

[1] IN THE UNITED STATES DISTRICT COURT  
 [2] FOR THE NORTHERN DISTRICT OF GEORGIA  
 [3] ATLANTA DIVISION

[4] WANDA SPANN, )  
 [5] Plaintiff, )  
 [6] vs. ) CIVIL ACTION  
 [7] ) FILE NO.  
 [8] COBB COUNTY GOVERNMENT, COBB ) 1:04-CV-1951-MHS  
 [9] COUNTY SUPERIOR COURT JUDGES )  
 [10] COUNCIL, COBB COUNTY PRETRIAL )  
 [11] COURT SERVICES AGENCY, FRANK )  
 [12] COX, in his official capacity )  
 [13] as Chief Judge of the Cobb )  
 [14] County Magistrate Court and )  
 [15] in his individual capacity, )  
 [16] Defendants. )

[17] DEPOSITION OF  
 [18] FRANK ROGERS COX

[19] June 9, 2005  
 [20] 10:10 a.m.

[21] Cobb County Courthouse  
 [22] 32 Waddell Street  
 [23] Marietta, Georgia

[24] Pamela L. Porter, CCR-B-2160

[22]  
 [23]  
 [24]  
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[1] (Reporter disclosure made pursuant to  
 [2] Article 8.B. of the Rules and Regulations of the  
 [3] Board of Court Reporting of the Judicial Council  
 [4] of Georgia.)

[5] **MS. SPANN:** I would like for all the  
 [6] parties to identify themselves at this time.

[7] **JUDGE COX:** Judge Frank Cox, Chief  
 [8] Magistrate.

[9] **MR. WEAVER:** George Weaver, attorney  
 [10] representing Judge Cox, Cobb County, and  
 [11] Pretrial Court Services.

[12] **MS. SPANN:** Wanda S. Spann, plaintiff.

[13] **MR. WEAVER:** Let me say for the record  
 [14] there's another attorney with the attorney  
 [15] general's office, Steffanie Morrison. I spoke  
 [16] to her yesterday. She said she might or might  
 [17] not be here. She represents the Council of  
 [18] Superior Court Judges.

[19] **MS. SPANN:** I'd like the record to reflect  
 [20] this morning that Judge Cox is the deponent in  
 [21] this case this morning.

[22] Judge Cox, what is your name?

[23] **JUDGE COX:** Frank Rogers Cox.

[24] ///  
 [25] ///

[1] APPEARANCES OF COUNSEL

[2]  
 [3] On behalf of the Plaintiff:  
 [4] (Pro se)  
 [5]

[6] On behalf of the Defendants  
 [7] Cobb County Government, Cobb County Pretrial Court  
 [8] Services, and Frank Cox:

[9] GEORGE M. WEAVER, Esq.  
 [10] Hollberg & Weaver, LLP  
 [11] Suite C  
 [12] 2941 Piedmont Road, N.E.  
 [13] Atlanta, Georgia 30305

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[1] FRANK ROGERS COX,  
 [2] having been first duly sworn, was examined and  
 [3] testified as follows:

[4] **CROSS-EXAMINATION**

[5] **BY MS. SPANN:**

[6] **Q.** Would you please state your full name.

[7] **A.** Frank Rogers Cox.

[8] **Q.** And, Judge Cox, what is your current  
 [9] position?

[10] **A.** Chief Magistrate, Cobb County Judicial  
 [11] Circuit.

[12] **Q.** And how long have you held that position?

[13] **A.** Since January 1 of '01.

[14] **Q.** Where were you employed prior to that  
 [15] time?

[16] **A.** Cobb County district attorney's office.

[17] **Q.** And what was your position there?

[18] **A.** Assistant district attorney.

[19] **Q.** How long did you hold that position, Mr.  
 [20] Cox?

[21] **A.** From February 18th, 1985, until April of  
 [22] 2000. I forget the exact date in April because I  
 [23] took a leave of absence in April of 2000 and  
 [24] officially resigned when I was elected chief  
 [25] magistrate in July of 2000.

[1] Q. Who was your supervisor in the district  
[2] attorney's office?  
[3] A. The district attorney, Tom Charron.  
[4] Q. Where did you work prior to the district  
[5] attorney's office?  
[6] A. I was in private practice.  
[7] Q. When you were in private practice, did you  
[8] at any time work in the same office with any of the  
[9] current judges?  
[10] A. I did.  
[11] Q. And who did you work with?  
[12] A. Judge James Bodiford.  
[13] Q. And how long did you work with Judge  
[14] Bodiford?  
[15] A. Well, we shared office space is a more  
[16] accurate term, but we shared office space for  
[17] approximately -- sometime in 1981 until he  
[18] resigned -- until he went to the district attorney's  
[19] office in July of '83, so approximately two years.  
[20] Q. Would you say that the two of you still  
[21] maintain some type of relationship?  
[22] A. Yes.  
[23] Q. And how would you classify that  
[24] relationship?  
[25] A. We're friends.

[1] me?  
[2] Q. Lodged against you to any supervisor.  
[3] A. There may have been some secretaries that  
[4] may have lodged some complaints.  
[5] Q. Do you remember who they were?  
[6] A. Denise Rooks is a possibility.  
[7] Q. Denise Rooks?  
[8] A. Uh-huh.  
[9] Q. Is she still employed with the DA's  
[10] office?  
[11] A. She is.  
[12] Q. And what was the nature of her complaint?  
[13] A. Probably difficulty working for me.  
[14] Q. Was there any particular incident that  
[15] stood out more than any other incident?  
[16] A. I don't think so, other than in her mind  
[17] or from her perception, my asking too much of her or  
[18] putting too much work on her at any point in time.  
[19] Q. Has she ever in the past become emotional  
[20] at any time, for example, crying or --  
[21] A. Not in my presence. I think I've heard  
[22] that she has, but not in my presence.  
[23] Q. Were her complaints in the form of an oral  
[24] complaint, a written complaint, or both?  
[25] A. I never saw anything in writing, so I

[1] Q. Are you close friends or just -- do you  
[2] ever vacation together or anything like that?  
[3] A. We have in the past. I haven't recently.  
[4] Q. When was the last time you vacationed with  
[5] Judge Bodiford?  
[6] A. I would say it was two or three years ago.  
[7] Well, I take that back. I did recent --  
[8] last January I was -- I did go with him and some  
[9] other people to Las Vegas.  
[10] Q. I'm sorry. When was that?  
[11] A. Last January.  
[12] Q. Last January?  
[13] A. Uh-huh, January a year ago. Oh, wait a  
[14] minute. January this year, January this year.  
[15] Q. Have you been in the company of Judge  
[16] Bodiford in any type of social setting other than the  
[17] trip one year ago to Las Vegas?  
[18] A. Yes.  
[19] Q. When was that, sir?  
[20] A. We are in a social setting probably at  
[21] least once or twice a month.  
[22] Q. Reflecting back to when you were employed  
[23] in the district attorney's office, were there ever  
[24] any complaints from employees lodged against you?  
[25] A. Complaints from employees lodged against

[1] can't attest to that, so I assume they were oral.  
[2] Q. Was there anyone else who you might have  
[3] had difficulty working with?  
[4] A. Rachel Vogelsane was another secretary,  
[5] and she may have expressed some complaints.  
[6] Q. Is Ms. Vogelsane still employed?  
[7] A. No, she's not.  
[8] Q. Do you know whether or not she still works  
[9] for Cobb County?  
[10] A. She does not.  
[11] Q. Judge Cox, when you were elected to the  
[12] Magistrate Court in 2001, did you by any chance hire  
[13] someone from the DA's office by the name of Bobbie  
[14] Ely?  
[15] A. I did.  
[16] Q. And what position did you hire Ms. Ely  
[17] into?  
[18] A. She was hired as the clerk of the court.  
[19] Q. Are you sure she was hired as the clerk of  
[20] court?  
[21] A. Yes.  
[22] Q. Was she later promoted to another  
[23] position?  
[24] A. She was.  
[25] Q. Which position was that?

[1] A. She became court administrator.  
 [2] Q. What prompted that promotion?  
 [3] A. I fired the clerk of the court -- I mean  
 [4] the court administrator.  
 [5] Q. And who was that?  
 [6] A. That was Paul -- I'm drawing a blank on  
 [7] Paul's last name right now.  
 [8] Q. Was it Pursell?  
 [9] A. Pursell, yes, Paul Pursell.  
 [10] Q. Why did you fire Mr. Pursell?  
 [11] A. I didn't feel like he was qualified for  
 [12] the job.  
 [13] Q. Did he file any type of complaint against  
 [14] you for that termination?  
 [15] A. Not to my knowledge.  
 [16] Q. Did he file for unemployment?  
 [17] A. I assume he did. I don't have any  
 [18] personal knowledge.  
 [19] Q. When you terminated Mr. Pursell, did you  
 [20] have any security available when he was terminated  
 [21] such as sheriff's deputies, police, or anyone to  
 [22] escort him out?  
 [23] A. Yes; sheriff -- at least one sheriff's  
 [24] deputy escorted him out of the office.  
 [25] Q. Was there any particular reason for that?

[1] type of investigation whatsoever, either on a  
 [2] personal level or professional level?  
 [3] A. No, ma'am, not to my knowledge.  
 [4] Q. Have you ever had any type of accusation  
 [5] at all filed against you?  
 [6] MR. WEAVER: Objection; I think what you  
 [7] need to focus on, Ms. Spann, is complaints that  
 [8] have to do with alleged race discrimination.  
 [9] MS. SPANN: Mr. Weaver, when you did my  
 [10] deposition two weeks ago, I answered your  
 [11] questions. And I would appreciate if you would  
 [12] allow me to ask my questions to Judge Cox.  
 [13] I'm going to get to those questions,  
 [14] but -- I'm going to get to those questions, but  
 [15] I would like for him to answer the questions as  
 [16] I ask them.  
 [17] MR. WEAVER: Well, I'm objecting because I  
 [18] think your question does not seek relevant  
 [19] information, but you can proceed.  
 [20] MS. SPANN: Correct. We'll let the record  
 [21] reflect that you objected, but I will proceed  
 [22] with this line of questioning.  
 [23] Q. (By Ms. Spann) Have you ever been  
 [24] accused, Judge Cox, of any type of violation of any  
 [25] sort, either something on a personal level or

[1] A. I didn't know how he'd react to being  
 [2] fired and I just felt that out of an abundance of  
 [3] caution I'd have somebody there to make sure he  
 [4] didn't cause damage to the office or physically  
 [5] attack me.  
 [6] Q. Is it a common practice for you to contact  
 [7] the sheriff's deputies when you terminate an  
 [8] employee?  
 [9] A. That's the only one I've ever terminated  
 [10] with the exception of you.  
 [11] Q. Has anyone else in your office ever  
 [12] terminated anyone, i.e., Ms. Ely?  
 [13] A. I'm sure she has.  
 [14] Q. Do you know whether or not the sheriff's  
 [15] deputies were involved?  
 [16] A. I don't personally know. To my knowledge  
 [17] none were, but I don't have personal knowledge.  
 [18] Q. You have no personal knowledge of who  
 [19] she's fired?  
 [20] A. No. You asked me was there sheriff's  
 [21] deputies involved. I don't have any personal  
 [22] knowledge if sheriff's deputies were involved. I  
 [23] thought that was the question.  
 [24] Q. It was. My apologies to you.  
 [25] Judge Cox, have you ever been under any

[1] professional level? In other words, have you ever  
 [2] been arrested before?  
 [3] A. No, ma'am.  
 [4] Q. You've never been arrested before?  
 [5] A. No, ma'am.  
 [6] Q. Nowhere?  
 [7] A. No, ma'am.  
 [8] Q. So it's not true that you were arrested  
 [9] for DUI in Cobb County recently?  
 [10] A. No, ma'am.  
 [11] Q. Judge Cox, you are aware of the fact that  
 [12] I served as pretrial services director for 20 years.  
 [13] A. I knew it was about 20 years, yes.  
 [14] Q. And also is it true that you terminated my  
 [15] employment on or about May 22nd, 2003?  
 [16] A. Yes, ma'am.  
 [17] Q. Under what authority did you terminate my  
 [18] employment?  
 [19] A. Under the authority of pretrial being  
 [20] under my supervision and you being head of pretrial.  
 [21] Q. Where did you get the notion that pretrial  
 [22] was under your supervision and that you had the  
 [23] authority to terminate me?  
 [24] A. Well, the 1985 order transferring  
 [25] administration and management of pretrial to the

[1] chief magistrate in 1985.  
 [2] **Q.** Are you referring to this document, sir?  
 [3] **A.** Yes, ma'am.  
 [4] **MS. SPANN:** I'd like to make this Exhibit  
 [5] 1.  
 [6] (Plaintiff's Exhibit 1 was marked for  
 [7] identification.)  
 [8] **Q.** (By Ms. Spann) Let's discuss the  
 [9] document. I'll give it to you. Listed on this  
 [10] document are six judges of the Cobb County Superior  
 [11] Court.  
 [12] **A.** Yes, ma'am.  
 [13] **Q.** Are any of these judges still on staff  
 [14] here in the Cobb Judicial Circuit?  
 [15] **A.** Dorothy Robinson, George Kreeger, and  
 [16] Watson White is a senior judge.  
 [17] **Q.** Are you familiar with the Uniform Superior  
 [18] Court Rules of Georgia?  
 [19] **A.** I am.  
 [20] **Q.** Are you particularly familiar with Rule  
 [21] 27.1 of the Uniform Superior Court rules?  
 [22] **A.** I believe I am.  
 [23] **Q.** I'm going to let you hold this document  
 [24] out because I'm going to get back to it. You are  
 [25] familiar with Rule 27?

[1] **A.** Am I aware that it functions?  
 [2] **Q.** Pretrial services.  
 [3] **A.** Yes.  
 [4] **Q.** Therefore you're in agreement that the  
 [5] pretrial services director holds office at the  
 [6] pleasure of the Superior Court judges?  
 [7] **A.** That's what this says, 27.1.  
 [8] **Q.** Are you in agreement with that?  
 [9] **A.** Yes, I'm in agreement with that.  
 [10] **Q.** If this is the case, what gives you the  
 [11] opinion that you have the authority to terminate me  
 [12] as the pretrial director?  
 [13] **MR. WEAVER:** Objection; it's been asked  
 [14] and answered. You already talked about the 1985  
 [15] order. He explained that he thought that was  
 [16] his authority to supervise you.  
 [17] **MS. SPANN:** No. But he's going back and  
 [18] saying that he believes that 27.1(c) determined  
 [19] who has the power to fire a pretrial director.  
 [20] Now, he can't have it both ways. Either --  
 [21] **MR. WEAVER:** Well, you're arguing now.  
 [22] **MS. SPANN:** I'm not arguing, Mr. Weaver.  
 [23] **MR. WEAVER:** The purpose of the deposition  
 [24] is to ask questions, not to argue.  
 [25] **MS. SPANN:** I am asking question.

[1] **A.** Yes, ma'am.  
 [2] **Q.** I'd like to direct your attention to Rule  
 [3] 27.1, and under Rule 27.1 it talks about the director  
 [4] of pretrial services.  
 [5] **A.** Uh-huh.  
 [6] **Q.** Let's trade copies here for a minute.  
 [7] Will you please read that first line of Rule 27.1.  
 [8] **A.** "The Superior Court judges under whose  
 [9] authority the program shall function shall appoint a  
 [10] director setting the qualifications deemed necessary  
 [11] and appropriate for the office."  
 [12] **Q.** Would you please read on, please.  
 [13] **A.** "The director shall be responsible for the  
 [14] supervision and execution of the duties enumerated  
 [15] hereinafter in connection with the program, receive  
 [16] such compensation as may be set by the Superior Court  
 [17] judges from time to time subject to the approval of  
 [18] the governing authority, hold office at the pleasure  
 [19] of the Superior Court judges, employ such assistant  
 [20] and clerical staff as may be authorized, and assign  
 [21] them as needed to discharge the functions of the  
 [22] program."  
 [23] **Q.** Thank you. Are you aware, Judge Cox, that  
 [24] pretrial services functions in accordance with these  
 [25] rules in every aspect?

[1] **MR. WEAVER:** What is the question?  
 [2] **MS. SPANN:** I asked him whether or not --  
 [3] would you please repeat the question regarding  
 [4] the question I asked him regarding 27.1(c).  
 [5] (The record was read by the reporter.)  
 [6] **MR. WEAVER:** And I objected that he  
 [7] already answered that question.  
 [8] **MS. SPANN:** Are you saying that the 1985  
 [9] order -- I'm going to ask him again to make sure  
 [10] that we're all clear on it.  
 [11] **Q.** (By Ms. Spann) Are you saying that the  
 [12] 1985 order is what gave you authority to terminate  
 [13] me?  
 [14] **A.** Yes, ma'am.  
 [15] **Q.** The 1985 order only talks about  
 [16] supervision; is that correct?  
 [17] **A.** Supervision and administration.  
 [18] **Q.** But there's nothing in here that shows  
 [19] that you had the authority to terminate the pretrial  
 [20] director.  
 [21] **A.** I interpreted that meaning I did.  
 [22] **Q.** Under the Uniform Rules of Superior Court  
 [23] are you familiar with Rule 1.2(b), Judge Cox?  
 [24] **A.** Not offhand. I'd have to look at it.  
 [25] **Q.** Let me have you take a look at it.



[1] (Plaintiff's Exhibits 2 and 3 were marked  
[2] for identification.)  
[3] **Q.** (By Ms. Spann) Would you take a look at  
[4] 1.2(b), Judge Cox.  
[5] **A.** On this front page?  
[6] **Q.** Yes, sir.  
[7] **MR. WEAVER:** Just one second. Okay.  
[8] Exhibit 2 is Rule 27.  
[9] **MS. SPANN:** Right. Exhibit 3 is the Rule  
[10] 1.2(b) publication rules and amendments.  
[11] **THE WITNESS:** I don't have that in front  
[12] of me.  
[13] **MS. SPANN:** You don't have that? Okay.  
[14] **THE WITNESS:** You want me to look at  
[15] 1.2(b)? All right.  
[16] **Q.** (By Ms. Spann) Could you please read  
[17] that.  
[18] **A.** Beginning with the B part?  
[19] **Q.** Yes, sir.  
[20] **A.** "Each Superior Court by action of a  
[21] majority of its judges or failing this by action of  
[22] its chief judge from time to time may propose to make  
[23] and amend rules which deviate from the Uniform  
[24] Superior Court Rules provided such proposals are not  
[25] inconsistent with the Georgia Civil Practice Act,

[1] **Q.** Are you aware that there was a meeting  
[2] held back in May of 2003 when you terminated me from  
[3] my job with -- the meeting was among the Superior  
[4] Court judges? Are you familiar with that meeting,  
[5] and were you present at that meeting?  
[6] **A.** I was not present at the meeting. I was  
[7] apprised that the meeting was held around the time, I  
[8] think, prior to my terminating you, yes.  
[9] **Q.** Do you know whether or not there was  
[10] discussion in that meeting regarding your authority?  
[11] **A.** I was told there was, yes.  
[12] **Q.** Do you know whether there were judges  
[13] there who dissented in that they believed that you  
[14] had no authority?  
[15] **A.** I don't have personal knowledge, but I  
[16] believe they were.  
[17] **Q.** So you do not know who those judges were?  
[18] **A.** I've been told who they were.  
[19] **Q.** Who were you told?  
[20] **A.** Judge Robert Flournoy and Adele Grubbs.  
[21] **Q.** Have you since been told about any other  
[22] judges who were not present at that meeting who  
[23] disagree with you?  
[24] **A.** I haven't had any discussion with any  
[25] judges regarding your termination.

[1] general laws, these Uniform Superior Court Rules, or  
[2] any directive of the Supreme Court of Georgia.  
[3] "Any such proposal shall be filed with the  
[4] clerk of the Supreme Court. Proposals so submitted  
[5] shall take effect 30 days after approval by the  
[6] Supreme Court.  
[7] "It is the intendment of these rules that  
[8] rules which deviate from the Uniform Superior Court  
[9] Rules shall be restricted in scope."  
[10] **Q.** Would you agree that an order for -- this  
[11] particular order, the 1985 order, Exhibit 1, to be in  
[12] effect or to be legal, that it would have had to have  
[13] been filed and approved by the Supreme Court pursuant  
[14] to 1.2(b)?  
[15] **MR. WEAVER:** I'm going to object. It  
[16] calls for a legal conclusion.  
[17] **THE WITNESS:** Yeah, I don't know that I  
[18] can answer that question.  
[19] **Q.** (By Ms. Spann) Has any Superior Court  
[20] judge in Cobb County told you that you as the chief  
[21] magistrate judge had no authority to terminate me  
[22] under this 1985 order?  
[23] **A.** No, ma'am.  
[24] **Q.** No Superior Court judge has told you that?  
[25] **A.** No, ma'am.

[1] **Q.** Are you aware of the fact that the  
[2] attorney general has stated that in order for this  
[3] order to be valid that it had to be filed with the  
[4] Supreme Court under 1.2(b)?  
[5] **MR. WEAVER:** Objection; assumes facts not  
[6] in evidence.  
[7] **MS. SPANN:** I would like for him to answer  
[8] the question. You can object, but I'd like for  
[9] him to answer the question.  
[10] **MR. WEAVER:** I agree. He can answer  
[11] subject to my objection.  
[12] **THE WITNESS:** I'm not aware of it.  
[13] **Q.** (By Ms. Spann) Before you terminated me  
[14] from my job, did you do any research in terms of  
[15] whether or not you had the authority at all?  
[16] **A.** Research?  
[17] **Q.** Research. Did you talk to anyone  
[18] regarding whether you had --  
[19] **A.** Well, I consulted with Judge Staley.  
[20] **Q.** Let me have those back.  
[21] Are you aware that Judge Dorothy A.  
[22] Robinson, a current judge in the Cobb Superior Court  
[23] who also signed this 1985 order, is also the author  
[24] of the Uniform Court Rule 27 regarding pretrial  
[25] services?

[1] A. I'm not aware of it.  
 [2] Q. Are you aware that Judge Robinson  
 [3] disagrees with your termination of me under this 1985  
 [4] order?  
 [5] MR. WEAVER: Objection; assumes facts not  
 [6] in evidence.  
 [7] THE WITNESS: I'm not aware of it.  
 [8] Q. (By Ms. Spann) Was pretrial a division of  
 [9] Magistrate Court?  
 [10] A. Was it?  
 [11] Q. Yes. Or is it a division of Magistrate  
 [12] Court?  
 [13] A. It is now. It probably wasn't under your  
 [14] supervision.  
 [15] Q. How long has it been a division?  
 [16] A. Well, since we terminated -- since you  
 [17] were terminated, or shortly thereafter.  
 [18] Q. Who gave you the authority to make  
 [19] pretrial a division of Magistrate Court?  
 [20] A. I relied on the 1985 order.  
 [21] Q. So you are still relying on the 1985 order  
 [22] to this day?  
 [23] A. Yes, ma'am.  
 [24] Q. Is the Magistrate Court the only entity  
 [25] within the Cobb Judicial Circuit that pretrial

[1] A. No, ma'am.  
 [2] Q. So did you arbitrarily decide on May 22nd  
 [3] or sometime thereafter that you were going to take  
 [4] the department?  
 [5] A. Well, I disagree with arbitrarily, but I  
 [6] did make a decision.  
 [7] Q. Okay. Let me show you my next exhibit.  
 [8] This is the order that originally created pretrial  
 [9] services for the Cobb Judicial Circuit. This order  
 [10] was created by the Superior Court Judges Council and  
 [11] signed by the judges who served on the court at that  
 [12] time. Will you please look at the date, please.  
 [13] A. The date?  
 [14] Q. The date on that order.  
 [15] A. Okay.  
 [16] Q. Would you please state for the record the  
 [17] date on the order.  
 [18] A. October 17th, 1973.  
 [19] Q. So is it fair to say that pretrial  
 [20] services was established on or about October 17th,  
 [21] 1973?  
 [22] A. It would appear so from this order, yes,  
 [23] ma'am.  
 [24] Q. This order, if you just flip through it,  
 [25] Judge Cox, if you will, pretty much outlines the

[1] serves?  
 [2] A. No.  
 [3] Q. Is it true to say that pretrial services  
 [4] serves the entire judicial circuit, including the  
 [5] DA's office, the sheriff's office, the Cobb County  
 [6] Superior Court, the Cobb County State Court?  
 [7] A. I'm not sure what you mean by serves, but  
 [8] it certainly affects or is interrelated with all  
 [9] those agencies, yes.  
 [10] Q. Does the agency secure bonds on defendants  
 [11] who have cases in those particular courts, Superior  
 [12] Court and State Court?  
 [13] A. Yes.  
 [14] Q. So the duties of the department aren't  
 [15] solely restricted to Magistrate Court?  
 [16] A. No.  
 [17] Q. So basically what you've done is you've  
 [18] taken an agency that was independent in the court  
 [19] system and made it a division of your court; is that  
 [20] correct?  
 [21] A. Well, I don't know about the independent  
 [22] part, but, yes, I made it a division of my court.  
 [23] Q. Have the Superior Court judges since 1985  
 [24] issued some new order giving you authority over  
 [25] pretrial?

[1] agency; is that correct?  
 [2] A. Well, I've probably seen this in the past,  
 [3] but I haven't seen it recently, so let me look  
 [4] through it.  
 [5] And your question was what?  
 [6] Q. I haven't asked the question yet. I just  
 [7] wanted you to look through it.  
 [8] A. Okay. I'm ready.  
 [9] Q. In looking at this document, are you in  
 [10] agreement that -- and I may have asked you the  
 [11] question before. If I have, let me apologize.  
 [12] Upon looking at this document briefly,  
 [13] does it appear that this document reflects the  
 [14] outline of pretrial services regarding its  
 [15] establishment and how it would function in the Cobb  
 [16] Superior Court?  
 [17] A. Yes.  
 [18] Q. Does this order also state information  
 [19] pertaining to the director of pretrial services?  
 [20] A. It talks about duty and compensation and  
 [21] tenure.  
 [22] Q. According to A, the first line, if you  
 [23] would read it for me, please.  
 [24] A. A.  
 [25] Q. Section 3A.

[1] A. Uh-huh.  
[2] Q. Would you please read that.  
[3] A. "The agency shall function under the  
[4] authority of the Superior Court Judges Council."  
[5] Do you want me to keep reading?  
[6] Q. Please.  
[7] A. "The Superior Court Judges Council shall  
[8] be composed of all Superior Court judges within the  
[9] Cobb Judicial Circuit, hereafter in this order  
[10] referred to as council. The council shall appoint a  
[11] director of the agency and shall set any  
[12] qualifications they deem necessary and appropriate."  
[13] Q. Section 4, "Duties of the director  
[14] compensation and tenure," please.  
[15] A. "The director shall be responsible for the  
[16] supervision and the execution of the duties of the  
[17] agency. The director shall receive such compensation  
[18] as may be set by the council subject to the approval  
[19] of the governing authority of Cobb County. The  
[20] director shall hold office at the pleasure of the  
[21] council."  
[22] Q. Are you in agreement that that particular  
[23] section is parallel to the statement in the Uniform  
[24] Court Rules pertaining to the holding of office for  
[25] the pretrial director?

[1] Court?  
[2] A. Am I aware of that?  
[3] Q. Yes.  
[4] A. I've never seen it, I don't think.  
[5] MR. WEAVER: Is this Exhibit 4?  
[6] MS. SPANN: We haven't gotten it yet. I  
[7] believe it is.  
[8] Q. (By Ms. Spann) So you're not aware of any  
[9] order currently that outlines how pretrial services  
[10] would function in the Magistrate Court, a detailed  
[11] order of any kind?  
[12] A. None exists to my knowledge.  
[13] (Plaintiff's Exhibit 4 was marked for  
[14] identification.)  
[15] Q. (By Ms. Spann) Are you aware that  
[16] although the Rules require that changes be made  
[17] according to 1.2(b), that the 1985 order which you  
[18] terminated me on has never been filed in the Supreme  
[19] Court?  
[20] MR. WEAVER: Objection; assumes facts not  
[21] in evidence; misstates the record.  
[22] Q. (By Ms. Spann) Let me direct your  
[23] attention to this document. This is a document,  
[24] Judge Cox, that I received from the Georgia Supreme  
[25] Court on or about December 8th, 2004.

[1] A. Parallel meaning consistent with?  
[2] Q. Consistent, yes.  
[3] A. Yeah.  
[4] Q. Is an order, to your knowledge, that's  
[5] currently on file anywhere, be it here, in Cobb  
[6] County or in any other jurisdiction, i.e., the  
[7] Georgia Supreme Court, stating anything about the  
[8] pretrial director functioning in the Magistrate  
[9] Court?  
[10] A. No, ma'am.  
[11] Q. Is there an order anywhere that outlines  
[12] how pretrial would function in the Magistrate Court?  
[13] A. No.  
[14] Q. Do you have Magistrate Court rules for the  
[15] state?  
[16] A. Yes.  
[17] Q. Is there anything in the Magistrate Court  
[18] Rules that talks about pretrial services or gives any  
[19] indication that pretrial services falls under the  
[20] magistrate courts in Georgia?  
[21] A. No.  
[22] Q. Are you aware that the State Court of Cobb  
[23] County subsequently drew up an order in the State  
[24] Court after pretrial was implemented in '73 outlining  
[25] how pretrial services would function in the State

[1] I met with the Supreme Court clerk,  
[2] Ms. Sherie Welch. She provided me with this  
[3] document. This document indicates all changes to the  
[4] Uniform Superior Court Rules that were made by the  
[5] Georgia Supreme Court from June 20 of 1985 until  
[6] October 19th, 1992.  
[7] If you will look in the right column under  
[8] judicial circuit, do you see Cobb County listed  
[9] anywhere on this particular document?  
[10] A. I do not.  
[11] (Plaintiff's Exhibit 5 was marked for  
[12] identification.)  
[13] Q. (By Ms. Spann) During the time I served  
[14] as pretrial director under your administration, were  
[15] you at any time involved directly in the office, for  
[16] example, with budgeting issues, staffing, hiring,  
[17] firing, setting policies, procedures?  
[18] A. As far as pretrial?  
[19] Q. Yes, sir.  
[20] A. No.  
[21] Q. Did you ever attend any staff meetings or  
[22] anything of that sort?  
[23] A. Regarding pretrial?  
[24] Q. Yes.  
[25] A. No.

[1] Q. What was the extent of your involvement  
[2] with pretrial services?  
[3] A. I would say very little.  
[4] Q. Were you able to frequent the office  
[5] pretty often? Were you able to walk through from  
[6] time to time?  
[7] A. Yes, I was able to.  
[8] Q. How often were you walking through the  
[9] department?  
[10] A. Well, you mean specifically to --  
[11] Q. Was it once a day, once a week, once every  
[12] two weeks?  
[13] A. The reason I ask that question is  
[14] obviously I would have to go through that area to get  
[15] to the courtroom.  
[16] Q. So could you say that that would be  
[17] practically every day that you would be in court?  
[18] A. Certainly several times a week.  
[19] Q. Several times a week. What would you say  
[20] is the size of the pretrial services office? Is it a  
[21] large office, or is it a small office, or how would  
[22] you classify it?  
[23] A. You mean the physical setting of it?  
[24] Q. Yes, the physical size of the office.  
[25] A. I would say it's small.

[1] Q. So you had no involvement other than  
[2] walking through to attend your courtroom; is that  
[3] correct?  
[4] And in what other way did you have contact  
[5] with pretrial services besides walking through going  
[6] to your courtroom?  
[7] A. Just talking with you, and I'm sure I've  
[8] talked to some of the employees on a very brief basis  
[9] to say hello or to ask them how they were doing or  
[10] vice versa.  
[11] Q. So you have no real contact other than  
[12] casual conversations with the employees?  
[13] A. True.  
[14] Q. When it came to the criminal cases that  
[15] the office is responsible for handling, did you ever  
[16] have any type of work relationship with our office in  
[17] that regard?  
[18] A. Yes, I did. Now that you bring that to my  
[19] attention, yes.  
[20] Q. Is it safe to say that you worked on  
[21] primarily felony cases that would normally be  
[22] assigned to the Superior Court Judges?  
[23] A. In regard to pretrial contact?  
[24] Q. Yes.  
[25] A. Yes.

[1] Q. Would you agree that 75, 80 percent of the  
[2] office could be observed from one area?  
[3] For example, when you walk into the front  
[4] entrance, are you able to observe the majority of the  
[5] office from that point? Is it that small to the  
[6] point where you can pretty much observe most of the  
[7] areas there including my office?  
[8] A. If the doors were open, I would say you  
[9] could, yes.  
[10] Q. Visibility is what you're saying?  
[11] A. Yes.  
[12] Q. If the doors are open.  
[13] A. Yes.  
[14] Q. What about the sound, were you able to  
[15] hear people talking and that sort of thing? Is it  
[16] such close proximity to the area in which you would  
[17] have to travel that you would be able to hear  
[18] conversations?  
[19] A. Well --  
[20] Q. Either the secretarial staff --  
[21] A. I mean, people at the front desk, I could  
[22] hear their conversations. I don't think I could hear  
[23] anybody else's conversations.  
[24] Q. But you are able to see other people?  
[25] A. I could see other people, yes.

[1] Q. Are you in agreement that the cases that  
[2] are assigned to pretrial, particularly the felony  
[3] cases, can only be handled by pretrial services if  
[4] pretrial services were considered a Superior Court  
[5] entity?  
[6] In other words, does the power to do what  
[7] the agency does flow from the Magistrate Court, or  
[8] does that power or authority flow from the Superior  
[9] Court?  
[10] A. It flows from the Superior Court.  
[11] Q. So as a magistrate judge you really have  
[12] no power to handle the cases that we handle in  
[13] pretrial services.  
[14] A. I'm not sure what you mean by that.  
[15] Q. Okay. The majority of the cases that you  
[16] sign, the majority of the bonds that you sign, do you  
[17] sign those bonds as a Magistrate Court judge?  
[18] A. Well, some I signed as a Magistrate Court  
[19] judge, if I'm authorized under the Code section to do  
[20] so. Some I signed as an assisting Superior Court  
[21] judge, which I had been appointed by the Superior  
[22] Court judge.  
[23] Q. Is it fair to say that pretrial services  
[24] has the authority to handle cases in every single  
[25] jurisdiction in this -- in every single court in this



[1] jurisdiction?

[2] **A.** As far as setting bonds?

[3] **Q.** As far as supervision, making bond

[4] recommendations, that sort of thing.

[5] **A.** Yes.

[6] **Q.** So the authority for that agency in this

[7] function, are you in agreement, flows from Superior

[8] Court only?

[9] **A.** Yes.

[10] **Q.** How long were you under the impression

[11] that pretrial services fell under you during the time

[12] period that I was employed?

[13] **A.** Well, I think from the beginning I was

[14] aware of the 1985 order. And so I guess from day one

[15] I was under that impression.

[16] **Q.** Well, if you were under the impression

[17] that it was under your supervision from day one, why

[18] did you find it necessary to contact Judge Mary

[19] Staley, particularly on March 19th -- I'll show you

[20] this -- to find out whether or not you had any type

[21] of control or supervision over pretrial services?

[22] **A.** Well, I contacted her to clarify the

[23] extent that my supervision, administration of the

[24] department included, because I was aware of my

[25] contemplating having to terminate you, and I didn't

[1] I met with you in your office at which time I asked

[2] you where you saw the department in the court system

[3] in terms of supervision.

[4] **A.** I don't recall that conversation.

[5] **Q.** You don't remember telling me that you

[6] believed that it was a division of Magistrate Court?

[7] **A.** I don't recall that conversation.

[8] **Q.** Do you recall at any time my telling you

[9] that I had had a previous conversation with Bobbie

[10] Ely regarding authority of pretrial at which time I

[11] informed her that pretrial was under the Superior

[12] Court judges pursuant to the Uniform Superior Court

[13] Rules? Do you not recall that conversation?

[14] **A.** Recall you telling me that?

[15] **Q.** Yes, sir.

[16] **A.** Again, I don't recall that.

[17] **Q.** Do you believe that I was under the

[18] impression that you were over pretrial services in

[19] terms of authority?

[20] **MR. WEAVER:** Let me object. That asks him

[21] to speculate about your state of mind. That's

[22] something he can't do.

[23] **MS. SPANN:** Well, he had contact with me,

[24] Mr. Weaver, every day, and he knows that we had

[25] conversations regarding this particular topic.

[1] want to take such a step if the Superior Court judges

[2] were not going to back me up on that decision.

[3] **Q.** When was the first time you talked to

[4] Judge Staley?

[5] **A.** About?

[6] **Q.** About the supervision of pretrial. Was it

[7] on March the 19th?

[8] **A.** I can't give you an exact date. It

[9] probably was prior to -- about the supervision? I

[10] don't know. It would have been in that general time

[11] frame. It could have been prior to the 19th by a

[12] matter of days or weeks.

[13] (Plaintiff's Exhibit 6 was marked for

[14] identification.)

[15] **Q.** (By Ms. Spann) Are you aware of the fact,

[16] Judge Cox, that it was never brought to my attention

[17] that you had any authority whatsoever over pretrial

[18] in the 18 years that an order was supposedly in

[19] effect?

[20] **MR. WEAVER:** Object; assumes facts not in

[21] evidence.

[22] **THE WITNESS:** I was not aware of that,

[23] that you were not aware of that.

[24] **Q.** (By Ms. Spann) Let me direct your

[25] attention, Judge Cox, back to the early part of 2001.

[1] **Q.** (By Ms. Spann) Now, are you aware that I

[2] had communication from time to time with the Superior

[3] Court judges regarding matters in pretrial services?

[4] **A.** No personal knowledge, but I would not be

[5] surprised that you had communications.

[6] **Q.** Let me -- take a look at this memorandum.

[7] You've already testified that you believe that you

[8] had supervisory authority over pretrial services

[9] since 1985, or the magistrate judge did.

[10] This is a memorandum, as you can see,

[11] dated August 24, 2000, that I wrote to the chief

[12] judge of Superior Court at that time, which was the

[13] Honorable Robert Flournoy, Jr., regarding computer

[14] equipment and moneys that I needed to purchase a

[15] computer system.

[16] **A.** Uh-huh.

[17] **Q.** Is it your opinion that Judge Flournoy

[18] assisted me because of the fact that pretrial

[19] services is a function of Superior Court?

[20] **A.** I wouldn't have any idea of what he did or

[21] why he did it.

[22] **Q.** Can you recall that period of time when I

[23] was seeking the funds and the commissioner at that

[24] time, commission chairman Bill Burn, met with Judge

[25] Flournoy, also met with other officials in the State

[1] Court as well as the Magistrate Court about funding  
 [2] the computer systems since pretrial served all of the  
 [3] court systems?  
 [4] **A.** Was I aware that you had such a meeting?  
 [5] **Q.** Are you aware of the fact that Judge --  
 [6] I'm sorry -- that Bill Burn, the chairman of the Cobb  
 [7] County Board of Commissioners, met with Judge  
 [8] Flournoy and other officials of the court, including  
 [9] yourself, regarding moneys that would be taken from  
 [10] the budgets of these courts to fund this system?  
 [11] **A.** Well, I wasn't the chief magistrate in  
 [12] August of 2000, so I don't know that I was privy to  
 [13] that.  
 [14] **Q.** Well, the system actually came into effect  
 [15] in 2001. In fact, your first -- I would say first  
 [16] three months in office is when the moneys were  
 [17] transferred. Do you not recall that?  
 [18] **A.** I may. I mean, I don't have any distinct  
 [19] recollection of it, but I recall that you got moneys  
 [20] for -- to help you with -- for a specific purpose in  
 [21] your office, yes. I recall that.  
 [22] **Q.** And would you agree that the Superior  
 [23] Court assisted in this way pursuant to this  
 [24] memorandum? What is your impression of this  
 [25] memorandum or this letter? I'm sorry.

[1] **A.** Yes.  
 [2] (Plaintiff's Exhibit 8 was marked for  
 [3] identification.)  
 [4] **Q.** (By Ms. Spann) One of the statements that  
 [5] you made repeatedly, Judge Cox, is that you had a  
 [6] concern about my turnover; is that correct?  
 [7] **A.** Yes.  
 [8] **Q.** Do you recall from the time you came in in  
 [9] 2001 that I repeatedly complained that we were  
 [10] understaffed?  
 [11] **A.** Yes.  
 [12] **Q.** Did I also tell you that that  
 [13] understaffing was leading to high turnover?  
 [14] **A.** You may have. I don't recall that you --  
 [15] specifically saying that, but I wouldn't be surprised  
 [16] if you did.  
 [17] **Q.** Judge Cox, you are fully aware that I  
 [18] complained about that on more than one occasion.  
 [19] **A.** About being understaffed?  
 [20] **Q.** Yes, sir.  
 [21] **A.** Yes.  
 [22] **Q.** Let me direct your attention to this  
 [23] particular document dated January 16th, 2003, the  
 [24] document that I wrote to the county manager, Mr.  
 [25] David Hankerson. This particular memorandum was

[1] **MR. WEAVER:** You're asking what his  
 [2] impression is?  
 [3] **MS. SPANN:** Yes.  
 [4] **MR. WEAVER:** Could you clarify that?  
 [5] **Q.** (By Ms. Spann) Do you think I would have  
 [6] gone to Judge Flournoy had he not been the head  
 [7] person in command over the pretrial services office?  
 [8] **MR. WEAVER:** Objection; calls for  
 [9] speculation as to your state of mind.  
 [10] **THE WITNESS:** I mean, I can't state why  
 [11] you went to Judge Flournoy or did that. I mean,  
 [12] I have no way of knowing.  
 [13] (Plaintiff's Exhibit 7 was marked for  
 [14] identification.)  
 [15] **Q.** (By Ms. Spann) This next document was  
 [16] taken from pretrial court services' procedure manual,  
 [17] and it specifically talks about the authority of the  
 [18] office. The effective date was January 1, 1999,  
 [19] although we had previous policies or organizational  
 [20] charts that show a former date. In other words, this  
 [21] was revised.  
 [22] Are you in agreement that pretrial  
 [23] services as of even this date, 1999 and before,  
 [24] operated under those Uniform Superior Court Rules?  
 [25] Do you believe this is an accurate statement?

[1] regarding improvement changes in the pretrial  
 [2] services office. If you'll flip to the back page,  
 [3] you'll see that I copied you --  
 [4] **A.** Uh-huh.  
 [5] **Q.** -- on that.  
 [6] **A.** Uh-huh.  
 [7] **Q.** The back page reflects your name; is that  
 [8] correct?  
 [9] **A.** Uh-huh.  
 [10] **Q.** Would you please read that for me.  
 [11] **A.** "Frank Cox, Chief Magistrate Judge,  
 [12] reporting official to Superior Court Judges Council."  
 [13] **Q.** And this is as of January 16th, 2003,  
 [14] that I submitted this memorandum to Mr. Hankerson.  
 [15] **A.** That's the date on the letter.  
 [16] **Q.** Right. The fact that I have you down here  
 [17] as reporting official to Superior Court Judges  
 [18] Council, did that give you the impression that maybe  
 [19] I was not -- I was under the wrong understanding as  
 [20] to where our agency fell?  
 [21] In other words, did you question why I put  
 [22] reporting official to Superior Court Judges Council  
 [23] if you felt that you weren't a reporting official to  
 [24] the Superior Court Judges Council at the time? Did  
 [25] you see anything unusual about that?

[1] A. I doubt I gave it any thought at all.  
 [2] Q. At that particular time in January, you  
 [3] and I had had numerous conversations about staffing  
 [4] and improvement changes in staffing in terms of  
 [5] increasing the number of employees in the department.  
 [6] A. We had.  
 [7] Q. Did I explain to you, as well as explain  
 [8] to Mr. Hankerson, the heavy workload we were  
 [9] experiencing, we had been experiencing for years,  
 [10] that was leading to a high turnover?  
 [11] A. I'm sure we discussed that at some point  
 [12] in time.  
 [13] Q. Would you agree that our office was  
 [14] heavily burdened with a heavy workload?  
 [15] A. To the best of my knowledge it was.  
 [16] Q. How many employees did I have on staff?  
 [17] A. I believe you had nine besides yourself.  
 [18] Q. What type of case load did I have?  
 [19] A. I don't know the number.  
 [20] Q. Are you aware that we had over 1500  
 [21] defendants, out-of-custody defendants, under pretrial  
 [22] services at one time with only three officers  
 [23] supervising those defendants?  
 [24] A. I don't know that I knew that figure  
 [25] exactly, but I knew that it was a substantial number

[1] A. It certainly could contribute.  
 [2] Q. We had discussions about this problem more  
 [3] than once.  
 [4] A. Yes.  
 [5] Q. Is it correct to say that after I sent Mr.  
 [6] Hankerson this memo, that you also sent a subsequent  
 [7] memo backing me up on this?  
 [8] A. I think I did.  
 [9] (Plaintiff's Exhibit 9 was marked for  
 [10] identification.)  
 [11] Q. (By Ms. Spann) Would you say that you had  
 [12] a strong interest in employee turnover, either in  
 [13] pretrial services or Magistrate Court?  
 [14] A. I think concern -- is that what you're  
 [15] asking me?  
 [16] Q. Yes.  
 [17] A. Sure, I had concern.  
 [18] Q. You had concerns to the point where you  
 [19] would terminate me because of a high turnover; is  
 [20] that correct?  
 [21] A. Had concerns that I would terminate you  
 [22] because of high turnover?  
 [23] Q. On my termination letter, you stated that  
 [24] one of reasons for my termination was high employee  
 [25] turnover.

[1] of people you were supervising.  
 [2] Q. You also were aware of the fact that in  
 [3] addition to supervising a high number of  
 [4] out-of-custody defendants, particularly with most of  
 [5] those defendants being felons, and also having to do  
 [6] other duties with the court such as running criminal  
 [7] histories on every single defendant coming through  
 [8] the system, with such a small staff, would you agree  
 [9] with me that that would be a lot for one small  
 [10] department?  
 [11] A. I don't know that I can answer that  
 [12] question. I mean, I certainly agree that with the  
 [13] staff you had that you certainly had plenty to keep  
 [14] you busy.  
 [15] Q. And looking at the jail population, would  
 [16] you agree that at that time the jail population  
 [17] ranged from anywhere from 2,000 inmates per day to  
 [18] about 2400, 2500 inmates per day?  
 [19] A. Yes.  
 [20] Q. Are you also in agreement that I only had  
 [21] one officer serving that population at the jail?  
 [22] A. I think I knew that.  
 [23] Q. Would you agree that having that type of  
 [24] work volume would run an employee to another  
 [25] department?

[1] A. I did say that, yes.  
 [2] Q. So that was one of your reasons for  
 [3] terminating me; is that correct?  
 [4] A. One of them.  
 [5] Q. So evidently high turnover was of concern  
 [6] to you.  
 [7] A. It was.  
 [8] Q. Let me ask you, Judge Cox, if you were so  
 [9] concerned about high employee turnover to the point  
 [10] where it would take my job of 23 years, my  
 [11] retirement, my unemployment, and everything I ever  
 [12] worked for, but yet and still you have the same  
 [13] problem down the hall with Bobbie Ely, but only your  
 [14] turnover had nothing to do with workload; is that  
 [15] correct?  
 [16] MR. WEAVER: Let me object. That's  
 [17] argumentative. You're assuming facts not in  
 [18] evidence. It's a compound question. Could you  
 [19] restate that, please.  
 [20] MS. SPANN: Will you please repeat that  
 [21] question.  
 [22] MR. WEAVER: No. I mean rephrase it.  
 [23] THE WITNESS: I mean, I don't know how to  
 [24] answer that because I don't know what your  
 [25] question is.

[1] Q. (By Ms. Spann) Let me rephrase it because  
[2] it's very important. You -- I'll take it one step at  
[3] a time.  
[4] No. 1, you are in agreement that you were  
[5] concerned about employee turnover everywhere.  
[6] A. Yes.  
[7] Q. Inasmuch as you would take my job, my  
[8] retirement, my unemployment, and everything I ever  
[9] worked for because of high turnover.  
[10] A. No, ma'am.  
[11] Q. That was stated on the termination letter.  
[12] A. Well, your question now is that the only  
[13] reason you were terminated.  
[14] Q. I'm not at the other reasons. I'm talking  
[15] about high turnover. That was one of the reasons. I  
[16] believe that was the first thing stated.  
[17] A. It was a factor, yes, ma'am. It was not  
[18] the factor.  
[19] Q. Okay. You have the same problem down the  
[20] hall with high turnover; is that correct?  
[21] A. I didn't think I had as high a percentage,  
[22] but -- based on I had far more employees.  
[23] Q. But you had high turnover.  
[24] MR. WEAVER: Let him finish his answer.  
[25] THE WITNESS: There were far more

[1] of the fact that I only had a small number of people.  
[2] Yours reflects smaller because you had a larger  
[3] number, even though you have people walking out of  
[4] the door every day; is that correct?  
[5] MR. WEAVER: Objection; compound. You're  
[6] being argumentative.  
[7] MS. SPANN: I'm asking him the question.  
[8] THE WITNESS: I did not have people  
[9] walking out the door every day. No, ma'am.  
[10] Q. (By Ms. Spann) Okay. Let me have you  
[11] take a look at -- this is a list of those that I know  
[12] of. Personnel provided me with a list of people who  
[13] were terminated from your office from January 2001 to  
[14] October 24th, 2003. Will you please take a look at  
[15] that particular document.  
[16] A. Okay.  
[17] (Discussion off the record.)  
[18] (A recess was taken.)  
[19] Q. (By Ms. Spann) Let's go back to where we  
[20] left off. We were reviewing the document entitled,  
[21] "Employees who left Magistrate Court under Cox slash  
[22] Ely administration, January 2001 to October 24th,  
[23] 2003."  
[24] A. Uh-huh.  
[25] Q. In looking at this document, I believe you

[1] employees in that department, and I didn't have  
[2] nearly the percentage based on the number of  
[3] employees you were dealing with that you had.  
[4] Q. (By Ms. Spann) How many employees do you  
[5] have, excluding the part-time magistrate judges?  
[6] MR. WEAVER: Currently?  
[7] MS. SPANN: Yes, sir.  
[8] THE WITNESS: Currently approximately 50.  
[9] Q. (By Ms. Spann) Outside of the magistrate  
[10] judges? I'm not including part-time magistrate  
[11] judges.  
[12] A. It's certainly in the forties. I was  
[13] thinking it was close to 50.  
[14] Q. How many did you have at the time I was  
[15] here?  
[16] A. About the same, maybe a few less. But it  
[17] would be over four times the number of employees you  
[18] had.  
[19] Q. I only had nine employees.  
[20] A. That's what I'm saying.  
[21] Q. I had nine employees, so if I --  
[22] A. Actually four or five times the number of  
[23] employees you had.  
[24] Q. If I lost four employees, that would be 40  
[25] percent. So mine would just be way up there because

[1] were reviewing it while we were on break, did you at  
[2] any time have any conflicts or did Ms. Ely have any  
[3] conflicts, to your knowledge, with any of these  
[4] employees listed on this document?  
[5] A. I'm not sure what you mean by conflicts.  
[6] Q. Any type of disagreement, any type of  
[7] problems, any written reprimands, any oral  
[8] discussions where two parties disagreed, anyone  
[9] fired?  
[10] A. I assume that anybody who was terminated  
[11] there would have been memorandums documenting  
[12] unsatisfactory work performance.  
[13] Q. Okay. Looking at this list -- excuse me.  
[14] (A recess was taken.)  
[15] MS. SPANN: Please let the record reflect  
[16] that I had an emergency call and I had to step  
[17] out for a moment.  
[18] Q. (By Ms. Spann) In reviewing the list,  
[19] Judge Cox, were any of those people terminated to  
[20] your knowledge?  
[21] A. Yes, I'm sure they were.  
[22] Q. Who was terminated?  
[23] A. Well, Paul Pursell.  
[24] Q. And you stated earlier the reason was  
[25] what?

[1] A. Well, the overall bottom line is I didn't  
 [2] think he was qualified for the position.  
 [3] Q. What were his qualifications?  
 [4] A. He had been a probation -- juvenile court  
 [5] probation supervisor, I believe, and he had a college  
 [6] degree in some field. Other than that, that's the  
 [7] only qualifications he had that I was aware of.  
 [8] Q. Would it be safe to say that he had his  
 [9] master's degree?  
 [10] A. If he did, I didn't realize he had a  
 [11] master's. I'm not sure what it was in.  
 [12] Q. Would it also be safe to say that he also  
 [13] taught at Kennesaw State University as an instructor?  
 [14] A. I'm not aware of that.  
 [15] Q. So you terminated him but you really  
 [16] didn't know all his qualifications; is that correct?  
 [17] A. I knew what his qualifications were  
 [18] regarding the job he was there to do, and I didn't  
 [19] feel like he --  
 [20] Q. How long had he had that position?  
 [21] A. My predecessor hired him sometime, I  
 [22] think, in 2000. But I'm not sure when he hired him.  
 [23] I think 2000.  
 [24] Q. Had you talked to him prior to terminating  
 [25] him?

[1] Davis, the current deputy clerk of State Court, have  
 [2] a college degree?  
 [3] A. I believe she did.  
 [4] Q. Is it safe to say that everyone that's  
 [5] held that position other than Ms. Ely -- because only  
 [6] three people have held it; is that correct?  
 [7] A. I don't know how many held it.  
 [8] Q. Three people have held the position.  
 [9] MR. WEAVER: Now you're testifying.  
 [10] Q. (By Ms. Spann) How many people do you  
 [11] think held the position, Judge Cox?  
 [12] A. I don't know when it was created. If  
 [13] you're saying Ms. --  
 [14] Q. Are you aware that the position was  
 [15] created in 1996, the court administrator position was  
 [16] created in 1996?  
 [17] A. I don't know when it was. If you're  
 [18] telling me that Ms. Davis and Mr. Pursell were the  
 [19] only two prior administrators, then, yes, Ms. Ely is  
 [20] the only one that did not have a college degree.  
 [21] Q. So you believe a person who does not have  
 [22] a college degree -- let me rephrase that question.  
 [23] Did Ms. Ely have any type of former  
 [24] experience as a court administrator?  
 [25] A. Not as a court administrator. She's been

[1] A. Yes.  
 [2] Q. How often had you talked to him and --  
 [3] A. Probably talked to him almost every day or  
 [4] certainly several times a week.  
 [5] Q. What were your complaints?  
 [6] A. Well, my talks were not complaints  
 [7] initially. They were discussions with him of what I  
 [8] wanted him to do and what his role in the office  
 [9] would be.  
 [10] But my -- the final problem was he was --  
 [11] he had closed up the windows to the public and held a  
 [12] meeting without my knowledge or without my permission  
 [13] and people were standing in the hallway waiting to  
 [14] file papers or to apply for documents, and without my  
 [15] knowledge he had done all that and had the staff in  
 [16] the courtroom having some kind of meeting.  
 [17] Q. Now, is that the same position that you  
 [18] elevated Ms. Ely to?  
 [19] A. It is.  
 [20] Q. Does Ms. Ely have a college degree?  
 [21] A. No, she does not.  
 [22] Q. Does the position require a college  
 [23] degree?  
 [24] A. It didn't require a college degree.  
 [25] Q. Did the person prior to Mr. Pursell, Angie

[1] with the County for some 25 years in numerous  
 [2] different positions of supervision and  
 [3] administration.  
 [4] Q. So what you're telling me is that she had  
 [5] no prior experience as a court administrator and she  
 [6] had no college degree, yet she was more qualified  
 [7] with someone who had both?  
 [8] A. Well, Mr. Pursell didn't have any prior  
 [9] experience as a court administrator prior to being a  
 [10] court administrator, nor did Ms. Davis, so none of  
 [11] them had prior experience as a court administrator,  
 [12] but --  
 [13] Q. I thought you didn't know Mr. Pursell.  
 [14] MR. WEAVER: Let him finish his answer.  
 [15] THE WITNESS: I didn't know who?  
 [16] Q. (By Ms. Spann) I thought you didn't know  
 [17] his background.  
 [18] A. I knew he was elevated from a probation  
 [19] officer or supervisor from juvenile court. I know  
 [20] that was his prior job, so I knew he didn't have  
 [21] prior service as a court administrator. And the same  
 [22] for Ms. Davis.  
 [23] Q. But you would agree that they both have  
 [24] their college degrees?  
 [25] A. To my knowledge they both had college

[1] degrees, yes.

[2] **Q.** Are you familiar with the hiring practices

[3] here in Cobb County, Judge Cox?

[4] **MR. WEAVER:** You mean all departments?

[5] **MS. SPANN:** The County's hiring practices

[6] in terms of how they rate candidates for

[7] employment according to education and

[8] experience.

[9] **THE WITNESS:** No.

[10] **Q.** (By Ms. Spann) Who else on this list was

[11] terminated?

[12] **A.** Carla Dotson-Moore.

[13] **Q.** Is that the same Carla Dotson-Moore you

[14] approached me in the hallway about hiring back in

[15] 2000 prior to you coming on board?

[16] **A.** It is. Well, at some point in time, yes.

[17] **Q.** Is this the same Carla Dotson-Moore that

[18] you dated, Judge Cox?

[19] **A.** I've been on social occasions with her,

[20] yes. You could classify them as dates, yes.

[21] **Q.** Is this the same Carla Dotson-Moore who

[22] also dated Deputy Morris Nix of the sheriff's

[23] department?

[24] **A.** It is.

[25] **Q.** Is it also the same Dotson-Moore who was

[1] matter of fact, I didn't say that.

[2] **Q.** Do you remember me telling you that I'm

[3] very careful about hiring -- following the policies

[4] of Cobb County Government in my hiring procedures?

[5] **A.** That I said that, or you said that?

[6] **Q.** That I told you that. Do you recall that?

[7] **A.** I don't recall that.

[8] **Q.** Let me refresh your memory. Do you

[9] remember my telling you that because I told you that

[10] I had to be very careful because of the federal laws

[11] regarding hiring, i.e., I was very particular about

[12] EEOC and those types of places?

[13] **A.** I don't recall the conversation.

[14] **Q.** You don't recall my telling you that.

[15] Okay. Is there anyone else on this list who was

[16] terminated?

[17] **A.** Russell Mobley -- Taze R. Mobley.

[18] **Q.** That's Judge Mobley?

[19] **A.** Uh-huh.

[20] **Q.** Why was Judge Mobley terminated?

[21] **A.** He wasn't qualified.

[22] **Q.** How long had Judge Mobley worked in the

[23] Magistrate Court?

[24] **A.** Under me I think he worked almost a year.

[25] **Q.** How long had he worked there prior to your

[1] terminated from her position after that relationship

[2] started with Mr. Nix?

[3] **A.** Well, she was terminated after it started,

[4] which she wasn't terminated because of that reason

[5] solely.

[6] **Q.** That's all I asked you. Was she

[7] terminated after the relationship started with Mr.

[8] Nix?

[9] **A.** Yes.

[10] **Q.** Do you recall our conversation that day

[11] when you asked me about hiring Ms. Moore?

[12] **A.** No; other than just I believe I asked if

[13] you -- I don't remember the conversation other than

[14] the gist of it was I knew you had an opening and I

[15] think I asked if you would interview or consider her

[16] or words to that effect.

[17] **Q.** Do you remember my telling you that I had

[18] interviewed her and she didn't qualify for a position

[19] within my office?

[20] **A.** I don't recall that, no. I know you

[21] didn't hire her.

[22] **Q.** Do you recall telling me or making a

[23] statement to me, "You mean to tell me if one of my

[24] friends want a job, that you wouldn't hire them?"

[25] **A.** No, I don't recall that at all. As a

[1] firing him?

[2] **A.** I don't know. He had worked under

[3] previous administrations, but I don't know how long

[4] he had worked. Several years, I believe, but I'm not

[5] positive of that.

[6] **Q.** Was it more than five?

[7] **A.** It could have been. I just don't know.

[8] **Q.** Was there anyone else terminated from this

[9] list that you can recall?

[10] **A.** Not that I can recall. I'm sure some

[11] other people were, but I didn't have intimate

[12] knowledge of day-to-day supervision or hiring and

[13] firing of most of the staff in the clerk's office.

[14] **Q.** Sheena McShan.

[15] **A.** Uh-huh.

[16] **Q.** What was her position?

[17] **A.** She was my law clerk.

[18] **Q.** Is she black or white?

[19] **A.** She's black.

[20] **Q.** Is she still connected with your office in

[21] any way?

[22] **A.** No. She resigned and went into private

[23] practice.

[24] **Q.** Prior to her departure, were you hiring --

[25] were you interviewing candidates for her position

[1] prior to her departure and prior to her being  
[2] notified that you were interviewing candidates?  
[3] **A.** Prior to her being notified that I was  
[4] hiring candidates?  
[5] **Q.** Let me re-ask the question.  
[6] **A.** Okay.  
[7] **Q.** During the time of Ms. McShan's employment  
[8] as your law clerk, did you at any time interview  
[9] candidates for her position as law clerk without her  
[10] knowledge and prior to her giving you any indication  
[11] that she was leaving your office?  
[12] **A.** Well, it's a compound question. Did I  
[13] interview people prior to her leaving? Yes. Did I  
[14] interview people prior to her knowing I was  
[15] interviewing them? Possibly.  
[16] **Q.** So it's safe to say that she was working  
[17] in that capacity not knowing that you were seeking  
[18] someone for her position?  
[19] **A.** Well, when I hired Ms. McShan, she knew  
[20] that it's a policy, informal policy, for a law clerk  
[21] to work for approximately two years, and her two  
[22] years was approaching.  
[23] So in order to make sure I wasn't without  
[24] a law clerk, I certainly was interviewing people  
[25] prior to the two years elapsing and lining someone up

[1] you were concerned about high turnover, employees  
[2] leaving in my office; is that correct?  
[3] **A.** Uh-huh.  
[4] **Q.** Another thing that you mentioned is that  
[5] you were concerned about, quote/unquote, my  
[6] arbitrarily firing candidates -- I'm sorry --  
[7] employees; is that correct?  
[8] **A.** Yes.  
[9] **Q.** Well, it seems to me that there was a  
[10] pattern of that sort of thing going on in your court;  
[11] is that correct?  
[12] **MR. WEAVER:** You're arguing with the  
[13] witness, asking him to agree with your  
[14] conclusion.  
[15] **MS. SPANN:** Well, let me rephrase it, Mr.  
[16] Weaver.  
[17] **Q.** (By Ms. Spann) From looking at the number  
[18] of people -- now, you conducted some type of research  
[19] on the number of terminations I had over a five-year  
[20] period from 1998 to 2003.  
[21] **A.** I didn't personally, but I had it done.  
[22] **Q.** Well, you had it done.  
[23] **A.** Yes.  
[24] **Q.** Did you have the same thing done on  
[25] Ms. Ely for your office?

[1] to replace her.  
[2] **Q.** Did you replace her with a black employee  
[3] or a white employee?  
[4] **A.** A white.  
[5] **Q.** While male or white female?  
[6] **A.** White female.  
[7] **Q.** Leading up to Ms. McShan's departure as  
[8] your law clerk, did you at any time give her any sort  
[9] of reminder that she was going to be replaced or that  
[10] her two years were running out?  
[11] **A.** We discussed what her plans were after the  
[12] two years has run and inquired as what she wanted to  
[13] do, what she planned to do.  
[14] **Q.** But your testimony is that she had no  
[15] knowledge that you were interviewing candidates for  
[16] her position.  
[17] **MR. WEAVER:** Objection; misstates his  
[18] testimony. I think he said he didn't know if  
[19] she knew or not.  
[20] **THE WITNESS:** Yeah, I don't know if she  
[21] knew whether I was doing that or not.  
[22] **Q.** (By Ms. Spann) That's good enough for me.  
[23] Let's go back to the front of this particular  
[24] document.  
[25] Two things have been established. One,

[1] **A.** No.  
[2] **Q.** To see how many people had left under her  
[3] supervision?  
[4] **A.** No.  
[5] **Q.** Why not?  
[6] **A.** I didn't have any concerns about the rate  
[7] of turnover in the Magistrate Court compared to the  
[8] rate of turnover in pretrial services.  
[9] **Q.** Looking at this document, Judge Cox,  
[10] people were walking out of your office from day one,  
[11] beginning with Judge Carl W. Bowers, who left January  
[12] 1, 2001; T.O. Sturdivant, Judge Sturdivant, 1/1,  
[13] 2001. From the day you walked in they walked out.  
[14] **A.** I replaced Judge Sturdivant as chief  
[15] magistrate. I ran for his office because he chose  
[16] not to run.  
[17] **Q.** Well, we know that -- I'm not going to  
[18] argue on Judge Sturdivant with you about that  
[19] position. We both know there's a story behind that.  
[20] Going on to Susan Cronin, she also left,  
[21] and the list goes on, I mean, back to back, and  
[22] nothing was done. But yet you do a study on the  
[23] number of people who left my office, an office you  
[24] had absolutely no authority over. But why --  
[25] **MR. WEAVER:** Let me object. You have said

several things that are unrelated, so it's compound, and you're being argumentative. The purpose of the deposition is for you to ask him questions about your claim.

**MS. SPANN:** I understand that, Mr. Weaver.

**MR. WEAVER:** Now, just a minute. Your claim here is that Judge Cox terminated you because of your race.

**MS. SPANN:** I'm getting there.

**MR. WEAVER:** You haven't asked anything about that yet.

**MS. SPANN:** I'm getting there.

**MR. WEAVER:** Okay.

**Q.** (By Ms. Spann) You appear to have a double standard; is that correct, Judge Cox?

**A.** No, ma'am.

**Q.** You were concerned about my turnover.

**A.** Yes.

**Q.** But yet you were not concerned about these employees walking out of your office every day going elsewhere?

**A.** I can't control people who resign, ma'am.

**Q.** Thank you. Thank you.

Do you think that it would be fair to you if taxpayers decided that they would remove you from

[1] It came out March 10th, 2001.

[2] **A.** Uh-huh.

[3] **Q.** Turn to the second page.

[4] **A.** Uh-huh. Okay.

[5] **Q.** Will you read that top paragraph, please,  
[6] the first two paragraphs.

[7] **A.** "There have been six resignations in the  
[8] last few days in the office of Chief Magistrate Frank  
[9] Cox, a former assistant district attorney elected in  
[10] November to replace retiring T.O. Sturdivant.  
[11] Several resignees are long-time employees who have  
[12] taken other courthouse positions.

[13] "Cox says he was reorganizing personnel  
[14] with the most qualified employees available. However  
[15] courthouse sources said the employees can't take the  
[16] management style and atmosphere created by new court  
[17] administrator Bobbie Ely, a former employee of former  
[18] district attorney Tom Charron.

[19] "They added Ely does not fit the County  
[20] job description, which stipulates the court  
[21] administrator to be a college grad.

[22] "Resignees include Amy Rushing, an 18-year  
[23] employee; and Beth Spears; Coyle Kittles; Debra  
[24] Bounds; Charity Ratcliff; and Rebecca Jones.

[25] **Q.** You had so much of a disturbance in your

office and take steps to remove you from office because of people leaving your office? Do you think that's a fair thing to do?

**MR. WEAVER:** Objection; that's totally irrelevant.

**MS. SPANN:** Well, he took my job because he said people left my office. And now he's saying he has no control over people leaving. Well, neither do I.

**MR. WEAVER:** You can argue your case to the judge.

**MS. SPANN:** I'm going to.

**MR. WEAVER:** The purpose of the deposition is not to argue your case.

**MS. SPANN:** I'm going to. I'm going to.

**MR. WEAVER:** Okay.

**MS. SPANN:** I think that's pretty evident what's going on.

(Plaintiff's Exhibit 10 was marked for identification.)

**Q.** (By Ms. Spann) Direct your attention to this article --

**A.** This article?

**Q.** -- that appeared in the Marietta Daily Journal. I'm sure you're familiar with this article.

[1] office at a point where it made the newspaper; is  
[2] that correct, Judge Cox?

[3] **A.** Apparently it did.

[4] **Q.** Did you take any action against Ms. Ely  
[5] regarding these allegations?

[6] **A.** No, ma'am.

[7] **Q.** Did you call her in and talk to her about  
[8] these allegations?

[9] **A.** We discussed the allegations, yes.

[10] **Q.** Did you take any measures to correct any  
[11] deficiencies that she might have had?

[12] **A.** I wasn't aware of any deficiencies she  
[13] had.

[14] **Q.** You weren't aware of any deficiencies?

[15] **A.** No, ma'am.

[16] **Q.** But yet you were willing to take my job  
[17] because people were leaving, and you considered that  
[18] a deficiency; is that correct?

[19] **MR. WEAVER:** You're arguing again.

[20] **MS. SPANN:** Well, he has a double  
[21] standard.

[22] **MR. WEAVER:** I know that's your  
[23] contention. Now let's move on to something  
[24] relevant, if you don't mind.

[25] **MS. SPANN:** This is relevant. This is



[1] very relevant.  
[2] **MR. WEAVER:** I don't think it is.  
[3] **Q.** (By Ms. Spann) Do you have any black  
[4] judges, any African-American judges, on your staff?  
[5] **A.** No, ma'am.  
[6] **Q.** Have you had any African-American  
[7] judges -- I'm sorry -- lawyers to apply for  
[8] magistrate judge positions, part-time magistrate  
[9] judge positions?  
[10] **A.** No, ma'am.  
[11] **Q.** Has anyone talked to you, come to your  
[12] office and talked to you or called you by phone of  
[13] African-American heritage?  
[14] **A.** Has anyone --  
[15] **Q.** Has anyone contacted you, any  
[16] African-American lawyer, contacted you about being  
[17] hired into any of your part-time magistrate  
[18] positions?  
[19] **A.** No, ma'am.  
[20] **Q.** How many years have you been the chief  
[21] magistrate judge?  
[22] **A.** I'm in my fifth year now.  
[23] **Q.** In the five years that you've held that  
[24] position, no African-American attorney has approached  
[25] you in any capacity --

[1] **Q.** How many African Americans do you have on  
[2] staff?  
[3] **A.** Including those in pretrial now or just  
[4] those in Magistrate Court?  
[5] **Q.** Those in Magistrate Court.  
[6] **A.** I think as of today I only know of two  
[7] definite ones, and there may be one or two others  
[8] that may be part time, but I know of only two full  
[9] times I know of in Magistrate Court are two.  
[10] **Q.** You have two blacks in Magistrate Court?  
[11] **A.** I think two full time, uh-huh. I think  
[12] we've had a higher number in the past, but I think as  
[13] of today there's only two full time. And we had  
[14] one --  
[15] **Q.** Does that reflect the history of your  
[16] tenure?  
[17] **A.** No. What I'm saying is I think we had  
[18] more in the past. One of the employees we had is now  
[19] working in pretrial, Chanda Jones, who used to be a  
[20] magistrate employee and now she's working in  
[21] pretrial. So that was a former employee that was in  
[22] Magistrate Court who transferred to pretrial.  
[23] **Q.** Are you aware of the fact, Judge Cox, that  
[24] I was one of Cobb County's top managers, receiving  
[25] numerous awards over the past 23 years of my

[1] **A.** No, ma'am.  
[2] **Q.** -- about employment?  
[3] **A.** No, ma'am.  
[4] **Q.** Do you know an attorney by the name of  
[5] Carletta Sims, a black female?  
[6] **A.** I know of her. I don't know her  
[7] personally.  
[8] **Q.** Has she ever contacted you about  
[9] employment?  
[10] **A.** I don't recall her doing that. Certainly  
[11] not by phone. She may have corresponded by mail, but  
[12] I'm not even positive about that.  
[13] **Q.** But there is a possibility?  
[14] **A.** There is a possibility, yes.  
[15] **Q.** Do you have any African-American employees  
[16] in your office serving in what the County considers  
[17] as key managerial positions, Grade 37 or above?  
[18] **A.** I'm not sure about the grades, but I don't  
[19] think there's anybody in what's considered a key  
[20] managerial position, no.  
[21] **Q.** So you have none.  
[22] **A.** I don't believe I do, no.  
[23] **Q.** And how many people do you have on staff  
[24] here in your court?  
[25] **A.** I'm thinking it's about 45.

[1] employment?  
[2] **MR. WEAVER:** Let me object as compound.  
[3] Also it assumes facts not in evidence.  
[4] **MS. SPANN:** You can answer it.  
[5] **MR. WEAVER:** Well, if it's compound, what  
[6] question do you want him to answer?  
[7] **MS. SPANN:** I want him to answer whether  
[8] or not he's aware of the fact I was one of Cobb  
[9] County's top managers.  
[10] **THE WITNESS:** Well, in whose opinion and  
[11] by what criteria?  
[12] **Q.** (By Ms. Spann) Let me go back a bit. Are  
[13] you aware that I received one of the highest  
[14] management awards that's bestowed upon an employee in  
[15] Cobb County in 1998, the Martha Logue Management  
[16] Award?  
[17] **A.** I believe I do know you received that,  
[18] yes.  
[19] **Q.** Has Ms. Ely ever been a candidate for the  
[20] Martha Logue award?  
[21] **A.** I believe she has, but I'm not positive  
[22] about that.  
[23] **Q.** Has she ever won the award?  
[24] **A.** I don't think she has, no.  
[25] **Q.** How many times has she put in for it? How

[1] many times was she nominated?  
[2] **A.** I don't know.  
[3] **Q.** You don't know whether it's once or more  
[4] than once?  
[5] **A.** I would suspect it's more than once.  
[6] **Q.** But she never won it.  
[7] **A.** To my knowledge she hasn't.  
[8] **Q.** Can I get you to read, once Mr. Weaver is  
[9] done, the passage under my photograph there with the  
[10] county manager.  
[11] **A.** Read the -- under there?  
[12] **Q.** Yes, sir.  
[13] **A.** Where it says, "Well managed"?  
[14] **Q.** Yes.  
[15] **A.** "At left, county manager David Hankerson  
[16] presents pretrial services director Wanda Spann with  
[17] the 1998 Martha Logue Award. Each year the honor is  
[18] bestowed upon an outstanding graduate of Cobb  
[19] Government's EXCEL management course."  
[20] **Q.** That's enough right there. And also would  
[21] you read the headline of the caption at the top in  
[22] bold.  
[23] **A.** "Spann Takes Top EXCEL Award."  
[24] **Q.** And also the third paragraph of that  
[25] particular document.

[1] that the Cobb County Government would know under  
[2] whose authority pretrial services falls.  
[3] **A.** I don't know who wrote the article, ma'am,  
[4] or what they used for information.  
[5] (Plaintiff's Exhibits 11 and 12 were  
[6] marked for identification.)  
[7] (Discussion off the record.)  
[8] (A recess was taken.)  
[9] **Q.** (By Ms. Spann) I believe we left off  
[10] before we broke for lunch on discussing the newspaper  
[11] article on the Martha Logue Award.  
[12] At this time I'd like to move into the  
[13] March 3rd memorandum that I wrote to Judge Mary  
[14] Staley regarding problems that I was having with  
[15] Judge Cox in terms of constant harassment.  
[16] Judge Cox, do you recognize this  
[17] memorandum? If you will just take a moment to read  
[18] its contents. Just skim it.  
[19] **A.** I think I've seen this in the past.  
[20] **Q.** Okay. Let me step back a bit. How long  
[21] have you known Judge Mary E. Staley?  
[22] **A.** Well, I've known of her, I guess, since I  
[23] came to Cobb County as an attorney in 1981.  
[24] **Q.** Have you ever worked with her in an  
[25] office --

[1] **A.** Under, "Authority," is that what you're  
[2] talking about?  
[3] **Q.** Yes, sir.  
[4] **A.** "Under authority of the Superior Court,  
[5] Cobb pretrial court services screens criminal  
[6] defendants to provide judges with the information  
[7] needed to determine under what conditions defendant  
[8] may or may not be released on bond until the trial."  
[9] **Q.** Direction Cobb, is that a Cobb County  
[10] Government newspaper?  
[11] **A.** Direction Cobb?  
[12] **Q.** Where this article was taken.  
[13] **A.** I assume it is. I don't know that for a  
[14] fact.  
[15] **Q.** Have you ever seen this paper floating  
[16] around the Cobb County Government?  
[17] **A.** I think I have, yes.  
[18] **Q.** You get those, don't you, in your court?  
[19] **A.** I think they're delivered to our court,  
[20] yes.  
[21] **Q.** Would it be safe to say the Cobb County  
[22] communications office wrote this article?  
[23] **A.** I don't know. If it's a County  
[24] publication, I assume they did.  
[25] **Q.** And it also stands to reason, Judge Cox,

[1] **A.** I was --  
[2] **Q.** -- in Cobb County Government.  
[3] **A.** As an assistant district attorney I was  
[4] assigned to her courtroom for a period of time.  
[5] **Q.** Did you ever work with her as an assistant  
[6] district attorney?  
[7] **A.** Yes. That's what I just said.  
[8] **Q.** So you worked in her courtroom. But what  
[9] I'm saying, she was in the DA office at one time as  
[10] an assistant DA.  
[11] **A.** Oh, yeah, long before I was there.  
[12] **Q.** So you weren't there at that time.  
[13] **A.** No. No.  
[14] **Q.** How long did you work with Judge Bodiford  
[15] in the DA's office? I'm going to get back to this  
[16] line of question, but as you know, I left my notes at  
[17] home.  
[18] **A.** Just a month or so because -- well,  
[19] actually about four months because I came in February  
[20] of '85. He left July 1st of '85.  
[21] **Q.** But you-all had formed a friendship from  
[22] your law practice?  
[23] **A.** No. I've known him since we were both in  
[24] college back in late 1960s, mid to late sixties.  
[25] **Q.** Now, you just stated that you have seen

[1] this memorandum dated March 3rd, 2003.  
[2] **A.** I believe I have, yes.  
[3] **Q.** When was the first time you became  
[4] acquainted with this particular memorandum? What was  
[5] the first time it was brought to your attention?  
[6] **A.** That I couldn't tell you. I mean, it  
[7] was -- it would have been sometime around the time  
[8] frame of May or June of the year that you were  
[9] terminated, which would have been two years ago, so  
[10] '03.  
[11] **Q.** Was this memorandum given to you by my  
[12] then secretary Janet Lindemann after she typed it?  
[13] **A.** No.  
[14] **Q.** Are you aware that there is correspondence  
[15] in the Cobb County attorney's investigation from  
[16] Janet Lindemann stating that she had given you this  
[17] particular document?  
[18] **A.** Not aware of that.  
[19] **Q.** Are you also aware that when this  
[20] particular document was being composed on my computer  
[21] that one of your employees, Sheila Walker, who was, I  
[22] believe, your court clerk, was accessing my computer  
[23] from a remote site in order to obtain this document?  
[24] **MR. WEAVER:** Objection; assuming facts not  
[25] in evidence.

[1] **Q.** Was there not a big issue made of this  
[2] document, Judge Cox?  
[3] **A.** I'm not sure this is the document we  
[4] discovered. I'm thinking it was some communication  
[5] you had forwarding the memorandum I submitted to you,  
[6] and, again, this may have been in conjunction with  
[7] that. I don't know.  
[8] **Q.** Excuse me? I'm going to get back to those  
[9] documents in just a second. Well, I think I have  
[10] them here.  
[11] I'll go back to those in just a second.  
[12] But based on your memory at this point, do you recall  
[13] soliciting an employee or technician from the  
[14] information services office to come over to your  
[15] office or an office in the Magistrate Court to  
[16] download this particular document to read its  
[17] contents?  
[18] **A.** At what point in time are you talking  
[19] about?  
[20] **Q.** I'm talking about during that time period.  
[21] **A.** I think after you were suspended there was  
[22] some steps taken to download.  
[23] **Q.** You said this was after the termination?  
[24] **A.** Suspension.  
[25] **Q.** After the suspension?

[1] **THE WITNESS:** I don't know who showed me  
[2] this document or when I saw it exactly. I know  
[3] you didn't provide me a copy of it. I know  
[4] that.  
[5] **Q.** (By Ms. Spann) Was there communication,  
[6] to your knowledge, about this particular document  
[7] going on within your office on or around the time  
[8] that it was sent, either between Ms. Ely and yourself  
[9] or others?  
[10] **A.** I don't have any distinct recollection of  
[11] this. I know Sheila Walker discovered something on  
[12] what's called the common directory of the County  
[13] computer system, whatever that means. I'm not that  
[14] knowledgeable of computers. But she went to a common  
[15] directory and found some indication you had  
[16] communicated with Judge Staley. Whether this was the  
[17] exact document or not, I don't know.  
[18] **Q.** Was that my prerogative as a County  
[19] employee to contact my superior via written  
[20] correspondence?  
[21] **A.** I mean, there's nothing wrong with that  
[22] per se.  
[23] **Q.** Well, why was it, so to speak, almost  
[24] considered a major felony among your employees?  
[25] **A.** I don't know what you mean by that.

[1] **A.** Yes, ma'am.  
[2] **Q.** Okay. You said it was after the  
[3] suspension; is that correct?  
[4] **A.** That's the best of my recollection.  
[5] **Q.** Well, let me draw your attention to a  
[6] series of documents regarding the March 3rd memo to  
[7] Judge Staley. Would you please read from this  
[8] document. This will be my next exhibit. Read from  
[9] that document, please.  
[10] Would you give us the date of that  
[11] document, Judge Cox.  
[12] **A.** The date at the bottom says it's the 6th  
[13] day of March 2003.  
[14] **Q.** Would you please read the memo aloud.  
[15] **MR. WEAVER:** Read the whole thing aloud?  
[16] **MS. SPANN:** Yes.  
[17] **MR. WEAVER:** We object to --  
[18] **MS. SPANN:** Okay. Let me -- can we  
[19] stipulate to what this document is?  
[20] **MR. WEAVER:** I don't think we need to  
[21] stipulate. I mean, he can answer your questions  
[22] about it, but there's no need to read it. It  
[23] will be in the record. It speaks for itself.  
[24] **Q.** (By Ms. Spann) This memorandum from  
[25] Sheila Walker regarding the memo that was being typed

[1] on my computer mentions in here the first line of  
 [2] that memorandum, "Since the inception of pretrial  
 [3] services in 1973," and she's talking about how she  
 [4] checked the document and discovered the communication  
 [5] and after discussing the matter with Judge Cox,  
 [6] etcetera, etcetera, I attempted to contact Paul Ruth.  
 [7] So there was a lot of activity going on  
 [8] regarding that memorandum at that time; is that  
 [9] correct?  
 [10] **A.** There was some activity.  
 [11] **Q.** Okay. Did you at any time come to me and  
 [12] ask me -- advise me that you had received this or had  
 [13] people searching for this data?  
 [14] **A.** No.  
 [15] (Plaintiff's Exhibits 13 and 14 were  
 [16] marked for identification.)  
 [17] **Q.** (By Ms. Spann) Here's another document  
 [18] from Ms. Sheila Walker pertaining to that same  
 [19] memorandum where I was seeking help; is that not  
 [20] correct?  
 [21] **A.** I'm sorry. What's the question?  
 [22] **Q.** Is that another memo or note from  
 [23] Ms. Walker regarding the memorandum of March 3rd that  
 [24] I was writing to Judge Staley seeking help?  
 [25] **A.** It's an e-mail from Sheila Walker to

[1] services in 1973," again, the same line. Are you  
 [2] familiar with that particular document?  
 [3] **A.** I've never seen it before.  
 [4] **Q.** You've never seen that before?  
 [5] **A.** No.  
 [6] (Plaintiff's Exhibit 17 was marked for  
 [7] identification.)  
 [8] **Q.** (By Ms. Spann) Are you aware that prior  
 [9] to --  
 [10] **MR. WEAVER:** Could I ask you what exhibit  
 [11] numbers you're using. You're not putting the  
 [12] numbers on the record. I'm not sure what the  
 [13] numbers are.  
 [14] **MS. SPANN:** I'm sorry. Some of my papers  
 [15] are missing. They're not in the same order they  
 [16] were in before I left for lunch.  
 [17] **THE WITNESS:** The papers you had here?  
 [18] **MS. SPANN:** Yes. They're not in the same  
 [19] order.  
 [20] **MR. WEAVER:** None of us have touched them.  
 [21] **MS. SPANN:** Well, I'd like the record to  
 [22] reflect that my papers are not in the same order  
 [23] that they were in prior to my leaving for lunch.  
 [24] **MR. WEAVER:** Well, let the record also  
 [25] reflect that neither Judge Cox nor myself or to

[1] Bobbie Ely.  
 [2] **Q.** Regarding -- is it regarding the March 3rd  
 [3] memorandum?  
 [4] **A.** It says it's regarding common file and  
 [5] pull up since the inception of pretrial court  
 [6] services, is what it says.  
 [7] (Plaintiff's Exhibit 15 was marked for  
 [8] identification.)  
 [9] **Q.** (By Ms. Spann) Is that the kind of office  
 [10] you ran, Judge Cox, to have employees to snoop on  
 [11] other employees?  
 [12] **MR. WEAVER:** Object to the question;  
 [13] argumentative.  
 [14] **THE WITNESS:** No, it's not the kind of  
 [15] office I ran.  
 [16] **Q.** (By Ms. Spann) Were these employees  
 [17] disciplined in any way for this type of activity?  
 [18] **A.** No.  
 [19] (Plaintiff's Exhibit 16 was marked for  
 [20] identification.)  
 [21] **Q.** (By Ms. Spann) This is also a computer  
 [22] document that I would like to bring to your attention  
 [23] that apparently came from the investigation that the  
 [24] information services person pulled up, and as you can  
 [25] see, it says, "Since the inception of pretrial

[1] my knowledge the court reporter have disturbed  
 [2] your papers at all since you left here to go to  
 [3] lunch.  
 [4] Could I see the last two or three there?  
 [5] I've already got a copy of that. One of  
 [6] your exhibits is No. 15, which is that same  
 [7] document.  
 [8] (Discussion off the record.)  
 [9] **Q.** (By Ms. Spann) Judge Cox, every year the  
 [10] County requires supervisors, and in my case you were  
 [11] supposedly a supervisor reporting to the Superior  
 [12] Court judges about my performance; is that correct?  
 [13] **A.** The County requires what, ma'am?  
 [14] **Q.** The County requires each employee to be  
 [15] evaluated on an annual basis in terms of their  
 [16] employment.  
 [17] **A.** Yes.  
 [18] **Q.** And one of your duties or supposed duties  
 [19] as the reporting official to Superior Court was to do  
 [20] my evaluation; is that correct?  
 [21] **A.** I've never reported anything to the  
 [22] Superior Court judges about your evaluation or  
 [23] anything about your performance.  
 [24] **Q.** Are you aware of any other magistrate  
 [25] judges in the past, whether or not they've reported

[1] anything about my performance to the Superior Court  
[2] judges?

[3] **A.** I have no knowledge of that.

[4] **Q.** Are you aware that that was the only duty  
[5] that the Superior Court judges assigned to the  
[6] magistrate judge in terms of my office as far as any  
[7] authority over the directorship is just evaluation?

[8] **A.** I'm not aware of that.

[9] **Q.** Let me direct your attention to January of  
[10] 2003 during the annual merit increase period, annual  
[11] evaluation period. Do you recall completing any  
[12] performance evaluation on me?

[13] **A.** I recall reviewing one. I don't know that  
[14] I had anything to do with creating one.

[15] **Q.** So you didn't create a memorandum giving  
[16] me an exceeds standards on the evaluation?

[17] **A.** If you have such a document, I'll look at  
[18] it and see if it refreshes my memory.

[19] **Q.** I don't have it right now, but I can get  
[20] it later. It's not in my papers.

[21] **A.** I know there was one created. Whether I  
[22] personally created it or not or someone else, I don't  
[23] know.

[24] **Q.** Do you recall signing it, exceeds  
[25] standards?

[1] on the 5th I received this document from you, this  
[2] clarification of responsibilities.

[3] Why did you give me that memo? Was it  
[4] retaliation for my complaining to Judge Staley about  
[5] my mistreatment?

[6] **A.** No.

[7] **Q.** If in January of 2003 you had just given  
[8] me an exceeds standards performance evaluation, why  
[9] would you turn around two months later, particularly  
[10] right after I had complained about mistreatment, and  
[11] virtually demote me?

[12] **MR. WEAVER:** Objection; misstating the  
[13] record and argumentative.

[14] **THE WITNESS:** I'm not sure what your  
[15] question is. Could you rephrase it and break it  
[16] down and --

[17] **Q.** (By Ms. Spann) This memorandum appears to  
[18] be nothing more than retaliation for the memorandum  
[19] that I had sent to Judge Staley.

[20] **MR. WEAVER:** Objection; that's not a  
[21] question. That's arguing your case. Do you  
[22] have a question?

[23] **Q.** (By Ms. Spann) Did you give me this  
[24] memorandum out of retaliation?

[25] **A.** No.

[1] **A.** I probably did sign such a document.

[2] **Q.** Sometime in March -- January of 2003?

[3] **A.** Uh-huh.

[4] **Q.** In January of 2003 you've just stated that  
[5] I have an exceeds standards evaluation, or you can't  
[6] recall. You signed something.

[7] **A.** I signed a document to that effect.

[8] **Q.** One day after I had written the memorandum  
[9] to Judge Staley concerning the problems that I was  
[10] having with you, the harassment problems and  
[11] everything in my office and meetings that I had with  
[12] you that were very intimidating, that very next day  
[13] after sending Judge Staley that memorandum we just  
[14] discussed, did you present this memorandum to me  
[15] entitled, "Clarification of responsibilities"?

[16] **A.** I'm not sure I understand the time  
[17] sequence regarding your memorandum, but I submitted  
[18] this to you on or about March the 5th.

[19] **Q.** Let me just take a look. Exhibit 13 is  
[20] the memorandum that I submitted to Judge Staley dated  
[21] March 3rd.

[22] **A.** Yes, ma'am.

[23] **Q.** And March 5th -- I believe I wrote that on  
[24] March 3rd but didn't give it to her until March the  
[25] 4th. I can't remember the exact sequence. However

[1] **Q.** What was the purpose of giving me this  
[2] memorandum considering that my work performance was  
[3] excellent?

[4] **MR. WEAVER:** Object; compound question.

[5] **THE WITNESS:** As it's titled,  
[6] "Clarification of responsibilities," it is to  
[7] outline in writing what your responsibilities  
[8] are and were and would be.

[9] **Q.** (By Ms. Spann) You changed my  
[10] responsibilities.

[11] **A.** I made --

[12] **Q.** You changed -- is that correct? Did you  
[13] change my responsibilities and duties?

[14] **A.** I probably changed some of them, yes.

[15] **Q.** Isn't it true that you changed the  
[16] majority, 90-plus percent of my duties?

[17] **A.** I guess that's a matter of opinion what  
[18] percentage it would be.

[19] **Q.** You in turn gave my duties and authority  
[20] to Ms. Ely, is that correct, in this March 5th  
[21] memorandum? That's a yes or no answer.

[22] **MR. WEAVER:** He can answer as he sees fit.

[23] **THE WITNESS:** Some of your  
[24] responsibilities I did give to Ms. Ely, yes,  
[25] involving maintaining of personnel records and

[1] administrative records.  
[2] **Q.** (By Ms. Spann) Was Ms. Ely directed by  
[3] the Superior Court judges to take on my  
[4] responsibilities?  
[5] **A.** No.  
[6] **Q.** Does Ms. Ely have any experience in  
[7] pretrial services?  
[8] **A.** No.  
[9] **Q.** You gave virtually everything that I did  
[10] to Ms. Ely in this March 5th memo; is that correct,  
[11] Judge Cox?  
[12] **A.** Not in my opinion.  
[13] **Q.** What was left for me to do?  
[14] **A.** To supervise pretrial and its employees.  
[15] **Q.** How can I supervise pretrial when you took  
[16] away my ability to supervise my employees?  
[17] **A.** I took away your ability to fire or  
[18] discipline.  
[19] **Q.** And hire.  
[20] **A.** And hire without consulting with me.  
[21] **Q.** Yet you didn't do anything contrary and  
[22] adverse to Ms. Ely when I hadn't done anything. In  
[23] other words -- let me rephrase that. Ms. Ely had  
[24] even been in the paper for problems in the workplace,  
[25] had she not?

[1] **Q.** Had you ever been involved in my hiring  
[2] and termination of employees?  
[3] **A.** No.  
[4] **Q.** Had you ever been involved in purchasing  
[5] equipment and supplies for my office?  
[6] **A.** No.  
[7] **Q.** Did you share the same County org number  
[8] with pretrial services?  
[9] **A.** No.  
[10] **Q.** Do you understand that offices within the  
[11] Cobb County Government system are determined by the  
[12] org number? Where they fall into the system is  
[13] determined by an org number. Each County office has  
[14] an org number that's specifically assigned to their  
[15] office. Are you aware of how the org numbers run and  
[16] the purpose of the org numbers?  
[17] **A.** I'm aware that there are org numbers for  
[18] different departments. That's all I'm aware of.  
[19] **Q.** Do you understand that pretrial court  
[20] services' org number is 8490 and your org number is  
[21] totally different?  
[22] **A.** I knew they were different. I didn't know  
[23] what the numbers were.  
[24] **Q.** The fact that these org numbers are  
[25] different clearly indicates that those are two

[1] **A.** Based on that article you just showed me.  
[2] **Q.** Had I ever been in the paper, had you ever  
[3] disciplined me in any way for any type of  
[4] mismanagement in the workplace or any type of  
[5] violations in the workplace?  
[6] **A.** I never had disciplined you for any reason  
[7] prior to --  
[8] **Q.** But yet I received this memorandum which  
[9] took everything I had away. It took my office. Is  
[10] that not correct, Judge Cox? Even office space, did  
[11] you give my office space to Ms. Ely? Did you give  
[12] her the ability to control office space?  
[13] **A.** No, ma'am.  
[14] **Q.** Let me direct your attention to this memo  
[15] again. It says, "All matters regarding the office  
[16] space." It's on the second page, the fourth bullet,  
[17] "All matters regarding the office space or renovation  
[18] of the same will fall under the authority of the  
[19] court administrator."  
[20] **A.** It does say that. I either had forgotten  
[21] or not even cognizant that it said that.  
[22] **Q.** Had you-all, meaning you and the court  
[23] administrator, had y'all ever been involved in my  
[24] budget process whatsoever?  
[25] **A.** No.

[1] separate entities; wouldn't you agree, Judge Cox?  
[2] **A.** They're two separate org numbers and two  
[3] different departments.  
[4] **Q.** And two separate budgets.  
[5] **A.** Right.  
[6] **Q.** So you had no control over pretrial  
[7] services' budget.  
[8] **A.** Well, I never thought about control or  
[9] exercising control, so I don't know. Probably not,  
[10] but I don't know.  
[11] **Q.** What was the purpose for you telling me  
[12] that before I speak publicly that I needed to discuss  
[13] it with you because you may elect to accompany me to  
[14] the event?  
[15] **A.** As an elected official, I may decide to go  
[16] to some organization or event with you so I can meet  
[17] with potential voters and have that opportunity if I  
[18] felt like it was politically advantageous for me to  
[19] do so.  
[20] **Q.** So you're saying that you would use me for  
[21] your own political gain?  
[22] **MR. WEAVER:** Objection; misstates his  
[23] testimony.  
[24] **MS. SPANN:** He stated that he was looking  
[25] for votes.

[1] **MR. WEAVER:** Well, his answer is whatever  
[2] it is. And you're being argumentative now.  
[3] **MS. SPANN:** He's given a pretty good one.  
[4] **MR. WEAVER:** We don't need you to comment  
[5] on his answers. Just move to the next question  
[6] if you would.  
[7] **Q.** (By Ms. Spann) I want him to answer my  
[8] question. Was your intent to use me as a public  
[9] employee for political gain?  
[10] **A.** No, ma'am.  
[11] **Q.** What was the purpose of your, in this  
[12] memorandum, directing me to not allow my employees to  
[13] refer to me by my last name, Mrs. Spann?  
[14] **A.** What was the purpose?  
[15] **Q.** What was the purpose of your entering that  
[16] into this memorandum?  
[17] **A.** The purpose was to have a more informal  
[18] atmosphere and environment in the workplace where  
[19] people felt you would be more approachable by calling  
[20] you by your first name.  
[21] **Q.** Judge Cox, would you feel comfortable if  
[22] employees referred to you by your first name, Frank?  
[23] **A.** I had no problem with it. Some did, some  
[24] didn't.  
[25] **Q.** Most didn't; is that correct?

[1] or so?  
[2] **A.** Yes.  
[3] **Q.** Would you agree that the pretrial  
[4] directorship has been in existence since 1973?  
[5] **A.** Yes.  
[6] **Q.** Would you also agree that the Superior  
[7] Court judges in the 1985 memo never refer to the  
[8] pretrial director reporting to a court administrator  
[9] in Magistrate Court?  
[10] **A.** Yes, I agree with that.  
[11] **Q.** Therefore, would you agree that there  
[12] should have been some communication with the Superior  
[13] Court judges regarding my being relieved of my duties  
[14] without their consent as it deviated from the 1985  
[15] order?  
[16] **A.** Being relieved of your duties in May of  
[17] '03?  
[18] **Q.** No. I'm talking about being relieved of  
[19] my duties and authority in this March 5th memo.  
[20] **A.** Should I have consulted with them? Is  
[21] that your question?  
[22] **Q.** Yes.  
[23] **A.** It didn't occur to me do that, no.  
[24] (Plaintiff's Exhibit 18 was marked for  
[25] identification.)

[1] **A.** Most didn't?  
[2] **Q.** Did not.  
[3] **A.** I would say most did not, yes.  
[4] **Q.** Was the purpose of your issuing this  
[5] directive regarding the employees not referring to me  
[6] by my last name to demean me, to lower me?  
[7] **A.** No. No, it was not.  
[8] **Q.** Was Ms. Ely my superior?  
[9] **A.** No.  
[10] **Q.** Did she and I share the same pay grade?  
[11] **A.** I don't know what -- about the pay grades.  
[12] **Q.** So you don't know whether she was higher  
[13] or lower than me?  
[14] **A.** As a pay grade?  
[15] **Q.** Yes.  
[16] **A.** No.  
[17] **Q.** So you would issue this type of memorandum  
[18] not knowing whether she's making more money than me  
[19] or whether I'm making more money than her or what.  
[20] Did you do any type of research to find out whether  
[21] or not she and I were equal on the pay scale?  
[22] **A.** No.  
[23] **Q.** Would you agree that the magistrate court  
[24] administrator's position, that's a new position  
[25] that's only been created within the last eight years

[1] **Q.** (By Ms. Spann) Was Ms. Ely qualified to  
[2] serve as the administrator over pretrial services?  
[3] **A.** I didn't see her position as an  
[4] administrator over pretrial court services.  
[5] **Q.** How could I have effectively performed my  
[6] duty as pretrial director with Mrs. Ely having all of  
[7] my major responsibilities and power?  
[8] **A.** Well, to my recollection, the only thing  
[9] transferred to Ms. Ely was the maintaining of  
[10] personnel records and the housing of them in her  
[11] office in her file cabinets, and I don't recall  
[12] anything else transferred to her specifically.  
[13] **Q.** Well, it's all listed in this memorandum,  
[14] and the judge will be able to take a look at it.  
[15] On March 4th, Ms. Ely sent me an e-mail.  
[16] I'll have you take a look at this document. And for  
[17] a couple of days she had been asking me for a list of  
[18] my employees. Do you recall that?  
[19] According to this it says, "Per our  
[20] discussion yesterday, Judge Cox has asked that I  
[21] update our org chart this morning. In addition to  
[22] the names and grade number of employees, would you  
[23] please note the direct supervisor for each?"  
[24] **A.** I think I recall that, yes.  
[25] **Q.** Would you agree that this e-mail clearly

[1] indicates that prior to March the 4th that you and  
[2] Ms. Ely had no knowledge whatsoever of the personnel  
[3] information in my office in terms of the names of the  
[4] employees, their pay grades, as well as their  
[5] immediate supervisor?

[6] **A.** I don't exactly say that we had no  
[7] knowledge or she had no knowledge. I think you had  
[8] the personnel records in your office, but as far as  
[9] not having knowledge, I wouldn't agree with that.

[10] **Q.** Well, isn't it ironic that on March the  
[11] 4th, 2003, the same day or the next day after Judge  
[12] Staley received her memorandum, that you would merge  
[13] my office with the Magistrate Court?

[14] **MR. WEAVER:** Objection; that's  
[15] argumentative asking him if something is ironic.

[16] **Q.** (By Ms. Spann) Why did you merge pretrial  
[17] services without the permission of the Superior Court  
[18] judges into Magistrate Court on March the 4th, 2003?

[19] **A.** I'm not sure that's what I did on that  
[20] date. I may have put in steps to implement such a  
[21] reorganization. And as I stated previously, I didn't  
[22] feel like I needed to consult with the Superior Court  
[23] judges.

[24] **Q.** You didn't need to consult with the  
[25] Superior Court judges? Is that your statement?

[1] **Q.** (By Ms. Spann) Have you ever taken a look  
[2] at your office's organizational chart prior to the  
[3] creation of this document? Have you ever taken a  
[4] look at it in the past?

[5] **A.** I don't know that I've ever seen one in  
[6] the past. I may have. I don't recall.

[7] **Q.** This entire area to the far left where my  
[8] name is at the top is new; is that correct?

[9] **A.** Is what?

[10] **Q.** New. It wasn't there before.

[11] **A.** I just don't recall. Probably not.

[12] **Q.** You don't recall?

[13] **A.** Probably not.

[14] **Q.** This was the document that Ms. Ely was  
[15] trying to create when she e-mailed me wanting the  
[16] names and titles of my employees; is that correct?

[17] **A.** I would assume so.

[18] **Q.** Did you receive permission from the  
[19] Superior Court judges to draw this document up?

[20] **A.** No.

[21] **Q.** Are you aware of the fact that I faxed  
[22] that March 5th memo to Judge Staley?

[23] **A.** I became aware of it after the fact.

[24] **Q.** Have you ever seen this document, fax  
[25] cover sheet regarding that correspondence?

[1] **A.** Regarding this planned implementation of  
[2] the reorganization, as you term it.

[3] **Q.** You don't think that since the agency was  
[4] never part of Magistrate Court, that you should have  
[5] consulted with an authority body on this particular  
[6] issue?

[7] **A.** No, ma'am. I believe that since I had the  
[8] authority to supervise and administer the pretrial,  
[9] that I had the authority to do what I was doing.

[10] **Q.** You assumed, but you didn't check with the  
[11] judges.

[12] **A.** I did what I did.

[13] **Q.** This next exhibit, do you recognize it?

[14] **A.** I do.

[15] (Plaintiff's Exhibit 19 was marked for  
[16] identification.)

[17] **Q.** (By Ms. Spann) And do you recall when  
[18] this organizational chart was given to me?

[19] **A.** No, I don't recall.

[20] **Q.** Do you recall whether or not it was  
[21] attached to the March 5th memo that you and Ms. Ely  
[22] presented me with on March the 5th?

[23] **A.** I don't recall.

[24] (Plaintiff's Exhibit 20 was marked for  
[25] identification.)

[1] **A.** I don't recall it. I may have, but I  
[2] don't have any recollection of it.

[3] (Plaintiff's Exhibit 21 was marked for  
[4] identification.)

[5] **Q.** (By Ms. Spann) In addition to my sending  
[6] the memo to Judge Staley dated March the 3rd seeking  
[7] help from your harassment or constant taunting, as I  
[8] mention in the memorandum to her, there were a couple  
[9] of other incidents whereby you were complained on; is  
[10] that correct?

[11] **MR. WEAVER:** Let me object to the  
[12] question. It's very argumentative.

[13] **MS. SPANN:** I'm going to rephrase the  
[14] question.

[15] **MR. WEAVER:** You said constant taunting  
[16] and harassment.

[17] **Q.** (By Ms. Spann) Judge Cox, were you aware  
[18] of the fact that myself and Mattie Armbruster, the  
[19] manager under me, had gone to the EEOC to file a  
[20] complaint against you sometime in February 2003?

[21] **A.** I became aware of it sometime later that  
[22] year. I don't know when I became aware of it.

[23] **Q.** When you met with me on or about February  
[24] the 25th of 2003 in the presence of assistant county  
[25] attorney Debra Dance, were you aware of the EEOC



[1] visit at that time?  
[2] **A.** No, ma'am.  
[3] **Q.** Had Ms. Armbruster ever complained to you  
[4] about her dissatisfaction in the workplace in terms  
[5] of your treatment towards her?  
[6] **A.** If she ever complained to who?  
[7] **Q.** To you or to me, to your knowledge.  
[8] **A.** I think she may have complained to you  
[9] about some incident that we had a discussion about,  
[10] meaning you, me, you and her had a discussion.  
[11] **Q.** Which incident was that?  
[12] **A.** I'm thinking it was about some perceived  
[13] response I had to her wanting me to sign some type of  
[14] pretrial order or some order that I didn't sign as  
[15] quickly as she thought I should sign. And I said  
[16] just leave it with my secretary and I would get to  
[17] it. And I think she was not happy with that  
[18] response.  
[19] **Q.** What is Mrs. Armbruster's nationality?  
[20] What is her race?  
[21] **A.** She's Hispanic. That's all I know.  
[22] **Q.** And what was her position in the pretrial  
[23] services office at that time?  
[24] **A.** I believe she was your assistant.  
[25] **Q.** Was she a manager? Was she in a

[1] **Q.** Do you recall my coming to your office  
[2] that following week -- she and I were both on  
[3] vacation the week of the incident -- right after the  
[4] incident happened when you dictated the letter? We  
[5] were both on vacation. Do you recall my coming to  
[6] your office the next week to explain to you why that  
[7] letter was not sent out?  
[8] **A.** I don't recall the specifics. I mean, I  
[9] recall there was some -- something regarding her  
[10] being allowed to go to church or something. And I  
[11] don't know. I think I had Mattie look into some  
[12] aspect or issue of her pretrial supervision. But as  
[13] far as me -- other than that, that's all I recall.  
[14] **Q.** Is it true to say that you wanted her to  
[15] falsify information that she had talked to the pastor  
[16] of that church?  
[17] **A.** No. I asked her to talk to the pastor.  
[18] **Q.** That she had talked to the pastor of the  
[19] church and the pastor made a statement that the  
[20] family of the victim was no longer attending that  
[21] church?  
[22] **A.** I asked her to investigate that aspect,  
[23] whether that was accurate or not.  
[24] **Q.** In the letter that you dictated in  
[25] Ms. Armbruster's name, did you state -- did you

[1] management position?  
[2] **A.** I believe she was.  
[3] **Q.** So you're saying that the incident  
[4] regarding her complaining that you didn't want her in  
[5] your office or whatever was the only incident?  
[6] **A.** No, I'm not saying that was the only  
[7] incident. That's the only thing I can recall right  
[8] at this particular time.  
[9] **Q.** Okay. Let me direct your attention to  
[10] March or April of 2001. Do you recall a defendant by  
[11] the name of Carrie Constable who was charged with  
[12] murder?  
[13] **A.** I do.  
[14] **Q.** And I'm asking you this question because  
[15] it relates back to incidents. Do you recall at any  
[16] time in your office dictating a letter on  
[17] Ms. Constable's case that was false? Think back.  
[18] **A.** Dictating a letter that was false?  
[19] **Q.** Yes. Did you dictate a letter on the  
[20] Carrie Constable murder case that was false?  
[21] **A.** Not to my knowledge.  
[22] **Q.** You don't recall dictating a letter on  
[23] Carrie Constable in Mattie Armbruster's name that  
[24] contained false information?  
[25] **A.** No, ma'am.

[1] dictate the letter? Did you give all the verbiage in  
[2] the letter?  
[3] **A.** To Ms. Armbruster?  
[4] **Q.** To your secretary in the presence of  
[5] Ms. Armbruster.  
[6] **A.** Not to my knowledge.  
[7] **Q.** You can't recall my coming to talk to  
[8] you -- let me step back again.  
[9] The following day of the letter being  
[10] supposedly sent --  
[11] **A.** Do you have the letter?  
[12] **Q.** I don't have the letter with me, no. I  
[13] don't have the letter with me.  
[14] Did you come to the pretrial office after  
[15] you were advised by your secretary the letter was not  
[16] sent out? Did you come to the pretrial office  
[17] looking for me?  
[18] **A.** I may have. This is four years ago. I  
[19] don't remember.  
[20] **Q.** You don't remember. Okay. Do you know  
[21] that due to the nature of that situation, that you  
[22] were put on tape, that Ms. Brock taped you?  
[23] **A.** Ms. Brock taped me?  
[24] **Q.** Yes. Belinda Brock had that  
[25] conversation -- I instructed her to talk to you. If