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MEMORANDUM

**To: Cobb County Superior Court Judges Council
Cobb County Attorney**
From: Mairén Kelly
Date: August 12, 2008
Subject: Report Concerning Allegations Regarding Court Administration

On February 20, 2008, a manager working for Cobb County Superior Court Administration received a written/signed Complaint from a former Court Administration employee alleging sexual harassment by Court Administrator Howard "Skip" Chesshire. The manager brought the Complaint to County Human Resources, which immediately referred the matter to the County Attorney's Office. Later the same day, the Superior Court Judges ("Judges Council")¹ met and was notified of the Complaint. The next morning, the undersigned was retained by Cobb County, through the County Attorney's Office, to assist the Judges Council in responding to the written Complaint.²

¹ The term "Judges Council" refers to the Superior Court Judges (with the exception of Senior Judges) acting together, officially.

² In late 2007, an anonymous letter and an anonymous faux "news article" were sent to the Superior Court Judges and some County Commissioners alleging sexual and managerial misconduct by Mr. Chesshire. The Commissioners forwarded all such mailings to the Superior Court Chief Judge S. Lark Ingram. Chief Judge Ingram and Judge James G. Bodiford immediately met with Mr. Chesshire. Both Judges described the meeting as basically a "cross-examination." Mr. Chesshire, the Court Administrator for twenty-two years with no complaints previously reported at any time, basically agreed with that description of the interview. He absolutely denied all allegations and told the Judges that the anonymous allegations were a malicious attempt to smear his reputation. Based on Mr. Chesshire's record, the Judges provisionally accepted his denials, but Judge Ingram scheduled the matter for further consideration at the next meeting of the Judges Council. Mr. Chesshire was out on personal leave due to a death in his family for much of the remainder of 2007. Before the next Judges

The Court, working with the undersigned, responded with a number of actions. The day after the Complaint was received, the Judges Council made the decision to relieve Mr. Chesshire of all duties; and provide administrative leave pending further investigation. That action was interrupted on February 22, 2008 when Mr. Chesshire announced his retirement while meeting with Chief Judge Ingram and Judge LaTain Kell. At that time, Judge Ingram requested and directed that, until further notice, Mr. Chesshire should not be present in any Court offices; and should not contact any Court Administration employees. That request/direction remains in place.

Chief Judge Ingram assumed the role of Court Administrator (in addition to her other duties as Chief Judge, and in addition to her full caseload) until an interim Administrator could be appointed. In March 2008, attorney Thomas J. Charron, a six (6) term former Cobb County District Attorney, became the interim Court Administrator. That appointment is currently in place.

The second element of the Judges Council's response to the complaint was its request and direction to the undersigned to promptly contact and seek interviews with the Court employees who had come forward and/or those employees/former employees who had been named in the various allegations.³

As a third element, the Court directed that the investigation remain open for several months to allow current or former employees with an opportunity to learn of/consider the

Council meeting could be held, the signed complaint was received and witnesses began to come forward alleging misconduct and challenging Mr. Chesshire's denials.

³ Throughout this Report, for ease of reference and to protect confidentiality, the term "employee" is used for both present and former employees. In proceeding with interviews, a number of employees agreed to interviews with their attorneys present. Many employees met without counsel. Certain other employees contacted the investigator through intermediaries and declined to participate. Credible third parties have additionally advised that witnesses declined to come forward based on their decisions to "put these matters behind them."

investigation and, perhaps, decide to come forward. The Court, through Mr. Charron and Court Administration managers, encouraged any employee who believed he/she had information on any issue/concern relating to the Court Administration to come forward. Mr. Chesshire was also interviewed and asked to provide any information he deemed relevant. This request included any witnesses that Mr. Chesshire believed had relevant information concerning the allegations/issues, which request was later confirmed to his attorney.

Throughout this investigation, all participants were assured that there would be no negative county employment consequences as a result of their participation.

During the extended time period, a number of witnesses did come forward as described below. As of this time, the record is sufficient to make the report that follows.

Confidentiality

Due to the explicit allegations of sexual matters and other sensitive subjects, many witnesses coming forward were understandably concerned about their personal confidentiality. As a practical matter, the only way in which this investigation could go forward was by agreement that participants/witnesses would not be identified by name and obvious characteristics (i.e., job title, history with County, etc). This report is constructed so as to honor that agreement to the fullest extent possible.

Scope of Undertaking

The purpose and scope of the investigation was to gather information from present/former Court Administration employees regarding certain allegations of sexual/managerial misconduct that had been widely circulated in anonymous documents, additional concerns raised by employees coming forward with related complaints, and

allegations/concerns/experience relating generally to the administration of the Court's business during the past years. The Judges Council directed that all employees who had concerns, or believed that they had relevant information, should be given an opportunity to be heard.

This report sets out the information collected from all witnesses who were available and willing to participate.⁴ This investigation has included scrutiny of statements, recognizing the possibility that witnesses could cooperate with each other to misrepresent or mislead. Different alleged experiences and differing opinions of employees were taken into account. Statements of denial were carefully considered. After careful examination of the statement of witnesses, many of whom had never met each other and whose allegations involve vastly different timeframes, the investigation finds no evidence of collusion among witnesses coming forward. Witnesses relate events from their own points of view; however, there is no evidence that any employee/witness has intentionally misrepresented facts.

This report also presents Mr. Chesshire's position regarding the anonymous allegations originally circulated and additional matters alleged during the investigation. The report notes allegations/matters to which Mr. Chesshire declined comment. It also sets forth information provided by witnesses who contacted the investigator on his behalf.

RELEVANT BACKGROUND AND HISTORY

A number of Court Administration employees participating in this investigation had questions concerning the Superior Court Judges' duties/responsibilities as compared to the duties/responsibilities of the Court Administrator. Some expressed frustration that the Judges were not more closely involved in monitoring the day-to-day activities of the Court Administrator.

⁴ This investigation was never structured to poll opinions, positive or negative, about Court Administration. It was not meant to determine the general popularity of anyone related to Court Administration.

Therefore, this report begins with an examination of the physical locations and functions of the related but separate Departments within the Superior Court organization.

Cobb County Superior Court and Staff

The Cobb County Superior Court is chartered by the Georgia Constitution and the Cobb Superior Court Judges are elected officials⁵ with constitutional standing separate and distinct from the Cobb County Board of Commissioners.

Each Cobb County Superior Court Judge has the statutory right to fill four (4) positions, which positions constitute the Judge's personal staff. These positions are secretary/assistant, law clerk, bailiff and court reporter.⁶ Members of the Judge's staff, while paid by the County, are appointed positions, serving at the discretion of the Judge. The Judge's staff are not hired or supervised by the Court Administrator. No member of a Judge's staff has ever made any complaint or raised any concern in this investigation regarding any alleged misconduct as to the former Court Administrator.⁷

Over the past twenty-five (25) years, the Cobb County Superior Court has grown from 4 to 10 judges. Although the number of Judges has increased 150%, the caseload assigned to

⁵ All Superior Court Judges in the State of Georgia are compensated, as elected officials, directly by the State. The Georgia House of Representatives and Senate authorize supplements to state compensations. There is evidence that Mr. Chesshire worked with the Georgia delegation regarding many Court Administration matters. Vague allegations were made in the anonymous letters that Mr. Chesshire bragged of "controlling" the Superior Court Judges because he participated in salary-related legislation. Mr. Chesshire denied making such statements; and further denied that any such allegations were true. There is no evidence which supports these vague anonymous statements.

⁶ A Judge may elect to not fill the bailiff or court reporter positions and use Court Administration personnel to provide the necessary support.

⁷ Rather, allegations have been made by employees hired and managed by the Court Administrator.

each Judge has also increased exponentially.⁸ To address the County's needs, each Superior Court Judge carries a full caseload, including the Chief Judge. There are also four (4) Senior Judges who handle substantial presiding duties on a regular basis. The Chief Judge is authorized to and appoints Juvenile Court Judges and Magistrate Judges on a regular basis to assist in hearing Superior Court cases.

Judges' Chambers and Work Areas

Examination of Court structure demonstrates that Superior Court Judges and staff do not work directly with the Court Administration staff. Indeed, the Judges' day-to-day responsibilities and activities are necessarily separate from the supporting Departments/employees managed by the Court Administrator.

Specifically, the Judges and their staffs work out of a courtroom and office space consisting of an administrative/secretarial office, a law clerk office and the Judge's chambers. The Judges' offices/chambers are spread out over two buildings. Four Superior Court Judges are on the 6th floor of the Courthouse; two Judges are on the 5th floor of the Courthouse; and four Judges are located in the adjoining Superior Court South building on the second and fourth floors. The Senior Judges' offices and courtrooms are in the Superior Court South, third floor.

The Superior Court Judges' foremost responsibilities are their caseloads. This includes calendars, motion practice, jury and non-jury trials, sentencing and post judgment proceedings. Judges are typically on the bench, in their courtrooms, business days beginning between 8:30 – 9:00 a.m., with brief breaks and a lunch hour. When not in the courtroom, the Judges' primary

⁸ The Superior Court has original and exclusive jurisdiction over all domestic litigation. It also has original and exclusive jurisdiction over felony criminal charges. The Court also has jurisdiction over all other civil actions filed with the Court. The Court oversees the County Juvenile Courts and Magistrates.

interaction is with their immediate staff, particularly the law clerk and secretary/assistant. This investigation confirmed that the Judges delegate authority to and necessarily depend on the Court Administrator to manage numerous business operations/employees related to the Court. In light of the Judges' responsibility to manage heavy caseloads, business of the Court requires this delegation.

The Judges do not have day-to-day contact with or management of Court Administration employees.

The Judges of the Superior Court (with the exception of the Senior Judges) act together as members of the Judges Council. The Council is responsible for appointment of the Court Administrator, appointment of Juvenile Court Judges, the formulation and implementation of Local Rules, setting policies governing indigent defense, jury management and mediation, law library and setting guidelines for the provision of interpreters, and other special accommodations. The Judges Council further votes on matters impacting calendar administration and similar oversights.

Oversight of the Court business is assigned to the Chief Judge, who is one of the Superior Court Judges. As noted above, although the position of Chief Judge involves numerous administrative duties, the Chief Judge continues to handle a full caseload and has no additional staff or administrative support.⁹

The Judges Council schedules meetings for the third week of each month with the exception of December and July.

⁹ In the Cobb Superior Court, the position of Chief Judge is a rotating 2-year appointment. As noted above, the 2007-2008 Chief is Judge S. Lark Ingram; Judge Ingram's immediate predecessor as Chief Judge was Judge James G. Bodiford. The 2-year rotation system has been in place for a number of years.

Superior Court Business - - Over and Above the Trial of Cases

The Cobb County Superior Court has myriad responsibilities over and above the courtroom hearings/trials that the public immediately associates with the Court. Superior Court business requires administration and management of approximately 1,000 citizens per month called as jurors. The Superior Court requires translators to facilitate testimony. The Court has created and maintains an extensive "Alternative Dispute Resolution" ("ADR") program. There is a Superior Court program providing counseling to divorcing parents. An extensive "Drug Treatment Court" program was placed into operation in 2002 to provide treatment/rehabilitation services to qualified defendants. This involves drug testing, counseling and administration, all within the Courthouse. The Circuit Defenders Office involves coordination of approximately 300 lawyers via 20 staff members, and falls under Court Administration. The Court Administration is also responsible for the Law Library, the Volunteer Probation and Child Support programs and a Department of court reporters. Court Administration manages the Senior Judge's offices and has a Facilities Management Department. Most of these Departments operate under a manager who is responsible for day-to-day administration.

These Departments were created or substantially expanded over the 22-plus years of Mr. Chesshire's administration. Management of these Departments, and management of all employees who support these Departments, were and are delegated by the Judges Council to the Court Administrator. The position of Court Administrator is an appointed position. Mr. Chesshire was appointed by the Cobb County Superior Court Judges in 1985. For 22 years his record was unblemished by any allegations of misconduct. The evidence indicates that the

Superior Court has been an efficient and progressive operation during the years of Mr. Chesshire's administration.¹⁰

The position of Court Administrator is highly compensated. Mr. Chesshire's 2008 compensation was set at \$142,500. The Court Administrator job duties include administering policies as prescribed by the Judges Council; preparing and implementing the Court's budget; supervising all supporting Departments and employees described above; and coordination with other Courts for judicial assistance. The Administrator was and is responsible for promulgating and implementing the Court's Human Resource policies, including but not limited to the Court's anti-discrimination/harassment/retaliation policies and avenues of redress. The Court Administrator has decision-making authority over approximately 40 County employees (hiring/promotions/firing/discipline).¹¹ Mr. Chesshire also hired a substantial number of Court Administration personnel (full and part-time) as "independent contractors"; and he had the same control over those positions. The Court Administrator's duties included working with County Human Resources concerning grade/wage of any position. The Administrator was responsible for enforcement of County-wide wage/hour/time-keeping and other County legislation governing all County employees.¹² The Administrator was responsible to ensure that all Court employees

¹⁰ A number of Department managers have come forward with opinions that, for many years, the success of Court Administration was due to committed middle-management and not due to the Court Administrator. It is not written in the scope of this assignment to assemble evidence to evaluate such opinions. As discussed, infra, the evidence is that the managers did not share complaints/concerns until this investigation.

¹¹ The evidence indicates that Mr. Chesshire exercised authority over Court Administration budgets. The evidence indicates that Mr. Chesshire funded additional positions for student interns and other clerical positions by charging Court Administration accounts. Thus, such personnel were not accounted for as County employees, but were paid as Court Administration "independent contractors." Judges were in the process of addressing the issue of staffing and seeking clarification of budget items when the complaints surfaced and this investigation commenced.

¹² Certain County legislation does not reach employees assigned to elected officials, based on the constitutional separations of power. However, County legislation governing wages/benefits/County time records apply to all employees regardless of assignment.

received training on Court policies (which tracked County policies) concerning anti-discrimination/harassment/retaliation.

Prior to Mr. Chesshire's 1985 appointment as Superior Court Administrator, his qualifications included eight (8) years of experience with Cobb County Courts. Mr. Chesshire's credentials, as presented to the Superior Court Judges Council throughout his terms as Court Administrator, included numerous civic and business leadership roles.¹³

Human Resources Policies/Procedures; The Court Administrator

Because Cobb Superior Court is an entity created pursuant to the Georgia Constitution, it co-exists with the Cobb County Executive and Legislative branches. As a result, certain policies/legislation enacted by the Cobb County Board of Commissioners do not automatically govern the Court and Court Administration.¹⁴ This is true as to County anti-discrimination/harassment/retaliation policies. By virtue of Georgia constitutional independence, the Cobb Superior Court (like, for instance, the Cobb County Sheriff's Office) is authorized to enact and implement its own policies and procedures or, alternatively, to adopt County-wide personnel policies.

During the course of Mr. Chesshire's Court Administration, the Superior Court largely followed the County's Human Resources policies. Interview with Cobb County Human Resources Director Tony Hagler confirmed that, in 1992, the County published a

¹³ For instance, during 2007, Mr. Chesshire was elected and served as President of the prestigious National Association of Court Managers. Before 2007, he served in numerous senior capacities with this Association.

¹⁴ All County legislation includes an affirmative statement defining "scope" as set forth in legislation and HR policies. As noted above, Board of Commissioners legislation concerning annual leave, benefits, time reporting, are applicable to all employees, county-wide, regardless of the assignment. Other policies, such as anti-harassment and similar HR policies are not designated as "County-wide." Under these circumstances, the elected officials have the option of adopting the County policies or, alternatively formulating an alternative set of policies governing employees.

comprehensive employee handbook, and provided training to all then-employees (including Court Administration). The County also created "new hire" training which is still in place. However, a number of Court Administration employees were hired by Mr. Chesshire as "independent contractors," and, therefore, would never have been included in the County's "new hire" training. Also, some Court Administration staff state that they never received "new hire" training. The evidence indicates that it was (and is) the duty of the Court Administrator to implement the Court's adoption of County policies, and to coordinate training with County Human Resources.¹⁵ The Court Administrator's responsibility was (and is) to ensure that the Court employees were aware of such policies including anti-discrimination/harassment/retaliation as well as avenues of redress.

Further, it was (and is) the Court Administrator's responsibility to ensure that Court Administration employees fully complied with County-wide policies governing wages/salary, hours, benefits, time recording and annual leave. The Court Administrator had no authority to create new positions or to upgrade existing jobs. Such requires action by the Board of Commissioners/County Manager through Human Resources.

The evidence presented in the course of investigation indicates that the County Commissioners/Manager had no oversight authority over the Court Administrator. As set forth below, the evidence indicates that Judges reasonably believed that Mr. Chesshire was performing his duties as an effective and accomplished professional. However, the evidence

¹⁵ This duty to publish/implement/enforce the elected officials' adoption of human resources policies, was/is in no way limited to Mr. Chesshire or the Superior Court. According to Human Resource Director Tony Hagler, the Administrator for the Cobb County State Court has the same duties. And, for instance, the Cobb Sheriff delegates Human Resources Administrative duty to a Lieutenant Colonel. The Superior Court Judges' reliance on Court Administration to publish/implement their adoption of Court Human Resources policies, and to coordinate with the County regarding any complaint, is in keeping with the practices of other elected County officials.

also demonstrates that from 1985 until recent events, the County and Superior Court records confirm that no employee complaint was lodged against Mr. Chesshire; no employee concern was raised until just before the Court ordered this investigation.

As an explanation for the lack of complaint, Court Administration witnesses have stated that they were under the impression that they did not have protection under Court/County policies; and the only avenue to make any complaints was to Mr. Chesshire which, witnesses state, they did not wish to do. As set forth below, there is substantial evidence of alleged sexual harassment/abuse and evidence that, for a variety of reasons, alleged victims took no action to complain.

I. ALLEGATIONS/CONCERNS REGARDING COURT ADMINISTRATOR CHESSHIRE

A. Alleged Sexual Harassment/Misconduct

Anonymous communications circulated in late 2007, followed by 2008 employee complaints, include grave charges of sexual harassment/misconduct against Mr. Chesshire. Mr. Chesshire has categorically denied many of the allegations of sexual misconduct/harassment and has declined to comment on other allegations of sexual misconduct. This investigation involved interviews with all witnesses who were willing to come forward. This report first addresses alleged sexual harassment/misconduct. The following information was provided by current and former employees, spanning the years 1990 - Present.¹⁶

¹⁶ These timeframes cited below do not set forth the specific years provided by witnesses. This is designed to protect witness identity/confidentiality.

1. **Alleged Physical Contact/Sexual Relations With Employees 1990-2004**

Court employees coming forward in this investigation made claims of repeated sexual relations initiated by Mr. Chesshire. The alleged sexual relations took place at various times during periods between 1990 and 2004.¹⁷ Other employees allege sexual harassment (but short of actual physical sexual relations) up to 2007.

Employees participating in this investigation, including but not limited to then-teenagers, reported that Mr. Chesshire regularly hugged and kissed young women employees on the cheek during the workday. Young women themselves (high school/college age) described these hug/kisses when they left Mr. Chesshire's office. Hugs/kisses were reportedly observed by witnesses at group lunches and events. Some young female witnesses describe being on the receiving end. Other witnesses, who were mature women, described observing kisses/hugs given by Mr. Chesshire to high school age interns that Mr. Chesshire called to his office for one-on-one meetings. Allegedly, Mr. Chesshire's door was usually shut and the shades on Mr. Chesshire's office windows, reportedly, were closed.

One witness allegedly regularly observed Mr. Chesshire's practice of having young women alone in his office. The witness described his hugs/kisses to young employees. She stated that she had concerns about these things but did not feel that she could report to any of the Judges or Human Resources because the young women never made a complaint.¹⁸ Mr.

¹⁷ No witnesses came forward with sexual misconduct allegations prior to 1990.

¹⁸ This witness described her efforts to determine if the amount of time that she observed allegedly young women alone with the Court Administrator behind closed doors should be cause for concern. She described efforts to draw out the young women by asking open ended questions such as "What kind of assignments are you working on for Mr. Chesshire?" "Do you tell your parents about your job?" "How is everything going?" The witness stated that, since no concern/complaint was ever made by the young women, she felt that she could not credibly share her concerns with a Judge or Human Resources. As described below, in April 2008

Chesshire's position is that all dealings with employees, male or female, were business related and appropriate. A young female intern states that she worked part time assisting in Mr. Chesshire's office and she did not witness young female employees being called to Mr. Chesshire's office. She states that she never observed the hugs/kisses described by others.

Three witnesses allege that flirtatious/hug/kiss behavior evolved into sex acts initiated by the Court Administrator, which the Administrator categorically denies.

1990 - 1995¹⁹

A witness states that in the early 1990s, she was an employee in Court Administration. She was 19 years of age, and a recent high school graduate with no experience in the business world. She alleges that Mr. Chesshire was flirtatious and sexually suggestive with her and her young female co-worker. She alleges that, in the course of flirtatious conduct at the workplace, Mr. Chesshire suggested that she meet him during business hours at a local hotel. She went to the hotel. According to the witness, Mr. Chesshire provided wine for her to drink and then engaged her in various sexual acts.

The witness fully was not physically forced into the meeting or the acts. She alleges that she was overwhelmed by Mr. Chesshire's position of authority, and her own naiveté. She reiterated that she was just out of high school and in her first job. Mr. Chesshire was a mature adult Court executive. She expresses continuing feelings of pain and distress at these events that allegedly occurred more than a decade ago.

employee training sessions for all Court employees were held through Cobb County Human Resources; the grounds/avenues to express concerns were included in the employee training.

¹⁹ As noted, the timeframes described do not pinpoint the years specified by the witnesses. This is because such specific events would provide information relating to the witnesses identity.

The witness's demeanor and sincerity and the detail she provided were all credible. The evidence does not indicate monetary incentive to fabricate because she was a legal adult at the time, and states she has never made any legal complaint. Moreover, if a legal claim had been made, this would not necessarily impact credibility, but just be one of many factors to consider.

The witness states that she never reported - - or even mentioned - - this sexual conduct to anyone at the Court or County Human Resources. She states that she was living at home and never told her parents, because she felt distress and guilt over the events. She states that she never had any further physical contact with Mr. Chesshire. Mr. Chesshire denies that the events described ever took place.

This witness states that she resigned from Court Administration shortly after the alleged hotel incident. Before and after her resignation, this witness also claims to have received many graphically sexual/obscene telephone calls from Mr. Chesshire. The evidence is that in the 1990-1995 time-period, she tape-recorded such a call. Those circumstances/evidence are described in Section 2, below.

1995 - 2000

Another witness came forward to claim Mr. Chesshire's initiation of sex acts during a period of several months when she was a high school senior, working as an intern for Court Administration. The witness stated that in high school she was "always interested in being a lawyer" and learned of the Superior Court intern program through her high school counselor.

The witness stated that, shortly after becoming an intern, she began receiving "hugs" and "kisses" from Mr. Chesshire. At first this seemed to her (a high schooler) to be innocent and harmless. She thought Mr. Chesshire was "nice and very helpful" and, in the beginning,

she "never questioned his niceness." However, she alleges that these embraces became "much more intense" immediately after her 18th birthday (during Spring of her senior year in high school). The witness stated that, shortly after her 18th birthday, Mr. Chesshire's physical overtures became intimate ("he kissed me and put his hands all over me"). She states that it "didn't feel forced, but he was so aggressive; to say no would have been a big deal." She opined that "rejection [of Mr. Chesshire] would have been threatening to me."

This witness stated that in the ensuing months, Mr. Chesshire regularly had sex with her during the business day in empty offices and conference rooms at the Courthouse. She states that, on at least one occasion when a Judge was on vacation, he brought her to the Judge's chambers for sex. She states that, on a number of occasions, Mr. Chesshire arranged for her to meet him at a local hotel for sex.

She states that she was an inexperienced high-school student who did not know how to handle sexual advances from her boss. She states that she believes that she was victimized. She opined that the Court Administrator assigned her to tasks that were isolated from the other employees - - doing projects by herself, alone in an office - - to increase her vulnerability. According to the witness, the Court Administrator contacted her two times by cell phone after she left the job and went away to college, but she refused the calls.

The witness's demeanor, sincerity and the detail of her rendition were all credible. There was no evidence of an ulterior/monetary motive to fabricate. This witness states that she lived out of state for a number of years, and has never seen Mr. Chesshire since leaving Court Administration. The witness states that, after reading of this investigation, she felt obliged to come forward as a caution to other young women who might find themselves in a similar situation in the workplace. She states she never told anyone in the Court or in County HR about

these alleged events. She never met other employees claiming to have had sexual relations with or sexual harassment by Mr. Chesshire.

Mr. Chesshire met with the undersigned investigator and his lawyer early in the course of this investigation. At that time he denied all the then-allegations of sexual misconduct. Since that interview, additional allegations, including the above, were received. Mr. Chesshire, through counsel, was provided a verbal outline of the additional allegations and an opportunity to respond. His counsel provided his reply that he believed he had cooperated by the initial interview and declined to make any further comment. This investigation will assume that Mr. Chesshire's initial across-the-board denial applies to all allegations of sexual misconduct.

2000 - Present

A third witness came forward to allege events over a two-year time period. According to this female, the Court Administrator initiated a birthday "hug/kiss" which developed into a sexual encounter in Court offices. This encounter, according to the witness, led to numerous other sexual events in the Court Administrator's office. According to the witness, for about two (2) years, she regularly received calls from Mr. Chesshire requesting/directing her to come to his office. She states that once she arrived at the office, the purpose of the meeting was to perform oral sex. The witness states that on some occasions, Mr. Chesshire's secretary (who sat outside his office) was away from her desk when she arrived; other times the secretary was present, but Mr. Chesshire's office door was closed and locked during these "meetings." (As noted, there is also evidence that the shades on Mr. Chesshire's office windows were always kept closed). This witness states that on one occasion, when she took a vacation day, the Court Administrator came to her home to obtain oral sex. The witness alleges that, during the

same two years, she received obscene calls in her office from Mr. Chesshire, described below. She states that she stopped answering her phone so as to avoid either type of call.

The witness expressed extreme reluctance to participate in this investigation. She exhibited great distress when describing these events. She takes responsibility for her actions, but states that she felt Mr. Chesshire controlled her job and livelihood. She described her personal situation at that time - - she was her own sole support; she had no family or close friends to assist her; and she was convinced that she risked her job if she refused to participate in the alleged acts.

As described above, Mr. Chesshire declined to address the allegations by this witness but denies any sexual conduct/activities in the Court offices. He denies allegations (set forth in the anonymous letter) that he "bragged" about having had sexual intercourse with certain named Court employees.

Witnesses Supporting Mr. Chesshire

Two male and five female witnesses contacted this investigator to speak in favor of Mr. Chesshire, to praise him as a supervisor, and to state that they never observed any sexual advances/conduct/misconduct of any type while they were employed. The periods of employment spanned various time-periods in the mid-1990s to 2007.

Investigation Comments

Court Administration involved hundreds of employees during Mr. Chesshire's 22-year administration. This investigation will presume that many of the employees had a favorable experience as described by the witnesses supporting Mr. Chesshire. Other than the hug/kiss conduct, there is no evidence of any openly/overt sexual misconduct; and there is no basis to

assume that the sexual misconduct alleged and investigated here was experienced by/known to the employee population, generally. Nor is there any evidence suggesting such could have been known to the Judges or any other County official.

However, the evidence here involves three employees, who's allegations are generally consistent. The allegations describe acts/incidents that would not have been known to others. The allegations of sexual misconduct and the observations of employees who support Mr. Chesshire are not mutually exclusive.

Thus, the allegations of these three witnesses, taken in context of other allegations/evidence of sexual conduct/misconduct detailed below, must be weighed against the across-the-board denial of Mr. Chesshire. As further described below, the weight of the evidence on the allegations of misconduct, is in favor of the witnesses/alleged victims.

Mr. Chesshire's denial of sexual relations with employees is in direct contradiction of the three (3) witnesses, above. Also, other witnesses have alleged Mr. Chesshire's explicit sexual statements to them. However, the anonymous letter alleged that Mr. Chesshire claimed to have had sex with certain named employees. This investigation indicates that, as to certain of those named employees, the allegations were false and nothing of a sexual nature ever transpired with certain of the person(s) named.

2. Sexually Explicit/Obscene Telephone Calls

Five (5) females employed in Court Administration during 1990 - 2008 timeframes have alleged that, at various times, they received obscene telephone calls from Mr. Chesshire. Each woman reported that the calls were received during business hours; were unwanted; and repeated.

These employees admit that they could have hung up the phone once the caller/nature of the call was identified. All expressed their belief (at the time) that Mr. Chesshire controlled their employment/future employment and that they basically had to tolerate obscene telephone calls or jeopardize their Court Administration employment. These employees' versions of the calls were consistent. Some witnesses demonstrated continuing deep distress over these alleged calls, even many years after the events. The investigation uncovered no evidence suggesting that witnesses were fabricating. Indeed, in one instance, the alleged call was tape-recorded. The contents of that tape are clearly obscene. Mr. Chesshire's response to these allegations is set forth below.

1990 - 1995²⁰

This witness worked in Court Administration in the early 1990s; she is the then 19-year old who alleges that Mr. Chesshire arranged for her to meet him at a hotel to have sex.

This employee further described receiving telephone calls of a sexually graphic and obscene nature while she was employed in Court Administration and continuing for about a year after she left County employ. In the course of this investigation, the witness presented a tape recording of a call that she claims to have received from Mr. Chesshire at the office where she worked after leaving Court Administration. A reliable third party corroborates the time, place and circumstances under which the tape was made. At that time, the witness told this third party about the calls, identified the caller as Mr. Chesshire, and asked for assistance. The reliable third party corroborates that assistance was provided to the witness in recording the call.

²⁰ Again, the broad timeframe is used for purposes of confidentiality. A more precise timeframe was provided by the witness and also provided to Mr. Chesshire's counsel in connection with the tape-recording.

The tape-recording contains the voice of a male who identifies himself as "Skip." Superior Court Judges who have heard the tape expressed their firm belief that the voice was that of Mr. Chesshire. The tape contains numerous statements by said male caller. In the opinion of this investigation and the Judges who listened to the tape, the statements are graphic, extremely obscene and disturbing. The tape demonstrates that the witness who received the call participated by listening and making a few innocuous comments. She did not participate in the obscenities. A statement on the tape suggests that if the caller who identifies himself as "Skip" was, in fact, Mr. Chesshire, he was speaking from Court offices located on the Fifth Floor of the Courthouse.

The female former employee who made this tape-recording was, at that time, about 21 years old. The former employee states that she kept the tape all of these years on the possibility that, at some point, allegations of sexual/predatory conduct by Mr. Chesshire might "come out."²¹

Mr. Chesshire's Response

Chief Judge Ingram and this investigation separately advised Mr. Chesshire's attorney that this tape had been presented/reviewed in the course of this investigation. Mr. Chesshire's response was requested. Thereafter, his attorney advised that Mr. Chesshire would have no comment. In his view, the tape recording of this call dates back to the 1990s and is so old that it does not require a response.

²¹ The former employee admits that she could have hung up on these obscene phone calls. She states that in retrospect, based on her youth and lack of experience, she thought she "could handle it"; that she was hoping for a future in Court Administration; and believed that if she rejected the call, her future career prospects under Mr. Chesshire's administration would have been eliminated. The former employee also described self-doubt and recrimination relating to the physical conduct she alleges occurred with Mr. Chesshire while she was employed.

Investigation Comments

There is substantial evidence that the tape-recorded call was made by Mr. Chesshire to the former employee from the Court offices. The contents of the tape-recording is fully consistent with the other alleged pornographic phone calls allegedly made to Court Administration employees during the late 1990s and, at various times, up until 2007. The tape-recording in question is also consistent with other allegations of sexually explicit conduct with females at the workplace, described below. In light of all of these matters, the tape-recorded evidence of an obscene call to a young former employee would seem to be very relevant to this investigation.

1995-2007

No other employee made a tape-recording; however witnesses' descriptions of telephone statements attributed to Mr. Chesshire are essentially consistent. One employee described receiving telephone calls of an extreme sexual nature (where the caller, who she identified as Mr. Chesshire, allegedly graphically described himself as masturbating during the call) on two occasions during Court business hours. The calls allegedly came through on her office telephone. Another employee states that, over a two-year period, she received calls from Mr. Chesshire involving the same explicit descriptions/activity on numerous occasions. This is the same witness who alleges being called to the Court Administrator's Office to perform oral sex. This witness states that she stopped answering her telephone at the Court because the system was not then-equipped with caller I.D., and she could not screen calls coming from the Court Administrator's phone or cell phone. Both of these witnesses were women - - not teenagers - - when they received the calls.

Two additional employees have alleged that over several months during the last years, they each received numerous telephone calls from Mr. Chesshire of an explicit obscene/pornographic nature graphically describing erection/masturbation and explicit sexual acts. At the time these witnesses were 18/19 year old employees. One of these witnesses claims Mr. Chesshire sent her pornographic text messages, talked about sex acts engaged in with other employees, and graphically described sexual fantasies. Witnesses stated that they received these types of calls almost everyday for over a period of months. According to one witness, when she told him she wanted to stop these calls, Mr. Chesshire responded that "then we won't be friends." The witness claims that she considered this a threat to her job.

The investigation probed each of these witnesses as to why they did not simply hang up the phone. The witness who taped the call described long-term job aspirations to return to Court Administration. She states that she was convinced that her aspirations would end absent cooperation. The other witnesses, including the two more mature females who received the telephone calls, made credible statements of their financial dependence on their jobs and belief that, absent cooperation/toleration, their jobs were at stake. The witnesses described what they claimed to view as veiled threats to continued employment. They described their conviction that Mr. Chesshire could fire them basically at will and they felt they would have no recourse. The witnesses stated that once they recognized the caller and subject, they basically held the phone away from their ears, made an obligatory comment or two, and waited for the call to end.

The witnesses' demeanor in describing these incidents varied from outrage to contempt to grief. Their versions of the calls/caller were all essentially the same. As to at least three of the witnesses, there is no apparent economic motive to fabricate. Regardless of economic motive, the witnesses' version of these calls are similar to the 1990s taped call by the male identifying himself as "Skip".

Mr. Chesshire's Response To Allegations.

Concerning the tape-recorded call, Mr. Chesshire's position noted above, is that this alleged call took place so long ago that he declines to comment. As to the other calls, which are alleged to have occurred at various times over the last ten (10) years, Mr. Chesshire declined to address certain specifics. However, at interview in this investigation, he denied the alleged calls described in the anonymous letter and reiterated the denials made to Judges Ingram and Bodiford. See, footnote 1, supra.

Investigation Comments

The weight of the evidence, particularly in light of tape-recorded statements which go far beyond "racy" or "risqué" and, in this investigator's view, would be deemed obscene, and indicate that the calls did in fact take place. The women's statements/descriptions are consistent, and Mr. Chesshire declined to admit or deny allegations that there existed a tape-recording of a call made by him.

The issue of "consent" is somewhat moot since Mr. Chesshire denies the calls were ever made. The evidence is that the employees stated their beliefs, with credible sincerity, that they felt their future engagement would be similarly jeopardized if the calls/caller was rejected.

3. Allegations of Sexually Explicit Material/Comments

Other female witnesses claim that Mr. Chesshire made graphic reference to sex and/or description of sex acts - - when speaking with them. Some of these individuals were teenagers. One witness - now 20 years old, then a 17-year-old high school student applying for an internship described a job interview (alone in the Court Administrator's office with the door shut). Mr. Chesshire allegedly sat in the chair next to her and told her that he "liked to drink" and "liked

to party with young women” and asked the teenager whether she “liked to drink” and “liked to party.” According to her, he told her to come back and interview for a job after she turned 18.

She contacted him after her 18th birthday while she was still in high school. The job interview was over the phone. She alleges that, in the middle of the interview, she heard the sound of a door closing. She states that Mr. Chesshire suddenly turned the job interview to a “vivid story with details” of sexual encounter/fantasy that he claimed to have had with a female on a beach. The witness described the Court Administrator’s alleged discourse as “obsessive” and “obscene” including references to his penis. The witness states she ended the interview by asking “how do you know I won’t tell my parents?” Mr. Chesshire allegedly told her that he had “powerful connections” and allegedly opined that no one would do anything about his conduct. He told her he would call again the next day.

The witness states that she agreed to another call because she wanted to tape-record and “catch this guy.” She states, before that happened, she reported the incident to her parents. She states that her father allegedly called Mr. Chesshire directly. She states that Mr. Chesshire never contacted her again, and she never pursued the job in Court Administration.²²

The two employees who alleged receiving pornographic phone calls also made allegations concerning Mr. Chesshire’s encouragement that they “flirt” with one another and experiment with lesbian sex. One of these 19-year-olds alleged that Mr. Chesshire had her talk to another girl on his cell phone and the female on the line solicited her for sex. This witness and the other teenage witness allege that Mr. Chesshire took them to an upscale restaurant for

²² This investigator contacted the father of this witness. He confirmed that his then-high school age daughter was very concerned about statements made by the Court Administrator, during what was supposed to be a job interview. He states that he informed the Court Administrator that his daughter had no further interest in working for Court Administration and that she should not be contacted by him, under any circumstances, again. Mr. Chesshire was advised of all of these allegations, through his lawyer. He declined comment.

lunch to thank them for cleaning his office. During this outing, the employees allege that Mr. Chesshire suggested they have lesbian sex with each other.

One of these witnesses also claims that Mr. Chesshire called her to his office and, with the door closed, he took off his shirt to show her his physique. She claims that he offered to remove his trousers. According to the witness, he told her she should show her appreciation for the assistance he had provided on getting her, a job. She states that she declined and further claims that Mr. Chesshire then did not speak to her for three days. This witness makes numerous additional claims of the Court Administrator's graphic sex talk with her; and his alleged solicitation of her to do the same. According to the witness these events took place at the workplace during business hours.²³

Investigation Comments

These various allegations have marked similarities in time and content to the allegations of other witnesses. Some of the witnesses never met each other and the timeframes of their allegations/interviews are years apart. Mr. Chesshire's general denials are noted. However, the weight of the evidence falls on the side of the complaining witnesses. The witnesses supporting Mr. Chesshire are deemed truthful and sincere.²⁴ However, this experience is not mutually exclusive to the events alleged.

²³ In the face of these allegations of physical/verbal harassment spanning many years, the question repeated to the witnesses was: Did you make any type of complaint, to anyone? And, if not, why not? The answer, universally, was "no." The explanations for the decision not to complain were quite similar, depending on circumstance, and are summarized in Section 9, below.

²⁴ Other employees came forward to support Mr. Chesshire and describe good work experiences with him and/or under his administration. One management employee observed Mr. Chesshire's dealings with young female and male employees over a number of years. In the opinion of this manager, Mr. Chesshire appeared only to be "trying to be one of the gang." The same employee opined that one teenage employee who complained about Mr. Chesshire

Another employee stated that she was present when Mr. Chesshire described a sexual escapade to an 18-year-old intern in a Courthouse office. Also, during an off-site conference, the Court Administrator allegedly made comments to female employees regarding his interest/experiences with sexual "threesomes."²⁵

Mr. Chesshire's Response

The above allegations were listed to Mr. Chesshire's counsel, however Mr. Chesshire elected not to respond. As noted, he did agree to an interview and generally denied engaging in sexually explicit/inappropriate conversations/comments. Concerning the lunch with the teenage employees, Mr. Chesshire states that it was the two women who brought up the possibility of lesbian sex and suggested to him that they would allow him to observe. The witnesses and Mr. Chesshire agree that this activity never occurred. However, regardless of what version of the conversation is accepted, the evidence is that the employees were recent high school graduates and Mr. Chesshire was 54 years old and the senior most supervisor at their workplace. The

was often, in the witness' judgment, flattering him and, on at least one occasion, the witness was present when the young employee asked Mr. Chesshire for a hug ("I need a hug".) This manager stated that although she had observed Mr. Chesshire "acting silly . . . goofy" with young employees, she never, personally, saw anything sexually inappropriate. She states that if she had observed anything inappropriate or had received any complaint/concerns from a young female, she would have gone to one of the Judges.

²⁵ Female employees report receiving comments from Mr. Chesshire, on a day-to-day basis, such as "you look sexy"; "those pants look hot"; etc. Other female employees stated that they were present when Mr. Chesshire directed these comments to interns or younger female employees in their presence, and asked them to agree with him. ("She looks sexy today, doesn't she?"). The females state that they found these comments offensive. Mr. Chesshire denies making any inappropriate or suggestive comments to any employee. He stated that any comments he may have made were simply part of the give and take of group conversations and that such were entirely innocuous. One young female states that she constantly received cell phone calls from Mr. Chesshire after business hours. There is no claim of obscene remarks - - just intrusive and inappropriate. The recipient of the calls did not complain; she states that she believed a complaint (or failure to respond) would signal rejection of Mr. Chesshire and could result in workplace difficulties. Mr. Chesshire states that any calls were business related. He states that employees, from time to time, called him on his cell phone after hours and he felt duty-bound to return these calls.

evidence indicates that Mr. Chesshire never approached County Human Resources regarding any concern he might have had about alleged overtures to him by the employees he supervised.

4. Other Allegations of Improper Touching

A number of females who came forward in this investigation described receiving unwanted "kisses" from the Court Administrator. The allegations ranged from a "thank you" kiss for a birthday gift to a tongue kiss allegedly received by a 19-year-old employee who made other complaints noted above. (She states that he asked her if she liked it and when she said no, Mr. Chesshire allegedly refused to speak to her for three days). This same witness claims that she was groped under the table by the Court Administrator while attending a group luncheon at a local restaurant. Mr. Chesshire denies these claims.

5. Allegations Concerning Pornographic Pictures

Several employees described instances of Mr. Chesshire showing them sexually explicit/pornographic material during business hours. One employee alleges several incidents in Mr. Chesshire's office in which, after appearing for what she believed was a business meeting, he sat in the chair next to her (not across the desk) and allegedly opened the pages of "Playboy-type" magazine and commented on the photos. The witness stated that she felt she was "blocked in" by Mr. Chesshire's adjoining chair and that she could not leave without offending him and risking job retaliation. Another employee alleges Mr. Chesshire's showing her a sexually explicit photo of a young woman - - a former Court Administration employee - - that he had stored on his cell phone. The same employee alleges that Mr. Chesshire called her to his office and requested that she open an e-mail attachment for him. On doing so, the image of a frontally nude male appeared.

6. Mr. Chesshire's Response to These Additional Allegations

In interview, Mr. Chesshire categorically denied all allegations of any sexual or other inappropriate acts/conversations/acts with any employee. Additional allegations made during the course of investigation were provided to Mr. Chesshire. As noted, he declined further comment.

7. Managerial Concerns Regarding Favoritism Based on Gender/Appearance

Managers handling various Departments for Court Administration expressed frustration regarding the Court Administrator's perceived intrusion into their responsibilities. They believe the Court Administrator acted to provide favors for certain "favorite" female employees. For example, the managers believed that the Court Administrator allowed certain young female employees to ignore/override their managers and deal directly with the Court Administrator. The managers complained that the Court Administrator excused tardiness; granted unrecorded time off; allowed the favored employee to do personal errands during workday; and moved a favorite employee from Department to Department despite continuing performance issues.²⁶ Managers expressed concern that flex time, promotions, and authorization to participate in training or attend conferences at County/Court Administration expense (at a resort location, for example) were seemingly authorized by Mr. Chesshire on a favoritism basis and that the favorite was usually an attractive young woman.²⁷

²⁶ The female employee allegedly informed the manager: "I do things for Skip and Skip does things for me" This employee came forward to support Mr. Chesshire; she feels that her performance was unfairly criticized and her manager wrongfully accused her of a romantic relationship with Mr. Chesshire.

²⁷ Managerial employees expressed their opinions and dissatisfaction that, over the years, Mr. Chesshire's practice (in their view) was to abdicate his role as CEO of Court Administration, in favor of spending time chatting with high school interns or young female employees in the various Department Offices. Several Managers and other witnesses described situations in

Investigation Comments

As a part of this investigation, the Judges directed that employees be given an opportunity to air any and all concerns. The Judges and Court Administrator Charron have been advised of and taken action on many of the issues raised, as detailed below.

However, as far as attempting to gather evidence as to each of the numerous issues mentioned, such is simply not realistic. Any fair inquiry would require investigation of a host of matters including business justification validity, details of specific events, decision-maker input and documentary evidence pertaining to each example of alleged unfairness. It is simply not practical to attempt to assemble evidence on these past business decisions, one way or the other. What can be said is that these managers expressed wide-ranging and sincere frustration in what they perceived as a system of favoritism that was ultimately unfair to all employees; and deprived the managers of the opportunity to best manage their respective Departments. Managers expressed their opinions that Court Administration was well run because Mr. Chesshire had selected a dedicated group of managers who "made it happen" with little input from him. However, there is no specific evidence - - only the opinion of certain senior employees - - that Mr. Chesshire was not key to the successful operation of Court Administration.²⁸

The managers opine, consistently, that since Mr. Charron's 2008 assumption of Court Administration duties, the organization/structure/fairness/processes are vastly improved.

which a manager scheduled a meeting with Mr. Chesshire to address an important business issue, only to be told by Mr. Chesshire, at the appointed time, that he had "ten seconds" and "to make it quick." The managers alleged that they would then observe Mr. Chesshire spending hours that same day, "hanging out" with high school/college interns or other young female employees. Mr. Chesshire disputes all such allegations.

²⁸ As noted above, a number of non-managerial employees expressed their support of Mr. Chesshire and two of them opined that their managers were unfair in any criticism of Mr. Chesshire.

Several managers came forward to say that they now feel that they are allowed to manage their departments/people with a much improved final result for the Court. Others describe improved communication, support, elimination of favoritism, consistent hours and time-recording procedures. Employees described a much improved general work environment. Of course, after twenty-two years, it is not surprising that employees and particularly long-term managers, might welcome a change. The managerial concerns reported by the witnesses are deemed sincere and truthful. However, the specific facts underlying each individual item cannot as a practical matter, be assembled, one way or the other.

8. "Thank You" Cards and Letters and Gifts

Employees who participated in this investigation repeatedly complained that they had felt pressured to buy cards and write notes praising Mr. Chesshire and thanking him for their jobs, their opportunities and their annual pay increases. These employees stated, consistently, that everyone "knew " you had to be sure to present Mr. Chesshire with a boss' day card, birthday card, holiday greeting and include personal notes of flattery and appreciation for having a job; and for having him as a boss. The witnesses opined that these expressions were "part of the job" and job security might be jeopardized if they didn't participate. The same opinions were expressed as to a group Christmas gift for the Administrator. The witnesses who came forward on behalf of Mr. Chesshire expressed no similar concerns and did not mention any pressure by anyone.

In storing materials left in the Court Administrator's Office, an Assistant County Attorney noted hundreds of these "thank you" cards from scores of Court Administration employees. Such material dated back many years, and generally contained messages of thanks/praise. However, since a number employees consistently described the cards/messages as "required"

and insincere, this investigation concludes that such material (and the circumstances under which such were presented) is inconclusive, one way or the other.

9. **Evidence Concerning Reasons That Employees Did Not Complain of Alleged Sex Harassment/Unfairness**

a. **Emotional Reasons**

The witnesses who described physical sexual encounters with Mr. Chesshire stated that feelings of distress, grief, shame and uncertainty influenced their decisions to keep these events secret and to make no complaint. Individuals expressed their concerns that, because they anticipated that consent issues might be raised and any complaint would be rejected, they refrained from making a complaint. These witnesses stated, generally, that they decided to come forward after hearing of the anonymous letters and signed complaint, and learning that they were not alone in these alleged experiences.

b. **Stated Concerns Regarding Retaliation**

Witnesses who have alleged sexual misconduct and those that raised management issues stated, repeatedly, that they did not complain because they feared retaliation. Mr. Chesshire was the decision-maker concerning their jobs, salaries, raises, promotions, assignments and job conditions. Witnesses repeatedly expressed concern that Mr. Chesshire was in a position to "find out" about any complaint (even if made in confidence to the County Human Resources). They expressed their convictions that Mr. Chesshire had "contacts" in other County offices and that he would retaliate. The witnesses' repeated statements of these concerns are deemed credible and sincere. However, there were no relatively recent events

presented to demonstrate actual alleged retaliation.²⁹ On the other hand, the employees stated that they refrained from any complaints/challenge to Mr. Chesshire to avoid any basis for retaliation. According to many employees, fear of retaliation is why they never went to one of the Judges with concerns; and never approached Human Resources.

c. Alleged Claims of "Power"

Witnesses also stated that they were intimidated by statements they attributed to Mr. Chesshire's claiming close personal friendships with Cobb County political/business leaders and County management. Witnesses expressed their apparently sincere (if naive) beliefs, that Mr. Chesshire's Cobb County connections were such that Mr. Chesshire could "ruin me" or "ruin my family." Witnesses alleged that this perceived sense of Mr. Chesshire's "power" and potential retaliation was reinforced by Mr. Chesshire's alleged statements that "loyalty" to him was expected, that "gossips" would not be tolerated, and that if anyone had any complaint/concern, Court Administration employees must bring the matter to him.

The employees' statements of their perception and concerns are deemed sincere. However, this investigation has not received/found evidence demonstrating that Mr. Chesshire in fact had access to or misused any political/business friendships/connections in dealings with Court employees. Interviews with County Human Resources indicated that employee concerns (that Mr. Chesshire could somehow exercise "control" and obtain information from County Human Resources in the event that an employee made a complaint), were groundless. The

²⁹ One managerial employee did allege retaliation, but the circumstances/issues were a number of years ago and key evidence was not available. See, Section II, D *infra*. Several employees alleged such things as Mr. Chesshire's refusal to speak to or disparagement of an employee with whom he had an issue. This, to them, was evidence of retaliation. Other employees attribute statements by Mr. Chesshire such as "I help those who help me . . ."; "I can take care of people."; and "I will find out who says anything against me . . ." These employees expressed conviction that these words made it clear to them that jobs were at stake if any complaint was made.

evidence is that, if a complaint had been received regarding the Court Administrator, the procedure would have been exactly as followed when the complaint was received in early 2008. That is, because the Administrator for elected officials was involved, the County attorney would have been immediately consulted and the elected officials (Judges) advised.

d. Confusion Over Personnel Policies

As noted above, the evidence indicates that the Superior Court Judges followed the Cobb County Human Resources policies relating to anti-discrimination/harassment/retaliation. The evidence also indicates confusion over the policies which contributed to the employees' failure to make any complaint about the concerns that have been revealed in this investigation.

A number of employees stated, credibly, that they were very confused over whether or not anti-discrimination policies applied to them. There is credible evidence that many believed (and understood from comments attributed to Mr. Chesshire) that the sole avenue to address any complaints/concerns was Mr. Chesshire himself. Some employees understood Mr. Chesshire to state, unequivocally, that the County Human Resources Department "did not apply" to them. Other employees stated that they understood that County Human Resources were available to Court employees; however, they stated that they did not want to risk a complaint based on Mr. Chesshire's perceived "connections and likely retaliation."

The evidence is that the Administrator's job responsibility,³⁰ was to take affirmative action to ensure that the Court's anti-discrimination/harassment/retaliation policies (based on the published County policies) were published/clarified for all employees, and that anti-harassment/anti-discrimination/retaliation policies were part of employee training. The evidence from a number of Court Administration employees is that publication/clarification of policies did

³⁰ As noted above, the same responsibility is delegated to the administrative managers of other elected official's offices.

not occur. As noted, a number of employees stated with conviction that they believed, based on Mr. Chesshire's alleged statements, that they had no viable avenue to address concerns.

Investigation Comments

The employees' stated concerns include their belief that personnel policies were intentionally misrepresented/confused by the Court Administrator in order to control them and prevent their complaints. Such concerns are sincerely stated and not inconsistent with alleged harassment. However, this specific issue of intent cannot be confirmed or rejected based on the available evidence. What is apparent from the evidence is that a significant number of employees did not have information or had misinformation. The evidence is that the Judges reasonably delegated responsibility for Court personnel policies to Mr. Chesshire who they believed to be an experienced and professional Administrator. In hindsight, Judges have expressed their opinions that more aggressive oversight of Mr. Chesshire' publication of Court policies was needed. The Judges Council has taken action as follows.

The Superior Court Judges Council has reconfirmed its adoption of the County's policies regarding anti-discrimination/anti-harassment/retaliation and avenues of redress. When County HR receives a complaint/concern from an employee assigned to an elected official (and assuming that the complaint does not involve the elected official/administrator) HR contacts the official/administrator to determine if an investigation/remedial action can be handled through the elected official's office; and/or if HR support is requested. However, if the complaint/concern by the employee is directed against an elected official/administrator (as here with Mr. Chesshire), then HR takes the complaint directly to the Court Attorney, which is what occurred here, when the complaint regarding Mr. Chesshire was received by the County HR and immediately

referred to the Court Attorney who has been assisting the Judges Council throughout the investigation.

The Court has further supplemented County policies by placing employees on notice that, in addition to County HR, they have direct access to the Chief Judge to report any concern. In April 2008, at the request of Judge Ingram, the County Human Resources Department held training (spanning two days and encompassing all Court personnel) which detailed not only County personnel policies/protections but also detailed the several avenues available to report/redress any employee concerns.

II. OTHER ALLEGED VIOLATIONS OF COUNTY POLICIES/EMPLOYEE CONCERNS

This investigation also addressed allegations of time card/time management violations. There were allegations that, for several years, a Court Administration employee worked four (4) days per week while reporting and being paid for five. There were allegations that other favored employees were regularly given time off without reporting such on a timecard.

A. Time Card Violations

The evidence establishes that Cobb County policies governing annual leave, compensation, and time-keeping govern all County employees including those assigned to elected officials, such as the Superior Court. The County Time Keeping Policy provides, in part, that the employee is obligated to accurately report "all time worked" and the Supervisor is "Accountable for ensuring the accuracy of time records" (County Policies, p 121).

Confirmed (and undisputed) evidence establishes that one Court Administration employee was allowed to work 4 days a week, while reporting 5 days on the County time card, and being paid for 5 days. The employee states that this arrangement was specifically

authorized by Mr. Chesshire. The employee states that she occasionally did some work from home and viewed herself as "on call" to answer questions or come into the office, if needed. She was very rarely called or asked to come in on this "day off."

The evidence, uncontroverted, is that several years ago, the employee in question requested an upgrade of her position and increase in pay. Per County policy, Mr. Chesshire asked that the position be audited by Cobb County Human Resources. (County Policies pp 9-11). County Policy prescribes that job reclassification can be made only by and through the Human Resources Department. Id. The evidence confirms that the audit was conducted by Human Resource Director Tony Hagler. After evaluating the job duties and competitive pay rates, Mr. Hagler concluded that the grade/pay level was competitive/appropriate and declined to make any adjustment. The evidence indicates that under County policies, the matter should have ended then and there.

Despite Mr. Hagler's conclusions, Mr. Chesshire authorized an upgrade in position that paid the employee for 5 days when she only worked 4 days. Mr. Chesshire does not dispute authorizing this arrangement. He contended that the employee deserved the time off in lieu of a raise. Mr. Chesshire states that, as he understood it, Mr. Hagler authorized an extraordinary arrangement that involved falsifying time records and paying the employee for 5 days when working 4 days (thereby providing a 20% pay increase despite audit findings that no adjustment was warranted). According to Mr. Hagler, Mr. Chesshire never suggested a "day off" in lieu of a pay increase and, if he had, Mr. Hagler would have immediately rejected any such proposal because (1) the level/pay grade had already been found appropriate; and (2) County policies would never permit this sort of arrangement.

Mr. Chesshire's stated belief that County HR had authorized a 4-day work week with submission of inaccurate time records is simply not credible. The evidence indicates, that in making this accommodation, the Court Administrator simply chose to override County policy. The evidence revealed how this situation could have remained undetected over several years. The witnesses provided information as follows.

The Department manager who supervised the employee in question states she had substantial concern over this "day off" arrangement; however, the employee in question dealt directly with Mr. Chesshire concerning both the time-off and her time reports. The manager believed that the "day-off" situation and the time-card entries were in violation of County policies. However, she felt she was not in a position to question the Court Administrator. She states, with credible conviction, that she believed her job would be at stake if she took any action to interfere with this day off. The evidence indicates that the parents of the employee in question were college friends of Mr. Chesshire. The evidence indicates that the employee told Mr. Chesshire that she would have to quit her job, due to child care issues, unless her pay was increased or some other arrangement was made.

Further, the evidence demonstrates that at the same time one employee was enjoying a weekly "day off," a number of Court Administration employees were working a "flex" schedule of 10 hours, 4 days per week. Thus, the evidence indicates that the Judges were not in a position to distinguish between the improper "day off" and a four-day flex schedule. Evidence indicates that a number of Court Administrative employees were aware of the co-worker's 4-day arrangement and understandably felt the arrangement was unfair and in violation of County policy. But, they allege, they did not report/complain due to concerns about retaliation.

Evidence indicates that the Judges Council, Chief Judge and Mr. Charron have addressed and/or are in the process of evaluating and addressing a number of these time-keeping/attendance policies and practices. For example, the unreported "day off" has been eliminated. To improve efficiency and meet Court needs, flex schedules have been largely eliminated. Employees (with one exception) work 5 days per week, 8 hours per day. Directives have been issued and implemented to ensure that all time is correctly reported. The Department managers have been authorized/instructed to handle attendance/discipline/commendation issues within their Departments, with the Court Administrator available as a back-up as needed.

B. Additional Timecard/Reporting Violations

In interviews with Court Administration employees, the subject of "time-off" and time reporting violations came up in other contexts. Reportedly, the Court Administrator, from time to time allowed certain employees to come in late, take mornings/afternoons off, or leave early while reporting eight (8) hours on their time cards. A number of employees - - managers and non-managers - - stated their beliefs that this was done on the basis of "favoritism" by the Court Administrator. Two older employees stated that they were pleased when a favored employee joined their Department because early dismissals or other favored treatment would seep over to co-workers. Employees who contacted this investigation on behalf of Mr. Chesshire confirmed having been granted unreported "time-off" on various occasions.

Because this alleged "time-off" was never recorded on timesheets, it is not possible to determine who was or was not favored with late arrival/early dismissal, etc.³¹ The amount of unauthorized time off cannot be quantified because time records cannot be checked. However,

³¹ There is no evidence that any employee ever complained to a Judge or Human Resources.

the evidence is that the Judges, working in their courtrooms and having delegated the day-to-day operation of Court support systems to the Court Administrator, would not have been aware of selected time-off. After learning of these allegations, the Judges took action with Mr. Charron to ensure that informal "time-off" in violation of County policies came to an end. An interview with Court Administrator Charron indicates that a range of procedures have been put in place to ensure that time requirements are satisfied and overseen by the appropriate manager.

Some employees also raised concerns that flex time was authorized by the Court Administrator on a "favoritism" basis. However, the records reviewed by Mr. Charron indicate that a number of Court Administration employees were authorized for "flex time" by Mr. Chesshire under a variety of circumstances. The evidence is that flex time has been reviewed by Court Administration under Mr. Charron. As noted above, based on the needs of the Court and efficient Court Administration, this scheduling has been largely eliminated.

C. Court Administration Employees Assigned to Non-Court/Personal Projects

There have been allegations that Court Administrator Chesshire assigned Court employees to personal tasks, including assisting in homework assignments. Mr. Chesshire denies that such tasks were assigned/requested. He noted that one of the Judges took a personal interest and voluntarily collaborated with one of his children on a school-related project. He also explained that he and his wife, at their own considerable expense, hired a tutor (who happened to also work as a County employee) as they deemed necessary.

One Judge confirmed that, indeed, he had known Mr. Chesshire's family for many years and had been pleased to work with one of the Chesshire children on a school project involving fossils. On the other hand, a Court Administration employee claims that she had been directed by Mr. Chesshire to complete a high school homework assignment, and also to type a high

school term paper during business hours. Another employee stated that the Court Administrator directed her to sign a high school certification that the student had completed certain tasks. The employee stated she did as directed, despite the fact that she had no knowledge of the facts. Both employees expressed distress at being involved in these matters and stated their belief that they should not have been given these tasks/directions. When asked why they complied, the response was that they did not wish to challenge/question the Court Administrator. As noted above, Mr. Chesshire did not recall any time a County Administration employee was involved with school-related matters.

Court Administration employees allege that, over the years, young interns were assigned to do personal errands for the Court Administrator. One witness described the Court Administrator allowing high school age interns to drive his sports car to do a personal errand for him. The witness recalls asking the interns whether their parents were aware of this activity. Another witness described observing such requests/assignments (picking up dry cleaning, etc.). However, since the interns were no longer with the Court and unavailable for interview, and because Mr. Chesshire denies that such requests were ever made, the evidence is inconclusive.

Investigation Comments

The witnesses who state they were directed to become involved in homework/certification matters were sincere and credible. However, even if Mr. Chesshire believes that some direction by him was misunderstood, the Judges and Court Administration have taken affirmative action, in the course of this investigation, to ensure that job duties are clearly stated, chain of command established and lines of communication (up to the Court Administrator and Chief Judge) open. Mr. Charron expresses confidence that no Court

Administration employee will mistakenly believe that personal tasks/errands can be assigned; and no Court Administration manager will believe that such arrangement would be tolerated.

D. Additional Management Concerns

Managerial employees described complaints and hurt feelings dating back a decade and more. For instance, one employee states with conviction that she was subjected to serial adverse employment actions by Mr. Chesshire in retaliation for having complained about the performance of a perceived "favorite" female employee. The management employee's demeanor is sincere and she continues to feel distress concerning these alleged events. However, the presence or absence of business justifications relating back to events so many years ago could not be sorted out within the confines of this investigation. At the time of his interview, Mr. Chesshire denied any misconduct of any kind. The evidence, one way or the other concerning this alleged retaliation, is simply unavailable.

Personnel records do demonstrate that under Mr. Chesshire's 22 year administration, performance reviews of Court Administration employees were never conducted/prepared on an annual, or any other, basis. The evidence is that this is another one of the changes currently being implemented by the Judges Council through the Court Administrator. The evidence establishes that procedures are underway to ensure annual performance reviews of all Court Administration employees.

E. Staffing Issues/Interns

As of Summer 2007, several Judges report that they had come to the conclusion that the Court's Intern Program was overstaffed and under-managed. Judges were in the process of addressing this issue and taking steps to reduce the program (and to direct the Court

Administrator to make changes), when Mr. Chesshire retired. Since then, the Court has taken steps to substantially reduce the number of interns and ensure accountability. That process is currently underway.

III. ALLEGATIONS THAT THE JUDGES/COMMISSIONERS "WERE AWARE"

The anonymous letter/article included allegations that the Superior Court Judges and/or Commissioners have been aware of "abhorrent behavior" alleged against Mr. Chesshire. Certain employees have speculated that either Judges or Commissioners "must have known" about the Court Administrator's alleged conduct. This investigation has carefully reviewed all evidence including the structure and operations of the Superior Court Judges, the Superior Court's various Departments, the delegation of duties, reliance/trust in a long-term manager, and the lack of any report/complaint for over two decades. The investigation has also considered evidence that Commissioners have no authority over the Court Administrator (an appointed position) and no authority over the day-to-day operation of the Court Departments/employees.

This investigation finds no credible evidence to indicate that the Judges or Commissioners (or other public official) knew or had reason to know of misconduct that had been the subject of these recent complaints and investigation.³²

³² The anonymous letter contained several statements alleging that Mr. Chesshire "bragged" about "controlling" the Judges; bragged about having "something on" the Judges; and "getting girls" for one of the Judges. Mr. Chesshire adamantly denied making any of the statements attributed to him, although several witnesses alleged they heard Mr. Chesshire make statements to the effect that he was "in control." Further, Mr. Chesshire scoffed at the substance of the statements as outlandish. Whatever "bragging" might or might not have occurred (and the evidence is inconclusive), this investigation found no evidence that remotely suggested the existence of any type of "control" or having "something on" the Judges or "getting girls."

A number of witnesses expressed sincere frustration, opining that in light of Mr. Chesshire's perceived high profile, one or more of the Judges/Commissioners "must have known" of alleged sexual misdeeds. However, there are no facts suggesting that a Judge/Commissioner had reason to know of alleged sexual misconduct/abuse involving Court employees within or outside of the Courthouse. There is simply no basis to conclude that a Judge/Commissioner had any knowledge of or reason to suspect alleged sex acts, obscene telephone calls, pornography, lewd/sexual comments, or other harassment that has now been alleged. The alleged conduct, by its nature and according to the witnesses, was pursued in such a way as to avoid detection.

Several witnesses opined that the Judges/Commissioners "should have known" because they believe Mr. Chesshire had an openly "flirtatious" manner and could be seen going to lunch with young female interns. However, a "flirtatious" personality would not provide notice of the type of abusive conduct alleged by witnesses. Also, a flirtatious personality perceived by one individual could be perceived as a "flamboyant" or "theatrical" personality by another. Mr. Chesshire's conduct with young employees was perceived by one mature, long-term manager, as simply the Court Administrator's misplaced effort to be "one of the gang." After careful

There were also allegations that one/two Judges had been informed of sexual harassment by an employee and had done nothing. The investigation thoroughly scrutinized witness statements. In one case, affirmative evidence indicates nothing but hearsay statements concerning what one person believed was related to a second party, who told a third party. Interview of the persons involved refuted any "complaint" of any kind. In the other instance, the employee did not work for Court Administration at the time of the alleged "complaint." The employee made no complaint to the County Department where she worked and no complaint to Human Resources. The Judge recalled the employee in question and stated with certainty that no complaint was ever made to him. The only evidence of any information provided to any Judge was at the time essentially coincidental with the anonymous letter/signed complaint, when all of the allegations were about to be addressed by the Judges Council/this investigation.

As noted above, the failure of notices to the Judges was addressed by the witnesses' repeated statements stated that they wished to keep matters secret for personal reasons or they felt they had insufficient "proof"; or they feared retaliation; or they were not clear on whether HR was available to them as Court employees.

consideration, this investigation concludes that Mr. Chesshire's public persona, as described by witnesses, would not provide Judges/Commissioners with reason to suspect the type of alleged sexually predatory misconduct that has been described by certain of these witnesses. Similarly, knowledge that the Court Administrator took young female employees to lunch is not evidence to trigger notice of likely sexual exploitation of female employees. The evidence indicates that the Court Administrator brought his teenage son and son's friends to lunch during the same time period.³³

As noted above, five females came forward on Mr. Chesshire's behalf, describing him as a very fair and respectful employer. This investigation has noted the credible evidence of certain employees' positive experiences over the years, in Court Administration. This evidence indicates that there were no bright lines triggering reason to suspect serious misconduct.

This is not to say that the evidence establishes "best practices" were present in supervising the Court Administrator over the years. It does not. However, the evidence suggests over-confidence and over-trust in the Court Administrator that developed over many years of what appeared to be exemplary service. The evidence demonstrates that the system failed where reporting mechanisms/procedures were intentionally or unintentionally misrepresented by the individual charged with responsibility. The evidence indicates that breakdown of the reporting system required action that has been taken by the Judges Council and Court Administrator during the course of this investigation. In sum, this investigation examined the issue of "knowledge" in depth and at length. There was no evidence indicating that Judges or any other County official had notice of alleged events behind closed doors, on

³³ A then-young male employee, who for years worked in Court Administration for Mr. Chesshire, has come forward to extol Mr. Chesshire's virtues as a mentor, supervisor and friend.

the phone, off site, after hours, etc.³⁴ There is no evidence that Judges or other County officials had notice or reason to know of alleged favoritism or time-reporting or other management issues.

The evidence establishes that these matters of alleged sexual harassment/abuse/poor management have been taken very seriously by the Court. Training and expanded reporting procedures have been already put in place. The evidence further indicates that the Judges Council, with the interim Court Administrator, is continuing to evaluate and implement a host of managerial improvements described above and below.

The evidence does demonstrate that the Judges Council had reasonable basis to rely on and trust Mr. Chesshire who was a 30-year Cobb County employee with no record of any misconduct, and who had served as Court Administrator during two decades when the Cobb County Superior Court was noted for efficient performance during decades of substantial growth; and who had received professional, civic and business honors throughout this period.

As to allegations concerning management, some allegations have proved to be true; others inconclusive; others open for debate. The evidence is that the Judges credibly relied on the professional experience and credentials of the Administrator to implement appropriate County or Court policies; ensure open lines of communication; address/report management issues, etc. There was no evidence of any basis for the Judges to anticipate that County/Court

³⁴ As noted above, the evidence indicates the Judges spend the majority of time in Courtrooms and do not deal directly with the Court Administration employees on a day-to-day basis. The evidence is that Judges' offices are located on multiple floors, many remote from any of the Administrative Departments. In discussing the perception that someone "must have known," a number of witnesses did note that the Superior Court Judges did not manage the employees in question; they had little day-to-day contact since the vast majority of the Judges' time was in Court, on the bench. The Court Administration Departments ran smoothly and productively, with no complaints by any employee. There were few reasons for the Judges to become directly involved.

policies and/or "best practices" would be ignored. The Judges Council is taking action to implement its own annual review of the Court Administrator, and with amplified anti-discrimination/harassment/retaliation policies published to all employees, the evidence indicates that the alleged basis for the long-term failure to complain, has been corrected.

IV. RECOMMENDED ACTION SUMMARY

Throughout the period of this investigation, the Judges Council has been involved with Court Administrator Tom Charron, in addressing numerous administrative matters. While a report of this type generally includes a "Recommended Action" Section, this report more correctly sets forth a summary of actions that have already been undertaken and/or implemented by the Judges Council with Mr. Charron. These include:

- Re-publication and Court's adoption of County anti-discrimination/harassment/retaliation policies/protections as amplified with direct access to Chief Judge;
- Definition of managerial duties, responsibilities and authority to manage;
- Publication of job description/duties;
- Defined chains of command and lines communication/open door policy;
- Addressing all time management/reporting issues and flex-time policy/attendance issues;
- Annual performance reviews.

The evidence from the Judges and Mr. Charron, is that Court Administration business is under the regular oversight of the Judicial Council. Interviews with Court Administration managers/employees demonstrates that the above noted "best practices" are underway.

V. CONCLUSION

The results of this investigation are detailed above. The identities of participating witnesses are and will continue to be held as highly confidential by the investigation. This investigation is concluded.

Respectfully submitted,

Mairen Kelly

For FISHER & PHILLIPS LLP