

MINUTES
SPECIAL COUNCIL MEETING
MARCH 16, 2022

The City of Millbrook held a Special Council Meeting at 6:00 p.m., Wednesday, March 16, 2022, in the City Council Meeting Room.

CALL TO ORDER Council President Gay called the meeting to order.

ROLL CALL President Gay requested the roll be called. Present were Council President Gay, Councilmembers Harris, Jones, Hodge, and Thomas. Absent: none. Also present were Department Heads Gina Williams, Tammy Pugh, City Attorney Kelly Lee, and City Clerk Lori Davis.

APPROVAL OF AGENDA Councilmember Hodge moved to approve the Agenda. The motion was seconded by Councilmember Jones and passed unanimously.

POST-DISCIPLINARY HEARING See court report attached hereto and made apart of the minutes.

ADJOURNMENT There being no further business, Councilmember Harris moved to adjourn. The motion was seconded by Councilmember Hodge and passed unanimously. The meeting adjourned at 8:52 p.m.

Respectfully submitted,

Lori Davis
City Clerk

APPROVED:

Michael Gay
Council President

Testimony and Proceedings

March 16, 2022

City of Millbrook

In The Matter of: Tammy Pugh



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Testimony and Proceedings

3/16/2022

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<p>1 CITY OF MILLBROOK</p> <p>2</p> <p>3</p> <p>4</p> <p>5 IN THE MATTER OF:</p> <p>6 TAMMY PUGH</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11 *****</p> <p>12</p> <p>13 TESTIMONY AND PROCEEDINGS, taken before</p> <p>14 the City Council, and reported by Haley Tunnell,</p> <p>15 Certified Court Reporter and Commissioner for</p> <p>16 the State of Alabama at Large, at Millbrook</p> <p>17 Municipal Court, 3900 Grandview Road, Millbrook,</p> <p>18 Alabama, on March 16, 2022, at approximately</p> <p>19 4:30 p.m.</p> <p>20</p> <p>21 *****</p> <p>22</p> <p>23</p>	<p>Page 1</p> <p>1 EXAMINATION INDEX (Continued)</p> <p>2 Reexamination by Mr. Courtney 117</p> <p>3 Reexamination by Mr. DeBardelaben 118</p> <p>4 Further Examination by Mr. Courtney 164</p> <p>5 Further Examination by Mr. DeBardelaben 166</p> <p>6 AL KELLY</p> <p>7 Examination by Mr. Courtney 119</p> <p>8 Examination by Mr. DeBardelaben 139</p> <p>9 Reexamination by Mr. Courtney 152</p> <p>10 Reexamination by Mr. DeBardelaben 158</p> <p>11 Further Examination by Mr. Courtney 160</p> <p>12 Further Examination by Mr. DeBardelaben 161</p> <p>13 Further Examination by Mr. Courtney 163</p> <p>14 *****</p> <p>15</p> <p>16 MR. GAY: Call the meeting to order.</p> <p>17 If the clerk will please call the roll.</p> <p>18</p> <p>19 THE CLERK: Council Members Thomas?</p> <p>20</p> <p>21 MS. THOMAS: Here.</p> <p>22</p> <p>23 THE CLERK: Harris?</p> <p>24</p> <p>25 MR. HARRIS: Here.</p> <p>26</p> <p>27 THE CLERK: Jones?</p> <p>28</p> <p>29 MR. JONES: Here.</p> <p>30</p> <p>31 THE CLERK: Hodge?</p> <p>32</p> <p>33 MR. HODGE: Here.</p> <p>34</p> <p>35 MR. GAY: Is there a motion on the</p> <p>36 agenda?</p> <p>37</p> <p>38 MR. HODGE: Motion to approve.</p> <p>39</p>
<p>Page 2</p> <p>1 APPEARANCES</p> <p>2 FOR TAMMY PUGH:</p> <p>3 JIM DEBARDELABEN, Esquire</p> <p>4 4354 U.S. Highway 231</p> <p>5 Wetumpka, Alabama 36092</p> <p>6 FOR THE CITY OF MILLBROOK:</p> <p>7 JEFFREY COURTNEY, Esquire</p> <p>8 COURTNEY & MANN, LLP</p> <p>9 1881 Holtville Road</p> <p>10 Wetumpka, Alabama 36092</p> <p>11</p> <p>12 KELLY LEE, Esquire</p> <p>13 LAW OFFICE OF KELLY LEE, LLC</p> <p>14 164 West 5th Street</p> <p>15 Prattville, Alabama 36067</p> <p>16 CITY COUNCIL:</p> <p>17 Ms. Jacquelyn Thomas.</p> <p>18 Mr. Jimmy Harris.</p> <p>19 Mr. Michael Gay.</p> <p>20 Mr. Justin Jones.</p> <p>21 Mr. Hal Hodge</p> <p>22</p> <p>23 *****</p> <p>24</p> <p>25 EXAMINATION INDEX</p> <p>26</p> <p>27 P.K. JOHNSON PAGE</p> <p>28 Examination by Mr. Courtney 12</p> <p>29 Examination by Mr. DeBardelaben 30</p> <p>30 Reexamination by Mr. Courtney 50</p> <p>31 Reexamination by Mr. DeBardelaben 58</p> <p>32</p> <p>33 LYNN BRIGHT</p> <p>34 Examination by Mr. Courtney 62</p> <p>35 Examination by Mr. DeBardelaben 94</p>	<p>Page 4</p> <p>1 MR. JONES: I'll second.</p> <p>2 MR. GAY: Okay. Motion and second.</p> <p>3 All in favor say aye.</p> <p>4 (Members in favor so indicated.)</p> <p>5 MR. GAY: All opposed?</p> <p>6 (No response)</p> <p>7 MR. GAY: At this time, we're here</p> <p>8 to have a post-disciplinary hearing. I will</p> <p>9 call the post-disciplinary hearing to order and</p> <p>10 ask that all those present turn off or silence</p> <p>11 your cell phones. This proceeding is being</p> <p>12 recorded and transcribed by a court reporter</p> <p>13 who is sitting to my left. Please speak up so</p> <p>14 that she can hear you when you are testifying.</p> <p>15 Also, please know that the court reporter</p> <p>16 cannot take down a shake of the head or all</p> <p>17 your answers must be verbal. Also, please try</p> <p>18 to refrain from the use of uh-huh or such terms</p> <p>19 or idioms to avoid the possibility of any</p> <p>20 confusion in the record.</p> <p>21 Are all the witnesses present?</p> <p>22 The witnesses please raise your hand. Can you</p> <p>23 please stand. I ask that you raise your right</p>

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<p style="text-align: right;">Page 5</p> <p>1 hand and repeat after me.</p> <p>2 (Witnesses sworn at this time.)</p> <p>3 MR. GAY: Thank you. You may be</p> <p>4 seated.</p> <p>5 At this time, we will listen to</p> <p>6 opening statements.</p> <p>7 Jeff, the employer, do you have</p> <p>8 an opening statement?</p> <p>9 MR. GORDON: Very briefly. Thank</p> <p>10 you.</p> <p>11 Council, we are here today, as</p> <p>12 was mentioned, for a post-disciplinary hearing</p> <p>13 pursuant to the March 1 letter that was issued</p> <p>14 to Ms. Pugh Following her previous</p> <p>15 pre-disciplinary proceeding that you had</p> <p>16 several weeks ago. Just in short, the charges</p> <p>17 as they are or the reasons as they are set</p> <p>18 forth in that March 1 letter that was issued by</p> <p>19 the City to Ms. Pugh, and we would expect that</p> <p>20 the testimony today would support any actions</p> <p>21 that have been previously taken.</p> <p>22 MR. GAY: Sir, I want to apologize.</p> <p>23 I'm going to do my best to pronounce your last</p>	<p style="text-align: right;">Page 7</p> <p>1 is a -- you'll see it. Of course, they sent</p> <p>2 her a letter -- a pre-disciplinary hearing to</p> <p>3 conduct your continued employment in Millbrook.</p> <p>4 She -- and they put this in a letter dated</p> <p>5 February the 23rd. On that one they didn't</p> <p>6 state any reason. They stated some rules she</p> <p>7 supposedly violated; not how, when, where. It</p> <p>8 was like, oh, there was a bank robbed. You</p> <p>9 figure out when, what date, and how it was</p> <p>10 robbed but we're charging you with it. Make</p> <p>11 your defense. That's what you get.</p> <p>12 Then there was another hearing on</p> <p>13 March 1st when we requested it, and we got some</p> <p>14 reason given but not prior to the hearing. You</p> <p>15 go in the hearing to get reason given but not</p> <p>16 prior to the hearing. That's fine. We had --</p> <p>17 excuse me. I messed up. That was a</p> <p>18 February 7th notice of a pre-disciplinary</p> <p>19 hearing. No reasons. Looking through her</p> <p>20 personnel file, and I have -- I look at the</p> <p>21 personnel files because if it's not in the</p> <p>22 personnel file and it's not written, it didn't</p> <p>23 happen. People can testify all they want.</p>
<p style="text-align: right;">Page 6</p> <p>1 name, and I apologize because I know I'm not</p> <p>2 going to get it right.</p> <p>3 MR. DEBARDELABEN: That's okay, sir.</p> <p>4 MR. GAY: Mr. Jim DeBardelaben; is</p> <p>5 that correct?</p> <p>6 MR. DEBARDELABEN: Yes, sir.</p> <p>7 MR. GAY: You're the attorney for</p> <p>8 Ms. Pugh. Do you have a statement, sir?</p> <p>9 MR. DEBARDELABEN: Yes, sir. A</p> <p>10 short one.</p> <p>11 This lady has not received one</p> <p>12 ounce of due process. I thank y'all for being</p> <p>13 here, but it started before we got to you. She</p> <p>14 has worked for this city as a circuit clerk for</p> <p>15 20 years. No problem under Judge Pool.</p> <p>16 Everything went good. Her annual evaluations</p> <p>17 showed no problems. I will introduce them.</p> <p>18 All I have in her file was back to 2015, so all</p> <p>19 I can give you is 2015. They might say, Oh,</p> <p>20 they were self-evaluations, but they were all</p> <p>21 approved by the mayor except 2021, and the</p> <p>22 mayor on one of them, and you will see, made a</p> <p>23 change. So she gets -- on February 18th there</p>	<p style="text-align: right;">Page 8</p> <p>1 They want to talk about what she did. Well,</p> <p>2 looking at the personnel rules and regulations,</p> <p>3 and I think it's Chapter 6, Section 9,</p> <p>4 Disciplinary Actions. One of them says, under</p> <p>5 D, you use all reasonable steps should take</p> <p>6 play prior to the final action of termination,</p> <p>7 and then they say you have informal discipline</p> <p>8 and verbal counseling, and it says at the end</p> <p>9 of that paragraph the supervisor shall complete</p> <p>10 a memo that identified the date, time,</p> <p>11 substance, and response to this meeting. We</p> <p>12 don't have any of those. Did it happen? Who</p> <p>13 knows. It's not -- they didn't follow the</p> <p>14 rules. Okay.</p> <p>15 Then, if they don't correct it,</p> <p>16 you look at Step 2. You get counseling and</p> <p>17 written reprimands, and we don't have those.</p> <p>18 The last one we have that I saw was dated in</p> <p>19 February of 2019, I think. And after that, the</p> <p>20 next evaluation period she got all good</p> <p>21 evaluations. Okay. It says if they do a</p> <p>22 counseling and they don't make any improvement,</p> <p>23 they shall meet about -- only about 30 days</p>

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<p>Page 9</p> <p>1 from this meeting informally and discussing 2 process and lack thereof. And, again, at the 3 end of the 60 calendar day when your supervisor 4 will inform the employee that no further action 5 needed or that a written reprimand shall be 6 issued. A copy will be forwarded to the human 7 resource -- the director of human resources and 8 placed in the employee's personnel file. It's 9 not in there. But what we did is fire her. 10 Okay. If it happened -- she's 11 basically who the personnel policies with this 12 city -- a contract that -- okay, if you're 13 messing up, we're going to do certain -- you 14 follow certain procedures to tell you and you 15 got a record. Call you in a back room and 16 talking to you about it maybe if you don't do 17 what's in these rules, you haven't done your 18 job. You haven't told that employee. That 19 employee is entitled to get what they say in 20 the City's personnel manual. Ladies and 21 gentlemen, that's called due process. She 22 hasn't gotten that. 23 But the crux of the matter is</p>	<p>Page 11</p> <p>1 And then you'll see that the 2 police chief gets in to telling her what to do 3 from time to time, sending her memos. When the 4 police chief can tell you what the bonds are, 5 and you are supposed to be an independent court 6 system, are you independent anymore? Now, the 7 mayor has in his authority he can forgive a 8 fine, he can set aside a fine. He can do that. 9 He has to -- then if he does that, at the next 10 meeting, he has to explain to y'all why he did 11 it, but he has that authority, and y'all have 12 the authority to okay or not okay. But he 13 doesn't -- but I still can't tell you who this 14 lady's supervisor is, and you can look all 15 through the code books. You can look all 16 through the rules and the only rule that says 17 anything about who she answers to or reports to 18 is the Alabama Rules of Judicial 19 Administration, Rule 4. So if y'all will 20 listen to it, I think you'll find that, number 21 one, Ms. Pugh, pursuant to her annual reports, 22 had been doing a good job. If I get an annual 23 report that says I'm doing a good job and then</p>
<p>Page 10</p> <p>1 Judge Pool was here, I think, for approximately 2 40 years. I might be a little wrong. He was 3 here since I have been practicing law, and I 4 know that, and I'm getting old. And Judge 5 Bright comes in. She's used to a different 6 system, and this lady has been trained under 7 Judge Pool. It takes a while. Judge Bright is 8 wanting things different. She wants the system 9 changed while they're still doing the work and 10 to be up to speed. That doesn't happen. It's 11 just not going to happen. 12 And I've heard a lot of talk 13 about, Well, I've had meetings with her. Well, 14 I don't know who her supervisor is. Under the 15 Alabama Office of Courts, it says she -- and 16 used the word -- answers to the judge. Now, if 17 you answer to somebody, I would assume that 18 that's your supervisor. But the judge doesn't 19 do her annual reports, the mayor does. So I 20 don't -- I can't tell you who her supervisor is 21 because she's supposed to answer to the 22 municipal judge but the mayor does her annual 23 reports. That's -- that's kind of mixed up.</p>	<p>Page 12</p> <p>1 four or five months later you want to fire me 2 and there have been no written disciplinary 3 procedures, there has been no write-ups, there 4 have been nothing placed in my file, where is 5 your due process? Thank you very much. 6 MR. GAY: Mr. Courtney, do you have 7 witnesses that you would like to present, sir? 8 MR. COURTNEY: I do, sir. Thank 9 you. 10 The first witness I call is Chief 11 P.K. Johnson, please. 12 P.K. JOHNSTON, 13 the witness, having previously been 14 sworn, testified as follows: 15 EXAMINATION 16 BY MR. COURTNEY: 17 Q. Chief, would you introduce yourself. I 18 know they know you. You're the chief of police 19 in Millbrook? 20 A. Chief P.K. Johnson. 21 Q. Very good. How long have you been in that? 22 A. I have been the chief since August of 2008. 23 Q. Okay. Very good. And during that time</p>

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<p style="text-align: right;">Page 13</p> <p>1 have you had interaction with the court 2 department; specifically Ms. Tammy Pugh? 3 A. I have. 4 Q. Okay. All right. And over that long 5 period of time, have you had an opportunity to 6 form some opinions based on your experiences? 7 A. Yes, sir. 8 Q. Okay. All right. I'll ask you first about 9 something very simple, communication. Would you 10 describe for the council please the level and 11 quality of communication that you have had with 12 Ms. Pugh? 13 MR. DEBARDELABEN: Your Honor, who 14 do I address is running it? 15 MR. GAY: You can address me, sir. 16 MR. DEBARDELABEN: That wasn't in 17 the charges against her. Chief -- respectfully 18 Chief Johnson has not been shown to have the 19 expertise to give that type of testimony. 20 MR. GAY: You will have an 21 opportunity to ask him those questions during 22 your time. 23 Please proceed.</p>	<p style="text-align: right;">Page 15</p> <p>1 beings, we do. And when that was the case, I 2 instructed the officers to make whatever -- it 3 might be something as simple as another element 4 of the crime needed to be included in a 5 document, such as an offense report or something 6 like that, and those corrections were made. But 7 a lot of times she would try to try the case in 8 her office, and I have explained to her numerous 9 times on pro arrests that's not a magistrate's 10 role. A judge will hear the facts of the case 11 and rule as to whether or not an arrest should 12 be made. 13 Another example that I will give you: 14 Several times she would complain about officers 15 not signing on complaints or signing or 16 attesting to their tickets in a timely manner. 17 I wouldn't find out about it unless an officer 18 said something to me or most recently, as a 19 matter of fact, I have a copy of an e-mail that 20 I addressed to her in January of last year in 21 which one of my lieutenants, Lieutenant 22 Youngblood, brought to my attention that he was 23 stopped in the hallway just prior to court by</p>
<p style="text-align: right;">Page 14</p> <p>1 BY MR. COURTNEY: 2 Q. Would you answer the question, please? 3 A. Poor at best. 4 Q. Poor at best. Would you describe why you 5 formed that opinion? 6 A. Yes, sir. For a number of years Ms. Pugh 7 has had a tendency to want to critique officers' 8 work product on what we call pro or on-view 9 arrests. In other words, an officer has viewed 10 a crime that that been committed, or under a 11 domestic violence situation investigated a 12 situation where we're required by law to make an 13 arrest, and at that point in time, the officers 14 file the paperwork. The arrest has already been 15 made, and I would be notified by an officer that 16 she's refusing to sign off on complaints, and I 17 haven't heard a word about it until my officer 18 comes and tells me. She's not made any attempt 19 to have any kind of communication with me, and I 20 -- when I attempted to talk to her about it, she 21 would argue with me. 22 And I'm not going to say police officers 23 don't make mistakes. Obviously, we're human</p>	<p style="text-align: right;">Page 16</p> <p>1 Judge Bright that we had a list of officers that 2 had not signed off on citations or complaints in 3 a timely manner. Again, I had not spoken to 4 Ms. Pugh or anyone on her staff. No one made an 5 attempt. I checked with both my assistant chief 6 and my patrol commander, Captain Thomas Reed. 7 Ms. Pugh or no one in the court department had 8 made any attempt to advise me or anyone on the 9 command staff that we had an issue. I spoke 10 with Judge Bright after being -- that was 11 brought to me attention by Lieutenant 12 Youngblood, and Judge Bright immediately 13 apologized to me and told me that she had no 14 idea that I was unaware and that she was made 15 aware by Ms. Pugh. So at that point in time 16 that was not the first, that was just one of 17 many times that something similar to that had 18 happened. So I sent her an e-mail advising her 19 that that was totally unacceptable, that it was 20 unprofessional on her part, and a total lack of 21 respect for my office and my department and 22 that's just one of several examples that I could 23 give.</p>

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<p style="text-align: right;">Page 17</p> <p>1 Q. I'm going to show you what I got marked at 2 CM-A, City of Millbrook. Is that the e-mail 3 that was sent? 4 A. Correct. 5 Q. Okay. You've got issues one and two. Did 6 you address both of those issues? 7 A. Yes. I addressed the other issue with her 8 as well. The other issue being that we were 9 having issues with officers not having 10 magistrates available for a period of time all 11 the way back to post 2013 when we moved into 12 this building. When we were on the other side 13 of the road, at 3841 Grandview Road, we had 14 always had in place where magistrates were 15 available on the weekends and a couple of times 16 during the week after hours where officers -- we 17 work shift work. 18 Q. Yes, sir. 19 A. Traditionally, prior to the last year, we 20 would have worked three eight-hour shifts, 21 6:00 a.m. to 2:00 p.m. and from 2:00 p.m. to 22 10:00 p.m. and then from 10:00 p.m. to 6. So, 23 obviously, magistrates are not here 24/7. So in</p>	<p style="text-align: right;">Page 19</p> <p>1 officers coming on duty and officers going off 2 duty to attest to things before their duty. 3 In speaking with court personnel, I found 4 out they have been instructed to not be 5 available on those hours. So these are the type 6 of issues that I had. I addressed that in the 7 e-mail as well. 8 Q. How did you find out they had been 9 instructed not to be available? 10 A. By a court personnel. She found out that 11 they were here after 5:00, and she told them not 12 to make themselves available. 13 Q. Any particular court personnel say that to 14 you? 15 A. Anybody that was working in there. I heard 16 it from more than one person. 17 Q. Understood. You identified CM-A? 18 A. Correct. 19 MR. COURTNEY: I only have one copy. 20 MR. DEBARDELABEN: Your Honor, I'm 21 going to respectfully object. This is not in 22 her personnel file. It does not follow your 23 disciplinary procedures. This is totally</p>
<p style="text-align: right;">Page 18</p> <p>1 the event that a warrant needed to be obtained 2 after hours, in a situation where we were not 3 able to make an on-view arrest because we didn't 4 see -- an example would be a shoplifting that 5 occurred at Walmart or something that may happen 6 at a business after hours, we would be able to 7 call magistrates in. When Ms. Pugh would 8 complain about officers not being able to attest 9 to things in a timely manner because of off days 10 or whatnot. We worked and had an arrangement in 11 place where a magistrate would come in on Sunday 12 afternoon and the officers that worked over the 13 weekend were able to attest to the things that's 14 required by law in a timely manner. Somewhere 15 between the other side of the road and here that 16 became an issue. Magistrates were not always 17 available on weekends. And in the afternoons 18 when our officers needed to be able to attest to 19 things, Ms. Pugh would rather have it to where 20 we would have 10, 15, 20 officers coming in on 21 overtime to sign off on things where we had in 22 place where a magistrate would be here from, 23 like, 5:00 p.m. to 6:00 p.m. to allow those</p>	<p style="text-align: right;">Page 20</p> <p>1 ambush and this is based upon, from his own 2 testimony, blatant hearsay. Now, we're here to 3 answer the charges that they charged against 4 us. What we are hearing is a charge that has 5 not been brought against us, and we're hearing 6 it today. That's like going to trial and when 7 you get to trial you are told, Oh, we're going 8 to try you for this. This is ambush. 9 MR. GAY: Do you have anything? 10 MR. COURTNEY: Sure. None of that 11 matters. There's no rules of evidence. We are 12 in compliance with the City's procedures, and 13 he's wrong because it specifically says in her 14 March 1 letter in citing Section -- Chapter 6, 15 Section 8, grounds for disciplinary action, 16 performance, attitude, work habits, personal 17 conduct, all of those things. Everything he is 18 saying goes directly to that. I realize this 19 is a quasi-judicial proceeding, but I just 20 wanted to make that clear because everything he 21 said was wrong. 22 MR. DEBARDELABEN: Your Honor, it 23 doesn't comply with Section 9, Chapter 6 of the</p>

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<p style="text-align: right;">Page 21</p> <p>1 disciplinary rules that said -- if you will</p> <p>2 read them. It said it has to be placed in her</p> <p>3 personnel file. You know, this is not placed</p> <p>4 in any place that we had to get our hands on it</p> <p>5 with nobody. It's not in her personnel file.</p> <p>6 MR. GAY: Okay.</p> <p>7 MR. DEBARDELABEN: But, you know,</p> <p>8 it's y'all's choice. We're just saying that's</p> <p>9 another example of denying due process.</p> <p>10 MR. GAY: Please proceed.</p> <p>11 MR. COURTNEY: Very good.</p> <p>12 BY MR. COURTNEY:</p> <p>13 Q. Did you have an opportunity to ever view</p> <p>14 her office -- the surroundings in her office?</p> <p>15 A. I have.</p> <p>16 Q. I'm sorry?</p> <p>17 A. Yes, sir, I have.</p> <p>18 Q. Would you describe that, please, for the</p> <p>19 council?</p> <p>20 A. Her office is very busy, and I can't say</p> <p>21 that mine or any other office in here is not,</p> <p>22 but there have been several times when we've</p> <p>23 missed paperwork. Now, again, you're talking</p>	<p style="text-align: right;">Page 23</p> <p>1 magistrate. You can't just hire someone off the</p> <p>2 street. So any time there's turnover, that</p> <p>3 affects their ability to handle the volume of</p> <p>4 cases that we bring to their office.</p> <p>5 Q. Okay. Did you have an opportunity -- I'm</p> <p>6 sure you did. I'll strike that.</p> <p>7 But in your -- just your conversation, your</p> <p>8 work with Ms. Pugh, would you assess, please,</p> <p>9 her general attitude in trying to resolve</p> <p>10 issues, trying to work with you and your</p> <p>11 department?</p> <p>12 A. Over the 20 years that I worked with</p> <p>13 Ms. Pugh, there have been times that we've had a</p> <p>14 good working relationship and got along fine,</p> <p>15 but as the years have went on -- specifically</p> <p>16 the past, I would say, five to six years -- she</p> <p>17 has become more difficult to deal with over a</p> <p>18 period of time. As I said, the communication</p> <p>19 between she and I is poor at best simply because</p> <p>20 she made every attempt not to have to speak to</p> <p>21 me unless she absolutely had to. And there are</p> <p>22 times when -- I have staff that work for me. I</p> <p>23 have command staff. I've got a captain, I've</p>
<p style="text-align: right;">Page 22</p> <p>1 about two departments. You got a police</p> <p>2 department. We generate the paperwork. The</p> <p>3 paperwork goes to the court department. And</p> <p>4 from time to time, there would be an issue about</p> <p>5 where a bond or a copy of a warrant might be,</p> <p>6 and there were times when officers left a copy</p> <p>7 of a warrant in an arrest pack that it had to be</p> <p>8 found and taken to her office and those problems</p> <p>9 were corrected, but there were also times when</p> <p>10 we were looking for paperwork that they said</p> <p>11 were missing and the actual paperwork was found</p> <p>12 in the court department in -- amongst their</p> <p>13 paperwork.</p> <p>14 Q. Have you seen much turnover in this office</p> <p>15 over the past few years?</p> <p>16 A. There's been a good bit of turnover in the</p> <p>17 court department.</p> <p>18 Q. Has that caused your department any issue?</p> <p>19 A. Other than having to adjust to different</p> <p>20 people and the lack of ability to have certified</p> <p>21 people. Any time -- a magistrate is much like a</p> <p>22 police officer. They have to have specialized</p> <p>23 training and certification before they can be a</p>	<p style="text-align: right;">Page 24</p> <p>1 got an assistant chief. It is not necessary for</p> <p>2 her to communicate with me on a daily basis.</p> <p>3 There are things that department heads have to</p> <p>4 discuss amongst ourselves, and when those times</p> <p>5 arose, I would either send her an e-mail, or I</p> <p>6 would get up from my desk and go around to her</p> <p>7 office and we would have those conversations.</p> <p>8 But there are numerous times that I sent</p> <p>9 e-mails that were not responded to about things</p> <p>10 that I was concerned about issues within the</p> <p>11 police department and our dealings with the</p> <p>12 court department. Specifically, well, when it</p> <p>13 -- I became aware that the court department no</p> <p>14 longer -- and I have no idea when they lost the</p> <p>15 ability to do it. Was not aware until Judge</p> <p>16 Bright came on board that they had no ability to</p> <p>17 check criminal histories and backgrounds, which</p> <p>18 the judge needs for her information to be able</p> <p>19 to properly sentence people when she's making</p> <p>20 those decisions. When that was brought to my</p> <p>21 attention, we made arrangements to assist the</p> <p>22 judge within the boundaries and guidelines that</p> <p>23 we have with the state of Alabama to be able to</p>

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<p style="text-align: right;">Page 25</p> <p>1 disseminate that information. I don't have the 2 ability to hand the judge a criminal history 3 report. I can tell the judge what the report 4 says, but I cannot give her that documentation. 5 That documentation should be generated from the 6 court document. I know in years past they had 7 the ability, but, at some point in time, they 8 lost it. When it was brought to my attention 9 that they no longer had that ability, I spoke 10 with Ms. Pugh at length, as well as the judge, 11 and advised them that that was a problem that 12 needed to be corrected. Several times I asked 13 Ms. Pugh for updates on what the progress was 14 and what was being done to correct that problem 15 because in the interim what had to happen is my 16 staff had to check criminal histories on as many 17 as 50 or 60 people prior to a court session, 18 which hampered them from doing their jobs and 19 other duties and responsibilities they had. Not 20 to mention, that was a good bit of information 21 for the judge to have to digest in a manner in 22 which we had to disseminate that information, 23 and got very little, if any, response from Ms.</p>	<p style="text-align: right;">Page 27</p> <p>1 campers, I guess would be a phrase to use. They 2 seem not to be as happy as folks should. I 3 mean, this is -- the City is a great place to 4 work. We got great people here. And despite 5 the fact that we're in the business of putting 6 folks in jail and writing tickets, it's not 7 personal. It's a job. We've got a lot of great 8 people that live in our city; even the ones that 9 wind up in this courtroom. 10 Q. So did you detect a leadership issue in 11 Ms. Pugh's office? 12 MR. DEBARDELABEN: Your Honor, 13 that's going a little bit farther. He is not 14 qualified to come -- by his own testimony so 15 far, he very seldom went there and she was 16 busy. He's not qualified and have the 17 experience to comment on that -- even comment. 18 MR. GAY: This is a 19 post-disciplinary hearing, and he is giving his 20 testimony, and you can -- you'll have your 21 opportunity to ask questions on that. 22 MR. DEBARDELABEN: Your Honor -- 23 MR. GAY: Please proceed.</p>
<p style="text-align: right;">Page 26</p> <p>1 Pugh. 2 Q. Do you know of any other policies or 3 procedures that perhaps Judge Bright put in 4 place that Ms. Pugh may not have responded to? 5 A. I am aware that when Judge Bright came on 6 board and began to issue orders and warrants and 7 those types of things that things moved slower 8 than what Judge Bright would probably like for 9 them to do and there was a delay in getting 10 warrants and other documentation issued. 11 Q. Have you formed an opinion of -- based on 12 your observations, have you formed an opinion -- 13 personal opinion of the morale in Ms. Pugh's 14 office? 15 A. The morale has not been good in 16 Ms. Pugh's office for some time. Most of the 17 employees that have been in there; particularly 18 the ones that are in there now, as far as I 19 know, do an outstanding job, have a good 20 demeanor, and I don't think I've got any of my 21 personnel that have any problems dealing with 22 them. But I have -- I have noticed over a 23 period of time that they have not been happy</p>	<p style="text-align: right;">Page 28</p> <p>1 THE WITNESS: Mr. Courtney, may I 2 correct something? 3 MR. COURTNEY: You may. 4 THE WITNESS: When I said that I 5 didn't deal with Ms. Pugh on a regular basis, 6 that does not mean I don't go in the court 7 department on a regular basis. I go in the 8 court department on a daily basis for no other 9 reason because of allegations that have been 10 made by Ms. Pugh about my officers attesting to 11 paperwork and taking care of things in a timely 12 manner. There's rarely a day that goes by that 13 I don't go in there several times a day. 14 BY MR. COURTNEY: 15 Q. Very good. So you've had ample opportunity 16 to form these opinions that you're providing to 17 the council? 18 A. Correct. 19 Q. Ms. Pugh has been out -- you know how long 20 she has been out of the office? 21 A. It's been a couple of months now, I 22 believe. 23 Q. Couple of months now. Have you seen any</p>

<p style="text-align: right;">Page 29</p> <p>1 difference in the operation of the office since</p> <p>2 she's been out compared to now?</p> <p>3 A. Well, I've seen two things. I think the</p> <p>4 attitude and the demeanor of the employees have</p> <p>5 been better, but I've also noticed there's been</p> <p>6 some stress because in her absence and we've</p> <p>7 also had another employee that has recently</p> <p>8 resigned her full-time status and is now</p> <p>9 part-time employee so that's putting a</p> <p>10 tremendous amount of workload on the personnel</p> <p>11 that's remaining.</p> <p>12 Q. Very good. Last question I'll have for you</p> <p>13 for now anyway. Based on your experiences with</p> <p>14 personnel in her department, were there times</p> <p>15 that the employees in the court department did</p> <p>16 not seem properly trained?</p> <p>17 A. I'm not going to say they weren't properly</p> <p>18 trained. I think they were somewhat hampered in</p> <p>19 their ability to do their daily duties. I know</p> <p>20 for example one of the issues that I had with</p> <p>21 Ms. Pugh there were certain officers that she</p> <p>22 critiqued more so than others, and I was advised</p> <p>23 by personnel in the court department that some</p>	<p style="text-align: right;">Page 31</p> <p>1 executive with over 240 hours continuing</p> <p>2 education in my field.</p> <p>3 Q. Okay. And what training have you had in</p> <p>4 evaluating municipal court clerk's work product?</p> <p>5 A. I've had no training in court.</p> <p>6 Q. Thank you, sir.</p> <p>7 Now, whose responsibility is it, if you</p> <p>8 know, to set bail in municipal court?</p> <p>9 A. My understanding is we have a bail schedule</p> <p>10 that I believe was set forth by the municipal</p> <p>11 judge and the court department as far as I know.</p> <p>12 Q. Okay. Are you familiar with Rule 18 of the</p> <p>13 Rules of Judicial Procedure; specifically,</p> <p>14 Rule 18(b)2?</p> <p>15 A. I have no idea what you're citing, sir.</p> <p>16 You are going to have to read it to me.</p> <p>17 Q. Yes, sir. It says in the Alabama Supreme</p> <p>18 Court Rules of Judicial Procedure on municipal</p> <p>19 court magistrate agency division that authority</p> <p>20 of magistrates in the municipal court magistrate</p> <p>21 agency division is that setting bail in the</p> <p>22 court with discretionary bail schedule and</p> <p>23 approving property, cash, and professional</p>
<p style="text-align: right;">Page 30</p> <p>1 of those officers were required to see Ms. Pugh</p> <p>2 and not to see the other two warrant clerks or</p> <p>3 three warrant clerks that we had in there who</p> <p>4 were fully capable of taking care of whatever</p> <p>5 they needed, whether it be to get a complaint</p> <p>6 signed off on or swear and attest to a ticket,</p> <p>7 and I can't tell you what her motivation to do</p> <p>8 that was. But to instruct your people to not</p> <p>9 talk to certain people and not have dealings</p> <p>10 with police officers, not have dealings with</p> <p>11 other personnel, kind of hampers your ability to</p> <p>12 do your job.</p> <p>13 MR. COURTNEY: Very good. Thank</p> <p>14 you. Mr. DeBardelaben, may have some questions</p> <p>15 for you.</p> <p>16 MR. DEBARDELABEN: Yes, I do.</p> <p>17 EXAMINATION</p> <p>18 BY MR. DEBARDELABEN:</p> <p>19 Q. What's your educational background?</p> <p>20 A. I have graduated from Wetumpka High School.</p> <p>21 I have been to Trenholm Technical College,</p> <p>22 briefly East Mississippi Junior College, and I</p> <p>23 am state certified chief law enforcement</p>	<p style="text-align: right;">Page 32</p> <p>1 surety bonds upon a municipal judge's approval.</p> <p>2 Did you disagree with that, sir?</p> <p>3 A. I don't disagree. I have no idea what</p> <p>4 you're getting at.</p> <p>5 Q. Did you send Ms. -- let me show it to you.</p> <p>6 I don't want to ambush you like I have been</p> <p>7 ambushed.</p> <p>8 MR. COURTNEY: But you're doing it</p> <p>9 any way.</p> <p>10 MR. DEBARDELABEN: No. Something</p> <p>11 that he would have --</p> <p>12 MR. GAY: Gentlemen, let's keep a</p> <p>13 professional rapport, please.</p> <p>14 BY MR. DEBARDELABEN:</p> <p>15 Q. Do you recognize that document, sir?</p> <p>16 A. I do.</p> <p>17 Q. Did you send that document to Ms. Pugh?</p> <p>18 A. I did but you're not going to like the rest</p> <p>19 of my answer.</p> <p>20 Q. I just asked if you sent it.</p> <p>21 A. I did.</p> <p>22 Q. And did you say all personnel?</p> <p>23 A. It did.</p>

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<p style="text-align: right;">Page 33</p> <p>1 Q. Yes, sir. And you attached an Exhibit A 2 for bond schedule; is that correct? 3 A. That is the existing bond schedule that was 4 already published by the court department, sir. 5 Q. No. You attached it? 6 A. I did. 7 Q. Okay. Are you aware under the Rules of 8 Judicial Administration, Rule 4 says who 9 Ms. Pugh answers to is the municipal judge? 10 A. Yes, sir, and I discussed this with the -- 11 Q. Yes, sir. You answered my question. 12 A. And I will finish my answer. 13 Q. No. You've answered it. I asked you were 14 you aware. If you'll answer my question, we'll 15 go a little faster. If you will -- then your 16 attorney -- 17 A. Sir, I got your point. 18 Q. You got my point? 19 A. I did. 20 Q. Thank you. 21 Now, how do you know Judge Pool's order 22 expired on April 16, 2020? 23 A. I had a conversation with Judge Pool.</p>	<p style="text-align: right;">Page 35</p> <p>1 Q. Did she issue any order adopting this bond 2 schedule? 3 A. Other than a conversation I had with her, 4 I'm not aware of any order. 5 Q. Okay. So let me ask you this: You have a 6 captain in your department and a lieutenant; 7 right? 8 A. I have several lieutenants. 9 Q. Yes, sir. And they answer -- lieutenants 10 answer to the captains and the captain answers 11 to you? 12 A. All of them answer to me. 13 Q. They answer to you. Then should somebody 14 from a different department go in there and tell 15 them what to do or should you tell them what to 16 do? 17 A. Sir, I'm going to repeat what I have 18 previously stated in response to your previous 19 question. The matter of bonds came up -- I had 20 a discussion with the judge. The judge approved 21 going back to the original bond schedule. The 22 bond schedule was done because of COVID and 23 overcrowding in the jail.</p>
<p style="text-align: right;">Page 34</p> <p>1 Q. Okay. But you didn't see -- did you see 2 where it said order expired? 3 A. Sir, I had a conversation with Judge Pool 4 prior to issuing this memo. He agreed. 5 Q. Well, how did you do that because you 6 issued this memo on November 6, 2020, and then 7 you said this has been discussed with Judge 8 Bright and she has no objection. 9 Was Judge Bright here on November the 6, 10 2020? 11 A. Sir, I discussed it with Judge Bright. I 12 misspoke. I discussed it with the judge prior 13 to issuing the memo. 14 Q. Well, Judge Pool was already -- 15 A. I'm aware of that, sir. I misspoke. 16 Q. He was already gone, wasn't he? 17 So you didn't discuss it with Judge Pool. 18 A. No, I did not. I made a mistake, but I 19 discussed it with the presiding judge. 20 Q. Thank you. 21 Now, did you know if Judge Bright issued 22 any memorandum adopting this bond schedule? 23 A. I'm not aware of any memorandum.</p>	<p style="text-align: right;">Page 36</p> <p>1 Q. Well, I appreciate your answer -- your 2 response. That wasn't my question. 3 Should people other than you tell people in 4 your department what to do? 5 A. Sir, I was not telling her what to do. I 6 was telling her what the judge advised. We 7 sign off on these bonds more than they do. 8 Q. Does she answer to you, sir? 9 A. No. 10 Q. She answers to the judge, doesn't she? 11 A. Correct. 12 Q. And so she should be -- the judge is the 13 one who should tell her what to do, isn't it? 14 A. Sir, I'm not telling her what to do. Never 15 have. 16 Q. Maybe. Now, you never told her what to do? 17 A. I am not her supervisor. 18 MR. DEBARDELABEN: Your Honor, I 19 would like to introduce this as our Employee 20 Exhibit 1. 21 MR. GAY: I'm sorry? 22 MR. DEBARDELABEN: We would like to 23 introduce this as Employee's Exhibit 1.</p>

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<p style="text-align: right;">Page 37</p> <p>1 BY MR. DEBARDELABEN:</p> <p>2 Q. I'm going to show you a memorandum, please,</p> <p>3 sir, and ask you if you've ever seen that</p> <p>4 memorandum before?</p> <p>5 A. Of course I have. I wrote it.</p> <p>6 Q. Yes, sir. And who is it addressed to?</p> <p>7 A. It is addressed to Ms. Pugh.</p> <p>8 Q. And this is January 31, 2020?</p> <p>9 A. Correct.</p> <p>10 Q. Does this tell Ms. Pugh to do certain</p> <p>11 things?</p> <p>12 A. I don't see it as telling Ms. Pugh to do</p> <p>13 anything. I'm advising Ms. Pugh of a situation</p> <p>14 that I was made aware of by the Alabama</p> <p>15 Department of Forensic Science and requesting</p> <p>16 that she do whatever needs to be done to correct</p> <p>17 the issue that was raised, which we were in</p> <p>18 arrears some \$5,000 on DUI funding that is</p> <p>19 supposed to be paid to the Alabama Department of</p> <p>20 Forensic Science to pay for the testing program.</p> <p>21 I don't consider this telling her what to do. I</p> <p>22 asked her to correct the problem.</p> <p>23 Q. But you said if she doesn't do this you're</p>	<p style="text-align: right;">Page 39</p> <p>1 all I have if it's attached to it.</p> <p>2 A. Sir, she was sent the attachment. You</p> <p>3 presented me with this. I didn't present it to</p> <p>4 you.</p> <p>5 Q. Okay. And --</p> <p>6 A. She was given that documentation.</p> <p>7 Q. You wrote her another one dated January the</p> <p>8 25th, didn't you?</p> <p>9 A. I did.</p> <p>10 Q. Again, said, If not, I am fully prepared to</p> <p>11 voice my concern with Mayor Kelly.</p> <p>12 Did you ever -- did you ever file a</p> <p>13 complaint against this lady?</p> <p>14 A. Sir, if you're going to cite my words,</p> <p>15 you're going to cite all of them.</p> <p>16 Q. Did you ever file -- they have it. Did you</p> <p>17 ever file a complaint again this lady?</p> <p>18 A. I have spoken with the mayor several times.</p> <p>19 Have I made a formal complaint in writing to</p> <p>20 Mayor Kelly, no, I have not.</p> <p>21 Q. So at no time can we go to the personnel</p> <p>22 rules and find any type of complaints you make.</p> <p>23 Can you tell me the dates you filed a complaint</p>
<p style="text-align: right;">Page 38</p> <p>1 going to get Mayor Kelly and Judge Ben Pool</p> <p>2 involved, didn't you?</p> <p>3 A. Absolutely.</p> <p>4 Q. You threatened.</p> <p>5 MR. DEBARDELABEN: We'll do this as</p> <p>6 EP 2.</p> <p>7 Q. Now, isn't the judge the head of the court</p> <p>8 system?</p> <p>9 A. Not when it comes to the alcohol testing</p> <p>10 program that I am about to get my machine or our</p> <p>11 instrument taken. This has nothing to do with</p> <p>12 the judge. This has to do with the court</p> <p>13 department submitting fines that are dictated by</p> <p>14 state law.</p> <p>15 Q. And what state law is that, please, sir?</p> <p>16 A. Sir, I can't cite the law to you because I</p> <p>17 don't have the forensic's documentation with me,</p> <p>18 but I can tell you that if you got this e-mail,</p> <p>19 you should have the attachment that came with it</p> <p>20 that cites the law, and the question that I</p> <p>21 asked, and, you know, that there is a fine</p> <p>22 schedule from being --</p> <p>23 Q. Well, you have the e-mail, sir, and this is</p>	<p style="text-align: right;">Page 40</p> <p>1 or talked to Mayor Kelly about this lady?</p> <p>2 A. Sir, the only times that I've had any</p> <p>3 discussions with Mayor Kelly about Ms. Pugh is</p> <p>4 when Ms. Pugh has complained to Mayor Kelly</p> <p>5 about me about these situations that you're</p> <p>6 questioning to me now. I can't give you</p> <p>7 specific dates.</p> <p>8 Q. Right.</p> <p>9 A. The mayor approached me.</p> <p>10 Q. And you can't tell me really because -- did</p> <p>11 you at any time on the meetings you had with</p> <p>12 Mayor Kelly about Ms. Pugh, did you write a</p> <p>13 memorandum of record?</p> <p>14 A. Sir, the memorandums that I have or e-mails</p> <p>15 that I have are what I voiced to Ms. Pugh</p> <p>16 department head to department head. I have</p> <p>17 never tried to complain on Ms. Pugh officially</p> <p>18 to Mayor Kelly. I have made Mayor Kelly aware</p> <p>19 of situations when she and I have spoken or when</p> <p>20 he has asked me questions about complaints that</p> <p>21 she has made in reference to things that I have</p> <p>22 addressed to her. No, I don't have those</p> <p>23 memorandums because it was not my desire.</p>

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<p style="text-align: right;">Page 41</p> <p>1 Q. Okay. And you don't -- you didn't make any 2 and file a complaint about it, did you? 3 A. I just answered the question previously. 4 No, I have not. 5 Q. Okay. Now, you say Ms. Pugh's office is 6 busy? 7 A. More often than not, yes. 8 Q. Pardon me? 9 A. More often than not, yes, it is. 10 Q. So she has a lot of traffic coming in and 11 out of her office and a lot of -- y'all make a 12 lot of cases in Millbrook, don't you? 13 A. Not in her office. A lot of traffic is in 14 and out of the main office where the other two 15 or three magistrates work. 16 Q. And Millbrook Police Department y'all are 17 pretty good. Y'all make a lot of cases, don't 18 you? 19 A. We make a tremendous amount of cases. 20 Q. And they have four employees working that 21 office, don't they? 22 A. At times. 23 Q. Sometimes three?</p>	<p style="text-align: right;">Page 43</p> <p>1 Mr. Jones, Mr. Gay, Mr. Harris, and Ms. Thomas 2 might mean different things? 3 A. It's subjective. I agree with that 4 statement. 5 Q. So in the last three years, how much 6 turnover has there been, to your knowledge, in 7 the clerk's office? 8 A. I can't tell you specifically how many 9 people have left. I know there has been a 10 couple to leave. 11 MR. DEBARDELABEN: You know how many 12 left? 13 MS. PUGH: Do I? 14 MR. GAY: Are you asking her to take 15 the stand? 16 MR. DEBARDELABEN: No. I'm going to 17 ask her in a minute. 18 BY MR. DEBARDELABEN: 19 Q. So you don't know -- 20 MR. GAY: Wait one minute. If you 21 are going to ask her, she needs to stay up 22 there. 23 MR. DEBARDELABEN: I know. I was</p>
<p style="text-align: right;">Page 42</p> <p>1 A. Correct. 2 Q. And I think lately they've had three? 3 A. Correct. 4 Q. And even lately they only have one and a 5 half now; correct? 6 A. You are correct. 7 Q. Because one has -- after Ms. Pugh left, you 8 had one lady that's gone and another lady went 9 to part time; right? 10 A. Correct. 11 Q. And that was after Ms. Pugh left. 12 You were asked about the turnover in the 13 clerk's office. Do y'all have a lot of turnover 14 in the police department? 15 A. Police in general have turnover, yes. 16 Q. Right. And so it's not anything unusual 17 for a department to have turnover? 18 A. It's not unusual for any profession to have 19 turnover, but there's been a tremendous amount 20 of turnover in that office. 21 Q. Well, when you say tremendous amount, sir, 22 tremendous amount to me and tremendous amount to 23 you and tremendous amount to Mr. Hodge,</p>	<p style="text-align: right;">Page 44</p> <p>1 asking her to tell me so I can ask them. 2 MR. GAY: It's on recording. 3 BY MR. DEBARDELABEN: 4 Q. Now, do you know what all -- when you 5 complained to Ms. -- about what Ms. Pugh was 6 doing. I noticed some of it you were 7 complaining in her role as magistrate or was all 8 of it in her role as magistrate or was some of 9 it in her role as court clerk? 10 A. She is the chief magistrate. She is over 11 the court. Any conversation I had to deal with 12 her dealt with the court department 13 specifically. 14 Q. Do you realize that the court clerk and the 15 magistrate have -- are set out duties 16 separately? 17 A. I'm aware of that. 18 Q. Sir? 19 A. I am aware of that. 20 Q. And that's what I was asking you. Were you 21 complaining about her job as court clerk or her 22 job as magistrate? 23 A. Both.</p>

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<p style="text-align: right;">Page 45</p> <p>1 Q. Okay. Now, isn't it the magistrate's duty 2 to make sure when they issue a warrant that 3 there's proper probable cause to issue that 4 warrant? 5 A. More so on warrants but on complaints, yes, 6 the elements of the crime must be met. 7 Q. And it's her duty to ascertain as best she 8 can if the elements of a crime are met; correct? 9 A. Yes, sir. And when it's in black and white 10 it's there. 11 Q. And if she does her job good, that protects 12 a police officer from a false arrest and a bad 13 warrant, doesn't it? 14 A. Not on pro arrests, no, it doesn't. 15 Q. It doesn't protect the police officers? 16 A. Not on pro arrest. If the person is 17 already -- if the arrest has been affected, no. 18 Q. But it protects them if they have to have a 19 warrant before they can go out and arrest? 20 A. Well, you don't have to have a warrant on 21 pro arrest. You're -- 22 Q. All of your arrests aren't pro -- what are 23 you saying pro?</p>	<p style="text-align: right;">Page 47</p> <p>1 did and you're giving me general answers. You 2 can't tell me the date, the time, the place so 3 we can go back and pull it and be sure and see 4 what you're doing. You've giving us general 5 answers. So what I'm asking can you give me a 6 date? Can you give me a time? Can you give me 7 a name? Can you give me something so it's just 8 not hearsay? 9 A. Sir, I can tell you that there have been 10 numerous instances. For instance, she has a 11 problem with officer discretion. I -- and if I 12 need to get the officer in here, I'll get the 13 officer in here. 14 But we had a situation where a robbery had 15 occurred. We responded to a robbery. Myself 16 and the assistant chief and the officers that 17 were available responded to a robbery in 18 progress. We made a traffic stop on the vehicle 19 matching the description of what was supposed to 20 be the robbery suspect. When we made contact 21 with the individual, we rapidly ascertained that 22 the individual that we had detained was not, in 23 fact, the person that executed the robbery.</p>
<p style="text-align: right;">Page 46</p> <p>1 A. On view, sir. If you commit a crime in 2 front of me, I don't need a warrant. I'll put 3 you in jail right here right now. That's what 4 I'm talking about. 5 Q. Right. But one that didn't happen in front 6 of you you have to have a warrant, don't you? 7 A. Correct. 8 Q. So when you're complaining about Ms. Pugh's 9 being in her magistrate duties, are you talking 10 about issuing warrants for arrests or coming in 11 and having the warrant filled out? 12 A. No. I'm talking about signing off on 13 complaints on arrests that have been made. 14 Q. And shouldn't she make sure that they have 15 the right documentation in them? 16 A. And the documentation in the instances that 17 I'm speaking of were there. 18 Q. Okay. Do you have those instances that you 19 can tell us about? 20 A. Sir, I don't have any paperwork in front of 21 me specifically, but I can cite several. 22 Q. Well, sir, my problem is -- and I'm not 23 trying to be -- I'm trying to find out what she</p>	<p style="text-align: right;">Page 48</p> <p>1 However, during our detaining of that 2 individual, he was found to be very much 3 intoxicated. Due to the fact that we were 4 responding to a priority crime, we had two 5 problems. I've got a robber in the area that 6 we're trying to locate; I've got an individual 7 that is intoxicated. I can't let him go because 8 he is a danger to himself and others. We made a 9 decision to place that individual under arrest 10 for public intoxication. He was in a public 11 place. He was intoxicated. Ms. Pugh wanted to 12 question and refused to sign off on the 13 paperwork based on the fact that the individual 14 in her opinion should have been charged with 15 DUI. Officer discretion. We made an arrest for 16 a lesser offense, took care of the problem, and 17 got back on the street looking for a robbery 18 suspect. Those are the type of examples that 19 I'm talking about. 20 Q. Well, I understand Ms. Pugh's concern about 21 that. 22 A. I understand it too, but that's not her 23 role.</p>

<p style="text-align: right;">Page 49</p> <p>1 Q. I understand why she did it. Can you give 2 me a date, time, and place that happened so we 3 can check it? 4 A. Sir, I can tell you that the traffic stop 5 was made in the area of the ABC Store on Highway 6 14 approximately maybe five -- four or five 7 years ago. I can't give you an exact date. 8 Q. This was four or five years ago? 9 A. Sir, that's just one example. You asked 10 for an example. 11 Q. Yes, sir. Have you got anything that you 12 can tell me that happened since -- were you 13 aware that she had been found to do her job 14 properly during all of this period of time? 15 A. Sir, I'm not aware of anything contained in 16 her personnel files. I don't view them. 17 Q. Okay. I think the -- it would be achieved 18 standards. You say that happened in 20 -- 19 A. Approximately. I can't recall. I can't 20 tell you exactly what date it was. 21 Q. 2015? 22 A. Approximately. 23 Q. Well, did you know all of her performance</p>	<p style="text-align: right;">Page 51</p> <p>1 I received from the State of Alabama Department 2 of Forensic Science Implied Consent Division in 3 reference to the possibility of the City of 4 Millbrook and the Millbrook Police Department 5 losing their breath testing instrument and 6 therefore the ability to test people's breath 7 for alcohol in the presence of the DUI or 8 post-accident or anything that would require a 9 breath alcohol test. I merely brought to her 10 attention that it was brought to my attention 11 that the court department, which is her 12 responsibility, had not, in fact, submitted the 13 funds that they believe based on the amount of 14 DUI arrests that we had made that should have 15 been made to them, and that was my only 16 inference in that. 17 The other e-mail that he made reference to 18 on the 25th of January, which was the second 19 e-mail because she failed to respond to the 20 first e-mail that I sent her on the January 21 22nd, outlined two incidents. The first being 22 that she took it upon herself to complain to the 23 judge about my officers failing to do what they</p>
<p style="text-align: right;">Page 50</p> <p>1 appraisals since that time have either been 2 excellent or good? 3 A. I previously answered the question. I'm 4 not aware of her personnel file. 5 MR. DEBARDELABEN: That's all. 6 REEXAMINATION 7 BY MR. COURTNEY: 8 Q. Chief, you got cut off on a couple of 9 answers. Are there any answers that you would 10 like to complete to any of the questions that 11 Ms. DeBardelaben posed to you? 12 A. On the e-mails that Mr. DeBardelaben asked 13 me to view -- I don't think when I end an e-mail 14 with the phrase: I will extend you the courtesy 15 as a department head by giving you an 16 opportunity to handle this without involving 17 Mayor Kelly or Judge Pool. That stated I will 18 not have any recourse but to involve both should 19 this matter not be resolved. I don't consider 20 that a threat, and I certainly don't consider 21 asking her to correct a problem, which I 22 outlined in this e-mail, which is fairly 23 lengthy, which was in response to an e-mail that</p>	<p style="text-align: right;">Page 52</p> <p>1 were required to do and signing and attesting to 2 tickets and swearing out to complaints. She 3 made the judge aware without making any attempt 4 to speak with me or anyone on my command staff. 5 That was not only a failure to communicate, it 6 was totally disrespectful and lack of 7 professionalism on her part as far as I am 8 concerned. I merely made that assessment to her 9 and asked her in the future moving forward to 10 consult with me or someone on my command staff 11 if she had any concerns or my officers had 12 failed to do anything that they needed to do. 13 The second issue that I outlined very 14 simply addressed the inability or the lack of 15 access that we had the magistrates to be able to 16 do what she was complaining about in the first 17 place, which was sign on our complaints and 18 attest to things. We have to have a magistrate 19 present to do that. There's not one here at 20 6:00. And I can assure you I cannot speak for 21 the mayor or not the city council or the chief 22 financial officer, but I think it's a whole lost 23 easier and financially feasible to pay one</p>

<p style="text-align: right;">Page 53</p> <p>1 magistrate to be available to do that versus</p> <p>2 paying 15 or 20 police officers to come in here</p> <p>3 on their off time at two hours per officer.</p> <p>4 You're talking about one hour worth of overtime</p> <p>5 versus 20. That makes no sense. And all I did</p> <p>6 was point that out to her.</p> <p>7 Q. Very good. I'm going to ask you for a</p> <p>8 quick point of clarification for the council.</p> <p>9 Would you describe for the council the</p> <p>10 difference between an officer in the field</p> <p>11 finding probable cause for an arrest versus a</p> <p>12 magistrate finding probable cause for the</p> <p>13 issuance of a warrant?</p> <p>14 MR. DEBARDELABEN: I'm going to</p> <p>15 object.</p> <p>16 MR. GAY: You will have your moment,</p> <p>17 sir. Everybody is going to have equal time.</p> <p>18 Go head and please proceed.</p> <p>19 THE WITNESS: A magistrate -- and</p> <p>20 with all due respect to your profession and</p> <p>21 Mr. DeBardelaben, a magistrate -- despite the</p> <p>22 fact that they have had training, and lawyers</p> <p>23 y'all do not walk around with Title 13 or</p>	<p style="text-align: right;">Page 55</p> <p>1 crime, the police officer has to know those</p> <p>2 elements and be able to make a determination.</p> <p>3 Boots on the ground within a matter of minutes,</p> <p>4 whether or not to make an arrest or whether or</p> <p>5 not a warrant is going to have to be</p> <p>6 ascertained. Magistrates and lawyers don't</p> <p>7 walk around with that positioned in their head.</p> <p>8 I'm not saying they're not professional. I'm</p> <p>9 not saying they don't know the law. They don't</p> <p>10 know it like police officers have to know it.</p> <p>11 BY MR. COURTNEY:</p> <p>12 Q. Mr. DeBardelaben asked you some questions</p> <p>13 about bail in general, that kind of thing. Are</p> <p>14 you aware of any issues regarding bond</p> <p>15 forfeitures and how any current practice or</p> <p>16 formal practice when Ms. Pugh was in her</p> <p>17 position has any of those practices caused your</p> <p>18 department any issue?</p> <p>19 A. I can speak to bond forfeitures as far as</p> <p>20 bonding companies and those type of things and</p> <p>21 property bonds. To my knowledge, in the 25-plus</p> <p>22 years that I have been here, I don't think the</p> <p>23 City of Millbrook has ever forfeited on a bond</p>
<p style="text-align: right;">Page 54</p> <p>1 whatever law that you practice in your head.</p> <p>2 You have a case, you research that case, you</p> <p>3 look it up in a book, or you look it up on the</p> <p>4 computer and you make reference to it, and</p> <p>5 that's how you do your research and that's how</p> <p>6 you practice law and make your determination.</p> <p>7 A police officer has to be familiar enough with</p> <p>8 the law to know the elements of the crime.</p> <p>9 I'll use theft of property third, for example,</p> <p>10 or fourth. We have shoplifting that occurs on</p> <p>11 a daily basis at Walmart or other stores. I</p> <p>12 won't just pick on Walmart. If a police</p> <p>13 officer responds to a call and he understands</p> <p>14 that an amount of money has been taken, and the</p> <p>15 amount of money is below \$500, he knows those</p> <p>16 elements and he knows if he views that crime or</p> <p>17 has probable cause to believe that crime has</p> <p>18 been committed and he has a complaint he can</p> <p>19 make an arrest. Domestic violations situation,</p> <p>20 if a police officer responds to a home and a</p> <p>21 man and a woman or family member have engaged</p> <p>22 in some type of violence or violent behavior</p> <p>23 against each other and the elements of the</p>	<p style="text-align: right;">Page 56</p> <p>1 that was made either through a bonding company</p> <p>2 or on a property bond. Now, I do believe that</p> <p>3 on cash bonds and instances where we have</p> <p>4 physical contact and have possession of an</p> <p>5 individual's cash bond, and they don't do as</p> <p>6 directed by their bond, and they fail to appear</p> <p>7 in court, I do believe that we have seized that</p> <p>8 money in those cases.</p> <p>9 I can tell you that I've had issues with</p> <p>10 the court department on bonds in the past. We</p> <p>11 have had some issues with security as far as</p> <p>12 cash money being secured on the premise of which</p> <p>13 we finally remedied by getting a safe that was</p> <p>14 basically impossible to enter. The only people</p> <p>15 that have the code to that safe is the court</p> <p>16 department and they retrieve that money, but</p> <p>17 there was a period of time when -- because of</p> <p>18 security issues that I had my officers</p> <p>19 discontinue taking cash bonds for lack of</p> <p>20 security, and the court had to do that and we</p> <p>21 had some issues with that.</p> <p>22 I want to revisit one thing that was</p> <p>23 addressed earlier about this bond schedule. The</p>

<p style="text-align: right;">Page 57</p> <p>1 bond schedule that Mr. DeBardelaben handed me is</p> <p>2 the same bond schedule that has been in</p> <p>3 existence in this police department basically</p> <p>4 the 25 years that I have been here. It may have</p> <p>5 been amended as far as increasing some of the</p> <p>6 bonds from 500 to 1,000 on drug charges and</p> <p>7 things of that nature. But before this bond</p> <p>8 schedule was approved to go back to regular and</p> <p>9 quit -- what we were doing prior to my</p> <p>10 memorandum is basically what we call catch and</p> <p>11 release. If we had an individual that was</p> <p>12 arrested for a crime, it doesn't matter what</p> <p>13 kind of crime it was, unless it was DUI or</p> <p>14 domestic violence, which by law you are required</p> <p>15 to sit for 24 hours for what is called a</p> <p>16 cooling-off period, or an individual is</p> <p>17 intoxicated or under the influence of some type</p> <p>18 of narcotic to the extent that they were a</p> <p>19 danger to themselves and others, unless you met</p> <p>20 those two criteria, if we arrested you, you went</p> <p>21 in the front door and out the back door.</p> <p>22 When I had the conversation with Judge</p> <p>23 Bright, I asked Judge Bright if enough time had</p>	<p style="text-align: right;">Page 59</p> <p>1 issued that you're saying expired on April 16,</p> <p>2 2020, wasn't it?</p> <p>3 A. Sir, I can't recall when that order was</p> <p>4 issued. I stand by my previous statement of how</p> <p>5 this memo came to be and the discussion that I</p> <p>6 had with the judge.</p> <p>7 Q. Well, I'm confused because I don't know how</p> <p>8 Judge Pool's order expired. Now you're saying</p> <p>9 that Judge Bright said it was expired, and I'm</p> <p>10 just confused how you got to this point when we</p> <p>11 have nothing here that tells us, and it appears</p> <p>12 to be the police department directing the court</p> <p>13 system.</p> <p>14 A. I believe that's an inference you're trying</p> <p>15 to make, sir, but, no.</p> <p>16 Q. Do you get a yearly evaluation?</p> <p>17 A. I do.</p> <p>18 Q. What's the purpose of that yearly</p> <p>19 evaluation?</p> <p>20 A. The purpose of the yearly evaluation is to</p> <p>21 evaluate the employee's job performance.</p> <p>22 Q. Should you be able to depend on that yearly</p> <p>23 evaluation?</p>
<p style="text-align: right;">Page 58</p> <p>1 went by -- we had been given the clear by the</p> <p>2 Elmore County Jail and Sheriff Bill Franklin</p> <p>3 that they were going to release restrictions in</p> <p>4 the jail and we were able to incarcerate people</p> <p>5 and hold people where we had not otherwise been</p> <p>6 able to due to COVID. Judge Bright reviewed the</p> <p>7 Judge's order and she told me in her opinion</p> <p>8 that it had expired and by all means go back to</p> <p>9 what we had been doing prior to the COVID</p> <p>10 restrictions.</p> <p>11 MR. COURTNEY: Thank you. I don't</p> <p>12 have anything further.</p> <p>13 Mr. DeBardelaben, do you have</p> <p>14 anything further for the chief?</p> <p>15 REEXAMINATION</p> <p>16 BY MR. COURTNEY:</p> <p>17 Q. Are you aware when Southern Poverty Law</p> <p>18 Center was reviewing the municipal court and</p> <p>19 Judge Pool issued a bond order based on his</p> <p>20 agreement with Southern Poverty Law Center?</p> <p>21 A. I am familiar with the Judge's order.</p> <p>22 Q. And that was after this order you referred</p> <p>23 to here, wasn't it? That was after the order he</p>	<p style="text-align: right;">Page 60</p> <p>1 A. In my opinion, I would think, yes.</p> <p>2 Q. And when you get a yearly evaluation, do</p> <p>3 you self-evaluate?</p> <p>4 A. Sir?</p> <p>5 Q. Do you do what they call self-evaluate</p> <p>6 since you're a department head?</p> <p>7 A. I have.</p> <p>8 Q. And the mayor goes over it?</p> <p>9 A. He does.</p> <p>10 Q. And he can change it if he doesn't agree</p> <p>11 with it?</p> <p>12 A. I don't believe that he has but he has the</p> <p>13 ability to, absolutely.</p> <p>14 Q. Yes, sir. And so it says you're telling</p> <p>15 the mayor, Mr. Mayor, this is the kind of job I</p> <p>16 thought I done. If you agree with it, sign off</p> <p>17 on it; if you don't, you make changes. That's</p> <p>18 the way you present it to him, isn't it?</p> <p>19 A. Sir, I do what I'm instructed to do and</p> <p>20 what happens after that I couldn't tell you.</p> <p>21 Q. When you do the self-evaluation, do you</p> <p>22 turn it in to the personnel director, human</p> <p>23 resources, or do you turn it in to the mayor?</p>

<p style="text-align: right;">Page 61</p> <p>1 A. Everything that comes from my department is 2 forwarded to City Hall and disseminated as 3 needed. 4 Q. So who do you forward it to at City Hall? 5 A. It might be the city clerk. It could be 6 the HR director. In that case, normally it 7 would be the HR director. It could be the city 8 clerk. 9 Q. Okay. So the annual report goes through 10 the HR director to the mayor? 11 A. To the best of my knowledge, yes. I can't 12 tell you how the inner workings of City Hall, 13 but I would believe that to be correct. 14 Q. But as you're standing there, and I think 15 you should -- you depend on -- if you're doing 16 something wrong or not right, you depend on the 17 mayor to say, Look, Chief, you need to correct 18 this, don't you? 19 A. I've had no problems with the mayor having 20 to correct me, but I believe he would if I was 21 needed. 22 Q. And if he says you're doing okay, doing a 23 good job, good, I'll keep on doing what I'm</p>	<p style="text-align: right;">Page 63</p> <p>1 council a bit about your experience before you 2 became city court judge here in Millbrook. 3 A. Okay. I spent 25 years on the district 4 court bench in Montgomery County. District 5 court bench is criminal jurisdiction. It's very 6 similar to municipal court with misdemeanors, 7 traffic court. We also had civil jurisdiction 8 in addition to that, and I had limited 9 jurisdiction in felony cases to do preliminary 10 hearings, bond settings, and so forth. 11 Since my retirement from the district court 12 bench, I have filled in a couple of times by 13 request of special appointment for other judges. 14 I had the distinct opportunity to sit on the 15 Alabama Supreme Court to hear an appeal that all 16 the judges had recused on. There were several 17 district court judges and circuit court judges 18 appointed to do that. 19 And during my time on the bench in 20 Montgomery, I was assigned as a special circuit 21 judge to do matters of domestic relations, and I 22 served in multiple counties to fill in for 23 judges who were out on leave for illness or</p>
<p style="text-align: right;">Page 62</p> <p>1 doing; correct? 2 A. Sir, again, I've had no cause to be 3 reprimand by the mayor, but I would assume that 4 to be correct, yes. 5 MR. DEBARDELABEN: Okay. That's 6 all. 7 MR. COURTNEY: I don't have anything 8 further for the Chief. 9 MR. GAY: You may be excused. 10 Will you call your next 11 witnesses? 12 MR. COURTNEY: I call Judge Lynn 13 Bright. 14 JUDGE LYNN BRIGHT, 15 the witness, having previously been 16 sworn, testified as follows: 17 EXAMINATION 18 BY MR. COURTNEY: 19 Q. Good evening, Judge. 20 A. Good evening. 21 Q. You're Judge Lynn Bright? 22 A. I am. 23 Q. Okay. And if you would please tell the</p>	<p style="text-align: right;">Page 64</p> <p>1 whatever, but I served around the state in 2 multiple courts doing that. 3 Q. Okay. With all of that experience, did the 4 State use that experience in training others 5 that may come into the court system? 6 A. Yes. The vast majority of my time on the 7 bench I had the opportunity to train every new 8 district court judge that came into service in 9 Alabama. If it was after an election, I would 10 train through courses. I would teach the 11 courses every time on DUI, traffic court, 12 criminal procedure, and then at other times, I would 13 be asked to train in other -- in other courses. 14 If a new district judge was appointed off season 15 -- in other words, it wasn't by election but the 16 governor appointed, Alabama Administrative 17 Office of Courts would generally send them to me 18 to spend a week or two just following me around 19 and learning on the job. 20 Q. Very good. When you came to the City of 21 Millbrook and you came to the clerk's office 22 here -- the court office here, describe please</p>

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<p style="text-align: right;">Page 65</p> <p>1 for the council your impressions of what you 2 saw. 3 A. I will say this: I knew before I arrived 4 that municipal courts are going to be a little 5 bit different in that they're not going to have 6 the resources. So often their judges are 7 attorneys who practice law full-time and will 8 serve under contract with the municipality to be 9 a judge, so they might not have ever been 10 through the training, might not have ever served 11 in a system that has all the resources we did at 12 the state. I kind of liken it to we at the 13 state court could be compared to the federal 14 court and find that we're not quite as resourced 15 and capable probably. Same thing with municipal 16 courts. They're just generally not going to 17 have resources, or they may not even be aware of 18 the resources that are available through the 19 Administrative Office of Court for training. I 20 expected to find it different, and I did. 21 Q. Okay. And regardless of the resources -- 22 I'll get right to it. Basic skills and 23 abilities of Ms. Tammy Pugh in that department,</p>	<p style="text-align: right;">Page 67</p> <p>1 case and we might not have the file, and it 2 would slow court down. Quite honestly it would 3 be -- quite honest it was embarrassing for me, 4 but it was embarrassing for me on behalf of the 5 City of Millbrook. I knew we could do better. 6 I knew Millbrook deserved a better court than 7 how we were operating. 8 And I want to say this in defense of 9 Ms. Pugh. I understood that things had been 10 different with Judge Pool, and I want to say 11 this: I have the absolute, upmost respect for 12 my long-time friend Ben Pool, and I'm not trying 13 to speak in any way disparagingly against him, 14 but he just operated different. For one example 15 one of the most principles of judging is that 16 every person who is sentenced gets a sentencing 17 order. Every person who comes in your court, 18 unless they have completely concluded that case 19 that day by a traffic ticket walked out and 20 paid, no jail sentence. Those people don't get 21 on order, but everybody else should either get a 22 payment order or they should get, if they have 23 been sentenced to jail, a sentencing order. I</p>
<p style="text-align: right;">Page 66</p> <p>1 what did you observe? 2 A. I think the first thing I noticed when I 3 arrived was that there was tremendous amount of 4 disorganization. Some good people working in 5 that court who had a good work ethic, and I 6 assumed that of Ms. Pugh when I got there and 7 found that in certain circumstances she was 8 certainly doing portions of her job. What I 9 found, though, was a lack of leadership and it 10 just seemed like it was so unclear who was to do 11 what, who was to handle the traffic tickets, who 12 was to take care of closing out the files after 13 court. I think that was probably one of the 14 biggest problems. When I physically walked into 15 the offices there, there were stacks of files 16 around almost everybody's desk, and then when I 17 walked into Ms. Pugh's office, it was ridiculous 18 the number of stacks of files and returned mail 19 that had gone out to bad addresses just come 20 back and put in boxes. Stacks and stacks and 21 stacks everywhere. 22 Well, how that effected court was that I 23 would be sitting there on the bench and call a</p>	<p style="text-align: right;">Page 68</p> <p>1 learned that they had not been doing any order, 2 and I don't blame anybody on the clerk's staff 3 for that. It's just the way it was, and I 4 understood that. And here I came in expecting 5 it to be done the way not only I had done it, 6 but all the judges I had known had done it over 7 the years. I said, We got to have orders, 8 y'all. We got to have orders. 9 So the first day I was in court I literally 10 at home typed my own orders -- fill-in the blank 11 -- and wrote it in the amount of the fine; if 12 there was a jail sentence, wrote that in; sent 13 somebody out to get it copied and bring it back 14 in. It was very burdensome to do it that way, 15 but I knew I wasn't going to do court without 16 issuing proper orders. 17 To give you an example, one of the reasons 18 you have to do that is if you got a DUI and you 19 sentence somebody to six months, a year in jail, 20 whatever you want to give them, to serve no time 21 or to serve a portion of the time, at some 22 point, they're going to be on probation, and 23 while they're on probation, there's certain</p>

<p style="text-align: right;">Page 69</p> <p>1 requirements. The law requires they go to the 2 court referral program. You know, that they not 3 be drinking while they're a part of the court 4 referral program, that they not be arrested on a 5 new DUI, that they not be arrested for driving 6 revoked when they were revoked from the DUI. 7 These are the kind of things that over the years 8 requiring people to go to the court referral 9 program really allowed me as a judge and me and 10 my fellow judges to make a difference in 11 people's lives, to help people get sober. It's 12 the one thing that a judge can do that the 13 family can't do, the employers can't do, anyway. 14 Long story short, unless you have a written 15 order, you cannot violate that person's 16 probation. You cannot make a finding that they 17 had violated probation because they were never 18 given an order that had those requirements in 19 them. Due process as Mr. DeBardelaben has 20 talked about. So that order that had to be 21 given to the defendant, me coming in and saying, 22 Y'all, we're doing it with orders, we got to do 23 it the right way, really caused a lot of</p>	<p style="text-align: right;">Page 71</p> <p>1 leave the courtroom to go find it, and we would 2 have to send back and see if Tammy was still 3 here and see if she could go and try to find it 4 because whoever was back there taking money and 5 working the window they couldn't stop their job 6 to do that. So that kind of confusion was 7 coming from the way the whole office was 8 disorganized, and it didn't take me long to 9 figure out that it was. I just couldn't 10 understand why. 11 I came in at the beginning of the dockets 12 being started back after COVID. Once again, all 13 fairness in that COVID has caused a lot of 14 changes in the office. So I kept hearing Tammy 15 tell me, Well, before COVID we did this, before 16 COVID we did this, before COVID we did this, and 17 COVID has got us where we can't do this. And so 18 I said, Well, why are these files sitting here, 19 and I would find out that some of the stacks of 20 files were literally the ones that had come out 21 of this courtroom after court and had not been 22 processed, and it was weeks -- often times weeks 23 before the entry that I made in court or the</p>
<p style="text-align: right;">Page 70</p> <p>1 confusion, and I know this was difficult on 2 Tammy, and I know it was difficult on her staff. 3 So when we talk about things that Judge Bright 4 did that changed things that was probably the 5 most difficult for them to sort of move into. 6 We've gotten it. We're doing it right now. Kim 7 sits in court with me, and we got those orders 8 out, but it was difficult getting there. 9 Back to the situation though. As I stepped 10 into Ms. Pugh's office, stepped out into the 11 lobby, all I can think to myself is what are all 12 these files doing here and then I -- it was a 13 result of those stacks of files that when one 14 missing when we were in court it couldn't be 15 found. It could -- often times could not even 16 be found that night, and I'm looking at somebody 17 who has come to court. Every once in a while 18 they might have their paperwork with them where 19 they were charged, but I couldn't do their case. 20 Or if an attorney or someone had filed something 21 in a file, it wouldn't be there often, and so 22 the whole court procedure stops while somebody 23 -- and Kim can't leave the courtroom, I can't</p>	<p style="text-align: right;">Page 72</p> <p>1 order that I made in court ever got into a file, 2 ever got into the computer system. It was -- it 3 was just a horrible lag. 4 I also learned from Tammy that those 5 dockets that had been cancelled in the spring 6 time most of them had not been set. And I would 7 have people standing in front of me with a 8 traffic ticket that they had gotten recently and 9 it had been scheduled for that date and also 10 learn that they had a traffic ticket back during 11 the cancelled dockets and haven't even got a new 12 court date for it. I know for a fact it was a 13 good six months after I got here before the 14 cancelled dockets from COVID got rescheduled. 15 And in doing that there were a huge number of 16 mistakes. You can look in any of our files from 17 that period of time and you will see court date 18 change, court date change, court date change, 19 and there would be no explanation in the file 20 for me to understand why it was changed all of 21 those times, and I kept asking Tammy what's the 22 problem -- what's the problem here. I have 23 never had words with Tammy. She and I got along</p>

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<p style="text-align: right;">Page 73</p> <p>1 fine. I just kept saying, Tammy, we've got to 2 do something about this. We got to change it. 3 Finally, I figured I'll go find out how 4 they do it elsewhere, so I went over to 5 Prattville, and from the moment I walked into 6 that office, I knew that there was a huge 7 difference in what was going on over there and 8 what was going on over here. And I was so 9 impressed with the team work, with the spirit in 10 that office, with the -- it was like a Singer 11 sewing machine. Everybody knew what they were 12 supposed to be doing. I watched court for a 13 while. It moved without any problems. That 14 judge never was missing a file. And the judge 15 would send them out the door, they picked up 16 their order -- he gave orders to. Their orders 17 at the window. They were processed through 18 their system. And so that excited me. I was so 19 thrilled to see that it was -- that it could be 20 done, so I came back and talked with Tammy. 21 Oh. Well, let me say this too: Charlotte, 22 who is the chief clerk there, told me that COVID 23 had given them the opportunity to have the time</p>	<p style="text-align: right;">Page 75</p> <p>1 the responses were not impolite, not 2 disrespectful, just as though she wasn't 3 comprehending that they even had a problem here, 4 much less that there needed to be a whole lot to 5 do to correct it. 6 I asked her to please go over and watch 7 court in Prattville. Please go over and see, 8 and I said, If you see, you'll see what I'm 9 talking. Well, she never made it over for court 10 even though they had scheduled her to be there 11 or she scheduled and cancelled, scheduled and 12 cancelled, but she did go over and meet with 13 Charlotte for a little bit and spent some time 14 over there. Charlotte talked with me after. 15 She said, I think she's really starting to see 16 and understand, you know, so I thought well, 17 maybe this is going to help. It really didn't. 18 And we have come along way. I'm going to 19 say that. Even the time Tammy was there we have 20 come along way. We have figured out -- we 21 worked with the current software in Millbrook to 22 get my orders in there so that they can be put 23 out. Kim is able to sit by me now and get the</p>
<p style="text-align: right;">Page 74</p> <p>1 to polish up the procedures, things that they 2 have not had maybe time to get around to, the 3 little details that made the whole deal better 4 because all of those cancelled dockets happened. 5 They actually caught up and got ahead. And 6 every time they had to cancel a docket for 7 COVID, they immediately reset it for some time 8 in the future even though that meant that if 9 COVID continued they might have to reschedule it 10 again. They did that. And they just stayed 11 right on top of it. 12 I come back over here and try and tell 13 Tammy. I said, Tammy, this -- it can be done. 14 We got to figure out how. I've never worked in 15 a clerk's office. I've been around one a lot, 16 but I've never worked in one, and I'm certainly 17 not familiar with the program that was being 18 used here -- the computer program software, so I 19 -- and I also knew I was working under contract 20 for the City of Millbrook. I was not her direct 21 boss in the sense that I was going to come in 22 and start barking orders at her. I just kept 23 saying, Tammy, can we not get this done. And</p>	<p style="text-align: right;">Page 76</p> <p>1 job done. I believe that once the files are 2 getting back to the office that they are getting 3 -- finally processed. They have to -- somebody 4 is still going to have to deal with that file 5 when it gets back to the office. And what was 6 happening when I got there was they were just 7 sitting in stacks. Now, I believe that within a 8 matter of days and -- at least a week or so -- 9 that those files are inputted into the system, 10 make sure everything is correct, close them out, 11 and do what needs to be done. So we have come a 12 long way, but it was absolutely shocking where 13 it was at that time. 14 One of the things when I walked into 15 Prattville is they had this fantastic shelving 16 system that went all the way down the wall where 17 every court date you could find all the files 18 that were there. The trial files -- the ones 19 that had been set for trial -- were in a 20 separate area, but all of the cases were set by 21 court date. And, of course, they used numbers 22 because they were on a different system, and the 23 clerks have convinced me that doing it</p>

<p style="text-align: right;">Page 77</p> <p>1 alphabetically by date is just as good, and I'm 2 fine with that, but there was a period of time 3 when we tried to the change that. I came back 4 and said, Tammy, can we order some of these -- I 5 talked to the mayor. He approved me ordering 6 the filing system. I said, Can we order these 7 where you can find the files. They were 8 cramming them into an old filing cabinet. Just, 9 you know, packing it in, so I think that's one 10 of reasons that the files got stacked up because 11 it was such a chore to leave your desk, take 12 those files around, and stick them back in that 13 old filling cabinet instead of walking up to an 14 open system where you can just stick it in by 15 date and find them when you needed them. It is 16 so much better now. I have my files in court, 17 and, you know, with this system being an 18 established -- 19 And I know you've not asked me a question, 20 but if I could address the issue that after 21 coming back from Prattville and not seeing that 22 things were changing a lot, I went to the mayor 23 and said, We need somebody. I don't know, and I</p>	<p style="text-align: right;">Page 79</p> <p>1 whole lot better. 2 With regard to Ms. Pugh, I don't think she 3 was at all happy that Ms. Waits came, but she 4 was kind to her. But I think there was a quiet 5 resistance. I was told by -- I was told by 6 someone in the office that she had indicated 7 that when Becky was gone it was going to go back 8 the way -- the way it used to be and that is 9 something that was said to me. I don't know if, 10 in fact, she said it, so I don't want to play 11 that on her. But I felt like there was a little 12 resistance. She didn't want it to be changed. 13 She had wanted it to be done the way it had 14 always been done. 15 So, yes, I brought some changes in. The 16 law requires the changes that I brought in, and 17 I also tried my best -- not with me telling them 18 how you do it, but trying to find somebody that 19 could show Tammy how to provide the leadership 20 there. And the number one problem I ever had 21 with Tammy Pugh is the complacency, what seemed 22 to be an inability to even understand how bad it 23 was, and when I would try to say, Tammy, could</p>
<p style="text-align: right;">Page 78</p> <p>1 don't want to act like I do know, how to tell 2 them to do intricate details of their job. I'm 3 not going to do that. So I asked him -- I said, 4 I know someone that -- AOC -- I called the 5 Administrative Office of Courts and talked with 6 the different people there and said, Do you have 7 people that can come in and help show Tammy -- I 8 didn't call her by name, but show our clerk how 9 to work some of these things out so we can get 10 some organization in there, and they said, Well, 11 there's probably some people that will be 12 available and they mentioned Becky Waits. Becky 13 used to be the deputy clerk of the Circuit Court 14 in Montgomery for a number of years. She was 15 right under the elected clerk. And so we 16 entered into -- y'all were kind enough to allow 17 a contract to be entered into, and she came for 18 two or three months, I believe, and we developed 19 that filing system. She walked around that 20 office and said what are these files, what are 21 these files. Y'all, we got to get them done. 22 Work towards getting some procedures that kept 23 this backlog from happening and it really got a</p>	<p style="text-align: right;">Page 80</p> <p>1 we please do this, her telling me that's not the 2 way we've done it, and she often times would 3 apologize for -- because she had been to 4 trainings where they would -- she told me that 5 she would go to trainings, learn things, come 6 back, and it wasn't the way it was being done 7 before I got there, and I understood that and I 8 felt for her in that. Because all of a sudden 9 here I come in and I want it done by the law. I 10 want it to be done the way as a judge I have 11 been trained, as I have trained other judges, as 12 they train the magistrates through the 13 Administrative Office of Courts, and it was 14 overwhelming for her, and I think that's a word 15 that I would use very clearly for Tammy Pugh. 16 She seemed overwhelmed with what she was 17 supposed to understand and what she was supposed 18 to do, and I think because of that the staff 19 suffered in not understanding -- you know, not 20 getting the proper training, not getting the 21 proper leadership, just a pure lack of 22 leadership. Those are my thoughts. Sorry. 23 Q. Well, I have a few more questions for you.</p>

<p style="text-align: right;">Page 81</p> <p>1 A. Okay.</p> <p>2 Q. You mentioned telling Ms. Pugh about some</p> <p>3 things that needed to be done. Did you ever</p> <p>4 specify any time-sensitive issues, and did you</p> <p>5 have any trouble with time-sensitive issues with</p> <p>6 her specifically?</p> <p>7 A. What I often experienced with Tammy is that</p> <p>8 -- and I wished so much over the years -- the</p> <p>9 couple of years almost that I've been there, I</p> <p>10 wish I had dealt with e-mails more instead of</p> <p>11 telling her personally. You know, just one on</p> <p>12 one I would say, Tammy, we need to do this, and</p> <p>13 she wouldn't disagree with me. It's just that</p> <p>14 I'd come back the next week or I would see her</p> <p>15 and no progress whatsoever on it.</p> <p>16 And I asked her about the bond forfeitures,</p> <p>17 and I was so surprised that there were not any</p> <p>18 real bond forfeitures. If you're a bonding</p> <p>19 company in Millbrook, you take somebody's money</p> <p>20 to sign on their bond that if they don't show up</p> <p>21 in court you, as a bonding company, have got to</p> <p>22 pay that bond to the court. Nobody was going</p> <p>23 after them for it. You didn't have any risk as</p>	<p style="text-align: right;">Page 83</p> <p>1 hunters come from. And I often would be asked</p> <p>2 to give them another 90 days. You know, motion</p> <p>3 to extend the time before we would forfeit that</p> <p>4 bond and make them pay it, and we would do that</p> <p>5 all the time. We extend -- give them 90 more</p> <p>6 days to go find the defendant and get them</p> <p>7 turned in. None of that was happening here</p> <p>8 because there was no effort to go against these</p> <p>9 bonding companies.</p> <p>10 Other things like that where the driver's</p> <p>11 license -- notices to the Department of Public</p> <p>12 Satisfy that people failed to show up on their</p> <p>13 traffic tickets were not being sent in. I asked</p> <p>14 Tammy about that and she explained to me that</p> <p>15 she thought that they weren't supposed to be</p> <p>16 doing that because at one point during COVID</p> <p>17 there had been some instruction to back off of</p> <p>18 that. Well, all of the cities around us were</p> <p>19 doing it. Prattville you couldn't get your</p> <p>20 driver's license reinstated without paying your</p> <p>21 tickets in Prattville, without paying them in</p> <p>22 Wetumpka, without paying them in Montgomery, but</p> <p>23 you didn't have to pay them in Millbrook because</p>
<p style="text-align: right;">Page 82</p> <p>1 a bonding company in Millbrook. If you made</p> <p>2 somebody's bond, you didn't make any effort --</p> <p>3 didn't need to make any effort to go and find</p> <p>4 them because they were never going to forfeit</p> <p>5 you. They were never going to make you pay that</p> <p>6 \$1,000 or whatever that bond amount was. I</p> <p>7 talked to her about that. I said, Why aren't we</p> <p>8 doing that. She said, Well, you know -- I don't</p> <p>9 know if she said it on that particular issue</p> <p>10 that we used to do it or they just didn't do it.</p> <p>11 And I believe since she has been gone that Becky</p> <p>12 Waits has actually -- as I understand it, the</p> <p>13 mayor could probably speak to this more than I</p> <p>14 could -- forfeited on over \$30,000 worth of cash</p> <p>15 bonds that were just sitting there. But no</p> <p>16 bonding company had any risk of bonding out</p> <p>17 anybody because they were never going to have to</p> <p>18 bring that person in.</p> <p>19 In my experience as a judge, bonding</p> <p>20 companies were -- I don't want to say under the</p> <p>21 gun that wouldn't be appropriate, but they were</p> <p>22 pushed. If you bonded this person out, you</p> <p>23 better get them into court. That's where bounty</p>	<p style="text-align: right;">Page 84</p> <p>1 we had not sent a notice in on you. Long after</p> <p>2 that -- if there was a period of time under</p> <p>3 COVID that that was not being allowed, it</p> <p>4 certainly ended at some point way before now,</p> <p>5 and we have just recently in the last few months</p> <p>6 -- I think Tammy instructed her employees to</p> <p>7 start sending in the notices of suspension to</p> <p>8 suspend somebody's license because they didn't</p> <p>9 show up on a ticket or pay a ticket in</p> <p>10 Millbrook.</p> <p>11 Q. On the other side of the suspension, does</p> <p>12 the department sometimes issue release letters</p> <p>13 on driver's license?</p> <p>14 A. Well, we issue.</p> <p>15 Q. You issue?</p> <p>16 A. Yeah. We issue a clearance so that they</p> <p>17 can get their license reinstated.</p> <p>18 Q. Have you had any issues with Ms. Pugh</p> <p>19 regarding release letters that went out that in</p> <p>20 your opinion should not have gone out?</p> <p>21 A. I personally don't know about that. I</p> <p>22 heard the comments that that might have</p> <p>23 happened, but I can't speak that and I wouldn't</p>

<p style="text-align: right;">Page 85</p> <p>1 want to say that because I don't know it 2 personally. 3 Q. Okay. You did mention -- you said that Kim 4 could not leave the courtroom and there were 5 times that we needed to see if Tammy was still 6 there. To your knowledge, was Ms. Pugh ever 7 asked to be present at court during your docket? 8 A. One of the first things she said tome in 9 our very first meeting, when I came over to meet 10 here after I had been appointed and sworn in, 11 she told me -- she said, I don't go to court. 12 I've done my time. Kim will be in there with 13 you. And I took it just as the way it was, and 14 so I didn't tell her she needed to be in court. 15 In fact, she would leave at 5:00 or maybe even 16 before on those court dates. While we're all 17 doing court, she would go on home. At some 18 point -- and I'm not sure exactly how this came 19 to be. Maybe the mayor can remember -- I 20 believe he asked me and I said, No, she's not in 21 court. She told me she doesn't do court 22 anymore. And he instructed her -- this was 23 about a year into my time here -- instructed her</p>	<p style="text-align: right;">Page 87</p> <p>1 to think how to put this. I hadn't been here 2 very long at all when I knew there was a problem 3 there, and it was such a problem that not only 4 would the employees talk with me privately about 5 certain things that were going on or happening, 6 but they would literally criticize her and had 7 -- I'm sorry, Kim. I actually admonished them. 8 Please stop talking negatively about Tammy. 9 They would do it in front of a police officer, 10 and I know it was just something that was going 11 on, and no matter how justified it was I felt 12 like it was going -- we were never going to have 13 a chance to have a good team spirit here if they 14 didn't stop that. But they weren't vicious. It 15 was little comments and things in front of 16 others. They felt like she wasn't carrying her 17 load. That's one of the things they talked with 18 me about. That everything that was asked of her 19 immediately got turned around and put on their 20 desk -- put on them. That when we were in court 21 that the files would -- one of the things that I 22 saw in Prattville was that someone from the 23 clerk's office would come into the courtroom</p>
<p style="text-align: right;">Page 86</p> <p>1 she's to be in court and to stay until court is 2 over and that really helped because that gave us 3 one more person that could run around and get 4 the things that needed to be done, get a file if 5 it was missing or whatever. She has been -- in 6 the final months that she was there, she's been 7 back in the back. Not in the courtroom but back 8 in the back offering assistance back there or if 9 the other person wasn't there, filling in doing 10 it all. 11 Q. You covered many things that I had 12 questions about, but one thing in particular I 13 want to ask you about or one of the last things 14 I want to ask you about in particular would be 15 the relationship between Ms. Pugh and the 16 employees in her office. You had an opportunity 17 to observe and form an opinion of the 18 relationship between Ms. Pugh and some of the 19 employees that are either there now or have been 20 through there. Did any of the employee -- go 21 ahead. I cut you off. I asked you a question 22 and then cut you off. 23 A. I was letting you finish it and I'm trying</p>	<p style="text-align: right;">Page 88</p> <p>1 about every 30 minutes and take the stack of 2 files that had been processed, take them back 3 into the clerk's office, and work on them, 4 finish them that night. They would actually be 5 processed that night or that day. And I had 6 said something to Tammy. I said, If you could 7 just come in and get these files and maybe we 8 could go ahead and start processing them. 9 They're able to do that in Prattville. Maybe we 10 could here. And so for the first few nights 11 after I went to Prattville and asked that of 12 her, she came in about every 30 minutes and got 13 the files but instead of processing them, as I 14 was told, she was putting them on somebody 15 else's desk, and I know it's busy back there 16 because people are coming out to pay. You might 17 not be able to do those files, and I wouldn't 18 expect the files to be done completely that 19 night. But instead of trying, they were just 20 simply put on somebody else's desk. Those are 21 the kind of complaints that were expressed to me 22 and the frustration that those employees felt. 23 It was -- she just wasn't attuned to their needs</p>

<p style="text-align: right;">Page 89</p> <p>1 or how it was happening.</p> <p>2 I would rather not get into some of the</p> <p>3 personal things that were said to me, but I</p> <p>4 found that when I would arrive in court, on</p> <p>5 Thursday's when I would come, I got to where I</p> <p>6 came in early because oftentimes there might be</p> <p>7 somebody that needed to talk with me about a</p> <p>8 case or whatever, but often times those</p> <p>9 conversations turned to the problems in the</p> <p>10 office. I felt like I would talk to Tammy about</p> <p>11 it. I would sit Tammy down in my office three</p> <p>12 or four times and she tearfully expressed to me</p> <p>13 she didn't know why everybody was against her</p> <p>14 and spoke as if though she were the victim of</p> <p>15 people not understanding here, whether it was</p> <p>16 the police department or her employees. And I</p> <p>17 tried to tell her what I felt like they had</p> <p>18 expressed to me that they had told me that they</p> <p>19 didn't fell like she was carrying her load, that</p> <p>20 she was dumping on them, and that, yes, she's in</p> <p>21 charge and she choses what people do and their</p> <p>22 role in the office, but the way they described</p> <p>23 it to me it wasn't fair and they were feeling</p>	<p style="text-align: right;">Page 91</p> <p>1 and give it to Kim, and if Kim was in charge of</p> <p>2 all of the trial files, then Tammy wouldn't be</p> <p>3 tied up with these lawyers that she's</p> <p>4 complaining about all day long and we did.</p> <p>5 Becky moved it to Kim but it didn't change. It</p> <p>6 was still you walk in her office and it was just</p> <p>7 covered with things.</p> <p>8 Another thing was cases that were remanned</p> <p>9 back from circuit court. If somebody appeals --</p> <p>10 and they often appeal here because often times</p> <p>11 they're appealing our cases to take them to</p> <p>12 circuit court where they have diversion programs</p> <p>13 where they can go into diversion programs. At</p> <p>14 some point, this council may want to consider an</p> <p>15 ordinance that would establish a diversion</p> <p>16 program under certain guidelines, but we don't</p> <p>17 have it right now. When I got here, there was</p> <p>18 diversion being done, but it was not being done</p> <p>19 with your authority and with an ordinance, so I</p> <p>20 stopped it, and so therefore we end up with a</p> <p>21 whole lot of appeals.</p> <p>22 Those appeals would go to circuit court,</p> <p>23 and if the defendant does not show up -- let's</p>
<p style="text-align: right;">Page 90</p> <p>1 that, so. And I would talk to Tammy about it,</p> <p>2 and she was never disrespectful, never refused.</p> <p>3 It's just she didn't get it or didn't take the</p> <p>4 actions to change it. I said, Maybe Tammy if</p> <p>5 you were to help them understand that you've got</p> <p>6 all those things in here that you're having to</p> <p>7 do, administrative things or whatever, help them</p> <p>8 understand.</p> <p>9 One of the things when I first was there</p> <p>10 and talking to Tammy and I would try to figure</p> <p>11 out why in the world we're so far behind on</p> <p>12 getting files worked and so forth. I constantly</p> <p>13 heard about COVID, but I also heard her complain</p> <p>14 about dealing with attorneys. All day long</p> <p>15 she's dealing with attorneys. Her desk would be</p> <p>16 just covered with things. She says, I'm always</p> <p>17 dealing with these attorneys. They're wanting</p> <p>18 continuances or they're wanting this or wanting</p> <p>19 that, and so finally I said -- when Becky came,</p> <p>20 I said, Becky, maybe we could take those --</p> <p>21 these will always be the cases that are</p> <p>22 scheduled for trial that you deal with the</p> <p>23 attorneys on. I said, Maybe we can take that</p>	<p style="text-align: right;">Page 92</p> <p>1 say often times it would be when I've given jail</p> <p>2 time. You got 48 hours to serve in jail of</p> <p>3 their jail sentence. They would appeal that</p> <p>4 night to get out of jail. It would go over to</p> <p>5 circuit court and they wouldn't even show up for</p> <p>6 their hearing over there. Well, the circuit</p> <p>7 court judge remands it back to us, and those</p> <p>8 files were just stacking up and they -- you</p> <p>9 know, these people have jail time to serve.</p> <p>10 They've got fines to pay. And until I</p> <p>11 intervened there just wasn't much being done</p> <p>12 about that. And I can't say because I wasn't</p> <p>13 around before COVID but so many of the things</p> <p>14 that I asked Tammy about she said, Oh, well</p> <p>15 before COVID we did that. We used to do that.</p> <p>16 We used to do that. And so, you know, I just</p> <p>17 wanted to know what it would take to get us back</p> <p>18 doing it right, and it just seemed to be I would</p> <p>19 talk with her about it, and then it would just</p> <p>20 melt away and I'd ask her again and it was just,</p> <p>21 Oh, yeah -- you know, it would just be</p> <p>22 forgotten.</p> <p>23 Q. You mentioned speaking with some of the</p>

<p style="text-align: right;">Page 93</p> <p>1 employees. Would they make special trips to 2 your office to talk to you or was it in passing 3 or? 4 A. I would say that there were probably -- 5 well, it depends. One of the last employees 6 that we had wanted to complain a whole lot to 7 me. But some of the previous employees -- the 8 one that were here when I got here -- would come 9 to my office and talk with me, and, you know, it 10 might start off being a conversation about 11 something else, but then it would be, well, you 12 know, Tammy, and so they would talk with me 13 about, you know, how bad it was, and I can 14 remember saying to them, Y'all, please keep your 15 heads up. Maybe one day it will get better. 16 We're working on it. Trying to keep the morale 17 up because it was just -- they appeared to be 18 miserable. And as much as they complained, I 19 knew they had to be. And I cared -- I wanted 20 their job to be better. I wanted the -- I 21 cannot tell you what it can mean to a court 22 system if there is team spirit, if people enjoy 23 coming to work, if they have a pride -- I wanted</p>	<p style="text-align: right;">Page 95</p> <p>1 by 10:30 or 11:00, maybe 11:30 at the latest. 2 Q. Couple hours before court to go over your 3 records? 4 A. Yes. 5 Q. And then court started at 1:00? 6 A. 1:30. 7 Q. 1:30? 8 A. Uh-huh. 9 Q. And then you had court until some times 10 8:00, 9:00, or 10:00 at night? 11 A. Oh, no. Sometimes 1:00 or 2:00 in the 12 morning. 13 Q. Okay. 14 A. When I first got here. It hasn't been that 15 bad in a while. 16 Q. So all these -- you weren't here during the 17 week very much to observe what was going on in 18 the clerk's office, were you? 19 A. No, I wasn't. 20 Q. And what you have testified to is what 21 people would come in and tell you? 22 A. Well, I testified to a lot of things. My 23 encounters with Tammy and my -- you know,</p>
<p style="text-align: right;">Page 94</p> <p>1 them to have a pride in how we do it. I'd love 2 to hear that some other court came to see us to 3 see if they could learn from us how to do it, 4 and I just felt like Millbrook deserved that. 5 We reached a point -- our population has reached 6 the point that we shouldn't be some podunk 7 court. I just felt that way. 8 MR. COURTNEY: I think that's all I 9 have for right now. 10 MR. DEBARDELABEN: I have a few. 11 EXAMINATION 12 BY MR. DEBARDELABEN: 13 Q. Your Honor, you say you came in one day a 14 week? 15 A. Well, for court I came in one day a week, 16 but I might drop by to sign things or come in 17 more often, but, yeah, one day a week was my 18 role. 19 Q. And approximately what time would you get 20 in? 21 A. In the mornings? 22 Q. Yeah. 23 A. Court started at 1:30, and I'm usually here</p>	<p style="text-align: right;">Page 96</p> <p>1 suggestions and expressions and directions to 2 her, but, yes. 3 Q. When you would point out something, she 4 tried to do it? 5 A. Yes. Most of the time she would indicate 6 that she would work in that direction. The 7 problem was the follow through and not every 8 time, Mr. DeBardelaben. Often times it was -- 9 she did fine on certain things. 10 Q. Yes, ma'am. And you said that -- I think 11 you said since you got here there had been a lot 12 more appeals to the circuit court, and I was one 13 that appealed it because I could get pretrial 14 diversion. They didn't offer it. But when 15 there is an appeal like that, it creates a lot 16 more work for the clerk, doesn't it? 17 A. It does. It does. 18 Q. And they have to do, what, two copies, one 19 for the attorney, one for the prosecutor, and 20 then they keep a copy? 21 A. That's correct. 22 Q. And then they have to keep -- so when the 23 appeals go up, it creates more work?</p>

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25 (97 - 100)

<p style="text-align: right;">Page 97</p> <p>1 A. It does.</p> <p>2 Q. So while the appeals are going up -- and I</p> <p>3 understand you want these certain changes --</p> <p>4 they're getting more work put on them, and it's</p> <p>5 kind of -- and they say, Well, what do we do?</p> <p>6 A. I'm sure I changed all of their lives</p> <p>7 dramatically, but, yeah.</p> <p>8 Q. Right. And you mentioned going to the</p> <p>9 municipal court over in Prattville. I go over</p> <p>10 there occasionally. They have court in the</p> <p>11 mornings too, don't they?</p> <p>12 A. They start in the mornings, yes.</p> <p>13 Q. And they have it some time more than once a</p> <p>14 week, don't they?</p> <p>15 A. I think it's once a week.</p> <p>16 Q. But they start in the mornings and --</p> <p>17 A. Go all day.</p> <p>18 Q. But they usually don't go late at night,</p> <p>19 sometimes they do?</p> <p>20 A. I believe that's correct.</p> <p>21 Q. Sometimes we all do that.</p> <p>22 A. Yeah.</p> <p>23 Q. Don't get the district judge of Elmore</p>	<p style="text-align: right;">Page 99</p> <p>1 get an annual evaluation, do you do Ms. Pughs?</p> <p>2 A. No. Wasn't my role.</p> <p>3 Q. While you have been municipal judge, how</p> <p>4 often did Mr. Kelly come to court and observe?</p> <p>5 A. I don't believe he did.</p> <p>6 Q. Okay.</p> <p>7 A. But, now, I will say, though, that I have</p> <p>8 talked with him on several occasions about my</p> <p>9 concerns.</p> <p>10 Q. Right. And were you aware that in 2020 --</p> <p>11 well, in -- I will ask you this way because I</p> <p>12 think this is a fair question. Were you aware</p> <p>13 that in July 23rd, 2019, Mayor Kelly gave</p> <p>14 Ms. Tammy Pugh a written warning.</p> <p>15 A. I wasn't here so I don't know.</p> <p>16 Q. You weren't here. Okay.</p> <p>17 Were you aware after that written warning</p> <p>18 was given in 2020 that Mayor Kelly approved an</p> <p>19 annual evaluation performance evaluation, I</p> <p>20 think they call it, for Ms. Pugh that said</p> <p>21 achieved expectations. She was achieving them.</p> <p>22 Were you aware of that?</p> <p>23 A. Only from hearing that from you.</p>
<p style="text-align: right;">Page 98</p> <p>1 County of a domestic case. He'll keep you there</p> <p>2 until 3:00 in the morning, and I admire y'all</p> <p>3 for that.</p> <p>4 But I'm getting now -- you know, you</p> <p>5 mentioned due process. I have been harping on.</p> <p>6 It's real important for an employee to have due</p> <p>7 process, isn't it?</p> <p>8 A. It sure is.</p> <p>9 Q. And did you at any time when you met with</p> <p>10 Ms. Pugh give her any type of written</p> <p>11 instruction, any write-up and say if you don't</p> <p>12 -- you got to do this. If you don't do this,</p> <p>13 it's going to be consequences?</p> <p>14 A. No.</p> <p>15 Q. Are you aware -- you've gone over -- now,</p> <p>16 let me ask you this way, Judge: Most of your</p> <p>17 background is in criminal law, isn't it, not</p> <p>18 civil?</p> <p>19 A. It was equal until I --</p> <p>20 Q. Did you do much employment law?</p> <p>21 A. No, not in district court. We don't have</p> <p>22 it.</p> <p>23 Q. That's what I thought. When an employee</p>	<p style="text-align: right;">Page 100</p> <p>1 Q. Okay. Were you aware in 2021 there was one</p> <p>2 that got in Ms. Pugh's file, and that's why I</p> <p>3 asked the chief about it. He says it goes back</p> <p>4 to the human resources and they do what they're</p> <p>5 supposed to and there was one in 2022 that shows</p> <p>6 her approving achieving expectations also.</p> <p>7 Should she be able to rely on her annual</p> <p>8 evaluations?</p> <p>9 A. You know, certainly it would be beneficial</p> <p>10 if those annual evaluations for all employees in</p> <p>11 government service were more honest. I mean, I</p> <p>12 did a number of them when I was serving in</p> <p>13 Montgomery. And, let me say this, that often</p> <p>14 times you can talk with your employee about a</p> <p>15 matter but yet not punish them by putting it in</p> <p>16 an evaluation, which could keep them from</p> <p>17 getting some type of merit raise. You don't</p> <p>18 want to kill the spirit of somebody that you're</p> <p>19 hoping is going to do better and do better. I</p> <p>20 am aware from my conversations with the mayor</p> <p>21 that there have been a number of times that he's</p> <p>22 talked with Tammy since I have been here that he</p> <p>23 sat her down and talked with her.</p>

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26 (101 - 104)

<p style="text-align: right;">Page 101</p> <p>1 Q. Are you aware that the personnel policies 2 of City of Millbrook when you have an informal 3 discussion and verbal counseling that the 4 supervisor shall complete a memo that identified 5 the date, time, substance, and response to this 6 meeting? 7 A. I'm not familiar with all of the 8 Intricacies of the personnel manual. 9 Q. Okay. Wouldn't you agree that every 10 employee is held to the standard in a personnel 11 manual? They should be held to those standards? 12 A. Well, I would assume. 13 Q. And all employees should be treated alike? 14 A. I would agree with that. 15 Q. And if they are supposed to be putting any 16 informal discussion or verbal counseling they're 17 supposed to be making a memo that identified the 18 date, time, substance, and response to the 19 meeting. It says supposed to be doing that then 20 and it's not done then did it happen? If the 21 mayor didn't do it, then he's not following 22 rules, is he? And I have no way as her 23 representative to question on these meetings</p>	<p style="text-align: right;">Page 103</p> <p>1 an order when people are put on probation, 2 they're well aware. I told them before the 3 courtroom. I told them in a room full of 4 people. They're well aware of what their 5 obligations are but it's not in writing. 6 A. I don't think there is any comparison. 7 We're talking about a person's liberty, being 8 locked up in jail. 9 Q. Yes, ma'am. And here we're talking about a 10 person's livelihood where she has given 20 years 11 to this city for. No, you get a liberty of 12 locking up in jail for maybe 30 days. You're 13 taking her completely livelihood and her 14 retirement away from here. They're two 15 different things. 16 A. My point is, Mr. DeBardelaben, I don't 17 think there's ever been any question in Tammy 18 Pugh's mind about what the problems have been 19 with her employment. 20 Q. Well, ma'am, if I come in and look at her 21 personnel file, and she's supposed to be able to 22 agree with it, and it goes on and it says, oh, 23 there wasn't any more action taken, it must be</p>
<p style="text-align: right;">Page 102</p> <p>1 because the rules of this municipality for the 2 personnel -- for the employee wasn't followed, 3 do it? 4 A. I will say, Mr. DeBardelaben, that I am 5 firmly convinced that Ms. Pugh had been -- had 6 these issues raised with her. She even made 7 reference to them when I was talking with her 8 about conversations with the mayor. I don't 9 think that a case could be made that Ms. Pugh 10 didn't understand that she was having some 11 problems with the way she was working with her 12 employees as well as getting her job done. 13 Q. Well, that's true. But the rules are to be 14 followed aren't they? 15 A. Rules are rules. 16 Q. And they should be followed, and if the 17 rules aren't followed, then she didn't get due 18 process, did she? 19 A. I wouldn't say that because I think she is 20 well aware and certainly since this -- all of 21 these hearings started, she has been made aware 22 of what the problems have been. 23 Q. Well, Your Honor, if you go back to you, on</p>	<p style="text-align: right;">Page 104</p> <p>1 fine, and the next year she is achieving 2 expectation, how is she supposed say, okay, 3 something different now? 4 A. All I'm saying -- and I probably am not the 5 best witness on this subject because I have not 6 been in the meetings with the mayor and Tammy 7 Pugh or others that might have addressed these 8 matters with her. I'm just telling you that my 9 conversations with her caused me to think that 10 she understood what was being said about her, 11 whether she agreed or not, and I am aware of the 12 fact that she met with the mayor because after 13 she would meet with the mayor, the mayor would 14 share with me how he had discussed it with her, 15 and we both hoped that she would do better. We 16 constantly hoped that she would do better. 17 Q. Ma'am, were those counseling sessions with 18 the mayor? 19 A. I don't know. You'll just have to ask the 20 mayor. 21 Q. Okay. But we have to have things -- but 22 even the mayor has to follow personnel policy, 23 doesn't he?</p>

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27 (105 - 108)

<p style="text-align: right;">Page 105</p> <p>1 A. As you say, Mr. DeBardelaben.</p> <p>2 Q. Well, no, ma'am. I'm just --</p> <p>3 A. I'm just.</p> <p>4 Q. I didn't make them. I'm just trying to go</p> <p>5 by the rules.</p> <p>6 MR. GAY: This is being</p> <p>7 argumentative. Let's move on.</p> <p>8 Do you have any other questions</p> <p>9 for the witness?</p> <p>10 BY MR. DEBARDELABEN:</p> <p>11 Q. You mentioned wanting her to go to</p> <p>12 Prattville to review that system over in</p> <p>13 Prattville, and I think you testified last time</p> <p>14 that Prattville is kind of an experimental</p> <p>15 situation. They're trying -- and the courts --</p> <p>16 I'm going to paraphrase what you said and please</p> <p>17 correct me. That the AOC is using Prattville to</p> <p>18 get a -- I'm going to use the word --</p> <p>19 comprehensive municipal court system for the</p> <p>20 state. Am I wrong on that?</p> <p>21 A. Let me explain it because what she would</p> <p>22 have seen in Prattville had she watched their</p> <p>23 court or spent more time over there and what I</p>	<p style="text-align: right;">Page 107</p> <p>1 point in just a second. The chief was kind</p> <p>2 enough to make it possible for me to have some</p> <p>3 records, but I discovered that one of the</p> <p>4 solutions that might work -- well, first of all,</p> <p>5 I asked Tammy about NCIC. She said she at one</p> <p>6 time had been certified and at one time had</p> <p>7 access to it. And I said, Well, Tammy, we need</p> <p>8 to get it back. I've got to have records. I</p> <p>9 cannot sentence these people not knowing whether</p> <p>10 they're a repeat offender or whether this is</p> <p>11 their first time ever, and so she said she would</p> <p>12 do it. Well, that was one of the ones that got</p> <p>13 dragged. I called. They're supposed to get</p> <p>14 back to me. I haven't heard back. That's how</p> <p>15 it went for weeks and weeks and months. Then</p> <p>16 later in -- maybe -- I don't know. If I had to</p> <p>17 say six to eight months later, I started</p> <p>18 thinking if we were to get on the state system,</p> <p>19 Alacourt, that we would have access -- I mean,</p> <p>20 we would have a computer system that would</p> <p>21 generate orders like they do in Prattville. It</p> <p>22 would do so much for us that our system is not</p> <p>23 doing for us because I asked Tammy -- we need to</p>
<p style="text-align: right;">Page 106</p> <p>1 have saw and was just excited about was how that</p> <p>2 system worked, and I'm not talking about the</p> <p>3 computer. I'm talking about the employees, how</p> <p>4 everybody knew what they were supposed to do,</p> <p>5 how they had all the files easy to find. There</p> <p>6 weren't stacks of files anywhere. Those are the</p> <p>7 kind of things I was excited about.</p> <p>8 When I first came, as the chief mentioned,</p> <p>9 I did not have access to criminal records. I</p> <p>10 have somebody in front of me that stolen from</p> <p>11 Walmart. I want to know if that person has</p> <p>12 stolen before. I want to know if that person</p> <p>13 has drug convictions before because if they have</p> <p>14 we'll pop a drug test and find out if we're</p> <p>15 dealing with a meth addict who's stealing from</p> <p>16 Walmart, and I'm going to sentence that person</p> <p>17 differently than someone who made a one-time</p> <p>18 mistake thinking they're going to outsmart the</p> <p>19 self-scanners at Walmart.</p> <p>20 So my point being that through not having</p> <p>21 those records I was -- I was really feeling</p> <p>22 ineffective. Chief was kind enough to make it</p> <p>23 possible for me, and I'm going to come to your</p>	<p style="text-align: right;">Page 108</p> <p>1 be able to generate orders.</p> <p>2 Well, ended up we got the guy that is over</p> <p>3 our software to scan my orders in, but they</p> <p>4 still were not populating it into the system.</p> <p>5 I'd say \$600 fine on the DUI. Somebody had to</p> <p>6 still go back to the office and type all of that</p> <p>7 in because it was only in a scanned order. So</p> <p>8 I'm thinking maybe we need to go to the Alacourt</p> <p>9 system and this became my mission, so to speak.</p> <p>10 I thought maybe if we could do that --</p> <p>11 So I get in touch with AOC. I talk all the</p> <p>12 way to top to the director of Administrative</p> <p>13 Office of Courts. He said I will be thrilled</p> <p>14 for you to have that. We're trying to establish</p> <p>15 a -- we're close to establishing a municipal</p> <p>16 Alacourt. He said it's going to be the best</p> <p>17 there is, but we're not quite ready with it yet,</p> <p>18 and I would suggest that you hold off on going</p> <p>19 with the state court system -- I'm talking about</p> <p>20 the software. The state court software until we</p> <p>21 get that municipal product ready, and I said</p> <p>22 okay. So I was led to believe that it wouldn't</p> <p>23 be long. It wouldn't be long. Well, come to</p>

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28 (109 - 112)

<p style="text-align: right;">Page 109</p> <p>1 find out it, it was several months later. But 2 during that time I said to Tammy -- I said, 3 Look, don't put the -- it had been months now 4 that I had wanted her to get NCIC, but there is 5 a cost to NCIC. I said, Let's hold off just a 6 little bit. If we can get on Alacourt, not only 7 will it work to give us a lot of other things 8 that will improve our system, but it would -- we 9 would be able to look on Alacourt and see every 10 case that person had ever had in the state court 11 system as well as most of the municipalities 12 that were tied in using that system currently. 13 It would have served my purposes of finding out 14 if that was that person's first arrest, and so 15 that was fine. For a while she held off NCIC. 16 It was fine with me. Then after discovering 17 that Prattville had gone onto that new municipal 18 program. So far they had only created it for 19 traffic court. Well, that wasn't going to do 20 that much good for us, and they seemed to be 21 somewhat of a guinea pig on it, so I said -- I 22 finally just said, Let's see what our system 23 would do if we could work with the guy that</p>	<p style="text-align: right;">Page 111</p> <p>1 yes Prattville, is still on that new municipal 2 system for traffic court. It has not been 3 everything they dreamed it would be, but it has 4 fit into their system well and they're still a 5 Singer sewing machine. They are still doing it 6 right. 7 Q. And even when you were trying to find out 8 about it, they kept on putting you off a little 9 bit at AOC? 10 A. Well, AOC just hadn't had it established -- 11 Q. Right. 12 A. -- yet. They kept saying you're probably 13 not going to want to get on our old system. You 14 probably want to wait and get on this new 15 system. 16 Q. On the new system? 17 A. They thought it would come faster than it 18 did, and when it finally did get here and 19 Prattville started using it, it was for the 20 traffic court only. It didn't effect 21 misdemeanors yet. 22 Q. When you were finally able to get your 23 software person over from Auburn, you got some</p>
<p style="text-align: right;">Page 110</p> <p>1 established our software. It's a guy over in 2 Auburn, and I asked him to come over. He sat 3 down with us one day and he made such 4 improvements in our software based on that 5 meeting that I was willing to say, Okay, let's 6 leave the state system alone, let's go back to 7 getting NCIC and getting -- and staying on our 8 program with these new improvements that this 9 Daryl Rotta out of Auburn had come over and was 10 willing to make for us. 11 I was a little disappointed that it took me 12 bringing us to that point. I felt like that was 13 something -- I feel like that system already 14 could do things for the staff here, but also the 15 changes that we were able to make. Maybe I 16 should have pushed it a lot earlier, but I had 17 sort of focused on going to the Alacourt system 18 for a while. 19 So once we got back to we got to get NCIC, 20 there was a little drag, but she did get NCIC 21 after that, and it has made all the difference 22 in the world. I now have a criminal history on 23 every serious misdemeanor case available. But,</p>	<p style="text-align: right;">Page 112</p> <p>1 relief on what this sytem could do? 2 A. And I said I'm fine with staying with it, 3 and I think that gave them some relief because 4 they didn't want to have to learn a new system 5 and I understood that. 6 Q. And then things -- and Ms. Pugh worked with 7 you on that as best she could do, didn't she? 8 A. Yes, she did. 9 Q. And it appears that she didn't know what 10 was available there, did she, to get? 11 A. No. 12 Q. And -- 13 A. But we did, and once we got him over here, 14 we did get those changes. 15 Q. And it has gotten better? 16 A. And I'm satisfied with the system we're on 17 now. I think one day we probably would want to 18 go to Alacourt Municipal, but it's not ready for 19 us yet, and I don't think our court is the one 20 that needs to be a guinea pig. 21 Q. Well, from a practicing attorney's 22 standpoint, it sure is nice to hit that button 23 and send your pleading.</p>

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<p style="text-align: right;">Page 113</p> <p>1 So what I'm hearing from you or what you're</p> <p>2 saying, and correct me if wrong, when you got</p> <p>3 here, this place was run like it was run 40</p> <p>4 years ago?</p> <p>5 A. Yeah.</p> <p>6 Q. And it had never had been brought up to</p> <p>7 speed? It hadn't been changed, it hadn't been</p> <p>8 updated?</p> <p>9 A. Well, I don't know if that's completely</p> <p>10 true because certainly the software we had</p> <p>11 wasn't available 40 years ago.</p> <p>12 Q. No, it wasn't available. But it's --</p> <p>13 A. And there were some things that were good</p> <p>14 the way it was being done within that software,</p> <p>15 so, no, there were some good things.</p> <p>16 Q. And Ms. Pugh had work for 20 years under</p> <p>17 that one system under the one judge?</p> <p>18 A. Well, I don't know how long that system had</p> <p>19 been there, but she had been under that one</p> <p>20 judge, yes.</p> <p>21 Q. And --</p> <p>22 A. And I think, you know, burn out is going to</p> <p>23 happen to anybody. And as a practicing</p>	<p style="text-align: right;">Page 115</p> <p>1 and I think you explained people are appealing</p> <p>2 up -- like me -- to get people on pretrial</p> <p>3 diversion and you couldn't do that.</p> <p>4 A. Right.</p> <p>5 Q. And it creates a lot -- all of a sudden she</p> <p>6 got a lot more work and a change in the system</p> <p>7 and a lot of more pressure put on her, didn't</p> <p>8 she?</p> <p>9 A. There were a lot of changes, yes, but they</p> <p>10 -- the changes -- once we got through the</p> <p>11 process and started having orders available and</p> <p>12 each of these things developed to a certain</p> <p>13 point it shouldn't have been that overwhelming</p> <p>14 to her.</p> <p>15 Q. Well, and you still -- even today you still</p> <p>16 got your situation for all of these appeals</p> <p>17 because you don't have pretrial diversion?</p> <p>18 A. Right. And I'm not against having it.</p> <p>19 It's just that the City Council will need to</p> <p>20 approve.</p> <p>21 Q. Yes, ma'am. They got to do the orders and</p> <p>22 stuff. But that also puts a lot more pressure</p> <p>23 on the clerk's office to get them out, keep up</p>
<p style="text-align: right;">Page 114</p> <p>1 attorney, you know, Ben had a lot of stuff on</p> <p>2 him and towards the end I think his health was</p> <p>3 bad. And here's one thing I noticed is that</p> <p>4 when she was serving under Judge Pool, there was</p> <p>5 a lot more independence for her to do it the way</p> <p>6 she wanted to do it. When I came in, there were</p> <p>7 problems that under the law needed to be changed</p> <p>8 and there were some resistance to that.</p> <p>9 Although she wasn't disrespectful in any</p> <p>10 resistance, it just -- I mean, until -- almost</p> <p>11 to her last day here almost she was still going</p> <p>12 about orders. We're having to do all of these</p> <p>13 orders, you know, and it is so -- such as you</p> <p>14 know and most folks in the legal system know,</p> <p>15 that orders are an absolute part of court</p> <p>16 process.</p> <p>17 Q. Yes, ma'am.</p> <p>18 A. But I felt like I still had to continually</p> <p>19 convince her that I was right in that we needed</p> <p>20 orders.</p> <p>21 Q. But she was trying to improve, but you do</p> <p>22 have to -- I think you said when you got here we</p> <p>23 got a lot more appeals. I'm not going to say --</p>	<p style="text-align: right;">Page 116</p> <p>1 with it, to make the copies?</p> <p>2 A. Well, just a second. Let me point out that</p> <p>3 without pretrial diversion you don't have all of</p> <p>4 that. If somebody is put on pretrial diversion,</p> <p>5 they are to be watched more closely than</p> <p>6 probation because they've been given a real</p> <p>7 benefit. This case will be dismissed if you do</p> <p>8 these things.</p> <p>9 Q. Yes, ma'am.</p> <p>10 A. Pretrial diversion will require far more</p> <p>11 supervision than probation or more work than an</p> <p>12 appeal. Once you do an appeal, gone.</p> <p>13 Q. And it produces more income for the City so</p> <p>14 they can get more people in the clerk's office</p> <p>15 to handle the pretrial diversion?</p> <p>16 A. It does. We've lost some income as a</p> <p>17 result of not having pretrial. And I've said</p> <p>18 I'm willing to do it. It's just that it needs</p> <p>19 to be developed and presented to the council.</p> <p>20 Q. It pays for itself and makes money, doesn't</p> <p>21 it?</p> <p>22 A. Yeah. But that's not the purpose.</p> <p>23 Q. That's not the purpose.</p>

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<p style="text-align: right;">Page 117</p> <p>1 A. No.</p> <p>2 Q. But it's not something the City really has</p> <p>3 to fund?</p> <p>4 A. No. But it can be -- it can be abused,</p> <p>5 I'll tell you that.</p> <p>6 Q. Yes, ma'am.</p> <p>7 MR. DEBARDELABEN: That's all.</p> <p>8 MR. COURTNEY: One quick followup,</p> <p>9 Judge.</p> <p>10 REEXAMINATION</p> <p>11 BY MR. COURTNEY:</p> <p>12 Q. You had discussed earlier different</p> <p>13 folks -- different people that worked in the</p> <p>14 department. Since you've been there, have you</p> <p>15 detected any issues with excessive turnover in</p> <p>16 that department?</p> <p>17 A. I came in August of 2020, and we have hired</p> <p>18 and lost two employees from the office both of</p> <p>19 whom complained strongly about the leadership</p> <p>20 being the reason. Well, one of them actually</p> <p>21 was terminated, but the whole time she was here</p> <p>22 she complained about the leadership.</p> <p>23 MR. COURTNEY: Thank you. I don't</p>	<p style="text-align: right;">Page 119</p> <p>1 MR. GAY: Any further questions?</p> <p>2 MR. COURTNEY: I have nothing</p> <p>3 further for Judge Bright.</p> <p>4 MR. GAY: Excuse me. We're going to</p> <p>5 take a five-minute short recess.</p> <p>6 (Short break.)</p> <p>7 MR. GAY: Would you please call your</p> <p>8 next witness?</p> <p>9 MR. COURTNEY: I'll call Mayor Al</p> <p>10 Kelly.</p> <p>11 MAYOR AL KELLY,</p> <p>12 the witness, who was previously sworn,</p> <p>13 testified as follows:</p> <p>14 EXAMINATION</p> <p>15 BY MR. COURTNEY:</p> <p>16 Q. Good evening, Mayor.</p> <p>17 A. Good evening.</p> <p>18 Q. All right. I'm going to get right to the</p> <p>19 issues that we're here for; specifically,</p> <p>20 Ms. Tammy Pugh. Okay.</p> <p>21 During her employment and during your time</p> <p>22 as mayor have you counseled and/or had sessions</p> <p>23 with Ms. Pugh regarding her job performance?</p>
<p style="text-align: right;">Page 118</p> <p>1 have anything further.</p> <p>2 Mr. DeBardelaben, do you have</p> <p>3 anything further?</p> <p>4 MR. DEBARDELABEN: Just one.</p> <p>5 REEXAMINATION</p> <p>6 BY MR. DEBARDELABEN:</p> <p>7 Q. One was terminated?</p> <p>8 A. Uh-huh.</p> <p>9 Q. Was she terminated after Ms. Pugh left?</p> <p>10 A. About the same time, I think. I'm not</p> <p>11 sure. I wasn't involved in the actual</p> <p>12 terminations, but I -- it was about the same</p> <p>13 time. They both left on the same day and didn't</p> <p>14 come back. I know that.</p> <p>15 Q. Okay. So you actually lost when you been</p> <p>16 here in that period two employees?</p> <p>17 A. Uh-huh.</p> <p>18 Q. And you don't know what the turnover was</p> <p>19 before you came?</p> <p>20 A. No, I don't. I mean, I know there was, but</p> <p>21 I don't know what it was. I can't speak to</p> <p>22 that.</p> <p>23 MR. DEBARDELABEN: That's all.</p>	<p style="text-align: right;">Page 120</p> <p>1 A. Yes, I have on several occasions.</p> <p>2 Q. Okay. Any idea how many?</p> <p>3 A. I would probably say eight or nine.</p> <p>4 Q. Okay. And what are the subjects that you</p> <p>5 would have to cover?</p> <p>6 A. It's typically been the subjects of the</p> <p>7 employees, the lack of leadership within the</p> <p>8 court personnel. Many times the employees of</p> <p>9 the court department would either come to me</p> <p>10 personally or come to the HR department to</p> <p>11 discuss problems with Tammy. I have -- I would</p> <p>12 call Tammy in and we would talk. I think -- I</p> <p>13 seem to remember a session where I even talked</p> <p>14 to all of them at the same time, the employees,</p> <p>15 Tammy, the whole nine yards all at one time,</p> <p>16 trying to get some -- some morale build up in</p> <p>17 the court department. It was awful. The lack</p> <p>18 of leadership, the lack of training. The people</p> <p>19 that would come to HR and to me to just complain</p> <p>20 on Tammy, her attitude, the way she treated</p> <p>21 them, what was going on in there. It just got</p> <p>22 to the point where I just had to sit down and</p> <p>23 talk to her more than once. I tried to give her</p>

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<p style="text-align: right;">Page 121</p> <p>1 every opportunity.</p> <p>2 Yeah, these evaluations. Okay. I mean,</p> <p>3 the -- I try to give everybody an opportunity to</p> <p>4 make a good living to do what they need to do.</p> <p>5 I don't put down every time I talk to a</p> <p>6 department head. I don't go stuff it in his</p> <p>7 personnel file. I don't know of any mayor -- I</p> <p>8 don't know of any CEO that does anywhere. The</p> <p>9 -- I probably had many occasions to discipline</p> <p>10 Chief Johnson both either in my office or in my</p> <p>11 house. It's -- you know, I don't go run and put</p> <p>12 it in his personnel file.</p> <p>13 There's not a department head one that I</p> <p>14 never said something to and say let's do it this</p> <p>15 way, let's do it that way, I don't like the way</p> <p>16 this is going, I don't like the way that's</p> <p>17 going, we need to do this, we need to do that.</p> <p>18 Every one of them with the exception of the</p> <p>19 court department has followed through. We have</p> <p>20 a great team of workers. We have a great team</p> <p>21 morale throughout the City. I got nobody that</p> <p>22 wants to deal with the court department. I</p> <p>23 mean, the -- it got kind of a montage here of</p>	<p style="text-align: right;">Page 123</p> <p>1 attitude and not been able to deal with her.</p> <p>2 There was a lot of things mentioned about</p> <p>3 Ben Pool. You know, it wasn't any problem when</p> <p>4 Ben Pool was here. Ben Pool would call me and</p> <p>5 we would talk, and Ben would say, Well, it's</p> <p>6 just Tammy, you know, so we just kind of let it</p> <p>7 go kind of thing. It was working okay. We were</p> <p>8 getting by. No, we didn't have the court system</p> <p>9 that Judge Bright imagined when she got in</p> <p>10 there. And once she opened that vision to me, I</p> <p>11 could see different in the court department of</p> <p>12 what we had versus what we could have and that's</p> <p>13 where I try to strive on every department. They</p> <p>14 get the best equipment, the best training they</p> <p>15 can get anywhere. I don't do it any different</p> <p>16 with anybody else.</p> <p>17 There was a mention of -- just there again</p> <p>18 just rambling again about the bond forfeitures.</p> <p>19 I signed a check the other day that was brought</p> <p>20 to me by our CEO and that was -- came out of the</p> <p>21 court system on cash bond forfeitures. If you</p> <p>22 don't know what a cash bond forfeiture is, what</p> <p>23 that is and I -- listen, I'm learning more about</p>
<p style="text-align: right;">Page 122</p> <p>1 things that I will talk to if you want me to.</p> <p>2 Q. Please do.</p> <p>3 A. You know, it's been brought up during the</p> <p>4 night and it's kind of -- I try to even try to</p> <p>5 one, two, three, four it, but that don't work.</p> <p>6 Like I said on the evaluations, I started</p> <p>7 self-evaluations a long time ago. You know,</p> <p>8 this mayor is a part-time job. A lot of times I</p> <p>9 don't have time to do each and every evaluation.</p> <p>10 I talk to department heads about doing them. I</p> <p>11 try my best to get those employees those raises.</p> <p>12 I try my best to handle the situation with them</p> <p>13 on a personal basis in my office where we can</p> <p>14 talk, where we can discuss, where I can</p> <p>15 complain, fuss, or whatever it may be, and they</p> <p>16 can respond alike. I don't do it any different</p> <p>17 with court than I do with anybody else. It's</p> <p>18 all treated the same.</p> <p>19 There's been a lot of turnover. I think</p> <p>20 somebody said -- I think Judge Bright said one</p> <p>21 or two. There's been several more than that.</p> <p>22 We've got exit interviews in those files from</p> <p>23 employees who have quit because of Tammy and her</p>	<p style="text-align: right;">Page 124</p> <p>1 courts in the last two months than I have</p> <p>2 learned in the last ten years. Believe me. I</p> <p>3 promise you. I do not -- I don't know how to</p> <p>4 pave a street and I don't know how to run a</p> <p>5 court, okay, but we make sure that it gets done.</p> <p>6 Cash bond forfeitures is when you get arrested,</p> <p>7 you get a DUI, or you get in jail for some</p> <p>8 reason or another and you have to put up \$500</p> <p>9 cash bond. Okay. You put up \$500 cash money.</p> <p>10 Am I explaining this right so far? If you show</p> <p>11 up in court, you get your \$500 back. If you</p> <p>12 don't show up in court, that money is forfeited;</p> <p>13 am I correct?</p> <p>14 MR. GAY: Judge, that's a nod, is</p> <p>15 that a yes or no?</p> <p>16 JUDGE BRIGHT: Yes.</p> <p>17 MR. GAY: That was a yes, for the</p> <p>18 record.</p> <p>19 THE WITNESS: That money is</p> <p>20 forfeited. Our CEO in some e-mails to Tammy on</p> <p>21 two different occasions asked to go into the</p> <p>22 cash bond account because it had gotten over</p> <p>23 \$100,000 of money in that account that we can't</p>

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<p style="text-align: right;">Page 125</p> <p>1 touch, okay, until that money is forfeited. No 2 response on the e-mail. Did it again. No 3 response on the e-mail. Tammy is gone. 4 Becky Waits, the person that 5 we're having to pay extra, that we paid as a 6 consultant that you approved to come in and try 7 to improve our court department was going 8 through the cash bond forfeitures in one day. 9 She brought a check for \$32,000 of money that 10 we could take out of that cash bond forfeiture 11 account and put into our general fund account. 12 THE WITNESS: Am I explaining that 13 right, Gina? 14 Excuse me. I'm sorry. 15 MR. GAY: Please direct it to me 16 and -- 17 THE WITNESS: Yeah. I'm sorry. 18 MR. GAY: Understand. 19 THE WITNESS: So that kind of -- it 20 really opened my eyes even more, and we started 21 talking about -- when Tammy was still here, we 22 started talking about the bond company 23 forfeitures that Judge Bright alluded to. Let</p>	<p style="text-align: right;">Page 127</p> <p>1 City of Millbrook made no effort to go and get 2 those bonds. Little to no effort. So that was 3 another one of those things that just came up, 4 and we just started -- just kind of putting 5 information in my head that I didn't know to 6 begin with. 7 We took the time to hire a court 8 consultant, and Ms. Waits came in and did a 9 great job for us. The council approved. I 10 think the contract lasted about three or four 11 months and we made a lot of changes. The very 12 first day -- the very day that Ms. Waits was 13 supposed to start, Tammy had asked for a 14 vacation. Granted. No problem. Okay. Here 15 again, I'm looking at it on a department head 16 basis. I'm an department head and somebody 17 wants to come in here and change my entire 18 department, and I don't show up. The entire 19 week no phone calls, no messages, no visits, no 20 nothing. I think the next week she came back 21 and didn't like a lot of the changes that were 22 being made. Understand. I mean, change is 23 tough for a lot of people, and I certainly</p>
<p style="text-align: right;">Page 126</p> <p>1 me explain to you what happened in case she 2 didn't quite get that because when -- this is 3 kind of one of those things I guess the straw 4 that broke the camel's back. 5 When Judge Bright came to me and 6 talked to me about bond forfeitures, there 7 again I really wasn't familiar with bond 8 forfeitures. Explained how it worked. I'm the 9 bonding agent. I'm the guy that runs this 10 little office on Main Street. Okay. And you 11 get in trouble, you give me \$1,000 -- yeah, you 12 give me \$1,000, I pay your bond. You got to 13 show up in court; if not, then I'm going to 14 come get you. Okay. I'm going to find you 15 because I'm going to have to pay \$10,000. If I 16 don't get my \$1,000 -- if you don't show up to 17 court, I got to pay \$10,000. And I'm sorry. 18 I'm giving a court lesson here. I'm just 19 trying to let these folks understand what we've 20 been going through. Now, that bonding company 21 we haven't gone after them. There is hundreds 22 of thousands of dollars sitting out there that 23 these bonding companies have because of the</p>	<p style="text-align: right;">Page 128</p> <p>1 understand that. But that's just another one 2 of the things that kind of hit me hard when 3 every department head in this City with the 4 exception of the court department, every 5 department head I guarantee if you were going 6 to tell them you were going to make major 7 change in their street department, utility 8 department, whatever it may be, they ain't 9 going to be on vacation that first day. 10 They're not going to be gone. If you got a 11 scheduled vacation and you got to go out of 12 town, that's one thing. That's not what I 13 understood in Ms. Pugh's case. 14 There are a lot of instances 15 where these driver's licenses are allowed to 16 renew, and they should not be. That's been 17 going on for years. I won't mention any names, 18 but I know for a fact that there are. If you 19 don't come to court, that's a major thing and 20 Judge Bright -- you know, Judge Pool -- God 21 love him, Judge Pool, you know, he was, Okay, 22 well, you don't have any money today or 23 whatever, so, you know, let's -- okay. See you</p>

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<p style="text-align: right;">Page 129</p> <p>1 next time. Okay. A lot of that started 2 changing and it was a tough change. I'm not 3 going to deny that it was tough change on 4 everybody, but everybody was trying to do it. 5 The one that didn't really act like she wanted 6 any part of doing it was the person that was 7 the department head. 8 Tammy can sit there and the 9 lawyer can sit there and say all they want to 10 or whatever evaluator or I did this or I only 11 got two things in the personnel file. Let 12 Tammy stand up and swear it under oath that I 13 haven't talked to her that many times. I would 14 love for that to happen. Most of the time 15 everybody knew I was having a meeting with her 16 or either I had talked to someone that was 17 regarding that after that meeting with her. 18 Several of those meetings were employee 19 related. They were from requests for employees 20 -- her employees could I please talk to Tammy 21 about her attitude, about her training 22 procedures, about everything else. 23 I have never ever -- it came up</p>	<p style="text-align: right;">Page 131</p> <p>1 have to do. I don't regret it. I don't deny 2 it. I don't have any personal problem with 3 Tammy whatsoever. I just -- the job was not 4 getting done after every opportunity was 5 availed to her to get the job down. It's all 6 there, Jeff. 7 BY MR. COURTNEY: 8 Q. Did you ever direct Ms. Pugh to attend 9 court? 10 A. Yes. And that's another prime example of, 11 you know, maybe the mayor should be at every 12 function and everything that every department 13 does every day or whatever. You know, maybe it 14 will get to that point. 15 Judge Bright brought to my attention that 16 Tammy had quit even coming to court. Now, 17 you're a department head. Okay. You're whole 18 thing is court. That's what you're supposed to 19 do. She didn't even go. I didn't know it. 20 Judge Bright told me she didn't go to court. So 21 I called Tammy -- one of the times I called 22 Tammy in my office. One of them. It's not in 23 her personnel file I don't think. I don't</p>
<p style="text-align: right;">Page 130</p> <p>1 in the instance a few weeks ago when we were in 2 the other court, whatever it was, about 3 training. Did we offer training, did we do 4 this, did we do that. We have never denied any 5 department head any training of any kind. We 6 have sent her to Orange Beach I think it was on 7 some training. You have got to go out and find 8 that training. It's not the mayor's job to go 9 out and find you training that you need to do. 10 It's not the mayor's job -- it's not the police 11 department's job. It's not the utility 12 department's job to go in there and find out 13 that court department program and software that 14 they use is ancient, but it can be updated if 15 you'll just think just a little bit -- if 16 you'll think just a little bit and say, you 17 know, I think we can make this better. Let me 18 call this guy that wrote this software and let 19 me get him up here. It's been several years 20 we've had that software. We've just done with 21 it like we could get by with it. Judge Bright 22 brought that to some attention, that brought 23 other things to my attention, and I did what I</p>	<p style="text-align: right;">Page 132</p> <p>1 remember if it is or not. I don't remember 2 which one is in there and which one is not. But 3 I told her, Tammy, your job is that court, 4 period. You've got to be there. Okay. So she 5 would show up, and like Judge Bright said, you 6 know, really wouldn't do a whole bunch. She 7 didn't think it was her job anymore. Those kind 8 of things get to a mayor. Those kind of things 9 get to any CEO of any business or anything that 10 you are a part of whatsoever. Those things get 11 to you when that particular person is not making 12 that effort to do the things that this 13 department head and this department head and 14 that one are over there trying to make that 15 valued effort to do and try to get the things 16 done that we need to do but you got one slipping 17 by the cracks. Yeah, I'd go see utilities in 18 the street and lot of the others a lot more than 19 I would go to the court system. I do. I don't 20 like the court thing. Don't care for it. Okay. 21 But when it's not run properly and it's brought 22 to my attention that's it's not run properly it 23 is my job to make sure that is and that's what</p>

<p style="text-align: right;">Page 133</p> <p>1 we're here for.</p> <p>2 Q. When she was promoted to department head,</p> <p>3 what did you expect out of her?</p> <p>4 A. It's been so long ago. I'm trying to think</p> <p>5 was she even -- I don't remember the personnel</p> <p>6 status. Any time you're a department head --</p> <p>7 and I to try to include department heads in all</p> <p>8 the meetings. You know, we used to have regular</p> <p>9 department head meetings and we don't do it as</p> <p>10 much as we used to. I can get on the phone now</p> <p>11 and just call them and we can handle stuff over</p> <p>12 the telephone. It's not like it used to be. I</p> <p>13 expect her to do her job. I expect -- I got a</p> <p>14 street department that will bring to me or</p> <p>15 utility department that will bring to me a piece</p> <p>16 of equipment. A new way to do something. Yeah,</p> <p>17 it's going to cost us some money, but this will</p> <p>18 improve the way we do it. This will make it</p> <p>19 look better. This will be better for everybody</p> <p>20 and we can do four of these instead of one of</p> <p>21 those. Okay. It happens all the time. I don't</p> <p>22 ever remember getting asked on any improvements</p> <p>23 by Tammy especially that she wasn't allowed to</p>	<p style="text-align: right;">Page 135</p> <p>1 able to -- you know, things just weren't working</p> <p>2 out. You know, the -- I just expect her to do</p> <p>3 her job. That's all I ask.</p> <p>4 Q. You mention things that you had discussed</p> <p>5 with her verbally and you did mention possibly</p> <p>6 some things that may have been in the file. I'm</p> <p>7 going to show you what I have got marked as</p> <p>8 Exhibit CM-1 -- City of Millbrook 1. Is this a</p> <p>9 memorandum from Irene Swisher?</p> <p>10 A. Yes. That is a memorandum that -- I think</p> <p>11 Irene was the HR director at that particular</p> <p>12 time -- had with Angelica. I think that was an</p> <p>13 exist interview that was done -- if this</p> <p>14 particular one is the exit interview that was</p> <p>15 done when she left the court department</p> <p>16 employment.</p> <p>17 Q. Okay. And in this memorandum does it</p> <p>18 discuss Ms. Pugh's attitude or disposition in</p> <p>19 handling Ms. Brooks?</p> <p>20 A. Yeah, it does. Yes, it does.</p> <p>21 Q. Okay. And is it a negative handling?</p> <p>22 A. Yes.</p> <p>23 Q. Okay. All right. I'm going to show what</p>
<p style="text-align: right;">Page 134</p> <p>1 do. If she asked me for any improvement</p> <p>2 whatsoever, it was done. It was approved. I</p> <p>3 expected her to do her job to answer your</p> <p>4 question.</p> <p>5 Q. As a supervisor of the other employees in</p> <p>6 her department, do you feel that she was able to</p> <p>7 handle her own employee complaints within the</p> <p>8 department?</p> <p>9 A. No. The employee complaints -- even though</p> <p>10 they would complain to her, they were constantly</p> <p>11 coming to HR or coming to me personally and</p> <p>12 complaining to me. I do my best -- I don't</p> <p>13 normally have an audience with a street</p> <p>14 department worker that drives a truck or</p> <p>15 whatever until he's gone to his supervisor and</p> <p>16 he's gone through the proper channels. Okay.</p> <p>17 There was some cases in this particular</p> <p>18 instances where I had to because it couldn't go</p> <p>19 through the proper channels. So I talked to the</p> <p>20 employees. HR talked to them more than once.</p> <p>21 Matter of fact that one that was mentioned that</p> <p>22 was terminated was spending more time at HR than</p> <p>23 anybody else was and, you know, we just wasn't</p>	<p style="text-align: right;">Page 136</p> <p>1 I've got marked as Exhibit CM-2. Do you</p> <p>2 recognize this document?</p> <p>3 A. Yes.</p> <p>4 Q. Could you describe that for the council,</p> <p>5 please?</p> <p>6 A. This is one of the written warnings that I</p> <p>7 gave to Tammy back in 2019 that was -- basically</p> <p>8 I felt like I had to do. There again, it's not</p> <p>9 one of those things that I typically do as far</p> <p>10 as writing something up but the things had</p> <p>11 gotten so bad in the court department with</p> <p>12 Tammy's treatment of people. She wouldn't coach</p> <p>13 them, train them. She would -- they would</p> <p>14 almost have to ask the question how do I do</p> <p>15 this, and she said, Well, just learn to do it.</p> <p>16 Or what am I supposed to do with this. Well,</p> <p>17 you know, just put that over there and I'll</p> <p>18 handle it later kind of thing.</p> <p>19 There again, those training opportunities</p> <p>20 are open for those employees just like they are</p> <p>21 for that department head, and all they got to do</p> <p>22 is ask and they can go get trained at any</p> <p>23 particular place they want to go as long as it</p>

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<p style="text-align: right;">Page 137</p> <p>1 gets done.</p> <p>2 Q. Okay. Date on that was --</p> <p>3 A. 7/23/19.</p> <p>4 Q. Okay. And let me show you what I've got</p> <p>5 marked as CM-3. Would you describe it for the</p> <p>6 council, please?</p> <p>7 A. Yes. This is --</p> <p>8 MR. DEBARDELABEN: Jeff, do you got</p> <p>9 copies of those?</p> <p>10 MR. COURTNEY: I do, yeah. I'll</p> <p>11 enter them in just a second.</p> <p>12 THE WITNESS: Ami, our HR person,</p> <p>13 said that Tammy had not been attending court.</p> <p>14 She wasn't getting in all of her hours even and</p> <p>15 everybody else was getting in overtime. She</p> <p>16 had virtually almost shut down as far as going</p> <p>17 to the court sessions or anything. I told her</p> <p>18 -- I had Ami to tell her that she needs to</p> <p>19 attend court every time, assist with</p> <p>20 magistrates in other jobs, that's basically</p> <p>21 what that one is about.</p> <p>22 BY MR. COURTNEY:</p> <p>23 Q. Okay. You mentioned exit interviews,</p>	<p style="text-align: right;">Page 139</p> <p>1 out mistakes and got in front of her -- out in</p> <p>2 front of her other employees. She developed</p> <p>3 cooperation and team work. Would talk about</p> <p>4 team work but never showed it. Hostile</p> <p>5 environment created by Tammy. Listened but</p> <p>6 didn't take any of it into account, and it just</p> <p>7 goes on and on. Very similar to the other one.</p> <p>8 MR. GAY: Mr. Courtney, can you</p> <p>9 provide us a copy of that document, please.</p> <p>10 MR. COURTNEY: Yes, absolutely.</p> <p>11 This is actually CM-1 through</p> <p>12 CM-5 that was just described. I have a set of</p> <p>13 copies for each. Mr. DeBardelaben already has</p> <p>14 his.</p> <p>15 MR. GAY: Thank you.</p> <p>16 MR. COURTNEY: I don't think I have</p> <p>17 anything further at this point.</p> <p>18 EXAMINATION</p> <p>19 BY MR. DEBARDELABEN:</p> <p>20 Q. Mr. Mayor.</p> <p>21 A. Yes, sir.</p> <p>22 Q. It's pretty important to follow rules,</p> <p>23 isn't it?</p>
<p style="text-align: right;">Page 138</p> <p>1 Mayor. Would you please describe this exit</p> <p>2 interview for the council?</p> <p>3 A. This is from Angelica Brooks from court.</p> <p>4 She had brought some information to me and to</p> <p>5 her supervisor. The -- was she treated fairly</p> <p>6 and equally and her answer was never. Was she</p> <p>7 provided any recognition on the job, sometimes.</p> <p>8 She developed coordination and teamwork, never.</p> <p>9 Encouraged and listened to other's suggestions,</p> <p>10 never. Resolved complaints and problems, never.</p> <p>11 Followed policies and practices, never.</p> <p>12 And that's few of the answers that</p> <p>13 Ms. Brooks had regarding the exit interview that</p> <p>14 she did that after she just cannot be in that</p> <p>15 court department anymore.</p> <p>16 Q. Okay. Mayor, I'm going to show you what I</p> <p>17 have marked as CM-5. Would you also describe</p> <p>18 that to the council, please.</p> <p>19 A. It is another exit interview done by Sonya</p> <p>20 Jackson on 6/14 of '21. Let's see.</p> <p>21 Demonstrated fair and equal treatment, never.</p> <p>22 Tammy is rude and doesn't know how to supervise.</p> <p>23 Provided recognition on the job. She brought</p>	<p style="text-align: right;">Page 140</p> <p>1 A. Yes, sir.</p> <p>2 Q. Why don't you follow them?</p> <p>3 A. Well, just like anybody else, like I said,</p> <p>4 when you talk to one of your employees, you</p> <p>5 don't go put it in their file, sir.</p> <p>6 Q. But there is a personnel policy.</p> <p>7 A. Yes, sir. I'm not going to disagree with</p> <p>8 you, sir.</p> <p>9 Q. And it says in a letter on here by you:</p> <p>10 Dear Employee, I take this opportunity to</p> <p>11 welcome your new employment to Millbrook. I</p> <p>12 would like -- I hope you like your new job.</p> <p>13 It's our place to work, and you go on and say</p> <p>14 these policies present basic information which</p> <p>15 applies to all employees. Each department may</p> <p>16 have additional rules and regulations.</p> <p>17 So you're telling them to go by this and</p> <p>18 you signed this letter?</p> <p>19 A. Right.</p> <p>20 Q. You agree with that, don't you?</p> <p>21 A. Yes, sir.</p> <p>22 Q. Now, one of the things that says -- and I'm</p> <p>23 looking over here -- and I don't have but one</p>

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<p>Page 141</p> <p>1 copy, Mr. Mayor. I can come over there and 2 stand by you. 3 On disciplinary actions it says down here 4 on informal discussion do you see right here 5 where it says, The supervisor shall complete a 6 memo that identified the date, time, substances, 7 and response to this meeting? 8 A. Yes, sir. 9 Q. Did you do that when you met with Tammy? 10 A. No, sir, I did not. 11 Q. So you didn't do it? 12 A. No, sir. 13 Q. Okay. Step 2, counselling and written 14 reprimands. If within 30 days the action that's 15 taken in Step 1 has not resulted in any 16 corrective action, the supervisor shall meet 17 with the employee and more formally, A, review 18 the problem, B, permit the employee to present 19 his and her views of the problem, advise the 20 employee that the problem must be corrected 21 within the next 60 calendar days, and make 22 suggestion and/or give direction for correction. 23 To assist the employee, they shall meet on or</p>	<p>Page 143</p> <p>1 warning, and I think the book refers to it as 2 something else, but we'll accept that. And we 3 look over here and you tell us you got to get -- 4 basically got to do certain things. And here is 5 one -- something about her not attaining court. 6 Is this an employee disciplinary report you 7 filled out? 8 A. No, sir. Ami did that. I talked to the HR 9 director about that one. 10 Q. Did the employee get it? 11 A. I assume they did. 12 Q. Did she sign it? 13 A. I don't know that. 14 Q. What date is it, sir? 15 A. I don't know. 16 Q. Did you date it? 17 A. No, sir, I didn't. 18 Q. So we don't know when this took place? 19 A. No, sir. That doesn't mean it's wrong. 20 Q. Okay. Sir, do you know when it took place? 21 A. No, sir. But I can promise you that it 22 did. 23 Q. Did you write notes about it?</p>
<p>Page 142</p> <p>1 about 30 days from this meeting to informally 2 discuss progress or lack thereof, and, again, at 3 the end of 60 days, when the supervisor will 4 inform the employee that no further action is 5 needed or a written reprimand will be issued. A 6 copy will be forwarded to the director of human 7 resources and placed in the personnel file. 8 Did you do that? 9 A. Good job reading. No, sir, I did not. 10 Q. You didn't do it? 11 A. No, sir. Good job, though. 12 Q. Now, let's look at her annual evaluations. 13 How does that work, sir? 14 A. She would -- any department head was doing 15 self-evaluations and, most of the time if I 16 couldn't get to them to look at them, the HR 17 director would call me and ask me do I approve 18 the raise and I would say yes either via text or 19 whatever and then I look at the evaluations 20 later. 21 Q. Now, I think you -- and I pointed this out 22 -- on 7/23/19 -- I'm going to show you this -- 23 you gave Ms. Pugh what you call a written</p>	<p>Page 144</p> <p>1 A. No, sir. 2 Q. So we don't know what was said there. The 3 procedure wasn't followed, was it? 4 A. No, sir. 5 Q. Okay. Now, let's look at here on -- that's 6 March 20th, 2022 -- no, 2020. I'm sorry. After 7 you wrote her up -- let's see -- in 2019 -- let 8 me get that right. On 7/23/19, how was she 9 rated? 10 A. I don't know how she rated. I probably 11 didn't look it at. 12 Q. Well, it's achieving expectations, isn't 13 it? 14 A. Yeah. I lowered expectations for that 15 department quite a bit. 16 Q. Did you sign off on it as mayor? 17 A. Yes, I did. 18 Q. Did you sign it on 4 -- I can't tell -- 19 something 2020? 20 A. It looks like it. I can't see it either. 21 Q. Your writing is worse than mine. 22 Now, I want to ask you -- you know, you can 23 change items, don't you, because here on 2/17/17</p>

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<p style="text-align: right;">Page 145</p> <p>1 her evaluation then you said change Item 6 from 2 good to average. You did that. You knew you 3 could change it, didn't you? 4 A. Uh-huh. 5 Q. And then you said appearance was excellent 6 and everything was good. So -- 7 A. In '17 it probably was. 8 Q. Can you -- 9 A. This is last four or five years that things 10 have gone downhill, sir. 11 Q. Well, '18 everything is achieving 12 expectations, isn't it? 13 A. I'm not going to sit here and deny it. You 14 can sit here and run your mouth all you want to 15 about it. I don't care. 16 Q. No, sir. I'm doing my case and I would 17 appreciate you answering the question. 18 A. I'm answering them. 19 Q. On 3/22/19 it was all achieving 20 expectations, wasn't it? 21 A. Yes, sir, it was. 22 Q. On 3/20/2020 it was all achieving 23 expectations?</p>	<p style="text-align: right;">Page 147</p> <p>1 know when in the world this was -- you got an 2 undated one about her not attending court. And 3 some personal memo. I don't know who -- on 4 10/22 something about for the record -- I don't 5 know who wrote this. Can you tell me? This is 6 y'all's memo for Tammy. 7 A. I don't know unless it's Ami or -- I don't 8 know if Irene was there or not then. 9 Q. So you don't know -- 10 A. I don't know who -- I didn't sign it. I 11 don't know exactly who wrote it. I don't 12 remember the dates. 13 Q. Okay. Now, you recommend the City Council 14 appoint Ms. Pugh as the clerk, didn't you? 15 A. No, sir. You talking about in -- 16 Q. 2001. 17 A. There's been five of six of them since 18 then. 19 Q. Well, you -- 20 A. That one has been long gone. Those 21 appointments are done every four years. 22 Q. They're done every four years? 23 A. Yes, sir.</p>
<p style="text-align: right;">Page 146</p> <p>1 A. Yes, sir. 2 Q. Now, we had to go back and get this one 3 from the HR director. You didn't sign it, but 4 on 3/22/2021 you got it all achieving 5 expectations again. Now, whether you signed it 6 or not, we got it from the HR people, and it's 7 my understanding that HR sends it to you, but 8 she did get a raise that year. 9 A. Yes, she did. 10 MR. DEBARDELABEN: We would do this 11 composite exhibit as Plaintiff's Exhibit -- 12 EM-3. 13 MR. GAY: Do you have any more 14 questions, sir? 15 MR. DEBARDELABEN: Just give me a 16 second. 17 BY MR. DEBARDELABEN: 18 Q. Apparently Ms. Swisher wrote this on CM-1 19 in 2018, but you said -- looking at an annual 20 report -- she did well. She achieved 21 expectations. You have it marked down. 22 2019 when you got this written warning, the 23 next year she achieved expectations. I don't</p>	<p style="text-align: right;">Page 148</p> <p>1 Q. Well, why aren't they in her personal file? 2 A. They're in the minutes of any meeting. We 3 have an organizational meeting. 4 Q. Okay. So what you're telling me is that 5 the City Council appoints Ms. Pugh as city 6 clerk? 7 A. No. 8 Q. They don't? 9 A. No, she's department head. She's not 10 appointed to anything at this point. 11 Q. Well, sir, where in this appointment of 12 court clerk Mayor Kelly asks the council for the 13 their support in -- 14 A. That is in 2001. In the organizational 15 minutes of the 2001 meeting. Every four years 16 the organizational meetings are done again. She 17 has not been appointed since that time I don't 18 think. I know not in the last four or five 19 elections she has not. 20 Q. Well, what I want to ask you, sir, where on 21 here does it say it's for a four-year term? 22 A. Any appointment is by four-year term. 23 Q. For the court clerk?</p>

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<p style="text-align: right;">Page 149</p> <p>1 A. Right.</p> <p>2 Q. Did you realize that the AOC has to approve</p> <p>3 her being appointed as court clerk? Are you</p> <p>4 aware of that?</p> <p>5 A. In 2001 I guess they didn't approve it, so</p> <p>6 I guess she ain't one.</p> <p>7 Q. Well, are you aware they have approved it</p> <p>8 since then?</p> <p>9 A. No.</p> <p>10 Q. How often do you come to the court, sir?</p> <p>11 A. They don't -- I don't. I have been a few</p> <p>12 times. I don't go very often. I promise you.</p> <p>13 Q. So how often do you come over in to the</p> <p>14 clerk's office?</p> <p>15 A. Occasionally. Not very often.</p> <p>16 Q. So everything you are basing what -- your</p> <p>17 opinion on is what people have told you?</p> <p>18 A. And conversations with Tammy.</p> <p>19 Q. Okay. And when did it start going awry</p> <p>20 with Tammy, in your opinion?</p> <p>21 A. We've had problems with personnel in that</p> <p>22 office for many years not staying because of</p> <p>23 Tammy.</p>	<p style="text-align: right;">Page 151</p> <p>1 Q. Mr. Mayor, are the personnel policies of</p> <p>2 this city to be followed by everyone including</p> <p>3 you?</p> <p>4 A. Yeah.</p> <p>5 Q. And if the personnel policies are not</p> <p>6 followed, then that -- for one employee, then</p> <p>7 they haven't been treated like the other</p> <p>8 employees, have they?</p> <p>9 A. Whatever you say.</p> <p>10 Q. No, sir. I'm just asking.</p> <p>11 A. Yes, sir, that's fair.</p> <p>12 Q. And from my history, it said we got a</p> <p>13 resolution 1401. So these personnel policies</p> <p>14 were affected February 25th, 2014. Maybe that</p> <p>15 explains why I don't have anything behind 2015.</p> <p>16 This means that the City Council adopted this,</p> <p>17 didn't it?</p> <p>18 A. Yes, sir.</p> <p>19 Q. And the City governing body this is their</p> <p>20 personnel policy --</p> <p>21 A. Yes, sir.</p> <p>22 Q. -- that is to be followed?</p> <p>23 A. Yes, sir.</p>
<p style="text-align: right;">Page 150</p> <p>1 Q. But in all these -- you only -- well, I</p> <p>2 don't understand, sir, if she's been a problem</p> <p>3 all these years, the only annual evaluation I</p> <p>4 have found in her file are from 2015 forward,</p> <p>5 which that was all we were given when we</p> <p>6 requested her file, show that she has exceeded</p> <p>7 or met her expectations.</p> <p>8 A. Yes, sir. That's my fault.</p> <p>9 Q. And there's only two written disciplinary</p> <p>10 actions and after those she -- your evaluation</p> <p>11 shows she was good or made expectation; is that</p> <p>12 correct?</p> <p>13 A. Yes, sir, if that's what it says.</p> <p>14 Q. If an employee -- should an employee be</p> <p>15 able to rely on their annual evaluations?</p> <p>16 A. I don't have an answer for that.</p> <p>17 Q. Well, if --</p> <p>18 A. I mean, I talked to each employee -- each</p> <p>19 department head by themselves individually. I</p> <p>20 don't -- like I said, those evaluations to me --</p> <p>21 my evaluation in person to them is a lot more</p> <p>22 valuable than that evaluation there until we get</p> <p>23 in a situation with somebody like this.</p>	<p style="text-align: right;">Page 152</p> <p>1 Q. And you're sitting here today admitting you</p> <p>2 didn't follow it with Ms. Pugh, aren't you?</p> <p>3 A. I gave her above what she should have</p> <p>4 gotten, yes, sir.</p> <p>5 Q. Well, you didn't write her up like you're</p> <p>6 supposed to --</p> <p>7 A. No, sir.</p> <p>8 Q. -- so she will now?</p> <p>9 A. I think we have discussed that.</p> <p>10 Q. So you didn't follow what the City said you</p> <p>11 have to follow with the employees?</p> <p>12 A. I think we have discussed that.</p> <p>13 Q. And I think the answer is, no, you didn't</p> <p>14 follow it.</p> <p>15 MR. DEBARDELABEN: That's all I</p> <p>16 have.</p> <p>17 MR. COURTNEY: Just a few followups,</p> <p>18 if I may.</p> <p>19 MR. DEBARDELABEN: Oh. I'm sorry.</p> <p>20 One more thing.</p> <p>21 MR. COURTNEY: Go ahead.</p> <p>22 MR. DEBARDELABEN: No, that's okay.</p> <p>23 MR. GAY: Are you done, sir?</p>

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<p>Page 153</p> <p>1 MR. DEBARDELABEN: Yes, sir.</p> <p>2 MR. COURTNEY: Just a few followups.</p> <p>3 REEXAMINATION</p> <p>4 BY MR. COURTNEY:</p> <p>5 Q. Mayor, Mr. DeBardelaben asked you about</p> <p>6 council appointment of Ms. Pugh. I'm looking --</p> <p>7 I'm showing you Exhibit CM-6. Is this the</p> <p>8 minutes from February 5, 2001?</p> <p>9 A. Yes.</p> <p>10 Q. Okay. And did you ask the council for</p> <p>11 their support --</p> <p>12 A. Yes.</p> <p>13 Q. -- in your appointment of Ms. Tammy Abney?</p> <p>14 A. Yes, I did.</p> <p>15 Q. Ms. Abney is --</p> <p>16 A. Tammy Pugh.</p> <p>17 Q. -- is Tammy Pugh.</p> <p>18 Were you asking for a vote of confidence?</p> <p>19 A. Yes. I was just asking for -- I had made</p> <p>20 that appointment at that particular time, yes.</p> <p>21 Q. Okay. I'm going to show you now what I've</p> <p>22 got marked as CM-7. Is this a City of Millbrook</p> <p>23 municipal ordinance?</p>	<p>Page 155</p> <p>1 Q. She's none of these things by ordinance the</p> <p>2 council would even appoint to start with; is</p> <p>3 that correct?</p> <p>4 A. No, correct.</p> <p>5 Q. In fact, had the council made an</p> <p>6 appointment, it would have been voided, wasn't</p> <p>7 it?</p> <p>8 A. Yes. That's the only ones that are made.</p> <p>9 MR. COURTNEY: This is CM-6 and 7.</p> <p>10 Apologize I don't have more copies.</p> <p>11 BY MR. COURTNEY:</p> <p>12 Q. Mr. DeBardelaben asked you about various</p> <p>13 procedures. I'm going to ask you to take look</p> <p>14 with me at Section 8. I think the council</p> <p>15 already has a copy of that. In Section 8 would</p> <p>16 you please read this for the council. It is the</p> <p>17 third sentence that begins with in recognition.</p> <p>18 A. In recognition of the fact that each</p> <p>19 incident differs in some respect. The City has</p> <p>20 a right to treat each occurrence individually</p> <p>21 without setting the precedent for future</p> <p>22 actions.</p> <p>23 Q. Okay. In the same paragraph, okay, would</p>
<p>Page 154</p> <p>1 A. Yes.</p> <p>2 Q. Okay. All right. And does it list under</p> <p>3 administrative positions appointed by the</p> <p>4 following authorities, does it list those that</p> <p>5 are appointed by the City Council?</p> <p>6 A. Yes.</p> <p>7 Q. Okay. All right. What's the first one?</p> <p>8 A. City clerk.</p> <p>9 Q. Is Ms. Pugh the city clerk?</p> <p>10 A. No.</p> <p>11 Q. What's number two?</p> <p>12 A. Municipal judge.</p> <p>13 Q. She's not that either?</p> <p>14 A. No.</p> <p>15 Q. Okay. Number three?</p> <p>16 A. City attorney, no.</p> <p>17 Q. And number four?</p> <p>18 A. Superintendent of utilities, no. And next</p> <p>19 one, treasurer, no.</p> <p>20 Q. Okay. Fire chief?</p> <p>21 A. Fire chief, no.</p> <p>22 Q. Treasurer?</p> <p>23 A. No.</p>	<p>Page 156</p> <p>1 you please read the last sentence.</p> <p>2 A. Any action will depend on the seriousness</p> <p>3 of the incident and the entire pattern of the</p> <p>4 employee's past performance and conduct and the</p> <p>5 totality of the circumstances surrounding any</p> <p>6 incident or incidents.</p> <p>7 Q. Okay. In terminating Ms. Pugh, did you</p> <p>8 weigh here entire pattern of her past</p> <p>9 performance and conduct?</p> <p>10 A. Yes, I did.</p> <p>11 Q. Did you weigh the totality of the</p> <p>12 circumstances surrounding the incident or</p> <p>13 incidents?</p> <p>14 A. Yes, I did.</p> <p>15 Q. Okay. And did you feel immediate</p> <p>16 termination at that point was necessary?</p> <p>17 A. Yes.</p> <p>18 Q. And, in fact, under Section 9, the second</p> <p>19 sentence it actually begins with -- would you</p> <p>20 read that, please?</p> <p>21 A. Unless immediate termination is called for.</p> <p>22 Q. Okay. And then it reads the usual?</p> <p>23 A. The usual disciplinary progression</p>

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<p style="text-align: right;">Page 157</p> <p>1 includes.</p> <p>2 Q. And then it goes on quite some way. Did</p> <p>3 you feel immediate termination was called for</p> <p>4 you when you made the immediate termination?</p> <p>5 A. Yes.</p> <p>6 Q. So you've complied?</p> <p>7 A. Yes.</p> <p>8 MR. GAY: Can we have a copy of</p> <p>9 that, please?</p> <p>10 MR. COURTNEY: You may have mine.</p> <p>11 It is Chapter 6 progressive discipline, due</p> <p>12 process. I think you already have a copy of</p> <p>13 the handbook. I just ask the tribunal -- or</p> <p>14 excuse me. I'm sorry. I'd ask the council,</p> <p>15 please, just to take what we -- usually would</p> <p>16 call judicial notice -- council notice.</p> <p>17 MR. GAY: That's on page 6-3.</p> <p>18 MR. COURTNEY: Yes. I'm sorry.</p> <p>19 BY MR. COURTNEY:</p> <p>20 Q. You've never had to ask AOC whether or not</p> <p>21 you could hire anybody?</p> <p>22 A. No, I have not.</p> <p>23 Q. In fact, if you asked them, they wouldn't</p>	<p style="text-align: right;">Page 159</p> <p>1 making the appointment, where applicable, and a</p> <p>2 copy should be forwarded to ADC. For each</p> <p>3 person appointed by the ADC, a copy of the</p> <p>4 letter appointment shall be on file with AOC or</p> <p>5 in the office of district court clerk in the</p> <p>6 district wherein the person is serving or, for</p> <p>7 municipal court magistrates, in the office of</p> <p>8 municipal court clerk in the municipality</p> <p>9 wherein the magistrate is servicing.</p> <p>10 So you know AOC has to approve it, don't</p> <p>11 you?</p> <p>12 A. No.</p> <p>13 Q. You don't think they do?</p> <p>14 A. No.</p> <p>15 Q. Okay.</p> <p>16 A. I don't know if they do or not. I mean,</p> <p>17 you're reading some law to me I don't know</p> <p>18 about.</p> <p>19 Q. Yes, sir.</p> <p>20 A. Okay.</p> <p>21 Q. That's in Rule 18 of the Alabama rule of</p> <p>22 the Judicial Procedure, III -- Roman numeral</p> <p>23 III.</p>
<p style="text-align: right;">Page 158</p> <p>1 give you any response, would they?</p> <p>2 A. They would not.</p> <p>3 Q. And that's because they don't have the</p> <p>4 authority to hire anybody for you?</p> <p>5 A. That is correct.</p> <p>6 MR. COURTNEY: I don't have anything</p> <p>7 further.</p> <p>8 MR. GAY: Counselor, do you any a</p> <p>9 rebut?</p> <p>10 MR. DEBARDELABEN: Just one second.</p> <p>11 REEXAMINATION</p> <p>12 BY MR. DEBARDELABEN:</p> <p>13 Q. Now, to be chief court clerk or chief</p> <p>14 clerk, Ms. Pugh had to be a magistrate, didn't</p> <p>15 she?</p> <p>16 A. Yes, sir.</p> <p>17 Q. Are you aware that rule -- Rules of</p> <p>18 Judicial Administration, Rule 18-3 -- Section 3</p> <p>19 I think that's the way you read it. I think it</p> <p>20 would be -- D(3) said, Each appointment made</p> <p>21 pursuant to this rule or after August 1, 1987,</p> <p>22 shall be in writing. A copy of appointment</p> <p>23 shall be filed in the office district clerk</p>	<p style="text-align: right;">Page 160</p> <p>1 MR. DEBARDELABEN: That's all I</p> <p>2 have.</p> <p>3 MR. GAY: Is there rebut?</p> <p>4 MR. COURTNEY: Very brief.</p> <p>5 FURTHER EXAMINATION</p> <p>6 BY MR. COURTNEY:</p> <p>7 Q. All AOC does is provide training,</p> <p>8 certification, and yearly maintenance training?</p> <p>9 A. Yes. And they offer training to court</p> <p>10 clerks, to court personnel, and different areas</p> <p>11 also, but they're mostly a support group.</p> <p>12 Q. In fact, if they don't go to the</p> <p>13 certification, they can't fire your magistrate</p> <p>14 even if they miss the certification, can they?</p> <p>15 A. No.</p> <p>16 Q. Okay.</p> <p>17 A. I'm not sure. I would say no but --</p> <p>18 MR. COURTNEY: Well, I'd represent</p> <p>19 to the council that's exactly what Eric Locke</p> <p>20 with AOC would say. Even if she missed her</p> <p>21 certification they couldn't fire her because</p> <p>22 they have absolutely no authority to hire or</p> <p>23 fire any employee of the City of Millbrook.</p>

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<p style="text-align: right;">Page 161</p> <p>1 City of Millbrook sends who they want. They 2 rubber stamp it. They certify. That's it. 3 MR. DEBARDELABEN: If Mr. Courtney 4 is going to testify -- if y'all don't want to 5 strike it, I would like to cross-examine. 6 MR. GAY: This is a public hearing. 7 You have every right to repute. 8 Are you through, sir? 9 MR. COURTNEY: I am. 10 MR. GAY: Who are you rebutting, 11 sir, to the mayor? 12 MR. DEBARDELABEN: I want the mayor 13 because the lawyers can't testify. 14 MR. GAY: I understand. I just want 15 to make sure you know who you are talking to. 16 FURTHER EXAMINATION 17 BY MR. DEBARDELABEN: 18 Q. Mr. Mayor, you realize that AOC describes 19 the duties of the court clerk, don't you -- the 20 clerk of the court? Do you realize they 21 describe all of the duties and what they should 22 do? 23 A. I would think so, yes.</p>	<p style="text-align: right;">Page 163</p> <p>1 MR. GAY: There's no reason to be 2 argumentive. You've read the -- 3 THE WITNESS: You've read it. If 4 it's in there, there's no sense for it to be 5 read. 6 MR. DEBARDELABEN: I will ask for 7 the council to take judicial notice of the 8 Rules of Administrative -- Rules of Judicial 9 Administration and what it says and requires. 10 MR. GAY: Do you have copy to 11 provide to us? 12 MR. DEBARDELABEN: No, sir. I can 13 get it. They're in the rules. If you've got a 14 book, I can make a copy. Usually we don't have 15 to make copies of these things. 16 MR. GAY: You're asking for us to 17 look at it, so I hope you have a copy for us to 18 review. 19 MR. DEBARDELABEN: If you got a copy 20 machine. 21 MR. GAY: We might be able to help 22 you with that. 23 MR. DEBARDELABEN: And that's it.</p>
<p style="text-align: right;">Page 162</p> <p>1 Q. And you realize that AOC says the clerk 2 shall be the chief administrator officer of the 3 municipal court administrative division and 4 shall answer to the municipal judge, or if the 5 court has more than one judge, to the presiding 6 judge. So she would answer by rules to Judge 7 Bright, not to you, wouldn't she? 8 A. She was a department head. She would 9 answer to me. 10 Q. So your department head rules -- and of the 11 opinion overrules the rules of Judicial 12 Administration by the Alabama Supreme Court? 13 A. No, sir. 14 Q. And if they say she reports to -- answers 15 to the municipal judge, then she should answer 16 to the municipal judge, shouldn't she? 17 A. I think that's in doubt in question. I 18 don't want -- 19 Q. I'll ask you to read it, sir. 20 A. I'm not going to read it. 21 Q. You're not going to read it? 22 A. No, sir. I refuse to read it. 23 Q. You refuse to read what the --</p>	<p style="text-align: right;">Page 164</p> <p>1 MR. GAY: Do you have a rebut, sir? 2 MR. COURTNEY: One quick rebut. 3 FURTHER EXAMINATION 4 BY MR. COURTNEY: 5 Q. What he just read to you said answers. It 6 doesn't say supervise, does it? 7 A. No, sir. 8 Q. You may answer to more than one person; 9 correct? 10 A. Yes. 11 MR. COURTNEY: Council, I do have -- 12 I don't know if you have anything after that. 13 I do have one rebuttal witness. 14 MR. GAY: Okay. Are you done with 15 the mayor? 16 MR. COURTNEY: I am. I'm done with 17 the mayor. Thank you, Mayor. 18 MR. GAY: Mayor, you're excused. 19 MR. COURTNEY: I would like to 20 recall Judge Lynn Bright. 21 Thank you, Your Honor. 22 FURTHER EXAMINATION 23 BY MR. COURTNEY:</p>

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<p style="text-align: right;">Page 165</p> <p>1 Q. Judge Bright, you heard our discussion 2 regarding magistrates and AOC. Would you please 3 provide some information to the council on this 4 very subject? 5 A. I will. The Alabama Rules of Judicial 6 Administration with regard to the issue of her 7 being supervised directly by the municipal 8 judge, it does -- Rule 4 of the Alabama Rules of 9 Judicial Administration say that she is to 10 answer to the judge. That has always been 11 excepted, as I understand it, and I believe as 12 most judges understand it, that it is simply a 13 matter of direction. It has nothing do with the 14 personnel matters. I don't hire and fire. I 15 simply say we're going to do court on this day, 16 this is how we're going to do court, and it's 17 general direction. 18 With regards to the magistrate, the 19 Administrative Office of Court does approve any 20 magistrate that is recommended by the judge or 21 clerk of the court if it's not -- for example, 22 as the clerk of the court, Tammy would send 23 names to the Administrative Office of Courts</p>	<p style="text-align: right;">Page 167</p> <p>1 FURTHER EXAMINATION 2 BY MR. DEBARDELABEN: 3 Q. Your Honor, you do agree that the wording 4 is that the clerk answers to the municipal 5 judge? 6 A. Right. And I believe that would be in 7 regard to any court matters, not personnel 8 matters. 9 Q. Yes, ma'am. But there's no definitive 10 answer on there from the court? 11 A. Well, you have to remember, 12 Mr. DeBardelaben, what the Rules of Judicial 13 Administration are. They are to provide smooth 14 procedures and understanding. It's different 15 and separate from the code of Alabama although 16 it is adopted. It is -- I think the intent is 17 pretty clear there that it has to do with court 18 matters in a municipal court. I am not her 19 boss. I am simply the one who directs and 20 supervises her with regard to court. Her days 21 off, her vacations, any disciplinary matters, 22 they're not mine. They're the -- through her 23 personnel -- through the mayor.</p>
<p style="text-align: right;">Page 166</p> <p>1 that have been sworn in by the judge for 2 approval as a magistrate. They do have to 3 approve them. There's certain requirements they 4 have to meet like, you know, not having any 5 criminal history unless not being unable to 6 serve. But the magistrates -- there's actually 7 a magistrate agency for municipal judges and a 8 magistrate agency for district court judges. 9 It's just simply the way that it is set up in 10 the codes and in the Rules of Judicial 11 Administration. And as a clerk -- you can be a 12 clerk without being a magistrate but generally 13 most courts have their chief clerk as the 14 magistrate and every employee in that office as 15 a magistrate giving them magistrate duties, and 16 they're just simply approved by the 17 administrative director of courts. There is a 18 form that is sent over, an oath of office sent 19 over, and they approve it. I wouldn't say 20 exactly rubber stamping it, but pretty close to 21 it, and then they are a magistrate. 22 MR. COURTNEY: Very good. Thank 23 you.</p>	<p style="text-align: right;">Page 168</p> <p>1 Q. That's -- and respectfully, Your Honor, 2 that's your view, but the Court has not 3 addressed it yet, have they, to your knowledge? 4 A. I wouldn't know if there's ever been a case 5 on the issue. 6 Q. Right. 7 A. But I would imagine it's intended to make 8 the job easy for the municipal judge to have 9 someone that he or she can direct about court 10 matters. 11 Q. And hiring and firing? 12 A. I don't hire and I don't fire. 13 MR. DEBARDELABEN: Thank you, Your 14 Honor. 15 MR. GAY: Are you through? 16 MR. DEBARDELABEN: I'm through. 17 MR. GAY: Did you have any further 18 questions? 19 MR. COURTNEY: I have no further 20 questions and I have no further witnesses at 21 this time. 22 MR. GAY: Sir, do you have any 23 witnesses?</p>

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<p style="text-align: right;">Page 169</p> <p>1 MR. DEBARDELABEN: Can you give me 2 about five minutes? I might can cut. 3 MR. GAY: Yes. I'll grant a 4 five-minute recess. 5 (Short break.) 6 MR. DEBARDELABEN: I have no 7 witnesses to call. We rest. 8 MR. GAY: All right. At this time, 9 closing statements. The City goes first. 10 MR. COURTNEY: Thank you, sir. A 11 brief closing statement really on that. You 12 have heard the testimony from three very 13 important and informative witnesses. You heard 14 from the judge, you heard from the police 15 chief, and you heard from the mayor of course. 16 Certainly feel that the testimony conclusively 17 established that Mayor Kelly was right, that 18 the termination was correct. Certainly asking 19 you to uphold his decision. 20 One point I would like to make 21 during closing, though, Mr. DeBardelaben had 22 mentioned something regarding some ambush early 23 on. I would just state that in that March 1,</p>	<p style="text-align: right;">Page 171</p> <p>1 we're not going to do it. They're not going to 2 have to follow this policy and then you're 3 telling them your annual evaluations aren't 4 worth the paper they're written on. If you get 5 an annual evaluation, I want y'all to look at 6 them. Those excellent and good in -- there's 7 two averages in '16, and then in '17 he changed 8 a good to an average but he's got excellent on 9 there, and the lowest she got is good and she's 10 achieving expectation and you signed them. 11 You're going to tell the employees those 12 evaluations are trash. They don't mean a 13 thing. That's what you're telling this lady 14 your evaluation that we gave you are trash. 15 You can't depend on it. They're false. We 16 don't have to follow -- this rule book it's so 17 much fluff. We don't believe in the rules of 18 law in this city. We aren't going to protect 19 the employees. The rules are their to protect 20 the employees, to get you good employees. 21 Millbrook is a good city. And it's hard -- 22 it's hard for the employees -- it would be for 23 me -- to respect when I'm given the rules and I</p>
<p style="text-align: right;">Page 170</p> <p>1 2022, letter it does state that she had 2 difficulty communicating with other 3 departments, so I don't feel like that was any 4 sort of an ambush at all. But, again, you 5 heard -- you heard the evidence, you heard the 6 testimony. We feel that it's certainly 7 conclusively affirms that Mayor Kelly made the 8 right decision when he made an immediate 9 termination. 10 MR. GAY: Are you through, sir? 11 MR. COURTNEY: I am through. 12 MR. DEBARDELABEN: Respectfully, 13 this case is not all about Ms. Pugh. It's 14 about this council's rules. You have rules and 15 you tell the employees to follow them. If we 16 have a problem with you, we have a disciplinary 17 procedure we're going to follow. They admit 18 they didn't follow it. They admit they didn't 19 follow it. What you're going to tell -- if you 20 uphold this termination, are you going to tell 21 the employees of this City two very strong 22 things. Number one, we're not going to hold 23 anybody's feet to the fire. The fire is --</p>	<p style="text-align: right;">Page 172</p> <p>1 find out, oh, they don't have to follow them. 2 And I get annual evaluations that don't mean 3 anything if they change their mind. And I have 4 it where we're going to have progressive 5 discipline. Nobody said Ms. Pugh wasn't doing 6 her job. They didn't say that. She has an 7 attitude problem. You know, she's been working 8 here -- she's given 20-something years. I think 9 she started in '98. 22 -- that would be the 10 23 years, a little over, for this city, and she 11 worked hard. She did a good job. We come in, 12 there's changes, but we're not going to follow 13 the rules, people. She's got to be swept out. 14 Judge said she was trying. She tried. You 15 know, it's hard when you been doing something 16 one way to change it. It's hard. You got 17 somebody that wants you to do it that way, 18 that's the way you do. Somebody else comes in, 19 it's -- we throw all you've learned out. 20 What we did learn tonight the 21 court system needs some improvement. Yeah. It 22 had been kind of stuck in a time warp, and it's 23 hard to get unstuck from that time warp. But</p>

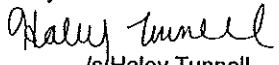
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<p>Page 173</p> <p>1 you don't fire the lady. All that we've had 2 changes. Well, had a lot of turnover. I've 3 been -- and I don't have these statistics. You 4 look at every department in the city, that have 5 a lot of turnover. Every department would. 6 It's the nature of the beast. But this lady 7 they haven't presented -- you know, they get up 8 there and I say ambush. They put stuff in by 9 police chief talking about stuff that happened 10 ten years ago, five years ago. But the mayor 11 said, oh, you can't believe those evaluations. 12 Believe this. I didn't follow and write up 13 when I counseled with her. I didn't do that. 14 I didn't tell her she had to improve. And 15 after I did write her up in 2019, I said she 16 was doing good the very next year. In 2021 we 17 got -- we got it from the -- I don't know why 18 the mayor didn't sign it. We got it from human 19 resources, and it shows she's doing good. But 20 all of a sudden they want to fire her without a 21 single day of suspension, without a write-up 22 saying if you don't improve here, we're going 23 to have to take drastic action. You got to</p>	<p>Page 175</p> <p>1 attitude problems, address it, and then if she 2 doesn't improve, and you go through the steps 3 that's when you get rid of her. Not just 4 coming from a shot out of the dark, bring her 5 in, and then, boom, there's no write-up and no 6 nothing, boom, you are gone. She has a 7 constitutional property right in her job that's 8 supposed to be backed up with these rules here. 9 Thank you very much. 10 MR. GAY: Rebut? 11 MR. COURTNEY: Very brief. Thank 12 you. 13 It was very clear that she was 14 given every opportunity to improve. A lot of 15 discussion about the performance evaluations. 16 She knows all of these counselling sessions and 17 all of the discussions whether it be from the 18 mayor or the judge, the police chief, whomever. 19 She knows that didn't match her employment 20 evaluations. And the mayor told you very 21 candidly why he didn't want to hurt her 22 financially. That was his answer. But 23 nevertheless she knew that they didn't</p>
<p>Page 174</p> <p>1 treat people better than that. You got to 2 follow your rules. You got -- you should -- 3 this is important. At least I thought it was 4 important, and I hope you think it's important. 5 These annual evaluations they're important. 6 That tells somebody how they're doing. You 7 know, I don't know if the mayor could write the 8 chief up or not. I would hope not. But if 9 you're going to come in and say, oh, I could 10 have written her up several times. You have 11 got a duty to the people of this city to do 12 your job, to tell you aren't pulling your 13 weight. You don't come in all of a sudden 14 after people has been here all of these year 15 and you got all this money training them and 16 they're waiting on retirement and they get to 17 that age and you, oh, none of this stuff we 18 gave you said that you were doing good is worth 19 anything and our rules are not worth anything. 20 That's what this case is about. 21 And it's hard to say Mr. Mayor, 22 you're wrong; Judge, you're wrong. You need to 23 pull the lady back, let her work, and she has</p>	<p>Page 176</p> <p>1 coincide. Again, she was given every 2 opportunity to improve and didn't do it, so the 3 mayor did what he had to do and immediately 4 terminated her. And as far as following the 5 rules, the mayor clearly did follow the rules 6 regarding an immediate terminations. 7 Thank you very much. 8 MR. GAY: All right. This closes 9 the post-disciplinary hearing. At this time, 10 are there any motions? 11 MR. HODGE: Council President, I 12 move for the council to go into executive 13 session for the purpose of deliberating and 14 discussing evidence and/or testimony present 15 during the post-disciplinary hearing. 16 MR. GAY: We have a motion. Is 17 there a second? 18 MR. HARRIS: Second. 19 MR. GAY: Clerk, please call the 20 role. 21 THE CLERK: Council members Harris? 22 MR. HARRIS: Yes. 23 THE CLERK: Thomas?</p>

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45 (177 - 180)

<p style="text-align: right;">Page 177</p> <p>1 MS. THOMAS: Yes.</p> <p>2 THE CLERK: Jones?</p> <p>3 MR. JONES: Yes.</p> <p>4 THE CLERK: Hodge?</p> <p>5 MR. HODGE: Yes.</p> <p>6 THE CLERK: Gay?</p> <p>7 MR. GAY: Yes.</p> <p>8 Let the record show we are going</p> <p>9 into executive session at 8:10 and we will come</p> <p>10 out of executive session here afterwards. I do</p> <p>11 not know for sure how long it will take, at</p> <p>12 least 30 minutes or maybe more. If it is going</p> <p>13 to be longer than 30 minutes, we will let the</p> <p>14 people in know. Let's go back in executive</p> <p>15 sessions.</p> <p>16 (Council members enter executive</p> <p>17 session.)</p> <p>18 MR. GAY: Please let the record show</p> <p>19 that we returned from executive session at 8:51</p> <p>20 and call the meeting back to order.</p> <p>21 Is there a motion?</p> <p>22 MR. HODGE: I make a motion to</p> <p>23 uphold the termination that Mayor Kelly</p>	<p style="text-align: right;">Page 179</p> <p>1 for disposition.</p> <p>2 Anything else that we need to at</p> <p>3 this time?</p> <p>4 MR. HARRIS: I make the motion that</p> <p>5 we adjourn.</p> <p>6 MR. JONES: I second.</p> <p>7 MR. GAY: A motion and second. All</p> <p>8 in favor say aye.</p> <p>9 (All in favor so indicated.)</p> <p>10 MR. GAY: All opposed?</p> <p>11 (No response)</p> <p>12 MR. GAY: We are adjourned.</p> <p>13 (The hearing concluded at 8:52</p> <p>14 p.m.)</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p>
<p style="text-align: right;">Page 178</p> <p>1 originally had.</p> <p>2 MR. GAY: There is a motion. Is</p> <p>3 there a second?</p> <p>4 MR. HARRIS: Second.</p> <p>5 MR. GAY: I have a motion and a</p> <p>6 second to affirm the mayor's termination.</p> <p>7 If the clerk will please call the</p> <p>8 role.</p> <p>9 THE CLERK: Council members Thomas?</p> <p>10 MS. THOMAS: No.</p> <p>11 THE CLERK: Harris?</p> <p>12 MR. HARRIS: Yes.</p> <p>13 THE CLERK: Jones?</p> <p>14 MR. JONES: Yes.</p> <p>15 THE CLERK: Hodge?</p> <p>16 MR. HODGE: Yes.</p> <p>17 THE CLERK: Gay?</p> <p>18 MR. GAY: Yes.</p> <p>19 By a vote of four to one it is</p> <p>20 yes to affirm the mayor's decision on the</p> <p>21 termination. There will be a written decision</p> <p>22 within five business days of the conclusion of</p> <p>23 the hearing and will transmit to Mayor Kelly</p>	<p style="text-align: right;">Page 180</p> <p>1 REPORTER'S CERTIFICATE</p> <p>2 STATE OF ALABAMA</p> <p>3 MONTGOMERY COUNTY</p> <p>4 I, Haley Tunnell, Court Reporter,</p> <p>5 Commissioner for the State of Alabama at Large,</p> <p>6 hereby certify that on March 16, 2022, I</p> <p>7 reported the testimony and proceedings in the</p> <p>8 foregoing cause and that pages 4 through 179</p> <p>9 contain a true and accurate transcription of the</p> <p>10 proceedings set out herein.</p> <p>11 I further certify that I am neither kin nor</p> <p>12 counsel to any of the parties to said cause, nor</p> <p>13 in any manner interested in the results thereof.</p> <p>14 </p> <p>15 /s/Haley Tunnell</p> <p>16 HALEY TUNNELL, Court Reporter</p> <p>17 Commissioner for the</p> <p>18 State of Alabama at Large</p> <p>19 ACCR 639, Expires 09/30/22</p> <p>20 MY COMMISSION EXPIRES: 02/25/23</p> <p>21</p> <p>22</p> <p>23</p>

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