 court I was responsible for.

7 Q. And did you have any hierarchy system or
8 supervisors within the group of magisterial district
9 technicians?

10 A. No. There is no office manager per se.
11 We're all equal. But usually the longest one there
12 takes charge.

13 Q. So can you please inform the Court beginning
14 in 2010 the court clerks who you worked with.

15 A. I worked with Carol Bubori and Lisa LeVan and
16 then myself.

17 Q. And continue forward when that would change.

18 A. When Carol retired, then Amber Butz came in.
19 And then Amber left, and Cassie Bettler came in.

20 Q. And Brenda Anthony was one of your coworkers
21 as well?

22 A. Yes, yes, Brenda Anthony, yes. I'm sorry, I
23 got that mixed up.

24 Q. So just chronologically 2010 was Carol Bubori
25 and Lisa LeVan?

1 A. Correct.

2 Q. 2011 that changed and Brenda came on. Is
3 that correct?

4 A. It was Brenda, yes, I'm sorry, Brenda and
5 Lisa and myself. And then when Lisa retired, then Amber
6 came in. So it was Amber, Brenda, and myself.

7 Q. And that was 2012?

8 A. Yes.

9 Q. And then --

10 A. Lisa retired and Cassie Bettler came in.

11 Q. And that was 2014?

12 A. Correct.

13 Q. And when did you finish working for Judge
14 Tidd?

15 A. December of 2014.

16 Q. And what were those circumstances?

17 A. I retired because I -- the stress of working
18 for Judge Tidd became too much, and I made the decision
19 to leave.

20 Q. Had you planned to retire then?

21 A. No. It wasn't financially a good idea for
22 me, but as I said, I just -- I couldn't -- it became
23 intolerable. I couldn't do it anymore.

24 Q. What about it was intolerable for you?

25 A. Just the everyday scenes that went on. It

1 was very stressful. You never knew if he was gonna be
2 in a good mood or a bad mood. You never knew what he
3 wanted you to do for that day. He used to ask us to do
4 things I didn't feel comfortable with procedurally.

5 Q. What kinds of things?

6 A. He would ask me to do preliminary
7 arraignments which I worked for 18 years for Ralph
8 Litzenberger. He was responsible for preliminary
9 arraignments. It wasn't for me to do. And he would --
10 then he would ask you to, you know, prep it and give it
11 to the people and explain it to them, tell them where
12 they needed to be next. That was all done by the judge
13 in a courtroom when I worked for Ralph Litzenberger.

14 And then he would ask me to handle things, if
15 I'm not here, you can handle -- you know, if they come
16 to an agreement, you know, make it happen. It was just
17 I was responsible for things that were his
18 responsibility.

19 Q. Did you ever object to it when he told you to
20 handle matters?

21 A. Yes, I did, but he just -- just do it was the
22 response.

23 Q. Did you object on more than one occasion?

24 A. Yes, I did.

25 Q. And was his response always the same?

1 A. Yes.

2 Q. Can you describe Judge Tidd's demeanor?

3 A. As I stated, on any given day you didn't know
4 what his demeanor would be. If he would come in, in the
5 morning -- and he was usually at the office prior to
6 opening at 8:30 -- you never knew if you were going to
7 get a hello or you weren't gonna get a good morning.
8 Usually you said good morning, and sometimes he'd
9 answer, and sometimes he wouldn't. And he just -- he
10 was very, very moody, very -- you didn't know how to
11 read him. You just -- and if you got a good morning,
12 then you thought, okay, well, maybe today is not going
13 to be a bad day, but those were few and far between.

14 Q. Did he lose his temper?

15 A. Yes, yes, he did. It didn't take much to set
16 him off. If somebody wanted a hearing, especially
17 civil, he hated civil hearings. It's a waste of my
18 time, he would say it's a waste of my time, I don't know
19 why I have to listen to this. Landlord/tenants he
20 especially didn't like those. He always said there
21 should be an entry of appearance or an intent to defend
22 on those because to him it was just a waste of his time.

23 Q. Did Judge Tidd ever curse at you?

24 A. Yes, many times, yes.

25 Q. Did you tell him you didn't like it?

1 A. The first time it happened I think I was
2 shocked into silence, and I vowed he would never speak
3 to me that way again. And after that, he did, but I
4 would talk back. I wasn't -- I wasn't happy with it,
5 no. It just -- I had never been talked to like that in
6 all the years I had worked for the county. No one ever
7 swore at me, cursed at me because he got angry, and he
8 did it -- he did it a lot.

9 Q. Did he swear or curse at other clerks?

10 A. Yes, yes.

11 Q. To an equal extent did he curse -- did you
12 hear him curse at other clerks on a frequent basis?

13 A. Yes. It was across the board, yes. It was
14 whoever irritated him, yes.

15 Q. What would happen when a new clerk would come
16 on board who didn't have experience at the court?

17 A. He would try to give them work to do that
18 they weren't familiar with and then would curse because
19 they weren't doing it fast enough for him. And, you
20 know, I used to say to him, David, you have to give them
21 time, they have to go through the steps, they're just
22 learning. So it got to the point where mostly he would
23 give it to me because I could do it faster than anybody
24 else. He was all about speed, about getting it done.

25 Q. What kind of schedule did he keep at the

1 court?

2 A. We scheduled Monday to Thursday, and normally
3 it was sometimes 8:45, mostly 9:00 to say 11:30. Once
4 in a while when we couldn't get attorneys or public
5 defenders or district attorneys there we would schedule
6 in the afternoon, and that we'd have to give them a
7 reminder that we had problems scheduling this, we have
8 to -- we had to do it in the afternoon.

9 Q. And what was Judge Tidd's attire at work?

10 A. Judge Tidd's attire was most usually wrinkled
11 polo shirt and khakis.

12 Q. And where did he conduct his summary traffic
13 trials?

14 A. At the counter in the office in the foyer.

15 Q. And how was he dressed for that?

16 A. In his polo and khakis.

17 Q. Did he ever take those summary traffic trials
18 into the courtroom?

19 A. Very few and far between.

20 Q. How did he usually handle those summary
21 traffic trials?

22 A. He would usually call them up to the counter
23 and ask what they wanted to do with it, did you come to
24 an agreement. If the officer and the defendant were
25 there, he'd ask if they had come to an agreement and

1 then dispose of it there.

2 Q. And what would happen if the officer was not
3 there but the defendant did appear?

4 A. He would ask them, what are you worried
5 about, the points or losing your license. And if they
6 said yes, he said, well, then I have the authority to
7 change it to 3111(a) or 6308(a) which would carry no
8 points. And if they were willing to do that, he did it.

9 Q. Without the officer there?

10 A. Correct.

11 Q. And how about if the officer showed up and
12 the defendant wasn't there?

13 A. If the officer showed up, he usually asked,
14 you know, what's it for, are you gonna give them
15 3111(a), and a lot of times they said, you know, I don't
16 know, they're not here yet, I didn't discuss it with
17 them.

18 Q. And then would they sometimes agree to it
19 outside the presence of the defendant?

20 MR. STRETTON: Objection, unless we have
21 specifics.

22 JUDGE BARTON: Do you have a response?

23 MS. FLAHERTY: Certainly. I can go
24 through the specifics when we get further into the
25 complaint. I don't mind.

1 JUDGE BARTON: The Court will provide
2 some latitude along with your assurance that you will
3 deal with the specific details of allegations in this --

4 MS. FLAHERTY: Yes.

5 JUDGE BARTON: Overruled.

6 MS. FLAHERTY: So you may respond to the
7 question. Could you read the question back, please.

8 (The court reporter read back the
9 previous question.)

10 THE WITNESS: Sometimes, yes.

11 BY MS. FLAHERTY:

12 Q. And then if the defendant showed up, would
13 Judge Tidd tell him it was taken care of?

14 A. Yes. Judge Tidd would say it's taken care
15 of, if you posted any money, that would be applied, if
16 not, you owe the balance.

17 Q. Did you ever complain to court administration
18 about Judge Tidd's conduct?

19 A. Yes, I did. On three different occasions I
20 contacted Debbie French, court administrator.

21 Q. And how did she respond?

22 A. She said she would take it to the president
23 judge. At that time it was McFadden.

24 Q. And what kinds of things did you complain
25 about?

1 A. We complained about his manner of dress. We
2 complained about hearings held at the counter and about
3 the cursing at us.

4 Q. And did Debra French tell you to put it in
5 writing?

6 A. I believe she did, yes.

7 Q. And did you, in fact, keep notes about Judge
8 Tidd's conduct?

9 A. We did. But that was after he was called
10 down in front of McFadden three times. That's when the
11 note taking started.

12 Q. Can you describe how those notes were kept?

13 A. Whenever I did it, I -- whatever went on I
14 would jot down and put under my calendar on my desk and
15 then later on expound upon it. And then I would hand it
16 off to Brenda Anthony, and she would type up the notes.

17 Q. And before Brenda -- while Lisa was still
18 there, was she typing the notes?

19 A. Yes, Lisa started keeping notes, yes.

20 Q. And then Brenda assumed it?

21 A. Yes.

22 Q. And after you complained to court admin three
23 times, what happened?

24 A. He got called down in front of Judge McFadden
25 three times and came back and more or less ridiculed

1 what was said to him. And I called Debbie French a
2 fourth time, and she told me that she couldn't do any
3 more for me. So at that point I said to Brenda, we're
4 gonna go to the ethics committee, we have to start
5 taking notes. I didn't think we could go with just
6 hearsay. So we -- that's when we decided to start
7 keeping notes.

8 Q. When you were voicing complaints to
9 Ms. French, did she ever advise you that you could
10 report to the Judicial Conduct Board?

11 A. She did, yes.

12 Q. And did you have concerns about your name
13 being associated with that?

14 A. Yes. We first did it anonymously, yes.

15 Q. And what was your reasoning for wanting to
16 keep anonymous?

17 A. At that point we just were worried about our
18 job security.

19 Q. Do you recall that Judge Tidd met with
20 President Judge McFadden and court administrators on
21 February 13th, 2012?

22 A. I'm not sure of the date.

23 Q. Do you recall that after meeting -- one of
24 his meetings with President Judge McFadden and court
25 administrators that Judge Tidd called the court and

1 spoke with Lisa LeVan?

2 A. Yes.

3 Q. And do you recall that after that phone
4 conversation Judge Tidd came into court and told you
5 what had gone on at the meeting?

6 A. That's correct.

7 Q. And did he tell you that he was instructed
8 not to curse anymore?

9 A. That's correct.

10 Q. Did he tell you that he was instructed to go
11 into the courtroom to hold proceedings?

12 A. That's correct.

13 Q. Did he tell you that he was instructed to
14 wear his robe when he went into the courtroom?

15 A. Yes.

16 Q. And after he had been told to stop cursing,
17 do you remember if he came into that courtroom cursing?

18 A. Yes.

19 Q. Do you remember what he said?

20 A. He said the F word about five times.

21 Q. Were you offended by that?

22 A. Yes.

23 Q. Does cursing offend you generally?

24 A. Yes.

25 Q. And had you expressed that to Judge Tidd?

1 A. I'm not sure I expressed it. I just -- when
2 he got like that, I just ignored him.

3 Q. And when you ignored him, did he ask you why
4 you were ignoring him?

5 A. No.

6 Q. After his meetings, his series of three
7 meetings with President Judge McFadden and court
8 administrators, did Judge Tidd change his conduct?

9 A. His conduct and dress would change for maybe
10 5 to 10 days, and then it would revert back.

11 Q. And when you say revert back, what do you
12 mean?

13 A. He did come in, in a dress shirt and dress
14 pants for a few days, but after that, it was back to the
15 polo and the khakis.

16 Q. And how about the cursing?

17 A. The cursing never stopped, no.

18 Q. And how about proceedings at the counter?

19 A. That lasted maybe five days where he would go
20 in the courtroom, and then it was right back out at the
21 counter.

22 Q. Some of the questions that I'll pose to you
23 are tracking the Board complaint, and so I may make
24 statements and ask you to affirm whether you would agree
25 with those or not.

1 A. Okay.

2 Q. Do you believe that Judge Tidd frequently
3 treated you and other clerks in a disrespectful manner?

4 A. Yes.

5 Q. And did that occur in front of other people?

6 A. Yes.

7 Q. Such as?

8 A. Such as the public who were coming in for
9 hearings or coming in to make payments and police
10 officers and attorneys.

11 Q. Did you have an opportunity to see the Board
12 complaint prior to coming here today?

13 A. Yes.

14 Q. And so the curse words that are contained
15 within Paragraph 24 which include, quote, fuck, bitch,
16 fucker, and mother fucker, did you hear Judge Tidd say
17 those words at district court?

18 A. Yes.

19 JUDGE MINEHART: What paragraph is that
20 again?

21 MS. FLAHERTY: Twenty-four.

22 JUDGE MINEHART: Thank you.

23 BY MS. FLAHERTY:

24 Q. And did Judge Tidd make crude remarks about
25 litigants who appeared before him?

1 A. Yes, he did.

2 MR. STRETTON: What paragraph is that
3 relating to?

4 MS. FLAHERTY: That was at Paragraph 26.

5 BY MS. FLAHERTY:

6 Q. Do you recall a case Sterling Jewelers versus
7 Echenberg? This is at Paragraph 34 of the complaint.
8 In that case, Ms. Kale, a defendant, appeared for a
9 hearing without first filing a notice to defend, and as
10 a result, that hearing was rescheduled. Do you recall
11 after the defendant left the court that Judge Tidd made
12 a crude comment about that defendant?

13 A. There were so many times. Specifically
14 unless I saw I couldn't remember.

15 Q. The quoted language is she's as dumb as a
16 fucking pile of dirt, quote, unquote.

17 A. I do remember that, yes.

18 Q. And what did you think when you heard him say
19 that?

20 A. I thought it was horrible.

21 Q. Were you present at the district court on
22 January 25th, 2012 when Judge Tidd came in -- had been
23 called by a clerk and he came to the courthouse to sign
24 a search warrant for Detective Benton?

25 MR. STRETTON: What paragraph is this?

1 MS. FLAHERTY: This is Paragraph 35.

2 BY MS. FLAHERTY:

3 Q. When he came to the court, he was having --
4 first of all, let me backtrack, excuse me.

5 JUDGE BARTON: Ms. Flaherty, it may be of
6 some assistance to the Court if in the rubric we're
7 using for some of these paragraphs to just read the
8 paragraph. That acquaints the Court fully with the
9 paragraph. And then ask the witness questions about the
10 recollection of that event.

11 MS. FLAHERTY: Certainly.

12 JUDGE BARTON: Thank you.

13 BY MS. FLAHERTY:

14 Q. Paragraph 35, on January 25th, 2012 Detective
15 Benton contacted Judge Tidd's district court and stated
16 that he needed to present a search warrant to Judge Tidd
17 for his signature. At 1:15 p.m. one of Judge Tidd's
18 court clerks called him at his law offices and requested
19 that he come to the court to sign the search warrant for
20 Detective Benton. Judge Tidd said to the court clerk,
21 quote, what a fucking dick, call me when he gets here
22 and I'll be there in two minutes. Do you recall that?

23 A. Yes, I do.

24 Q. Upon his arrival at the court, Judge Tidd
25 attempted to sign the search warrant for Detective

1 Benton. When the first pen he tried to use did not
2 work, Judge Tidd threw the pen and screamed, quote,
3 fucking son of a bitch, unquote. Do you recall that?

4 A. Yes, I do.

5 Q. And when the second pen didn't work, Judge
6 Tidd threw that pen and screamed, quote, fucking shit,
7 unquote. Do you recall that?

8 A. Yes, I do.

9 Q. And what was your reaction to that?

10 A. I was horrified. I was embarrassed because
11 the detective was there, and it's not a detective we
12 worked with normally. And the typewriter repair
13 salesman was there fixing a typewriter and then the
14 other two girls. And it was -- it was just very
15 embarrassing.

16 Q. Did Judge Tidd apologize for his conduct?

17 A. No, not at all. He just signed it and walked
18 out.

19 Q. On January 30th, 2012 were you present at the
20 district court?

21 A. Yes.

22 Q. Do you recall a case Trexler versus Gamble,
23 Kreative Kitchens? In that case Attorney Edward -- and
24 I'll read it to you, and you can respond. Attorney
25 Edward Andres arrived at Judge Tidd's district court

1 with his client, the plaintiff in a civil case, which
2 was scheduled for 11:15 a.m. Judge Tidd considers
3 Attorney Andres to be a good friend. In the reception
4 area of his district court in the presence of the
5 plaintiff and his court clerks Judge Tidd said to
6 Attorney Andres, you had to -- quote, you had to go and
7 fuck up my morning with defending a civil case, unquote.
8 Were you present for that?

9 A. Yes, I was.

10 Q. And what was your reaction?

11 A. Again embarrassed, horrified that he would
12 talk like that in front of everyone.

13 Q. Did he express his concerns about holding
14 civil hearings generally?

15 A. Yes. He didn't like them. It was a waste of
16 his time is what he usually said.

17 Q. He told you it was a waste of his time?

18 A. Yes.

19 Q. Following his February 13, 2012 meeting --
20 and this is at Paragraph 40 of the Board complaint --
21 you've already testified that although you couldn't
22 recall exact dates of the meetings you do recall that he
23 attended three meetings, correct?

24 A. That's correct, yes.

25 Q. And that afterwards Judge Tidd would tell you

1 what went on?

2 A. Yes.

3 Q. Did he tell you that Judge McFadden
4 specifically told him to conduct hearings in the
5 courtroom?

6 A. Yes.

7 Q. Did he tell you that Judge McFadden
8 specifically told him to wear his judicial robes?

9 A. Yes.

10 Q. Did he tell you Judge McFadden told him to
11 arrive on time for scheduled hearings?

12 A. Yes.

13 Q. And did he tell you Judge McFadden told him
14 to give priority to his judicial duties over his private
15 law practice?

16 A. Yes.

17 Q. Did Judge Tidd take those instructions
18 seriously?

19 A. No, he did not.

20 Q. Did he mock those instructions?

21 A. Yes.

22 Q. In what way?

23 A. He never followed what she told him he needed
24 to do. He was late a lot of times for hearings. We
25 wouldn't -- we'd be calling him asking where he was, oh,

1 I got tied up, I'm on my way. And as far as the law
2 office, in the beginning the first years, first I would
3 say three years I was there, the law office -- he would
4 take calls from the law office. If there were problems,
5 he would leave if there was an issue with the law
6 office.

7 Q. He would leave court if there was an issue
8 there?

9 A. Yes.

10 Q. Would there be scheduled hearings when he
11 left?

12 A. Yes.

13 Q. And what would you need to do about that?

14 A. He just said he'd be back.

15 MR. STRETTON: Objection, unless they
16 want to give us dates and times when this happened.
17 It's hard to defend when you go six years and now tell
18 us, oh, he wouldn't show up, things of that nature. It
19 needs to be dates and times.

20 JUDGE BARTON: Ms. Flaherty, are there
21 some specific instances that you can direct --

22 BY MS. FLAHERTY:

23 Q. Do you recall any specific times that that
24 would have occurred?

25 A. Not specific dates, no.

1 JUDGE BARTON: I'm going to sustain the
2 objection and strike that from the record.

3 BY MS. FLAHERTY:

4 Q. You've testified that Amber Butz began
5 working at the court in September 2012?

6 A. Yes.

7 Q. And was she experienced in the work as a
8 court clerk when she arrived?

9 A. No, she was not.

10 Q. Did you mentor her?

11 A. Yes.

12 Q. Did Judge Tidd act in an impatient manner
13 towards Amber Butz?

14 MR. STRETTON: Objection. It's not
15 alleged in the complaint.

16 JUDGE BARTON: Ms. Flaherty, is that
17 referenced in the complaint?

18 MS. FLAHERTY: Yes. There is an
19 allegation in the complaint that he engaged in this
20 conduct regarding a particular court clerk. And this is
21 an instance of -- this is a prior instance of the same
22 type of conduct.

23 MR. STRETTON: Nothing in the complaint
24 about Amber Butz.

25 JUDGE BARTON: Sustained as to Amber

1 Butz.

2 MR. STRETTON: Maybe I just want to
3 reiterate our statute of limitations and laches.
4 Everything we've heard so far is 2011, '12. The
5 paragraphs we're hearing 2012 well before -- past the
6 statute of limitations in this matter and laches.

7 JUDGE BARTON: The Court will hear the
8 evidence. You can certainly raise that in argument.
9 I'm certain we will address that in due course.

10 MS. FLAHERTY: And may I respond to that
11 as well?

12 JUDGE BARTON: I don't think -- I don't
13 want to waste a lot of time on legal argument. I hope
14 you're going to do that at the conclusion of the entire
15 case. So let's just hold it for that point in the
16 trial.

17 BY MS. FLAHERTY:

18 Q. Let's turn now to Cassandra Bettler. And
19 this is at Paragraph 47. When Cassandra Bettler started
20 work at Judge Tidd's court in December 2014, did she
21 have experience in the job responsibility of a court
22 clerk?

23 A. No, she did not.

24 Q. And did you mentor her?

25 A. Yes, I did.

1 Q. And was she trying to learn how to enter
2 information into the magisterial district judge system?

3 A. Yes.

4 Q. And did Judge Tidd --

5 MR. STRETTON: Objection. There's no --

6 JUDGE BARTON: One second, Ms. Flaherty,
7 there's an objection. Mr. Stretton.

8 MR. STRETTON: There's no Cassandra
9 Bettler mentioned in this complaint anyplace.

10 JUDGE BARTON: Do you have a response,
11 Counselor?

12 MS. FLAHERTY: Yes, I do. In the
13 complaint we purposefully tried to protect the clerks,
14 and she is referred to in Paragraph 47 in February 2014
15 Judge Tidd routinely impatiently hovered over one of his
16 newly hired court clerks. The only newly hired court
17 clerk in 2014 is Cassandra Bettler.

18 JUDGE BARTON: Upon the representation of
19 counsel that Ms Bettler is the individual reflected in
20 Paragraph 47, I will overrule your objection. You may
21 proceed, Counsel.

22 MR. STRETTON: I just think that's very
23 unfair. They've got hundreds of paragraphs, items
24 dumped on us in February of 2016, this complaint filed
25 in the summer of 2016. And they don't put the names in,

1 and now we're supposed to defend against this and now
2 they tell us during the hearing? I just don't think
3 that's the way it should work. If they find something
4 wrong with Ms. Bettler, put her in here. Anyway, my
5 objection is noted.

6 JUDGE BARTON: I understand your
7 objection, and that's certainly a point for argument.
8 At this point the Court will admit it. You may proceed.

9 BY MS. FLAHERTY:

10 Q. Did Judge Tidd yell at Cassandra Bettler for
11 taking too long entering information into the system?

12 A. Yes, he did.

13 Q. And did he do that in front of other people?

14 A. Yes.

15 Q. Paragraph 48 on April 2 there was a case --
16 would you have been at the court on April 2nd, 2012 for
17 a case Commonwealth versus Petras?

18 A. Yes.

19 Q. In that case Judge Tidd arrived at his court
20 at 9:15, a half hour after this first summary trial was
21 scheduled to begin, for Petras who had two docket
22 numbers. During his traffic summary trials, Defendant
23 Petras got, quote, mouthy. After the summary trials
24 concluded and the parties had left the building, Judge
25 Tidd remarked to his court clerks that Petras was a,

1 quote, cocky ass dick. Do you recall that?

2 A. Yes, I do.

3 Q. And did you participate in writing notes
4 about that incident?

5 A. Yes, I did.

6 Q. At Paragraph 49 on April 30th, 2012 there was
7 a case Commonwealth versus Zick. Were you at the court
8 on that date?

9 A. Yes.

10 Q. On April 30th, 2012 Judge Tidd spoke in a
11 derogatory manner and cursed in reference to a defendant
12 who had appeared at his district court. That's the Zick
13 case. That case has been expunged. When the defendant
14 arrived at Judge Tidd's court to set up a payment plan,
15 Judge Tidd was eating lunch at the counter in the
16 reception area. Judge Tidd said to the defendant, pull
17 up your pants. After the defendant left the court,
18 Judge Tidd made a statement in the reception area in the
19 presence of the court clerks and a police officer,
20 Timothy Piotrowski. Do you recall Judge Tidd stating, I
21 really didn't need to see his fucking ass crack while
22 I'm eating lunch?

23 A. Yes, I did.

24 Q. And what was your reaction to that?

25 A. Again, unnecessary. I was embarrassed and

1 horrorified.

2 Q. Were you present at the court on August 12th,
3 2014 on the case Commonwealth versus Araujo? This is at
4 Paragraph 50. In that case the defendant called Judge
5 Tidd's court and asked one of the court clerks, in this
6 case Cassie Bettler, if he could come in earlier than
7 the scheduled time for his summary trials on the traffic
8 citation? The clerk told the defendant that if the
9 police officer arrived early then he could come early
10 also. I want to stop there for a moment and ask, is
11 that a typical proceeding for Judge Tidd, if the officer
12 arrives early, can the defendant come early?

13 A. Yes.

14 Q. Does he encourage that -- did he encourage
15 that?

16 A. Yes.

17 Q. Upon hearing the court clerk's statement to
18 the defendant, Judge Tidd yelled and screamed at her, I
19 told you no, don't let the tail wag the, quote, fucking
20 dog, unquote, when I say no, it means no. At that point
21 the court clerk said, you always encourage them to come
22 in earlier if the officer is here earlier. Judge Tidd
23 responded, no, I, quote, fucking, unquote, told you that
24 he has to come in when scheduled. Do you recall that
25 incident?

1 A. Yes, I do.

2 Q. And do you recall Judge Tidd's tone with
3 Cassie Bettler?

4 A. Yes.

5 MR. STRETTON: Objection. There's no
6 Cassie Bettler there. She read the paragraph and added
7 something in. If you're going to read the paragraphs,
8 read them accurately. Don't put in what you know
9 because we don't know that.

10 MS. FLAHERTY: May I respond?

11 JUDGE BARTON: You may.

12 MS. FLAHERTY: I know you asked me to
13 skip by it last time, but I really must state at this
14 point that we very purposefully did not state the names
15 of each of the clerks in the complaint because we were
16 so concerned about retaliation.

17 MR. STRETTON: Objection, move for
18 mistrial. There's absolutely no evidence of that, and
19 they should not say that.

20 JUDGE BARTON: That motion is denied. If
21 you're not specific in the complaint, because this is a
22 quasi-criminal proceeding, you run the risk of an
23 objection when you try to become specific because you
24 haven't provided fair notice to the other party.

25 So, again, for purposes of examining a

1 witness, I think the process needs to be read the
2 paragraph in the complaint, ask the witness if they
3 recall that incident. And then if there's some
4 amplification that perhaps based upon their recollection
5 of that event can be had, that's great. That way
6 there's no objection, you're not seeking to introduce
7 anything that the respondent and the jurist has not
8 prior notice of.

9 MS. FLAHERTY: Certainly. I would like
10 to respond to the issue of notice, though, if I may just
11 briefly --

12 JUDGE BARTON: You may.

13 MS. FLAHERTY: -- state that the
14 discovery provided to Mr. Stretton and Mr. Tidd included
15 extensive information about Cassie Bettler including her
16 Board deposition and also including many documents that
17 do demonstrate that she is the clerk who is -- one of
18 the clerks referred to in the complaint.

19 JUDGE BARTON: Thank you. You may
20 proceed.

21 MS. FLAHERTY: Let me just ask the
22 Court's indulgence for a moment.

23 JUDGE BARTON: Why don't we take a
24 10-minute recess.

25 (Recess taken)

1 JUDGE BARTON: We're back on the record.
2 Ms. Flaherty, you may resume.

3 MS. FLAHERTY: Thank you, Your Honor.
4 We're looking at Paragraph 51 in the Board complaint.

5 BY MS. FLAHERTY:

6 Q. Diane, were you present on August 28th, 2014
7 for a traffic summary trial in Judge Tidd's district
8 court, Commonwealth versus Snyder?

9 A. Yes.

10 Q. In that case Judge Tidd was seated at a
11 clerk's desk next to the desk where one of the clerks
12 was seated. The defendant was standing at the counter
13 of the reception area. Citing officer, Police Officer
14 Robert Winters from Lower Saucon, entered the reception
15 area, approached the Court, and stated that he wanted to
16 amend the traffic citation against the defendant. Judge
17 Tidd rose from his chair, and as he walked behind the
18 court clerk's cubicle, she said, huh, and Judge Tidd
19 impatiently responded, if you say huh to me one more
20 time instead of yes or excuse me or something else, I'm
21 going to have a goddamn fit. Do you recall that?

22 A. Yes, I do.

23 Q. And when the court clerk told Judge Tidd that
24 she did not realize he was speaking to her, Judge Tidd
25 stated, yes, you did, you answered me, don't respond

1 like that. Do you recall that?

2 A. Yes.

3 Q. To whom was Judge Tidd speaking?

4 A. Cassandra Bettler.

5 Q. Were there other people present?

6 A. Yes.

7 MS. FLAHERTY: And at this time we'd like
8 to play one of our audio-video recordings for the Court,
9 if you could just give Toni a moment. Are you ready to
10 go?

11 MR. STRETTON: What exhibit number is the
12 transcripts might I ask?

13 MS. FLAHERTY: In the joint complaint you
14 mean? The transcripts are Board Exhibit 12-A.

15 MR. STRETTON: Thank you.

16 BY MS. FLAHERTY:

17 Q. Before we proceed with the video, there
18 should be on the screen in front of you and if you could
19 please describe what we're looking at in that left hand
20 screen so the Court can get oriented.

21 A. That's the office. I'm in the front in the
22 blue. Brenda Anthony is to my right. Cassandra Bettler
23 is behind me, and Judge Tidd is to her right.

24 Q. And then in the right hand frame what is that
25 view?

1 A. That's the view from the foyer outside the
2 courtroom.

3 Q. And so are we looking at -- when we're in the
4 left hand frame, you can see the counter at the back --

5 A. Correct.

6 Q. -- of the frame? When you're in the right
7 hand frame, are you looking at the counter from the
8 other side?

9 A. Correct.

10 Q. Thank you.

11 (The video recording was played.)

12 BY MS. FLAHERTY:

13 Q. Diane, was that a litigant who was coming
14 into the reception area while that was going on and
15 sitting down?

16 A. Yes.

17 Q. And was that Officer Winters who came into
18 the court as well?

19 A. And stood at the counter, yes.

20 Q. And what were your observations at the time
21 that this incident occurred?

22 MR. STRETTON: Objection. We already saw
23 it and heard it.

24 MS. FLAHERTY: I didn't hear the
25 objection.

1 JUDGE BARTON: The objection was we've
2 already seen it and heard it.

3 MS. FLAHERTY: We have seen the video.
4 We have not asked what her observations were about the
5 incident.

6 JUDGE BARTON: Okay, overruled.

7 BY MS. FLAHERTY:

8 Q. What were your observations about it?

9 A. That he was -- he got up and was very
10 disturbed that she said huh and that he told her not to
11 say that because it upset him. I really didn't see the
12 point of it. Cassandra has a hearing problem, so.

13 Q. She has a hearing deficit?

14 A. Yes.

15 Q. And so he's yelling at her for saying huh?

16 A. Yes.

17 Q. And did you think that was appropriate?

18 A. No, no.

19 Q. Did Cassandra appear upset about that
20 incident?

21 A. Yes, yes.

22 Q. And did you participate in keeping notes in
23 the log about it?

24 A. Yes, I did.

25 MS. FLAHERTY: And that log entry appears

1 at Exhibit 7, Page 48. In Paragraph 52 this is a case
2 Commonwealth versus Butler, and the case file and docket
3 is Exhibit 39. The log entry is Exhibit 7, Page 57.

4 BY MS. FLAHERTY:

5 Q. Were you at court on October 9th, 2014?

6 A. Yes.

7 Q. On October 9th, 2014 Constable Fulmer
8 transferred the defendant from Lehigh County Prison to
9 Judge Tidd's district court for a scheduled preliminary
10 hearing on three misdemeanor charges including driving
11 under the influence. The preliminary hearing was
12 initially scheduled for August 28th, 2014, but Judge
13 Tidd granted a defense continuance so Mr. Butler could
14 obtain counsel.

15 By the October 9th, 2014 date Mr. Butler had
16 not yet obtained counsel. While standing at the counter
17 of the reception area, Judge Tidd asked the defendant if
18 he wanted to waive his hearing. Mr. Butler responded he
19 wanted to fight the charges. After Judge Tidd
20 instructed Mr. Butler to go into the courtroom, he said
21 to his court clerks, quote, I can't believe I have to
22 have a fucking hearing on a fucking DUI, unquote. Do
23 you recall that incident?

24 A. Yes, I do.

25 Q. Approximately two minutes after Judge Tidd

1 entered the courtroom he came back out and reported to
2 the court clerk that all charges against Mr. Butler were
3 held for court. Judge Tidd did not require Mr. Butler
4 to sign a waiver of counsel during the proceedings.
5 What was your reaction when Judge Tidd made that
6 statement about holding the hearing on a DUI?

7 A. I never saw a hearing go so fast in my
8 experience.

9 Q. Were you in the courtroom during the hearing?

10 A. No, I was not.

11 Q. But according to the log entry, the DUI
12 hearing lasted approximately two minutes. Is that
13 accurate?

14 A. Yes.

15 Q. And, Ms. Bettler, you retired from Judge
16 Tidd's court in December of 2014. Is that correct?

17 A. Yes.

18 MS. FLAHERTY: So then we will be moving
19 on next to Section C, Ex Parte Communications, which
20 begins on Page 18 of the Board complaint.

21 BY MS. FLAHERTY:

22 Q. I just wanted to backtrack for a moment about
23 your work experience. When you retired from Judge
24 Tidd's court, did you serve -- did you continue to work
25 as a court clerk?

1 A. Yes. I went back part time as a floater for
2 Northampton County.

3 Q. And do you continue working as a floater
4 court clerk to this day?

5 A. Yes, I do.

6 Q. And did you have a conversation with Debra
7 French about training other court clerks when you float?

8 A. Yes.

9 Q. And what did she say to you?

10 A. That she was happy to have me available to go
11 to different courts and help out and train new people.

12 MR. STRETTON: I object to all this
13 hearsay. There's a limit. I'm about as lean as I can
14 get here.

15 MS. FLAHERTY: I apologize to the Court,
16 but I can't hear what Mr. Stretton is saying.

17 JUDGE BARTON: Mr. Stretton objected as
18 to hearsay in the answer to the last question.

19 MS. FLAHERTY: Hearsay about Ms. French?

20 JUDGE BARTON: About Ms. French telling
21 this witness she's happy to have her as a floater and
22 instruct other court clerks.

23 MS. FLAHERTY: Well, I'll be happy to
24 have Ms. French testify to that herself when she is here
25 in court tomorrow or Friday.

1 JUDGE BARTON: That's fine. Let's move
2 forward.

3 BY MS. FLAHERTY:

4 Q. During this particular section, I'll be
5 reading some statements and asking if you agree with the
6 statement. This is Paragraph 60 of the Board complaint.
7 Routinely Judge Tidd discussed summary traffic citations
8 with defendants before the officer arrived for a summary
9 traffic trial.

10 A. That's correct.

11 Q. Routinely Judge Tidd asked defendants if they
12 would agree to enter pleas to a lesser charge before the
13 officer arrived for summary traffic trials.

14 A. That's correct.

15 Q. After the defendant agreed to plead to a
16 lesser charge, Judge Tidd would call the absent officer
17 and ask if he would agree to that lesser charge.

18 A. Sometimes.

19 Q. On those occasions when the officer agreed by
20 phone Judge Tidd would accept the defendant's plea to
21 the lesser charge?

22 A. That's correct.

23 Q. In some traffic citation cases wherein the
24 citing officer had not yet arrived for the scheduled
25 summary trial Judge Tidd first discussed the case with

1 the defendant and then permitted defendant to use the
2 district court phone to speak with the officer about
3 entering a guilty plea.

4 A. Sometimes, yes.

5 Q. When you say sometimes, did you observe these
6 things occurring?

7 A. Yes, I did.

8 MR. STRETTON: What paragraph are you
9 reading?

10 MS. FLAHERTY: That was 64.

11 BY MS. FLAHERTY:

12 Q. Sixty-five, on repeated occasions between
13 2011 and February 2016 Judge Tidd initiated discussions
14 about summary traffic charges with police officers who
15 arrived at his court before the defendants for summary
16 traffic trials.

17 A. Yes. And that's up to 2014 when I left,
18 December 2014.

19 Q. Yes, thank you for specifying. In those
20 instances when Judge Tidd discussed the summary traffic
21 citations with officers prior to the arrival of the
22 defendants Judge Tidd would ask the officers if they
23 were willing to change the charged traffic violation to
24 a lesser charge.

25 A. Yes, he would.

1 Q. And you observed him doing that?

2 A. Yes.

3 Q. And was that a routine basis?

4 A. Yes.

5 Q. When a defendant arrived after a police
6 officer had agreed to change the charged summary --

7 MR. STRETTON: Can we have the paragraph?

8 MS. FLAHERTY: Paragraph 67.

9 BY MS. FLAHERTY:

10 Q. When a defendant arrived after a police
11 officer had agreed to change the charged summary traffic
12 violation, Judge Tidd would ask the defendant if he or
13 she was willing to enter a plea to the lesser charge.

14 A. That's correct.

15 Q. So the overall theme in those questions is
16 did Judge Tidd discuss the traffic charges with one
17 party before the other had arrived?

18 A. Yes, he did.

19 Q. When you were still working at the district
20 court, were you aware that the penalty for a 3111(a),
21 obedience to traffic control devices, increased to \$150?

22 A. Yes.

23 Q. When that occurred, did Judge Tidd begin --
24 prior to that time, was 3111(a) one of the lesser
25 charges that was substituted for these traffic citation

1 charges?

2 A. Yes, it was.

3 Q. And when the fine increased, did Judge Tidd
4 begin substituting a different charge, lesser charge,
5 investigation by police officer, 6308, which carried a
6 penalty of \$25?

7 A. Yes, he did.

8 Q. Did he do that routinely?

9 A. Yes.

10 Q. Did you ever observe Judge Tidd inform a
11 police officer who arrived late for a summary traffic
12 trial that he'd already taken care of it or already
13 worked out a deal?

14 A. Yes.

15 Q. Do you remember any specific instances of
16 that?

17 JUDGE BARTON: What paragraph?

18 MS. FLAHERTY: That was at Paragraph 70.

19 THE WITNESS: That was a common
20 occurrence. I couldn't give you a date and a time, no.

21 BY MS. FLAHERTY:

22 Q. Were you still present at the district --
23 yes, on November 9th, 2011 were you present at the
24 district court for a case Commonwealth versus Fiorino?

25 A. Yes.

1 Q. In that case the defendant appeared for his
2 9:30 a.m. traffic summary trial at Judge Tidd's court.
3 The defendant had entered a not guilty plea to the
4 charge of exceed speed limit school zone by 14 miles per
5 hour and requested a summary trial. The citing police
6 officer, James Deleone, Senior was not present. Judge
7 Tidd offered to reduce the charge to obedience to a
8 traffic control device if the defendant agreed to enter
9 a guilty plea. The defendant did enter the plea to the
10 reduced charge. Do you recall that instance?

11 A. Yes.

12 Q. And did -- do you recall if Officer Deleone
13 showed up at any point for that?

14 A. I believe he showed up late that day.

15 Q. Do you recall if he voiced any objection to
16 Judge Tidd handling the case?

17 A. I don't recall that, no.

18 Q. Were you present at the court on
19 January 23rd, 2012 in a case Commonwealth versus Groves?

20 MR. STRETTON: What paragraph?

21 MS. FLAHERTY: That's Paragraph 72.

22 BY MS. FLAHERTY:

23 Q. In that case the defendant arrived at Judge
24 Tidd's court for a traffic summary trial on the charge
25 failure to stop at a red signal. The officer -- Police

1 Officer Kevin McCartney had not yet arrived for the
2 summary trial. Judge Tidd stood at the counter of his
3 court, the reception area of his court, and told the
4 defendant he could enter a plea to a lesser charge,
5 obedience to traffic control devices with no points
6 against his driver's license. The defendant agreed to
7 enter the lesser plea. Do you recall that when Police
8 Officer Kevin McCartney arrived Judge Tidd told him I
9 took care of your 10:15?

10 A. Yes.

11 Q. Was that a standard practice at your court?

12 A. Yes.

13 Q. Did the police officers object when Judge
14 Tidd would tell them I took care of your 10:15 or I took
15 care of your summary trial?

16 MR. STRETTON: Objection. I'm going to
17 object to that being hearsay, and you'll hear from our
18 side every officer was talked to. None of these were
19 done without permission. That's hearsay in this
20 particular matter. If they want to put the officer on,
21 they may do so.

22 JUDGE BARTON: Ms. Flaherty, do you have
23 a response?

24 MS. FLAHERTY: I withdraw the question.

25 JUDGE BARTON: Okay.

1 MS. FLAHERTY: This is at Paragraph 72.

2 BY MS. FLAHERTY:

3 Q. Were you present on January 23rd, 2012 when
4 Attorney Matthew Potts arrived for a preliminary hearing
5 in a criminal matter which has since been expunged?

6 A. Yes.

7 Q. Do you recall seeing Judge Tidd and Attorney
8 Potts going into Judge Tidd's court office and shutting
9 the door?

10 A. Yes.

11 Q. Do you recall that while they were behind
12 closed doors Officer Gunshore and the defendant arrived
13 at the court?

14 A. Yes.

15 Q. Do you recall Judge Tidd and Attorney Potts
16 coming out of the office?

17 A. Yes.

18 Q. Did you participate in writing the log
19 memorializing that day?

20 A. Yes.

21 Q. Do you recall a notation in quotes, we have a
22 deal for the 9:15 hearing, unquote?

23 A. Yes.

24 Q. Do you recall a quotation in response to that
25 comment, I don't know what you're talking about, I have

1 a deal worked out with you, unquote?

2 MR. STRETTON: Objection, hearsay. They
3 want to bring this Officer Gunshore, fine, but otherwise
4 it's rank hearsay.

5 JUDGE BARTON: Ms. Flaherty, response?

6 MS. FLAHERTY: I did make an effort
7 trying to present it this time around, Your Honor, to
8 ask Ms. Kale if she entered that language in quotations
9 into the log memorializing what was -- what she heard
10 that day. It's being presented to demonstrate that
11 Judge Tidd engaged in ex parte communications and not
12 necessarily for the content of the quoted language.

13 JUDGE BARTON: You've established the
14 contemporaneity of the record memorializing the hearsay,
15 but Mr. Stretton's I think objection goes to the fact
16 that it is nonetheless a statement made out of court
17 being offered for the truth of the assertion, the
18 officer's statement.

19 MS. FLAHERTY: Do you mind if Ms. Norton
20 responds?

21 JUDGE BARTON: Certainly.

22 MS. NORTON: Thank you, Your Honor. The
23 way I see it the rule for hearsay says that you're
24 offering it to prove the truth of the matter in the
25 statement.

1 JUDGE BARTON: Yes.

2 MS. NORTON: We are not offering the
3 statement as a true statement. We're offering it to
4 show the Court the statement was made. It only goes to
5 show what he told his clerk had happened, not
6 necessarily that it was true, but that he said it
7 happened that way.

8 MR. STRETTON: That's not the case. It's
9 her saying that she heard the officer say that. And if
10 they want to bring him in to say that, all of these we
11 can explain because there was communications. None of
12 this was done without permission of the officers.

13 JUDGE BARTON: The last sentence of
14 Paragraph 73 contains -- purportedly contains a
15 statement made by Officer Gunshore.

16 MS. FLAHERTY: Correct.

17 JUDGE BARTON: I'm going to sustain the
18 objection in this case.

19 MS. FLAHERTY: Your Honor, I'd like to
20 make an attempt to repose the question and I apologize.

21 JUDGE BARTON: By all means please do so,
22 and Mr. Stretton will object if he thinks it's
23 appropriate.

24 MS. FLAHERTY: I'm sure he will.

25 BY MS. FLAHERTY:

1 Q. Diane, you've heard the objections to the
2 hearsay, and we're trying to move on with this. We have
3 established that you did observe Judge Tidd and Attorney
4 Potts go into the office and have a discussion, come
5 back out in relation to this hearing. Do you know if --
6 do you recall if Officer Gunshore was willing to make a
7 deal in this particular matter?

8 MR. STRETTON: Objection, same basis.

9 THE WITNESS: He --

10 JUDGE BARTON: One second, please. Thank
11 you. Do you have a response to the objection to that
12 question?

13 MS. NORTON: Was it a hearsay objection?

14 MR. STRETTON: Hearsay and confrontation.
15 I'd like to be able to confront the officer on these
16 issues.

17 JUDGE BARTON: I'll sustain the
18 objection.

19 BY MS. FLAHERTY:

20 Q. Do you have any recollection of what was
21 entered into the court system that day pertaining to a
22 decision in that case?

23 A. No, I don't.

24 MS. FLAHERTY: And unfortunately the case
25 has been expunged, so we do not have that as a backup.

1 We're moving on to Paragraph 74.

2 BY MS. FLAHERTY:

3 Q. Were you working at the court on
4 January 25th, 2012?

5 A. Yes.

6 Q. And do you recall a case Commonwealth versus
7 Desmond? In that case -- and I'll give you an
8 opportunity to listen. The citing officer -- strike
9 that. The defendant arrived at Judge Tidd's court for
10 his 11:15 a.m. traffic summary trial. The citing
11 officer, Hellertown Borough Police Corporal Jeffrey
12 Johnston, had not yet arrived. Judge Tidd discussed the
13 case with the defendant while standing at the counter of
14 the reception area of the court.

15 When the defendant confirmed that he did not
16 get his car inspected, Judge Tidd told him, if you take
17 a hearing, I'm going to find you guilty because you
18 haven't gotten it inspected, you can change your plea to
19 guilty if you want. The defendant agreed to enter a
20 guilty plea before Corporal Johnston arrived at the
21 district court. Do you recall that incident?

22 A. Yes, I do.

23 Q. Did that all take place at the counter?

24 A. Yes.

25 Q. Did Judge Tidd offer the defendant an

1 opportunity to wait until Corporal Johnston arrived at
2 the district court?

3 A. No.

4 Q. In your experience working with other
5 district court judges is there a standard procedure when
6 a defendant arrives at court after requesting a hearing
7 and the officer has not yet arrived?

8 MR. STRETTON: Objection.

9 JUDGE BARTON: Sustained.

10 MS. FLAHERTY: Your Honor, may I ask what
11 the basis of the objection was on that.

12 JUDGE BARTON: Mr. Stretton.

13 MR. STRETTON: There is no standard
14 procedure where a defendant comes into court and shows
15 he's already guilty because he still hasn't gotten the
16 thing inspected, the car, which he drove to court in for
17 which he was cited. It wouldn't be a standard
18 procedure. Is this a pragmatic move by the district
19 judge, to get it changed. It doesn't make any sense to
20 me. What standard procedure in that. It would be like
21 I come into court and I'm wearing the clothes of the
22 crime victim which I stole the week before. You want to
23 plead guilty because you're wearing the clothes. I
24 mean, I just don't see it as a standard procedure for
25 those kind of crazy things.

1 JUDGE BARTON: I sustained Mr. Stretton's
2 objection on the basis that the question asked this
3 witness based upon working with other judges are you
4 aware of whether there was a standard practice. I think
5 that's a matter of the rules of criminal procedure, and
6 this witness's observation as to other judges I don't
7 think is particularly relevant nor admissible.

8 BY MS. FLAHERTY:

9 Q. The next case was on January 30th, 2012.
10 Were you present at the court on that date?

11 A. Yes.

12 Q. The case is Commonwealth versus Garippa,
13 Paragraph 75. On January 30th, 2012 the defendant
14 arrived at Judge Tidd's district court for a 10:00 a.m.
15 traffic summary trial. The citing officer, Dominick
16 Fragano, had not yet arrived at the district court.
17 Judge Tidd discussed the case with the defendant while
18 standing at the counter of the reception area of his
19 court. Although Officer Fragano was not present, the
20 defendant agreed to enter a guilty plea to a lesser
21 charge. After obtaining the consent from the defendant,
22 Judge Tidd changed the charge of exceeding the speed
23 limit in a school zone to a lesser no points charge of
24 obedience to a traffic control device. Do you recall
25 that instance?

1 A. Yes.

2 Q. On January 31st, 2012 a defendant arrived at
3 Judge Tidd's court for his 8:45 a.m. traffic summary
4 trial for two traffic citations, Commonwealth versus
5 John A. Freed. This was January 31st, 2012. Would you
6 have been at court that day?

7 A. Yes.

8 Q. This case involved the citing officer, Jared
9 Gunshore, who was present for the summary trial. Per
10 Judge Tidd's direction, the defendant called his
11 attorney's office and discovered that Attorney Thomas
12 Joachim could not arrive at the court until 10:00 a.m.
13 Do you recall Judge Tidd telling the defendant that
14 won't work, you'll have to have your hearing without
15 him?

16 A. Yes, I do.

17 Q. At 9:15 a.m. Attorney Joachim called and
18 spoke with Judge Tidd by telephone. After telling
19 Attorney Joachim that he could wait until he arrived to
20 conduct the summary trials, Judge Tidd offered the
21 following: Maybe I can get it reduced to a 1543(a)(1)
22 instead of 1543(b)(1) by the time you get here. He'll
23 have to plead guilty to speeding, though, and pay in
24 full today. Was that -- did you hear Judge Tidd
25 speaking on the phone with the attorney about reducing

1 that charge?

2 A. Yes, I did.

3 Q. Judge Tidd concluded his phone conversation
4 with Attorney Joachim and then said to the citing
5 officer, Police Officer Gunshore, would you be okay with
6 giving him a 1543(a) instead and he'll also plead guilty
7 to speeding. Do you recall hearing Judge Tidd make that
8 statement?

9 A. Yes.

10 Q. Officer Gunshore agreed to the lesser charge.
11 Judge Tidd then told the defendant, your attorney and I
12 worked this out, you can plead guilty to 1543(a) and to
13 a speeding charge, that way you won't get any jail time,
14 have a seat until your attorney gets here and he'll go
15 over it with you. Did you overhear that statement by
16 Judge Tidd as well?

17 A. Yes, I did.

18 Q. And did you participate in entering this into
19 the notes of the log that you were keeping along with
20 the other clerks?

21 A. Yes, I did.

22 Q. The defendant entered guilty pleas to a
23 lesser charge of 1543(a) and to the speeding violation
24 as initially charged. The statutory penalty for a
25 violation of 1543(a) was \$200 and less than the charge

1 for 1543(b) which carried a penalty of \$500 plus 60 to
2 90 days in prison. Do you recall entering that into the
3 MDJS system on that case?

4 A. No, I don't.

5 Q. And how do you determine if you were the one
6 who would enter it? Is there a record of that?

7 A. Yes, there is. It's -- our initials are
8 behind each line of what takes place in a case.

9 Q. Diane, are you doing all right or do you want
10 a break?

11 A. No. I'm okay.

12 Q. On June 11th, 2014 were you still employed at
13 Judge Tidd's district court?

14 A. Yes, I was.

15 Q. And do you recall the case Commonwealth
16 versus Farb?

17 A. Yes.

18 Q. In that case Hellertown Borough Police
19 Officer Timothy Piotrowski issued a summary traffic
20 citation to a driver for violation of 1786(f), operation
21 of a motor vehicle without financial responsibility.
22 Mr. Farb entered a not guilty plea and requested a
23 summary trial.

24 On July 23rd, 2014 Mr. Farb appeared at Judge
25 Tidd's district court for that scheduled summary trial.

1 Officer Piotrowski had not yet arrived at the district
2 court. Judge Tidd presided over the matter at the
3 counter of the reception area and directly negotiated
4 with Mr. Farb who entered a guilty plea to a lesser
5 charge of 3111(a), obedience to traffic control devices.
6 At the time he entered his plea to the lesser charge
7 Mr. Farb had not obtained insurance on his vehicle. Do
8 you remember entering that into the log?

9 A. Yes.

10 Q. And how was it determined whether or not a
11 defendant had obtained insurance on the vehicle?

12 A. We would call the insurance company and
13 verify.

14 Q. We being who?

15 A. Brenda, Cassie, myself.

16 Q. Were you able to get that same type of
17 information from PennDOT?

18 MR. STRETTON: Objection, hearsay.

19 JUDGE BARTON: Do you have any response
20 to that, Ms. Flaherty?

21 MS. FLAHERTY: I can ask it another way,
22 how did you obtain.

23 JUDGE BARTON: If you want to rephrase,
24 that's fine, you can rephrase the question.

25 MR. STRETTON: Except that wouldn't even

1 be part of the normal duties. They're doing it on their
2 own to try to trip him up apparently. But you need
3 someone from PennDOT to come in and say the person
4 didn't have insurance.

5 MS. FLAHERTY: I can rephrase a couple of
6 questions if you'd like.

7 MR. STRETTON: This is I think many years
8 ago, and they are checking everything he does, keeping
9 little logs, keeping it to themselves, and now they want
10 you to hear, well, he didn't have insurance because
11 Brenda or me or someone else called PennDOT, talked to
12 some clerk there. And that's not the way you prove
13 these kind of cases. So I would object to hearsay
14 connotation.

15 JUDGE BARTON: As to the issue of whether
16 this witness made phone calls which I will indicate I
17 certainly find that to be extraordinary, they're
18 certainly competent to testify to that. As to the
19 result of that telephone call, it's clearly hearsay, and
20 commonly we would say it's unrelated to the issue of
21 what PennDOT believes whether you have insurance which
22 usually is the trigger to whether you're suspended or
23 not. But I will sustain the objection. This witness
24 can testify if she made phone calls to make such
25 inquiry, but the results I think are certainly hearsay.

1 BY MS. FLAHERTY:

2 Q. Ms. Kale, do you recall if in this particular
3 case, Commonwealth versus Farb, that you made a call to
4 PennDOT to determine the insurance status on this
5 individual?

6 A. We didn't call PennDOT. We called the
7 insurance company.

8 Q. Did Judge Tidd typically call the insurance
9 company to check on the status of these cases of whether
10 a defendant charged with driving without financial
11 responsibility had indeed remedied the issue?

12 A. No, he did not.

13 Q. We have one more case in this section, Diane.
14 Were you still working at the district court on
15 August 11, 2014?

16 A. Yes.

17 MS. FLAHERTY: This is Paragraph 78, and
18 it is at Commonwealth versus Martin at Exhibit 48, and
19 the log entry is at Exhibit 7, Page 43.

20 BY MS. FLAHERTY:

21 Q. In this case a defendant appeared for a
22 traffic summary trial which had been continued to
23 September 15, 2015 per request of the citing officer,
24 Corporal Johnston. The defendant had not received
25 notice of the new summary trial date and so was at court

1 on August 11th, 2014. Based on the grant of the
2 continuance, Corporal Johnston was not present at Judge
3 Tidd's court. The defendant had pled not guilty to a
4 charge of exceeding the 25 mile per hour speed limit by
5 12 miles per hour and requested the summary trial.
6 Judge Tidd did not tell the defendant to come back on
7 the new summary trial date. Do you recall that?

8 A. Yes, I do.

9 Q. Judge Tidd discussed the case with the
10 defendant at the counter of the reception area of his
11 court and offered to reduce the charge to exceeding the
12 speed limit by 5 miles per hour, Section 3362(a)(1.2-5).
13 The defendant entered a guilty plea to the lesser
14 charge. Do you recall that?

15 A. Yes, I do.

16 Q. And was that a typical occurrence for Judge
17 Tidd's court?

18 MR. STRETTON: Objection, typical
19 occurrence.

20 MS. FLAHERTY: I can rephrase.

21 BY MS. FLAHERTY:

22 Q. Did this type of instance where a defendant
23 shows up for a continuance -- on the wrong day, the
24 continuance has been granted and the defendant shows up
25 on the wrong day, do you recollect if this happened more

1 than once that Judge Tidd would handle it on that day
2 despite the continuance?

3 MR. STRETTON: Objection. What she
4 doesn't know is whether he called the officer or not to
5 get permission. That she doesn't know. So how can you
6 say it was a typical situation? Defense shows he calls
7 officer, deal's worked. It's done.

8 JUDGE BARTON: Ms. Flaherty, do you have
9 a response?

10 MS. FLAHERTY: I did rephrase it and got
11 rid of the typical and only asked if this had occurred
12 on more than one occasion.

13 JUDGE BARTON: Overruled. You can repeat
14 the question to the witness.

15 BY MS. FLAHERTY:

16 Q. Did this type of conduct where the defendant
17 appeared on the day the trial was supposed to be held,
18 was not aware of the continuance -- the defendant shows
19 up on the wrong day and Judge Tidd handled the matter
20 anyway, did this occur on more than one occasion do you
21 recall?

22 A. Yes, it did.

23 Q. Thank you.

24 MS. FLAHERTY: Because Ms. Kale retired
25 from Judge Tidd's court in December 2014, we're now

1 going to move to the next section which is D, Special
2 Consideration. That begins with Paragraph 84.

3 BY MS. FLAHERTY:

4 Q. Are you familiar with the term special
5 consideration, Ms. Kale?

6 A. Yes.

7 Q. How would you define it?

8 A. You're showing special circumstances to
9 someone that you know.

10 Q. I can't quite hear.

11 A. Showing special circumstances to someone that
12 you know.

13 MR. STRETTON: At this point I would just
14 suggest that we stipulated to most of this. It's in
15 your new stipulations about Mr. Burke appearing and all
16 that. I stipulated to most of the things in Mr. Burke's
17 stipulation, friends showing up, not paying, whatever.
18 And it's my thought that no need to have a witness.
19 It's actually legal argument to you whether friendship
20 and our position courtesy whether that violates the rule
21 or doesn't violate the rule. I don't think there's
22 anything that's disputed there in terms of Mr. Burke and
23 the phone calls and him paying.

24 JUDGE BARTON: Ms. Flaherty, is that an
25 accurate characterization of the proposed stipulation?

1 MS. FLAHERTY: I would like a moment.
2 I'm searching in the --

3 JUDGE BARTON: Please take a moment. We
4 may save a great deal of time.

5 MR. STRETTON: Page.

6 MS. FLAHERTY: The admitted to
7 stipulations we just received late yesterday, and it's
8 taking me a moment to sort through to which is
9 stipulated and which is not. I have several versions in
10 front of me.

11 JUDGE BARTON: Would it help you if we
12 took a 10-minute recess?

13 MS. FLAHERTY: It likely would, yes.
14 Thank you.

15 JUDGE BARTON: Why don't we stand in
16 recess.

17 (Recess taken)

18 JUDGE BARTON: We're back on the record.
19 Where are we with respect to the evaluation of the
20 closed joint stipulations of fact as they relate to that
21 specific section?

22 MS. FLAHERTY: I'm ready to proceed, Your
23 Honor.

24 BY MS. FLAHERTY:

25 Q. Diane, were you employed at Judge Tidd's

1 district court during the time that Attorney James Burke
2 had received multiple traffic -- or parking citations?

3 A. Yes.

4 Q. And were you aware that Attorney Burke did
5 not respond to notices about those traffic citations?

6 A. Yes.

7 MR. STRETTON: Just note my objection.
8 I've stipulated to every one of these points. I mean,
9 do we want to be here for 10 weeks?

10 JUDGE BARTON: During the recess, was
11 counsel able to confer with respect to the scope of the
12 stipulations and whether that might avoid any testimony
13 concerning Attorney -- the matter as it relates to
14 Attorney Burke?

15 MR. STRETTON: Well, I didn't confer
16 because I told them -- I did confer with them about
17 stipulations.

18 JUDGE BARTON: Would counsel step
19 forward, please.

20 (Discussion held off the record at
21 sidebar)

22 JUDGE BARTON: We're back on the record.
23 Having conferred with counsel, the Court notes that
24 Paragraph 92 of the Board complaint which relates to
25 Rule of Criminal Procedure 403(b) the Court takes

1 judicial notice of that rule of criminal procedure.
2 Then we have some paragraphs to which the parties have
3 stipulated. Paragraph 93 of the Board complaint has
4 been stipulated to by both parties as has Paragraph 94,
5 95, 96, 97, 98, Paragraph 102. Mr. Stretton, did I list
6 those paragraphs correctly, sir?

7 MR. STRETTON: I believe you did. Thank
8 you.

9 JUDGE BARTON: Thank you. Ms. Flaherty,
10 did I list those paragraphs correctly?

11 MS. FLAHERTY: Yes, thank you.

12 JUDGE BARTON: Now, do we believe that we
13 have only a few moments of testimony left for Ms. Kale?

14 MS. FLAHERTY: No, Your Honor. I would
15 not be able to complete her direct in that amount of
16 time. I think it would be shortchanging the witness and
17 the Court to hear her testimony.

18 JUDGE BARTON: Ms. Kale, it was my effort
19 to see if we could avoid you spending another day at the
20 beautiful Pennsylvania Judicial Center. Sadly, I have
21 failed to make that happen, so with apologies, we will
22 reconvene again tomorrow morning at 9:30. Thank you.

23 (The proceedings adjourned at 4:41 p.m.)

24

25

CERTIFICATION

I hereby certify that the proceedings and evidence are contained fully and accurately in. The notes taken by me on the within proceedings, and that this copy is a correct transcript of the same.

Dated in York, Pennsylvania this 1st day of February, 2017.

Bethann M. Mulay, Notary Public
Registered Professional Reporter

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