

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

KELVIN J. COCHRAN,

Plaintiff,

v.

**CITY OF ATLANTA, GEORGIA;
and MAYOR KASIM REED, IN
HIS INDIVIDUAL CAPACITY,**

Defendants.

Case No. 1:15-cv-00477-LMM

**RESPONSE BRIEF IN
OPPOSITION TO
DEFENDANTS' MOTION FOR
SUMMARY JUDGMENT**

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INTRODUCTION

Defendants' brief definitively establishes that Chief Cochran ("Cochran") was punished because of the speech contained in his book, which revealed religious beliefs with which the City did not agree. Indeed, even as Defendants attempt to distance themselves from the ineluctable, they cannot help but admit that the "language" and "views" contained in Cochran's book were dispositive factors in their disciplinary decisions. Defendants' Brief in Support of Summary Judgment ("Defs.' Br.") 18. Defendants seek to cover their tracks by proffering a number of alternative reasons for discipline, but the record reveals little more than shifting rationales signaling pretext, and a general lack of competent evidence to support their arguments. Defendants, for instance, seek on summary judgment to assert the Code of Ethics as a reason for termination, but they never gave Cochran the process he was due if that was the real reason for his suspension and termination. *See* Yancy Dep. 105:22-106:9, 129:21-23. And they posit disruption and inefficiency arising from Cochran's book without providing any actual evidence to support their *ipse dixit*. Because Defendants have thus failed to establish that they are entitled to judgment as a matter of law, their Motion for Summary Judgment should be denied in its entirety.

FACTUAL BACKGROUND

Cochran had a stellar reputation as AFRD Fire Chief, *see* Yancy Dep. 114:22-24,

earning the Fire Chief of the Year Award in 2012 and helping the City achieve its first Class 1 Public Protection Classification rating in 2014. See Pl.'s Exs. 2,7. He was also a leader who treated all with dignity and respect. Reed Dep. 156:10-13; Yancy Dep. 102:11-14; Geisler Dep. 66:18-21.

Cochran wrote a book, on his own time, arising out of a Bible study at his church, which he finished in the Fall of 2013 and self-published in late-November 2013. See First Amended Verified Complaint ("Am. Comp.") ¶91; Cochran Dep. 43:1-44:21. The book predominantly discusses the Christian teaching concerning original sin and in a small portion addresses sexual morality from a biblical standpoint. Am. Comp. ¶¶96, 103-04; Pl.'s Ex. 11 at 78-85.¹

Before completing and publishing the book, Cochran consulted Ethics Officer Nina Hickson to inquire whether he needed to seek Board of Ethics approval for his book. Hickson Dep. 52:14-16, 53:8-10; Cochran Dep. 108:3-15. As Ms. Hickson did not advise him that he needed to do so, or that he needed to seek approval from the Mayor, Cochran understood that he could proceed without such approval. Hickson Dep. 44:14-21; 52:25-53:3, 52:19-20. Cochran spoke to Ms. Hickson in July 2013 regarding the book, and it was his understanding that at that time she gave him permission to state in the book that he was currently serving as AFRD Fire Chief. Cochran Dep. 127:5-8, 147:3-8; Hickson Dep. 58:24-

¹ Only exhibits not submitted in support of Plaintiff's motion are attached.

59:8. Cochran eventually gave a few free copies to AFRD members who either requested them or with whom he had previously established a relationship as a fellow Christian. Cochran Dep. 217:3-5; Am. Comp. ¶¶126-127, 129.

Despite having sought and received ethics advice from the very person tasked with providing it, see Pl.'s Ex. 133; Defs.' Ex. 12, approximately one year after the book was published Defendants very publicly suspended Cochran, castigated his beliefs, and launched an investigation into his leadership of AFRD. Yancy Dep. 26:22, 62-64, 105-106, Pl.'s Ex. 108. The record demonstrates that they did so because they disagreed with the beliefs expressed in the book. Yancy Dep. 68-69, 76, 107:5-8; Pl.'s Ex. 10. After their own investigation showed that Cochran had never discriminated against anyone, they terminated him anyway, even though Defendant could not cite even one instance in which Cochran was unfair or permitted his religious beliefs to affect his leadership of AFRD. Pl.'s Ex. 13 at 3-4; Reed Dep. 56:10-13; Geisler Dep. 47:2-13; Yancy Dep. 102:11-14.

Defendants claim that they suspended and ultimately terminated Cochran because he failed to seek and acquire approval to write and publish his book from the Board of Ethics and the Mayor, because he spoke to his co-religionists during his suspension, and because their Investigative Report concluded that he could not effectively lead the AFRD into the future. See Defs.' Br. 12. But in the light of the record facts these reasons are revealed to be mere pretexts. See Yancy

Dep. 105:22-106:9 (revealing that ethics concerns were an afterthought for Defendants who never gave Cochran the process required if a violation did occur)); Cochran Dep. 222:23, 267:1-2 (revealing that Defendants gave no instructions to Cochran as to their expectations); Yancy Dep. 102:11-14 (revealing that Defendants' investigation exonerated Cochran of their principal fear, discriminatory leadership).

I. Cochran's Speech Was Protected by the First Amendment.

A. Cochran's Interests Outweigh Defendant's Interests.

Under the test enunciated in *Pickering v. Board of Education of Township High School District 205*, 391 U.S. 563 (1968), the balance must be struck in Cochran's favor. Defendant disagrees, summarily concluding that its interests "vastly outweigh" Cochran's First Amendment rights because, in its view, his book "threatened AFRD's ability to operate effectively and risked destroying the public's trust in the Department." Defs.' Br. 14, 16. But aside from bald assertions, Defendant conspicuously fails to proffer any competent record evidence to support its conclusions. Defendant does provide a citation to its own Investigative Report as ostensible proof that its interests were endangered, but such "evidence" is not sufficient in either form or quantum for it to prevail.²

² The City Law Department concluded in its Investigative Report that there was "general agreement the contents of [Cochran's] book ha[d] eroded trust and ha[d] compromised [his] ability . . . to provide leadership in the future." Pl.'s Ex. 13 at

Defendant has produced not one witness, deponent, or affiant to support its claim that Cochran's book caused disruption or inefficiency in either the City government or the AFRD.³

Defendant's failure is not surprising, however, as the record actually indicates that Cochran's book did not disrupt operations or lead to inefficiency. The evidence demonstrates that Cochran earned a reputation for fairness and equity throughout his tenure with the AFRD, and that record persisted even after his book was written and published. *See* Brief in Support of Plaintiff's Motion for Summary Judgment ("Pl.'s Br.") 7-10. Indeed, despite the fact that the City investigated the effect of Cochran's religious beliefs on his leadership of the AFRD, no City employee could cite even one instance of unfair treatment on his part, ever. *Id.* Given this evidence—and Defendant's total failure to adduce even a solitary instance of disruption or inefficiency as a result of Cochran's speech—its *Pickering* argument must be rejected.

4. But Defendant's reliance on this particular conclusion for purposes of securing summary judgment is unavailing, because the report amounts to inadmissible hearsay. *See Jones v. UPS Ground Freight*, 683 F.3d 1283, 1293 (11th Cir. 2012) (noting the general rule that "inadmissible hearsay cannot be considered on a motion for summary judgment"). Moreover, Defendant's self-serving conclusion points solely back to the content of the book.

³ In fact, the record evidence contains the testimony of only one firefighter, union president Stephen Borders. He testified that despite Cochran's beliefs, and despite the fact that those beliefs had become widely known, he could have worked for Cochran if he had returned to work rather than having been terminated. Borders Dep. 108: 11-14.

Defendant's citations to *Lumpkin v. Brown*, 109 F.3d 1498 (9th Cir. 1997), *McMullen v. Carson*, 754 F.2d 936 (11th Cir. 1985), and *Grutzmacher v. Howard Cty.*, 851 F.3d 332 (4th Cir. 2017), do not alter this conclusion. In *Lumpkin* a San Francisco Human Rights Commissioner "implicitly endors[ed] violence against homosexuals," which placed him directly "at war with" the "charge" of his employer. 109 F.3d at 1500.⁴ In *McMullen* the plaintiff appeared at a press conference and publicly announced himself as both an employee of the sheriff's office and a recruiter for the Ku Klux Klan, "an organization . . . antithetical to enforcement of the laws by state officers." 754 F.2d at 940. And in *Grutzmacher* a battalion chief in the county fire department "flout[ed] Department policies he was expected to enforce . . . advocated violence to certain classes of people . . . and expressly disrespected his superiors." 851 F.3d at 346-47.

⁴ Defendant is mistaken in arguing that Cochran's explication of biblical passages constitutes disqualifying "behavior" pursuant to *Lumpkin*. Defs.' Br. 16. Such biblical exegesis is not behavior, but rather speech conveying Cochran's religious beliefs. Moreover, to the extent Defendant seeks to justify punishing Cochran based upon those beliefs, it engages in an impermissible religious test. *See infra* at 34. Finally, contrary to Defendant's argument, Cochran's book was aimed at helping Christian men "overcom[e] condemnation," and not at condemning any particular group or individual by singling them out. Cochran Dep. 109:10-11, 188:21-24, 191:23-193:1, 209:8-24. In fact, if anything Cochran was merely conveying the biblical teaching that because "all have sinned," including himself, all "need a Savior." *Id.* at 192:9-10, 209:8-11; *see also id.* at 199:1-3 (testifying "I'm a testimony . . . that . . . [c]lothed men transgress."). This is consistent with his testimony that firefighters "have to love . . . all categories of people." Cochran Dep. 46:1-2. It is also consistent with the beliefs of millions that the City would apparently never employ.

Merely reciting the facts of these cases reveals how inapposite they are. Cochran never tolerated violence against any person or class of persons. He was extremely proficient at his job. *See* Pl.’s Br. 2-3, 20 n.5; Pl.’s Exs. 2, 7. His book was neither antithetical to—nor did it interfere with—his job as AFRD Chief.⁵ And he consistently and steadfastly enforced AFRD policy.⁶

B. Cochran’s Speech Played a Substantial Role in Defendant’s Decision to Suspend and Terminate Him.⁷

Defendant does not actually deny that the content of Cochran’s book played a role in its decision to discipline him. In fact, Defendant conspicuously notes that Cochran’s “book contains *language* denigrating and demeaning wide

⁵ *See* Pl.’s Br. 13-18. In fact, prior to one AFRD employee raising an objection to the contents of the book and Defendant taking public issue with a small fraction of its contents, there was nothing but peaceful coexistence between the book and the department for almost a full year after its publication.

⁶ The Chick-Fil-A disciplinary matter cited by Defendant, *see* Defs.’ Br. 15-16, far from indicting Cochran, actually illustrates his fealty to the City’s nondiscrimination policy. *See* Cochran Dep. 294-299. And his creation of the Atlanta Fire Rescue Doctrine—with the assistance of a diverse group of firefighters—similarly shows his commitment to the ideals of equality, dignity, and respect. Cochran Dep. 46-47.

⁷ Unlike the public concern inquiry and the *Pickering* balancing test, which are “questions of law” for a court to decide, this particular inquiry is a “question[] of fact.” *Cook v. Gwinnett Cty. Sch. Dist.*, 414 F.3d 1313, 1318 (11th Cir. 2005). As such it is normally a question for a jury to resolve. *See Beckwith v. City of Daytona Beach Shores, Fla.*, 58 F.3d 1554, 1564 (11th Cir. 1995) (citing *Pullman-Standard v. Swint*, 456 U.S. 273, 289–90 (1982) for the proposition that “issues of discriminatory intent and actual motivation are questions of fact for the trier of fact”). Here, however, where Plaintiff has himself adduced more than sufficient record evidence to prevail on summary judgment on his retaliation claim, submission of this question to a jury is unnecessary.

swathes [sic] of people,” which language led to its concern that the book “Risky Title VII Liability For the City.” Defs.’ Br. 17-18 (emphasis added). This unfounded concern—grounded directly in speech—prompted Defendant to suspend, investigate, and terminate Cochran, so it cannot be seriously argued that speech played no role in his punishment. *See* Pl.’s Br. 6-10, 19-23. Indeed, by conceding in its brief that it considered the “language” and “views” of the book problematic and that it took action based upon them, Defendant has admitted that speech played a substantial role in its discipline of Cochran. Defs.’ Br. 18; *see also* Yancy Dep. 62-64 (explaining that the reason for the City’s investigation was the “certain subset of beliefs” expressed by Cochran in his book); Geisler Dep. 57:24-58:1 (stating that one of the purposes of the investigation “was to address any concerns, different community groups, the LGBT would have had about the chief’s stand on things”).⁸

Defendant’s assertion of alternative reasons for discipline does not mean that speech did not play a substantial role in that discipline. *See Beckwith*, 58 F.3d at 1564-65 (internal quotations and citations omitted) (to prevail on this factor “an employee’s burden is not a heavy one,” and “purely circumstantial

⁸ Contrary to Defendant’s assertion, its concern with the “language” and “views” expressed in the book does not constitute a “legitimate, non-retaliatory reason[] unrelated to [Cochran’s] personal beliefs.” Defs.’ Br. 18. It is rather a reason grounded directly in the content of Cochran’s book, which constitutes speech expressing his beliefs.

evidence . . . can create a jury question [as to] the government’s motive”); *see also McKinley v. City of Eloy*, 705 F.2d 1110, 1115 (9th Cir. 1983) (establishing that a plaintiff need not “demonstrate that the dismissal was based solely on the [protected] activit[y]”).

The record shows that it did. *See* Pl.’s Br. 6-10, 19. From start to finish and even beyond the close of its disciplinary process, Defendant castigated both privately and publicly the contents of Cochran’s book. *See* Yancy Dep. 26:22, 69:8-9; Pl.’s Ex. 10; Wan Dep. 84-85; Pl.’s Ex. 108. The beliefs expressed in Cochran’s book featured prominently at his suspension meeting. *See* Yancy Dep. 63:6 (stating that the “subset of beliefs” expressed by Cochran prompted the investigation); 69:8-9 (testifying that Cochran “espoused beliefs that were offensive to many different groups”); Cochran Dep. 200-202. And the so-called “inflammatory” “material” in the book was a primary focus of the Mayor at his press conference announcing Cochran’s termination, and continued to animate his communications department even after that. *See* Pl.’s Ex. 14 at 2; Pl.’s Ex. 77; Torres Dep. 76-77. Given the sheer number and consistency of Defendant’s communications quarreling with the beliefs expressed in Cochran’s book, no reasonable juror could conclude anything but that speech played a substantial

and even decisive role in its decision to discipline him.⁹ But if further proof is needed to buttress the undeniably obvious, the fact that Defendant suspended Cochran just days after discovering his views more than provides it. *See* Yancy Dep. 20:2-11.¹⁰

C. Defendant Cannot Show That It Would Have Terminated Cochran Absent his Speech.¹¹

Because Cochran has shown that speech played a substantial role in his discipline, Defendant must “prove that it would have terminated [him] even in the absence of his speech.” *Moss v. City of Pembroke Pines*, 782 F.3d 613, 618 (11th Cir. 2015). Defendant proffers three alternative reasons for terminating

⁹ Cochran is protected against the unlawful infringement of his constitutionally protected speech in all phases of discipline—as to both suspension and termination. *See Goffer v. Marbury*, 956 F.2d 1045, 1049 n.1 (11th Cir. 1992) (“The *Pickering* line of cases protects against not only discharge but also any adverse employment action taken by the employer that is likely to chill the exercise of constitutionally protected speech. . . . e.g., refusal to hire, demotion, reprimand, refusal to promote.”).

¹⁰ *See Thomas v. Cooper Lighting, Inc.*, 506 F.3d 1361, 1364 (11th Cir. 2007) (holding in a Title VII case that the “burden of causation can be met by showing close temporal proximity between the statutorily protected activity and the adverse employment action”).

¹¹ This inquiry is also a “question[] of fact, [that] a jury resolves . . . unless the evidence is undisputed.” *Moss*, 782 F.3d at 618. Here too a jury is unnecessary because the record establishes that Defendant would not have terminated Cochran absent his speech. Regardless, myriad disputes of material fact pertaining to Defendant’s proffered reasons require submission to a jury. *See Beckwith*, 58 F.3d at 1564 (once a plaintiff has shown that speech played a substantial role in an employment decision, a defendant can “only rebut this showing by convincing the jury, not the court, that a legitimate reason justified the decision”).

Cochran in its brief: 1) Cochran's alleged "violation of the Ethics Code"; 2) Cochran's speech regarding his suspension; and 3) the City Law Department's Findings. Defs.' Br. 18-19, 20 n.10. Each of Defendant's alternative predicates for discipline fails to secure a grant of summary judgment.

The City of Atlanta's Code of Ethics

Defendant's application of the Code against Cochran violates his First Amendment right to free speech and his Fourteenth Amendment right to procedural due process. *See* Pl.'s Br. 23-35. On that basis alone this rationale fails. But there is more. As Cochran has already demonstrated, Defendant's invocation of the code as a reason for punishment is highly questionable. *See* Pl.'s Br. 21-22. Defendant decided to retain Cochran even with the knowledge that he had not acquired approval from the Board of Ethics to write or publish his book, so it should not be permitted to recast this issue as an independently sufficient reason for termination. *See* Yancy Dep. 105:22-106:9; Geisler Dep. 84:21-85:9. If anything, Defendant's shift suggests that it is nothing more than a pretext. *See Tidwell v. Carter Prod.*, 135 F.3d 1422, 1428 (11th Cir. 1998) (stating that "the identification of inconsistencies in an employer's testimony can be evidence of pretext"); *Ballard v. Chattooga Cty. Bd. of Tax Assessors*, No. 4:12-CV-012-HLM-WEJ, 2013 WL 12176928, at *40 (N.D. Ga. Nov. 22, 2013), *report and recommendation adopted*, No. 4:12-CV-012-HLM, 2014 WL 12648448 (N.D. Ga.

Jan. 31, 2014) (cataloguing cases establishing that multiple or inconsistent explanations for an adverse employment decision can be evidence of pretext). Finally, even if this reason is granted credence it is undisputed that Defendant denied Cochran the procedural protections of the Code.

Additionally, Defendant never advised Cochran to seek approval from the Board of Ethics notwithstanding the fact that he sought advice with respect to his book directly from Ethics Officer Nina Hickson. Ms. Hickson was specifically charged with “*advising of the provisions of the code of ethics,*” Pl.’s Ex. 1 (emphasis added); *see also* Defs.’ Ex. 12 (revealing that the City of Atlanta Employee Ethics Pledge, which was signed by Cochran on June 21, 2010 provided for “seek[ing] advice from the Ethics Office . . . on how to . . . comply with the Code of Ethics.”). Rule 3 of the Rules of the Board of Ethics required her to respond verbally or in writing to written, telephonic, or in-person requests for advice from employees. Accordingly, in October 2012 Cochran inquired of Ms. Hickson by phone whether he needed to seek ethics board approval. Hickson Dep. 44:17-45:13. Ms. Hickson did not advise Cochran to seek approval from the Board of Ethics or from Mayor Reed. Hickson Dep. 52:25-53:3 (“Q. So you did not advise him that it’s a matter that he should bring to the ethics board? . . . A. No.”); 52:19-20 (“I didn’t advise him of anything other than to say that this is an ethics matter.”). When Ms. Hickson advises employees to seek approval for

outside employment, her notes typically reflect that advice. *Id.* at 58:8-15. But her notes from that date do not do so. Pl.’s Ex. 23 at 1.¹² Consistent with this omission, Cochran understood that he could go forward without seeking ethics board approval. Cochran Dep. 111:3-13. Furthermore, as a result of a later phone call with Ms. Hickson, Cochran understood that he was permitted to identify himself in the “About the Author” section as AFRD Fire Chief.¹³ Cochran Dep. 127:5-8; 147:3-8, 18-21. Given these facts, Defendant’s attempt to invoke the Code of Ethics as a reason for discipline—whether suspension or termination—fails.¹⁴

Cochran’s Communications During His Suspension

During his suspension, Cochran was approached by a number of individuals, churches, and religious organizations concerned about his suspension, after they had heard about it from Defendant’s very public

¹² *See also* Pl.’s Ex. 23 at 2 (demonstrating clear directive from Ms. Hickson to Cochran to seek ethics board approval and Mayor’s permission for multi-level marketing opportunity unrelated to his book); Cochran Dep. 126:13-16 (testifying Ms. Hickson told Cochran he would need to seek permission from the Board of Ethics and inform the Mayor in order to engage in that venture); Hickson Dep. 47:22-48:17 (testifying she told him to “clear it with the Mayor and then get authorization from the Board of Ethics.”).

¹³ Defendants cannot dispute this fact. *See* Hickson Dep. 58:24-59:8.

¹⁴ Even if Defendant claims that Ms. Hickson’s testimony contradicts Cochran’s and was sufficiently instructive to require him to seek approval from the Board, at most this establishes a genuine of material fact to be resolved by the factfinder.

pronouncements. Cochran Dep. 265:1-8, 268:16-22, 271:8-12, 274:23-275:4; Pl.'s Ex. 10; Torres Dep. 33-35. Some of those churches and religious organizations asked Cochran to share his testimony and also offered him their assistance and support. *See* Cochran Dep. 271:8-12. Cochran testified that “at the time [his suspension] was taking place, due to the tremendous amount of stress and pressure, support from my church . . . really was helpful.” Cochran Dep. 265:1-4. Defendant now seeks to exploit Cochran’s decision to speak with and accept the support of his co-religionists as justification for his termination. But the record does not support this. Furthermore, this alternative reason for punishment, if accepted as legitimate, would itself independently trench upon Cochran’s right to free speech and the free exercise of his religion.

Defendant’s resort to this justification is particularly troubling, given its failure to apprise Cochran of its expectations of him during his suspension. Defendant gave Cochran no written instructions as to these expectations, *see* Cochran Dep. 222:23; 267:1-2. And the verbal communications Defendant claims it gave to Cochran remain in doubt.¹⁵ Chief of Staff Candace Byrd testified that she could not recall exactly what she said to Cochran, but she believes she told him “[t]o remain quiet and not . . . talk about the events surrounding his

¹⁵ Defendant’s claim that Cochran “violated the terms of his suspension” must be rejected, as it never established any such terms. Defs’ Br. 1.

suspension.” Byrd Dep. 43:1-2. But Cochran recalls that Byrd told him “not [to] conduct any media interviews” during his suspension, which led him to request that Defendant send out a “media advisory so that [the media] would understand” he could not speak with them, as he had already denied interview requests seeking his take on his suspension, and anticipated many more to come. Cochran Dep. 222-224, 256-257.¹⁶ This lack of clarity on the part of Defendant as to what was expected of Cochran during his suspension should be considered fatal to its attempt to use his communications during his suspension as a predicate for termination.

But worse yet is the fact that Defendant itself created the media firestorm for which it now seeks to blame Cochran. Defendant gratuitously mischaracterizes Cochran as having “portrayed himself as a religious martyr” during his suspension. Defs.’ Br. 10. In truth it was Defendant which manufactured a public relations crisis by broadcasting to all the world that Cochran had discriminated against members of the AFRD on the basis of his

¹⁶ Cochran’s testimony that he understood Ms. Byrd’s instruction to mean that “she did not want [him] to publicly disclose [his] side of the story” is consistent with his understanding that he was not to conduct media interviews or press conferences regarding his suspension. *See* Cochran Dep. 257:12-13, 222-24, 254. Tellingly, the record demonstrates that Cochran complied with Defendant’s instructions, as he understood them, throughout the entirety of his suspension. *See* Cochran Dep. 222-224, 256-257.

religious beliefs, when that in fact did not happen.¹⁷ See Pl.'s Br. 6-10; Cochran Dep. 280-82. Defendant stated that it doesn't "typically talk about employment matters to the media" and that it "reserve[s] comments surrounding suspensions or terminations," Byrd Dep. 44:2-5, but it made an exception when it publicly announced Cochran's suspension, repudiated the contents of his book, and denigrated his religious beliefs in the process. See Pl.'s Br. 6-10; Pl.'s Exs. 10, 49; Torres Dep. 32-35. It was Defendant's own public pronouncements that invited the public criticism that followed. See Reed. Dep. 136:1-23 (revealing that comments objecting to Defendant's treatment of Cochran began "right away" after news of his suspension was posted on the Mayor's Facebook page).

Thus, given its breach of normal employment protocol and its central role

¹⁷ The record does not support Defendant's allegation that Cochran enlisted organizations to assist him, Cochran Dep. 268-69, nor does it support the charge that he orchestrated any "battle plan" or "offensive fire attack" against the City, Defs.' Br. 10-11. Cochran reviewed plans of assistance created by those who wished to help him, but he did not create or implement those plans. See Cochran Dep. 254:22-255:1. Moreover, however they are characterized, because Defendant had no knowledge of these facts when it terminated Cochran, see Yancy Dep. 128:10 (admitting Defendant had no knowledge of these facts); Reed Dep. 137:11-20 (Defendants became aware of these communications only in discovery), it cannot support Cochran's termination by invoking these communications. See *McKennon v. Nashville Banner Publ'g. Co.*, 513 U.S. 352, 360 (1995) (where "employer could not have been motivated by knowledge it did not have," it could not "claim that the employee was fired for [that] reason"); *Crapp v. City of Miami Beach*, 242 F.3d 1017, 1021 (11th Cir. 2001) (holding that after-acquired evidence of wrongdoing could not be used to deny claim for violation of Title VII and thus awarding compensatory damages).

in precipitating and encouraging widespread news coverage of the matter, Defendant should not be heard to complain of what amounts to little more than occasional reportage by Cochran—to his concerned co-religionists—on the mere fact of his suspension.¹⁸ It is incredible that Defendants would publicly suspend and denigrate Cochran because of his views and then expect him not to tell his side of the story (which he refrained from doing). This pretext not only fails to rise to a legitimate reason for termination, it is government gamesmanship at its worst.

The City Law Department's Findings

The City Law Department concluded that not one witness could report any instance of discrimination or compromised disciplinary decision making on the part of Cochran. Pl.'s Ex. 13 at 4. Defendant's concern that Cochran's book betrayed a discriminatory leadership regime thus came entirely to naught as a result of its own investigation. *See* Yancy Dep. 102:11-14. Notwithstanding this exoneration, Defendant seizes upon the City Law Department's conclusion that

¹⁸ Even in the testimonies Cochran gave to fellow Christians who asked him to speak, his focus was not on the discipline he received from Defendant, but rather upon “how [he] came into the knowledge of Christ and about [his] life and upbringing . . . up to that point in [his] life.” Cochran Dep. 255: 21-24; 260:14-22 (explaining that the purpose of the Georgia Baptist Convention's invitation “was to share my testimony . . . which is a common Christian practice”); Cochran Dep. 274-75 (Cochran only briefly alluded to his suspension at the beginning of his talk to the First Baptist Church of Newnan, because his “invitation to speak was extended based on” news of that suspension).

there was “general agreement that the contents of the book ha[d] eroded trust and ha[d] compromised [Cochran’s] ability . . . to provide leadership in the future” as a predicate for termination. Pl.’s Ex. 13 at 4. This will not do.

As Cochran has already established, this conclusion—and for that matter the entire Investigative Report from which it is excerpted—constitutes inadmissible hearsay. *See Jones*, 683 F.3d at 1293. As such, it cannot justify Cochran’s termination. Regardless, this self-serving document shows little more than that some AFRD members disagreed with the content of Cochran’s book, and made those feelings known after the matter was much-publicized by Defendant itself. As has already been established, such a heckler’s veto cannot be countenanced by this Court. *See Pl.’s Br.* 14-15.

In sum, because it has not shown that its interests outweigh Cochran’s, because it cannot show that speech did not play a substantial role in its discipline of Cochran, and because it cannot show it had an otherwise legitimate reason to terminate Cochran absent his speech, Defendant cannot prevail on summary judgment as to Cochran’s retaliation claim.

D. Because Defendant City of Atlanta Punished Cochran Based Upon the Views Expressed in His Book, It Cannot be Granted Summary Judgment on His Viewpoint Discrimination Claim.

Although a wealth of record evidence demonstrates that Defendant disciplined Cochran based upon the views he expressed in his book, *see Pl.’s Br.*

6-10, 19-23, Defendant has heretofore attempted to deny the patently obvious. See Yancy Dep. 64:9-10; 66:13-14; Pl.’s Ex. 14 at 1 (announcing that Cochran’s “personal religious beliefs [were] not the issue at all”). Indeed, in the retaliation context Defendant argued that Cochran’s speech played no role in his punishment. See Defs.’ Br. 17-18. But in the space of three pages in its brief, Defendant executes a remarkable flip-flop, admitting that the content of Cochran’s speech justified his termination. See Defs.’ Br. 21-22. Defendant argues that Cochran’s book constituted government speech, so when he “expressed views antithetical to the City’s,” his subsequent ouster was permissible. *Id.* at 22. This argument not only negates a crucial portion of Defendant’s retaliation defense, but also ignores the record facts and the law.¹⁹

As to the facts, Defendant claims that Cochran’s book is government speech because in it he “purport[ed] to represent the City as Fire Chief.” *Id.* at 22. But Cochran mentioned his role as AFRD Fire Chief exactly twice in the space of a 162-page book. In the “About the Author” section of the book he discusses his birthplace, his faith and life mission, his family, his church, and his career as a firefighter, and only then briefly concludes that he was at that time “serving as

¹⁹ Defendant’s argument as to “government speech” should also be independently precluded by this Court’s earlier holding that Cochran spoke as a private citizen on a matter of public concern. See *Cochran v. City of Atlanta*, 150 F. Supp. 3d 1305, 1313-14 (N.D. Ga. 2015).

Fire Chief of the City of Atlanta Fire Rescue Department (GA).” Pl.’s Ex. 11 at v. And later on in the book he notes that his faith is central to carrying out his mission as a fire professional. *Id.* at 76. These facts do not transform Cochran’s book into government speech for which he could be disciplined.

Nor do the cases Defendant cites provide any support for such an argument. In *Pleasant Grove City, Utah v. Summum* the United States Supreme Court held that permanent monuments in a city park constituted government speech, because the city “selected those monuments that it want[ed] to display for the purpose of presenting the image of the City that it wishes to project to all who frequent the [p]ark.” 555 U.S. 460, 473 (2009). And in *Walker v. Texas Division, Sons of Confederate Veterans, Inc.* the Court held that license plates—traditionally regulated by the states, and subject to their “sole control”—also were government speech. 135 S. Ct. 2239, 2249 (2015). This case, however, is not even remotely similar to either *Summum* or *Walker*. Cochran is not arguing that Defendant must adopt his speech as its own or that it cannot express its own viewpoint, but rather that Defendant cannot stifle his private speech on matters of public concern—unrelated to the City or the AFRD—simply because it disagrees with him. Defendant is correct that “the City has the right to speak for itself,” Defs.’ Br. 21, but that is wholly irrelevant here.

Finally, this Court should reject Defendant’s argument that it is entitled to

summary judgment because Cochran did not proffer a precise mirror image comparator. *See* Defs.’ Br. 20 (“Plaintiff can point to no other public safety head . . .”). Defendant’s position is both conceptually indefensible and detached from settled viewpoint discrimination analysis.²⁰ The flawed premise that there must be a showing of unequal treatment of ideological competitors before a viewpoint discrimination claim can obtain has been repudiated in the case law. *See Lamb’s Chapel v. Ctr. Moriches Union Free Sch. Dist.*, 508 U.S. 384, 393-94 (1993) (recognizing use of hypothetical comparator to show viewpoint discrimination where the record contained no evidence that non-religious film series about “child rearing and family values” would not have been permitted, while religious series on same subject matter was actually prohibited); *Rosenberger v. Rector and Visitors of Univ. of Va.*, 515 U.S. 819, 831 (1995) (“It is as objectionable to exclude both a theistic and atheistic perspective on the debate as it is to exclude one, the other, or yet another political, economic, or social viewpoint.”). If Defendant disciplined Cochran based upon the viewpoint of his speech, on a permissible subject matter, that constitutional violation is no less real because

²⁰ Neither *Moss v. United States Secret Service*, 572 F.3d 962 (9th Cir. 2009), nor *Pine v. City of West Palm Beach, Florida*, No-13-80577-CIV, 2013 WL 5817651 (S.D. Fla. Oct. 29, 2013), does anything to salvage Defendant’s argument. In *Pine* the ordinance was enforced without distinction “against those who violate[d] it,” *id.* at *7, and in *Moss* demonstrators with opposing views were treated the same. 572 F.3d at 971. But here Cochran was punished for the views in his book.

Defendant has not previously disciplined a like employee whose views were opposed to Cochran's. In other words, an isolated act of viewpoint censorship is as much a First Amendment violation as if a fellow speaker had concurrently been given favorable treatment. *Arizona Life Coal. Inc. v. Stanton*, 515 F.3d 956, 972 (9th Cir. 2008) (holding unconstitutional the denial of a license plate application based on the "nature of the message"). Thus, because Defendant punished Cochran based on its substantive disagreement with his speech, it cannot be granted summary judgment on his viewpoint discrimination claim.²¹

E. Defendant's Pre-Clearance Requirements Cannot Be Sustained.

Defendant mistakenly claims that Cochran "does not dispute that he violated these ordinances, nor that . . . he understood and approved of their purpose." Defs.' Br. 22. The very gravamen of this case is that the City improperly disciplined Cochran based upon policies that cannot be constitutionally applied to him here. Defendant further claims that its policies are a necessary to prevent conflicts of interest. Defs.' Br. 24-25. But Cochran does not challenge that general municipal imperative—he rather objects to the

²¹ Defendant cannot justify its viewpoint discrimination based upon its conclusion that Cochran's book "espoused beliefs that were offensive to many different groups," Yancy Dep. at 69:8-9, precisely because "[t]he Government may not insulate a law from charges of viewpoint discrimination by tying censorship to the reaction of the speaker's audience"). *Matal v. Tam*, No. 15-1293, 2017 WL 2621315 (June 19, 2017) (Kennedy, J., concurring); *see also supra* at 18.

application of Defendant's pre-clearance policies to a religious book on biblical subjects of public concern that implicates none of the concerns of the City or the AFRD. Put simply, contrary to Defendant's assertions, the City has no right to play gatekeeper with respect to such speech, whether or not it results in income.²² This is especially so because these policies burden speech, lack narrow tailoring, and grant the City unbridled discretion.

These policies clearly burden speech. Although Defendant seeks refuge in the abstract claim that neither ordinance "specifically targets expressive activities," the record refutes that anodyne characterization, revealing that Defendant has exploited its policies to punish Cochran for his speech. *See* Defs.' Br. 9, 12, 20 n.10, 25. Similarly unsupported is Defendant's claim that "[e]mployees remain free to speak [or] write . . . without seeking approval . . . so long as they do not receive compensation for doing so." *Id.* at 26. In fact, Commissioner Yvonne Yancy testified that employees need to "get permission . . . to do anything outside of work," even if compensation is only possible or

²² Defendant claims that Cochran sold his book for a profit, but it has provided no evidence to demonstrate this, and Cochran actually testified that he did not intend for the book to make a profit. Cochran Dep. 80:8-18. Additionally, Defendant did not know whether Cochran profited from his book before it disciplined him. *See* Yancy Dep. 51:16-52:5 (Yancy only knew the book was "for sale"). Even if evidence existed to show a profit, however, Defendant could not constitutionally prevent an employee from deriving such from a book of this kind.

“perceived.” See Yancy Dep. 88:3-5; 52:5-7.²³

Defendant’s pre-clearance policies also lack narrow tailoring, as illustrated by its own case authority. *Weaver v. United States Information Agency*, 87 F.3d 1429, 1431-32 (D.C. Cir. 1996), upheld a prepublication review requirement that applied only to “material on matters of ‘official concern’” pertaining to “foreign relations.” *Wolfe v. Barnhart*, 446 F.3d 1096, 1098 (10th Cir. 2006), upheld a federal regulation prohibiting compensation (but not the underlying speech) for writing, speaking, or teaching on subjects related to an employee’s “official duties.” *Gibson v. Office of Attorney General, State of California*, 561 F.3d 920, 923 (9th Cir. 2009), upheld a state regulation requiring pre-approval for the “the private practice of law” by government attorneys, which was not constitutionally protected speech. And *Williams v. Internal Revenue Service*, 919 F.2d 745 (D.C. Cir. 1990), much like *Gibson*, upheld a federal regulation requiring written permission for a government-employed attorney to prosecute a private class action, which was also not constitutionally protected activity.²⁴ Here, however,

²³ For reasons already explained, Defendant’s resort to *United States v. National Treasury Employees Union*, 513 U.S. 454 (1995) and its progeny actually solidifies Cochran’s prior restraint claim, rather than supporting its own attempt to secure summary judgment here. See Pl.’s Br. 25-29.

²⁴ Defendant’s citation to the dated *Reichelderfer v. Ihrie*, 59 F.2d 873 (D.C. Cir. 1932), is similarly unavailing. There the court noted that because the general regulation in question was “susceptible of . . . produc[ing] unreasonable results,” courts must “prevent a misapplication . . . by construing and applying it in conformity with its obvious purpose.” *Id.* at 875. Defendant’s attempt to apply its

in contradistinction to this authority, Defendant has applied its pre-clearance policies to speech by a private citizen on a matter of public concern that has no connection to, or conflict with, that citizen's official duties. This is the antithesis of narrow tailoring.²⁵

Defendant also grants itself unbridled discretion in the application of its pre-clearance policies. Its policies lack “narrowly drawn, reasonable, and definite standards to guide” City officials in making their determinations as to what employment to permit and what to restrict. *Bloedorn v. Grube*, 631 F.3d 1218, 1236 (11th Cir. 2011). Furthermore, Defendant's citation to the “specific elements” contained in Section 114-437 and Section 2-820(d) does nothing but show that discernible and workable guideposts are entirely absent from these regulations. Defs.' Br. 27-28. Given Defendant's substantive disagreement with Cochran's book, *see* Pl.'s Br. 6-10, 19, 23-25, it is apparent that it would have permitted Cochran to write and publish his book, if at all, “only by toeing the [City] line.” *Sanjour v. E.P.A.*, 56 F.3d 85, 97 (D.C. Cir. 1995); *see* Reed Dep.

policies to a religious book not implicating the concerns of the City or AFRD is the very type of “misapplication” the *Reichelderfer* court adumbrated.

²⁵ The exception with respect to “single speaking engagements” does not show that Defendant's ethics regulations do not target speech, or that they are narrowly tailored, but rather that they are incoherent. Defs.' Br. 26. For a single speaking engagement could pose a potential conflict of interest just as easily as a single book, yet the former speaker is entirely absolved from participation in the review process, while the other—like Cochran—must apparently submit himself to it upon pain of suspension and termination.

134:3-8 (concluding that it was wrong for Cochran to write a book “that would clearly be offensive to some without getting an approval”). Such unbridled discretion cannot stand.

F. Defendants Violated Cochran’s Right to Procedural Due Process.

Defendants argue that as an unclassified employee who was employed at-will, Cochran had “no property interest in his employment.” Defs.’ Br. 34.

Defendants, however, are mistaken. The City of Atlanta’s Code of Ethics and Code of Ordinances provided Cochran with the very property interest Defendants claim he lacked. *See* Pl.’s Br. 31-35.

Georgia law provides that “personnel rules and regulations may create a property interest if they impose requirements or procedures regarding dismissals which are analogous to requiring cause.” *Brown v. Ga. Dep’t of Revenue*, 881 F.2d 1018, 1026 (11th Cir. 1989). That interest may obtain even where it would appear that an employee’s employment is at-will. *See Doss v. City of Savannah*, 660 S.E.2d 457 (Ga. Ct. App. 2008) (where department SOP established procedures for disciplinary matters, holding that a jury issue existed as to whether plaintiff was an at-will employee, even where employee handbook appeared to establish that she was).

In this case, by explicitly yoking their discipline of Cochran to his alleged

failure to abide by Section 2-820(d) of the City of Atlanta’s Code of Ethics,²⁶ Defendants “impose[d] requirements [and] procedures . . . analogous to requiring cause.” *Brown*, 881 F.2d at 1026. Put simply, once Defendants chose to punish Cochran based on the ethics code, they were required to provide him such “procedural protections as the particular situation demand[ed].” *Morrissey v. Brewer*, 408 U.S. 471, 481 (1972). This means that Defendants were required to provide Cochran the procedures of Section 2-806 of the Code of Ethics. *See* Pl.’s Ex. 1 (detailing the Code’s due process protections, including an independent Board of Ethics investigation, notice and subsequent hearing). *Laskar v. Peterson*, 771 F.3d 1291 (11th Cir. 2014), is instructive on this point.

In *Laskar*, Georgia Tech brought dismissal proceedings against an engineering professor for alleged misappropriation of resources. *Id.* at 1294. Although the professor was provided all the protections promised to him by the Georgia Tech Faculty Handbook and the Board of Regents before he was terminated, he nonetheless claimed that his right to procedural due process had been violated. *Id.* at 1295-96. The Eleventh Circuit disagreed, finding that because Laskar had received the “extensive pre-termination procedures” to which he was entitled by the institution’s own rules, *id.* at 1298, defendants had comported with the due process requirements established by the Supreme Court

²⁶ *See* Yancy Dep. 49, 102.

in *Cleveland Board of Education v. Loudermill*, 470 U.S. 532, 546 (1985) (requiring “oral or written notice of the charges . . . an explanation of the employer’s evidence, and an opportunity to present [one’s] side of the story”). Here, however, where Defendants denied to Cochran the very procedures guaranteed to him by the City of Atlanta’s Code of Ethics, *Laskar* and other controlling authority compel the conclusion that Defendants denied him his right to procedural due process. *See Bass v. City of Albany*, 968 F.2d 1067, 1069 (11th Cir. 1992) (per curiam) (upholding department policy providing for full pre-termination hearing and investigatory proceeding before the City Manager (the hiring and firing authority), at which police officer was entitled to retain counsel and present evidence, as comporting with procedural due process); *Martin v. Guillot*, 875 F.2d 839, 844 (11th Cir. 1989) (after a federal district court had ordered the university to abide by its own procedures providing for a due process committee hearing, finding that due process had been satisfied where university provided administrative employee an opportunity to be heard at a hearing, at which “counsel . . . presented their respective arguments”); *Bowling v. Scott*, 587 F.2d 229, 230 (5th Cir. 1979) (per curiam) (due process satisfied where employee received “painstaking detail[s]” of the charges against him, and was represented by counsel and presented evidence at a faculty committee hearing).

Cochran never received a “meaningful opportunity to invoke the discretion

of the decisionmaker.” *Loudermill*, 470 U.S. at 543. Indeed, although “the time to be heard is prior to the adverse employment action,” *Laskar*, 771 F.3d at 1298, Defendants made both their suspension and termination decisions without permitting Cochran to make his case, merely relaying those determinations to him as *faits accomplis*. See Defs.’ Statement of Facts ¶¶59-60 (Mayor Reed decided to suspend Cochran and Yancy, Byrd, and Godfrey then met to notify Cochran of that suspension); Yancy Dep. 44:12-45:16 (Yvonne Yancy had suspension and termination letters drawn up before Cochran arrived for his suspension meeting); Defs.’ Statement of Facts ¶58 (termination was recommended before speaking to Cochran); Cochran Dep. 200:13-15 (testifying that there was no discussion, but only an explanation, as to Defendants’ suspension decision); Yancy Dep. 47:20-24 (sensitivity training had already been decided upon prior to the suspension meeting); Yancy Dep. 134:1-7 (Cochran was not given “all the reasons” he was being terminated, but was told his “services [were] no longer needed” and that Defendants “decided to go in a different direction”); Geisler Dep. 75:7-13 (Cochran’s request to speak with the Mayor prior to his termination was denied, and that he was instead told that “the proceeding was final. . . [Defendants] were going to move forward . . . the opportunities had all been taken”). In suspending and terminating Cochran

Defendants thus ignored the strictures of *Loudermill* and its progeny.²⁷ As such, they cannot be granted summary judgment on Cochran’s procedural due process claim.²⁸

G. Defendants Cannot Be Granted Summary Judgment on Cochran’s Free Exercise Claim.

Defendants’ discipline of Cochran violates bedrock principles of federal free-exercise jurisprudence. Government efforts to penalize citizens because of their religious beliefs are strictly forbidden under the federal constitution. The state can neither “impose special disabilities on the basis of religious views,” *Employment Division, Department of Human Resources of Oregon v. Smith*, 494 U.S. 872, 877 (1990), nor “target[] religious beliefs” by punishing citizens for holding or expressing them. *Church of the Lukumi Babalu Aye, Inc. v. City of*

²⁷ In addition to the Code of Ethics, Section 114-528 of Atlanta’s Code of Ordinances provides that employees shall be dismissed only “for cause.” This provision is not limited to classified employees. Defendants argue that this provision conflicts with the City Charter, *see* Defs.’ Br. 34-35, but this inconsistency in the City’s regulatory regime should not redound to its benefit here, especially when the ordinance created an expectation of a property interest in employment for Cochran, independent of the Code of Ethics.

²⁸ Contrary to Defendants’ argument, Cochran did not need to file a writ of mandamus prior to bringing his procedural due process claim. While the Eleventh Circuit has held that there is no deprivation of *post-termination* due process where the deprivation can be remedied in state court, *McKinney v. Pate*, 20 F.3d 1550, 1563 (11th Cir. 1994), the government is still required, before it deprives a person of a property interest, to provide “notice and [an] opportunity for hearing appropriate to the nature of the case.” *Loudermill*, 470 U.S. at 542. Here, Defendants provided to Cochran none of the procedures required by *Loudermill* or its own regulations.

Hialeah, 508 U.S. 520, 533 (1993). But by punishing Cochran for expressing his religious beliefs in his book, Defendants violated these axiomatic proscriptions.

Defendants assert that their pre-clearance policies “had no bearing on [Cochran’s] ability to believe, profess, or teach whatever he chooses.” Defs.’ Br. 29. But this is not so—Defendants suspended and terminated Cochran based upon the substance of his religious beliefs.²⁹ See Pl.’s Br. 6-10, 19-25; Yancy Dep. 26:22-27:7, 69:8-9 (revealing that Yancy came away from reading the book feeling personally “offended” and concluded that “the content was problematic” because Cochran “espoused beliefs that were offensive to many different groups”); Shahar Dep. 80:6-81:25 (revealing that LGBT Advisor Robin Shahar and Special Assistant to the Mayor Melissa Mullinax concluded it was “very important that other religious perspectives be put in the public domain,” and detailing their efforts to enlist the Anti-Defamation League to provide one); Mullinax Dep. 35:14-36:9 (same). Because the record shows not forbearance but

²⁹ Thus *Braswell v. Board of Regents of University System of Georgia*, 369 F. Supp. 2d. 1362 (N.D. Ga. 2005) is distinguishable. There the plaintiff had “improperly injected religion into” her work and was instructed not to do so moving forward. *Id.* at 1367. But here, Cochran wrote a book on his own time that he gifted to a small number of co-religionists, most of whom requested it. It was only after Defendants learned of his views that Cochran was suspended and terminated. Cochran was thus punished based on the content of his beliefs, which means that unlike in *Braswell*, Cochran’s free exercise of religion was generally constrained.

rather targeting of Cochran's religious beliefs, Defendants' attempt to deny burdening religious exercise must be rejected.

So too must their asseveration of neutrality and general applicability. *See* Defs.' Br. 30-31. Defendants seek refuge in the fact that their pre-clearance policies do not explicitly "single out religious speech," and apply to all employees regardless of religious belief. *Id.* at 31. But "[o]fficial action that targets religious conduct for distinctive treatment cannot be shielded by mere compliance with the requirement of facial neutrality." *Lukumi*, 508 U.S. at 534. Even if Defendants' pre-clearance policies are not so clumsy as to explicitly target religion outright, their punishing of Cochran based upon his religious beliefs is not thereby cured. Moreover, the record evidence amply demonstrates that Defendants' policies are not generally applicable, because they "selective[ly] impose[d] burdens only on conduct motivated by [Cochran's] religious belief." *Eternal Word Television Network, Inc. v. Sec'y of U.S. Dep't of Health & Human Servs.*, 818 F.3d 1122, 1164 (11th Cir. 2016). Defendants' pre-clearance policies also fail the test of general applicability because they represent a system of individualized government assessments. Section 2-820(d), for instance, exempts "single speaking engagements" and "participation in conferences or on professional panels." And Section 2-820(f) implies that employees except the mayor "may . . . accept honoraria" from non-prohibited sources. Because Defendants condition the

ability of City employees to accept remuneration for speech on the status of the speaker, the medium of the speech (speeches and articles are okay, books apparently are not), and on the subject matter means that their pre-clearance policies cannot be considered generally applicable.

The lack of neutrality and general applicability demands strict scrutiny of Defendants' policies, which means that they must proffer a compelling interest and narrow tailoring to advance that interest. *Lukumi*, 508 U.S. at 546. But Defendants cannot meet that burden. Even assuming that avoiding conflicts of interest constitutes a compelling interest, that interest must be compelling here, under these facts, as applied to Cochran. *See Gonzales v. O Centro Espirita Beneficente Uniao do Vegetal*, 546 U.S. 418, 431 (2006) (courts must "look[] beyond broadly formulated interests" and scrutinize the government's specific interests under particular circumstances of the case). But Defendants had no compelling interest to impose discipline, precisely because Cochran's religious beliefs posed no conflict of interest.³⁰ Moreover, even assuming such an interest was compelling, "the [Code is] not drawn in narrow terms to accomplish" it. *Lukumi*, 508 U.S. at 546. By permitting Cochran to deliver the same speech

³⁰ To the extent that Defendants' argue that the City's nondiscrimination policy constitutes a compelling interest, their claim fails because their own investigation concluded that "[n]o interviewed witness could point to a specific instance in which any member of the organization has been treated unfairly by Cochran." Pl.'s Ex. 13 at 4.

orally for payment instead of in a book, the Code is underinclusive; by targeting his religious speech, which posed no conflict, while leaving unperturbed similar speech in another medium that could pose a conflict, it is overinclusive. This lack of fit is fatal to any assertion of narrow tailoring. *See Republican Party of Minn. v. White*, 416 F.3d 738, 751 (8th Cir. 2005).

Defendants' punishment of Cochran for his religious beliefs also constitutes a religious test, which the Constitution forbids. *See McDaniel v. Paty*, 435 U.S. 618, 629 (1978) (plurality) (holding that a state cannot forbid a minister from holding a legislative office because of his religious exercise); *Torcaso v. Watkins*, 367 U.S. 488, 494 (1961) (stating that "limiting public offices to persons who have . . . a belief in some particular kind of religious concept" is a "historically and constitutionally discredited policy"); U.S. Const. art. VI, cl. 3. Here, Defendants foreclosed Cochran's ability to continue as AFRD Fire Chief because of the religious beliefs he expressed in his book and in speeches before his co-religionists. *See* Pl.'s Ex. 83 (wherein Defendants sent out a press release stating that "there was an issue with [Cochran] espousing [his] beliefs while identifying himself as the Atlanta Fire Chief"). That is improper. *See Torcaso*, 367 U.S. at 495 (holding that a state cannot withhold the office of notary public because of a person's unwillingness to declare a particular religious belief). Thus summary judgment for Defendants is not appropriate on Cochran's Free Exercise claim.

H. Defendant Cannot Be Granted Summary Judgment on Cochran's Freedom of Association Claim.

Defendant mistakenly claims that Cochran has failed to show he engaged in associative activity. Cochran wrote a book to help Christian men fulfill God's purpose for their lives, and that book was a direct outgrowth of a Bible study he undertook at Elizabeth Baptist Church. *See* Am. Comp. ¶¶83-89, 93-94; Cochran Dep. 143:1-6, 106-07. Then, as a member of that church, Cochran made the book available to the broader community, and later shared his testimony as requested by co-religionists of other churches and religious organizations. *See* Cochran Dep. 255:2-256:6, 274-78; Defs.' Dep. Ex. 52.

These associative activities are plainly protected by the Constitution. *See Roberts v. U.S. Jaycees*, 468 U.S. 609, 618 (1984) (recognizing the "right to associate for the purpose of engaging in those activities protected by the First Amendment," including "speech . . . and the exercise of religion"); *Bd. of Dirs. of Rotary Int'l v. Rotary Club of Duarte*, 481 U.S. 537, 544 (1987) (reaffirming the "freedom of individuals to associate for the purpose of engaging in protected speech or religious activities"). Cochran's freedom of association claim thus survives Defendant's challenge.

CONCLUSION

For the foregoing reasons, Defendants' Motion for Summary Judgment should be denied in its entirety.

Respectfully submitted this 20th day of June, 2017.

By: /s/ Kevin H. Theriot

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ATTORNEYS FOR PLAINTIFF

CERTIFICATE OF COMPLIANCE

Undersigned counsel hereby certifies that this document was prepared in Century Schoolbook 13-point font and fully complies with Local Rules 5.1C and 7.1D.

/s/ Kevin H. Theriot
Kevin H. Theriot

CERTIFICATE OF SERVICE

I hereby certify that on the 20th day of June, 2017, the foregoing document was filed with the Clerk of the Court using the ECF system, which will effectuate service on all parties.

/s/ Kevin H. Theriot
Kevin H. Theriot
Attorney for Plaintiff

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

KELVIN J. COCHRAN,

Plaintiff,

v.

**CITY OF ATLANTA, GEORGIA;
and MAYOR KASIM REED, IN
HIS INDIVIDUAL CAPACITY,**

Defendants.

Case No. 1:15-cv-00477-LMM

**PLAINTIFF’S STATEMENT OF
ADDITIONAL FACTS
PURSUANT TO LOCAL RULE
56.1(B)(2)(b)**

Pursuant to Local Rule 56.1(B)(2)(b), Plaintiff submits the following additional material facts that defeat Defendants’ motion for summary judgment:

1. Union President Stephen Borders could have continued to work for Chief Cochran even with the knowledge that Chief Cochran held the religious beliefs expressed in his book. *See* Borders Dep. 108:11-14.

2. Chief Cochran wrote his book “for Christian men who struggle with issues of condemnation.” Cochran Dep. 188:21-24; Pl.’s Ex. 11 at vii (“I thank God for choosing me to deliver this message to redeemed men of the Body of Christ who wrestle with the stronghold of condemnation.”).

3. Chief Cochran's book was not intended to be a condemnation or a singling out of any individual or group. *See Cochran Dep.* 188:21-24, 109:10-11, 191:23-193:1, 209:8-24; Pl.'s Ex. 11 at vii ("Sharing the lesson plan with my brothers on Friday mornings convinced me that more men would be blessed from this study.").

4. Chief Cochran wrote his book to encourage people to "come into a conviction, not to condemnation, to realize that [we] need a Savior." *Cochran Dep.* 209:8-11.

5. Chief Cochran never discriminated against anyone, loves all categories of people, and in his capacity as Fire Chief would have laid down his life for anyone should the circumstances have required it. *Cochran Dep.* 45:21 – 46:6 ("Because the core of our mission is to protect the lives and property of the citizens we serve. . . . people who do what we do for a living have to love . . . all categories of people . . . because . . . we may at any time may have to pay the ultimate sacrifice to lay down our life for a person that we've never met before."); *Yancy Dep.* 102:11-14; *Reed Dep.* 156:10-13; *Geisler Dep.* 47:8-13, 66-67.

6. Because "all have sinned," Chief Cochran considers himself in need of a Savior as well. *Cochran Dep.* 192: 9-18, 176:13-18.

7. The Atlanta Fire and Rescue Doctrine was instituted by Chief Cochran to ensure the department was “ism” free, meaning various “isms” like “racism, sexism, territorialism, and cronyism” were not tolerated. Cochran Dep. at 47:5-20.

8. Chief Cochran’s disciplining of the firefighters involved in the Chick-Fil-A incident is consistent with the Atlanta Fire and Rescue Doctrine and with City nondiscrimination policies. *See* Cochran Dep. 294-297.

9. Chief Cochran was suspended approximately four business days after Defendant City of Atlanta became aware of Chief Cochran’s book. Yancy Dep. 20:23-21:1.

10. Defendant Reed was informed of the book’s contents less than two full business days before directing that Chief Cochran be suspended. Yancy Dep. 20:23-21:1, 22:3-22, 24:23-25:24, 26:7-8, 26:22-27:10, 42:6-11; Reed Dep. 124:7-25.

11. The Ethics Board approved a request from Chief Cochran for outside employment in March 2008. Defs.’ Ex. 4.

12. Chief Cochran called Nina Hickson to discuss his book because it was a “common practice for commissioners and department heads to call

whoever is the subject matter [expert] on an issue” to get advice on the matter.

Cochran Dep. 112:11-113:7.

13. Rule 3 of the City of Atlanta Rules of the Board of Ethics states in part:

Rule 3. Informal Advice

3.1 Verbal or Written Request. The Ethics Code gives the ethics officer the duty to advise all city officials and employees about the provisions of the code. The official or employee may seek advice in writing, over the telephone, or in person.

3.2 Time and Content of Opinions. The ethics officer shall respond to each request in a timely manner. Routine inquiries should be answered within seven days and no later than fourteen days after receipt. The ethics officer may give a written or verbal response.

14. The acknowledgement portion of the City of Atlanta Employee Ethics Pledge, which Kelvin Cochran signed on June 21, 2010, states in part: “I understand . . . that I can seek advice from the Ethics Office or Board of Ethics if I need guidance on how to avoid a conflict of interest and comply with the Code of Ethics.” Defs.’ Ex. 12.

15. On October 31, 2012, Chief Cochran inquired of City Ethics Officer Nina Hickson by phone whether he needed to seek approval from the Board of Ethics to write and publish a non-city related book. Hickson Dep. 52:14-16, 53:8-10; Cochran Dep. 108:3-15.

16. Nina Hickson did not tell Chief Cochran that he needed to seek approval for his book from the Board of Ethics. Hickson Dep. 52:25-53:3 (“Q. So you did not advise him that it’s a matter that he should bring to the ethics board? . . . A. No.”), 52:19-20 (“I didn’t advise him of anything other than to say that this is an ethics matter.”).

17. Ms. Hickson did not tell Chief Cochran that he needed to seek approval from Mayor Reed or inform Mayor Reed of his book. Hickson Dep. 52:19-20 (“I didn’t advise him of anything other than to say that this is an ethics matter.”)

18. When Ms. Hickson advises someone that they need to seek approval from the Board of Ethics, her notes typically reflect that guidance. Hickson Dep. 58:8-15 (testifying that if she “told someone that they needed ethics board approval . . . for something” her notes would “typically” reflect that).

19. Ms. Hickson’s notes from her telephone conversation with Chief Cochran on October 31, 2012 “regarding [the] non-city-related book he [was] authoring” do not indicate any directive to seek approval from Mayor Reed or from the Board of Ethics. Hickson Dep. 44:14-21; Pl.’s Ex. 23 at 1.

20. Chief Cochran understood Ms. Hickson's response to his inquiry regarding writing a non-city-related book to be that he could go forward without seeking approval from the Board of Ethics. Cochran Dep. 110:11-18 (testifying he understood "that it was permissible."); *see generally* Cochran Dep. 108-111; Cochran Dep. 111:3-13 ("Q. . . . Based on your description of it, she said that it sounded as if it was fine. A. Yes. Q. Consequently, you did not understand that you were denied permission to proceed with your book by Ms. Hickson, correct? A. No. My understanding of our conversation was I was given the permission to go forward. Q. It was green lighted? A. Yes.").

21. Chief Cochran sought advice from Ms. Hickson on or about July 9, 2013, as to whether it was permissible for him to engage in a multi-level marketing business, called Life Leadership. Cochran Dep. 125:13-126:16.

22. Ms. Hickson told Chief Cochran that he would need to seek permission from the Board of Ethics and the Mayor in order to engage in that multi-level marketing venture. Cochran Dep. 126:13-16; Hickson Dep. 46:25-47:6, 47:22-48:17.

23. Ms. Hickson's notes from her phone conversation with Chief Cochran, dated July 9, 2013, with regard to that multi-level marketing

venture, state: “told him to clear it with the mayor and then get authorization from the Board of Ethics.” Hickson Dep. 48:15-17, 49:19-50:5; Pl.’s Ex. 23 at 2.

24. Chief Cochran ultimately decided not to take part in the multi-level marketing venture. Cochran Dep. 126:18-19.

25. Chief Cochran received permission from Nina Hickson to identify himself in the “About the Author” section of his book as AFRD Fire Chief. Cochran Dep. 127:5-8, 147:3-8, 18-21; Hickson Dep. 58:24-59:8 (testifying that Ms. Hickson’s notes could pertain to this request by Chief Cochran).

26. On a separate occasion, Ms. Hickson told Chief Cochran that she looked forward to reading his book. Hickson Dep. 57:12-21.

27. Anne Torres gave an interview to WSB reporter Aaron Diamant concerning Chief Cochran’s book and his suspension, but she did not permit Chief Cochran to speak. Torres Dep. 33-35.

28. Defendants, in addition to releasing the Mayor’s Facebook post commenting on the matter, released a number of statements concerning Chief Cochran’s suspension to the press. *See* Pl’s Ex. 69 (stating that Mayor Reed was “deeply disturbed by the sentiments expressed in [Chief Cochran’s book]”) & 70 (responding to a reporter’s inquiry and stating, before the investigation

had concluded, that “[t]here are a number of passages in the book that directly conflict with the City’s non-discrimination policies”).

29. Comments objecting to Defendants’ treatment of Chief Cochran began “right away” after news of his suspension was posted on the Mayor’s Facebook page. Reed. Dep. 136:1-24; Yancy Dep. 109:8-22.

30. After Defendants’ statements concerning Chief Cochran’s suspension were publicly broadcast, the issue of Chief Cochran’s suspension became widely known, and fellow Christians asked Chief Cochran to share his testimony with them as a result. Cochran Dep. 265:1-8, 268:16-22, 271:8-12, 274:23-275:5.

31. Defendants gave Chief Cochran no written instructions as to their expectations during his suspension. *See* Cochran Dep. 222:23, 267:1-2.

32. A number of churches and religious organizations offered their assistance to Chief Cochran during his suspension. *See* Cochran Dep. 254:22-255:1, 265:4-8.

33. Chief Cochran reviewed plans of assistance created by those who volunteered to help him, but he did not create or implement those plans. *See* Cochran Dep. 254:22-255:1, 265:4-8.

34. Chief Cochran accepted offers of assistance from co-religionists because he found it helpful in dealing with the stress brought about by his public suspension. Cochran Dep. 265:1-4 (testifying that “at the time [his suspension] was taking place, due to the tremendous amount of stress and pressure, support from my church . . . really was helpful.”).

35. At the time Chief Cochran was terminated, Defendants knew no details of the efforts of support for Chief Cochran undertaken by various churches and organizations during his suspension, nor did they have any knowledge of his communications with these churches or organizations. *See* Yancy Dep. 128:23-129:1 (admitting that Defendant did not terminate Chief Cochran based upon facts related to the support he received from churches and religious organizations during his suspension), 128:10 (“At the time I didn’t know that, but I know it now . . .”); Reed Dep. 137:11-24 (revealing the Defendants only became aware of support for Chief Cochran from churches and other religious organizations, and of Chief Cochran’s communications with them, during discovery).

36. Chief Cochran did not speak to the various religious organizations (who requested him to share his testimony) in order to discuss his suspension. *See* Cochran Dep. 256:2-6. (revealing that during his speech to the Georgia

Baptist Convention, Chief Cochran stated that he did not come to talk about his suspension).

37. The purpose of Chief Cochran's appearance at the Georgia Baptist Convention was to "share[] [his] testimony . . . which is a common Christian practice." Cochran Dep. 260:14-20, 255:21-24.

38. Chief Cochran briefly alluded to his suspension at the beginning of his talk to the First Baptist Church of Newnan, because his "invitation to speak was extended based on" news of that suspension. Cochran Dep. 274-75.

39. Defendants did not "typically talk about employment matters to the media," and preferred to "reserve comments surrounding suspensions or terminations." Byrd Dep. 44:2-5.

40. Defendants' "policy [was] to not talk about employment matters." Yancy Dep. 71:12-13; 139:1-8.

41. Defendants publicly announced Chief Cochran's suspension and termination. Pl.'s Exs. 10 & 49; Torres Dep. 32-35.

42. In the "About the Author" section of his book Chief Cochran noted that he was at the time of publication currently "serving as AFRD Fire Chief." Pl.'s Ex. 11 at v.

43. Chief Cochran also later noted in his book that he considered his religious faith central to carrying out his mission as a fire professional. *Id.* at 76.

44. It is Defendants' position that employees need to "get permission . . . to do anything outside of work," even if compensation is only possible or perceived. *See* Yancy Dep. 88:3-5, 52:5-7.

45. Commissioner of Human Resources Yvonne Yancy, Chief of Staff Candace Byrd, and Chief Counsel Bob Godfrey met with Chief Cochran to inform him that Mayor Reed had decided to suspend him. Cochran Dep. 200:4-6; *see also* Defs.' Statement of Facts at ¶¶59-60.

46. Yvonne Yancy had a suspension notice drawn up prior to that suspension meeting, along with a termination letter, which action she recommended to Mayor Reed even before speaking to Chief Cochran at the suspension meeting. Yancy Dep. at 44:12-45:16; Defs.' Statement of Facts ¶58.

47. Before informing him of his suspension, Defendants decided that sensitivity training would be required of Chief Cochran. Yancy Dep. 47:20-24.

48. Chief Cochran was not given "all the reasons" he was being terminated at his termination meeting, but was merely told that his "services

are no longer needed” and that Defendants “decided to go in a different direction.” Yancy Dep. 134:1-7.

49. Chief Cochran’s request to speak with Mayor Reed prior to his termination was denied, and he was instead told that “the proceeding was final. . . [Defendants] were going to move forward . . . the opportunities had all been taken.” Geisler Dep. 75:11-13.

50. After becoming aware of Chief Cochran’s book, LGBT Advisor Robin Shahar and Special Assistant to the Mayor Melissa Mullinax concluded that it was “very important that other religious perspectives be put in the public domain.” Shahar Dep. 80-81; Mullinax Dep. 35:14-36:9.

51. In order to accomplish this they enlisted the Anti-Defamation League to provide a different religious perspective from that provided by Chief Cochran in his book. Shahar Dep. 80-81; Mullinax Dep. 35:14-36:9.

52. The Anti-Defamation League later sent a letter to Mayor Reed encouraging him to terminate Chief Cochran. Pl’s Ex. 12.

53. In its letter the Anti-Defamation League concluded that Chief Cochran’s religious beliefs were incompatible with the City’s nondiscrimination policy. *Id.* (“The statements of personal belief contained in the book blatantly contradict [the City’s nondiscrimination] policy.”).

54. Defendants admitted to the public that they disciplined Chief Cochran based on the content of his book. Pl.'s Ex. 83 (revealing that on February 19, 2015, the Mayor's Director of Communications Anne Torres responded to an inquiry from an NBC reporter by stating in part that Chief Cochran was disciplined because "he was espousing theories in the workplace about certain groups of people that were in conflict with the City's nondiscrimination policy," and because of "his espousing these beliefs while identifying himself as the Atlanta Fire Chief").

55. Chief Cochran's book, which was written to help Christian men fulfill God's purpose for their lives, was a direct outgrowth of a Bible study he undertook at Elizabeth Baptist Church. *See* Am. Comp. ¶¶83-89, 93-94; Cochran Dep. 143:1-3, 106-07; Pl.'s Ex. 11 at vii.

56. Chief Cochran later shared lessons from his book with co-religionists in the broader Christian community, at the request of other churches and religious organizations. *See* Cochran Dep. 255:2-256:6, 274-78; Defs.' Ex. 52.

57. The book was made available online at Amazon and Barnes & Noble because that was the most efficient "mechanism[] of distributing the book to Christian men." Cochran Dep. 80:8-18.

58. Chief Cochran did not write the book in order to make a profit. *Id.*

59. Defendants “did not know” whether Chief Cochran profited from the book, only that it was “for sale.” Yancy Dep. 51:16-52:5; *see also id.* at 52:1-2 (testifying “Perhaps he donated it. I don’t know.”).

Respectfully submitted this 20th day of June, 2017.

By: /s/ Kevin Theriot

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ATTORNEYS FOR PLAINTIFF

CERTIFICATE OF COMPLIANCE

Undersigned counsel hereby certifies that this document was prepared in Century Schoolbook 13-point font and fully complies with Local Rules 5.1C and 7.1D.

/s/ Kevin Theriot
Kevin Theriot

CERTIFICATE OF SERVICE

I hereby certify that on the 20th day of June, 2017, a copy of the foregoing Plaintiff's Statement of Additional Facts Pursuant to Local Rule 56.1(B)(2)(b) was filed with the Clerk of the Court using the ECF system, which will effectuate service on all parties.

/s/ Kevin H. Theriot
Kevin H. Theriot
Attorney for Plaintiff

Table of Contents

Attachments Relating to Plaintiff's Response to Defendants' Motion for Summary Judgment

<u>Exhibit No.</u>	<u>Description</u>
23	Hand-written note of Nina Hickson
49	Emails from Robin Shahar dated 11/24/14
69	Emails from Anne Torres dated 11/25/14
133	City of Atlanta Rules of the Board of Ethics
134	Yancy deposition page excerpts
135	Wan deposition page excerpts
136	Torres deposition page excerpts
137	Shahar deposition page excerpts
138	Mullinax deposition page excerpts
139	Geisler deposition page excerpts
140	Byrd deposition page excerpts
141	Borders deposition page excerpts
142	Hickson deposition page excerpts
143	Reed deposition page excerpts
144	Cochran deposition page excerpts
145	Memo from Cochran to Ethics Officer dated 2/27/08 (Defendant's Cochran Deposition Exhibit 4)
146	City of Atlanta Employee Ethics Page dated 6/21/10 (Defendant's Cochran Deposition Exhibit 12)
147	NewsRoom post dated 4/21/16 (Defendant's Cochran Deposition Exhibit 52)

31 Oct 2012

T/C 10:34 am

Adressi regarding non-city-related
book he is authoring.

Will check back w me in about
6 mos.

Left
message w
Bob Hodgney
c 10:48 a.
Mundy, 24 Nov 2014

PLAINTIFF'S
EXHIBIT
23
2/16/17 SB
FENGAD 800-631-0999

2:22pm

9 July 2013

T/C Fire Chief Cochran -

meeting in book

advice → Leadership Assoc.

Assoc.

MUM

get a percentage of profit

— told him to clean up
Mayer

— then get authority
for Board of Ethics

-----Original Message-----

From: Shahar, Robin
Sent: Monday, November 24, 2014 10:41 AM
To: Torres, Anne; Mullinax, Melissa; Yancy, Yvonne Cowser
Cc: Geisler, Michael; Taylor, Katrina; Byrd, Candace; Godfrey, Robert
Subject: RE: Circle Up

I can meet now - please let me know if we are doing so.

-----Original Message-----

From: Torres, Anne
Sent: Monday, November 24, 2014 10:40 AM
To: Shahar, Robin; Mullinax, Melissa; Yancy, Yvonne Cowser
Cc: Geisler, Michael; Taylor, Katrina; Byrd, Candace; Godfrey, Robert
Subject: RE: Circle Up

I am in my office. If anyone on this email is available, can we meet now in Communications?

-----Original Message-----

From: Shahar, Robin
Sent: Monday, November 24, 2014 10:39 AM
To: Mullinax, Melissa; Yancy, Yvonne Cowser; Torres, Anne
Cc: Geisler, Michael; Taylor, Katrina; Byrd, Candace; Godfrey, Robert
Subject: RE: Circle Up

I know we will likely meet soon, but wanted to mention this because I think it's important. I would not state anything about disciplinary action or ensuring it doesn't happen again. We can talk about why in-person, but request that those types of phrases be omitted.

("If disciplinary action is recommended as a result of the investigation, the Administration will take action to ensure that this does not happen again. ")

-----Original Message-----

From: Mullinax, Melissa
Sent: Monday, November 24, 2014 10:31 AM
To: Yancy, Yvonne Cowser; Torres, Anne; Hampton, Cathy D.
Cc: Geisler, Michael; Taylor, Katrina; Byrd, Candace; Shahar, Robin; Godfrey, Robert
Subject: RE: Circle Up

Anne, YY, Katrina, Bob - any others who are in...perhaps we should all sit down together?

-----Original Message-----

From: Yancy, Yvonne Cowser
Sent: Monday, November 24, 2014 10:30 AM
To: Torres, Anne; Hampton, Cathy D.; Mullinax, Melissa
Cc: Geisler, Michael; Taylor, Katrina; Byrd, Candace
Subject: RE: Circle Up

Calling in 2 min.



Y

-----Original Message-----

From: Torres, Anne
Sent: Monday, November 24, 2014 10:21 AM
To: Yancy, Yvonne Cowser; Hampton, Cathy D.; Mullinax, Melissa
Cc: Geisler, Michael; Taylor, Katrina; Byrd, Candace
Subject: RE: Circle Up

YY-

Call me when you can. I'm on my cell.

~Anne

-----Original Message-----

From: Yancy, Yvonne Cowser
Sent: Monday, November 24, 2014 10:12 AM
To: Torres, Anne; Hampton, Cathy D.; Mullinax, Melissa
Cc: Geisler, Michael; Taylor, Katrina; Byrd, Candace
Subject: RE: Circle Up

This is not accurate. We have been told by employees it was distributed in a command staff meeting. I stopped investigating based on the feedback meeting from last week. We should not say it was not distributed given that he apparently autographed copies.

YY

-----Original Message-----

From: Torres, Anne
Sent: Monday, November 24, 2014 10:01 AM
To: Hampton, Cathy D.; Mullinax, Melissa
Cc: Geisler, Michael; Taylor, Katrina; Yancy, Yvonne Cowser; Byrd, Candace
Subject: RE: Circle Up

Hi Everyone-

I have been in contact with the Mayor this morning. As you know, WSB is working on a story about the book for today's evening newscast. Aaron Diamant will be here at City Hall shortly to interview Councilmembers, specifically Alex Wan. I have denied their request to interview Chief Cochran. I am planning on doing a short interview to state the Administration's position. Points include:

- The Administration is currently looking the facts surrounding a book that was published by Chief Kelvin Cochran.
- At this time, there is no evidence to show that the book has been distributed to employees.
- The Administration has a no-tolerance policy on discrimination of any kind.
- If disciplinary action is recommended as a result of the investigation, the Administration will take action to ensure that this does not happen again.

If you have anything to add, please let me know as soon as possible.

Thanks,
Anne

-----Original Message-----

From: Hampton, Cathy D.
Sent: Thursday, November 20, 2014 10:55 AM
To: Mullinax, Melissa
Cc: Torres, Anne; Hampton, Cathy D.; Geisler, Michael; Taylor, Katrina; Yancy, Yvonne Cowser; Byrd, Candace
Subject: Re: Circle Up

I am heading to the second floor.

> On Nov 20, 2014, at 10:38 AM, "Mullinax, Melissa" <MJMullinax@AtlantaGa.Gov> wrote:

>

> I am leaving a meeting at the airport. I can be there at 11.

>

> Sent from my iPhone

>

>> On Nov 20, 2014, at 10:29 AM, "Torres, Anne" <amtorres@AtlantaGa.Gov> wrote:

>>

>> I am home today with a sick kid, but available my phone at any time.

>>

>> Sent from my iPhone

>>

>>> On Nov 20, 2014, at 10:28 AM, Hampton, Cathy D. <cdhampton@AtlantaGa.Gov> wrote:

>>>

>>> How quickly can we circle up on a time-sensitive employment matter? Thank you.

From: Torres, Anne
Sent: Tuesday, November 25, 2014 5:28 PM
To: Jonathan Shapiro
Cc: atlmedia
Subject: RE: Interview request from WABE

I was surprised and disappointed to learn of this book on Friday. I profoundly disagree with and am deeply disturbed by the sentiments expressed in the paperback regarding the LGBT community. I will not tolerate discrimination of any kind within my administration.

We are conducting a thorough review of the facts surrounding the book and its distribution. In the interim, I have directed that the following steps be taken:

- Chief Cochran will be suspended for one month without pay;
- Chief Cochran will be required to complete sensitivity training;
- Chief Cochran will be prohibited from distributing the book on city property; and
- Deputy Chief Joel G. Baker will serve as Acting Fire Chief in Chief Cochran's absence.

I want to be clear that the material in Chief Cochran's book is not representative of my personal beliefs, and is inconsistent with the Administration's work to make Atlanta a more welcoming city for all of her citizens - regardless of their sexual orientation, gender, race and religious beliefs.

-----Original Message-----

From: Jonathan Shapiro [mailto:jshapiro@wabe.org]
Sent: Tuesday, November 25, 2014 11:55 AM
To: Torres, Anne
Cc: atlmedia
Subject: RE: Interview request from WABE

Sounds good, standing by for the statement.

-----Original Message-----

From: Torres, Anne [mailto:amtorres@AtlantaGa.Gov]
Sent: Tuesday, November 25, 2014 11:09 AM
To: Jonathan Shapiro
Cc: atlmedia
Subject: Re: Interview request from WABE

Hey Jonathan-

We released a statement yesterday. I will forward it to you. No other interviews on this today.

Thanks,
Anne

Sent from my iPhone

On Nov 25, 2014, at 10:59 AM, Jonathan Shapiro <jshapiro@wabe.org<mailto:jshapiro@wabe.org>> wrote:



Hi Anne, hope this finds you well. We're doing a story about the fire chief's book. I read in the AJC that the mayor is concerned. Can we get him on the phone to talk about the concerns he has and what he feels needs to happen now? Don't see it taking longer than a few minutes. It's for a story to be aired on All Things Considered.

Thanks,

Jonathan Shapiro

Reporter

WABE, Atlanta's NPR Station

Office: 678-686-0333

Cell: 404-431-8484

Twitter: @jmshapiro

www.wabe.org<<http://www.wabe.org>>



City of Atlanta Rules of the Board of Ethicsⁱ

Rule 1. Jurisdiction

1.1 Ethics Jurisdiction. The Board of Ethics has jurisdiction to consider matters that are raised in connection with sections 2-801 to 2-825 of the City of Atlanta's Code of Ordinances, commonly known as the Code of Ethics.

Rule 2. Formal Advisory Opinions

2.1 Written Request Required. The Code of Ethics gives the Board of Ethics the authority to render advisory opinions based on a real or hypothetical set of circumstances. The request must be in writing and come from a city official, employee, board member, or other individual who is personally involved in a matter requiring interpretation of the ethics code.

2.2 Content of Opinions. The board shall consider any request for an advisory opinion at its next regularly scheduled board meeting and attempt to issue an opinion within 90 days of the request. Each board opinion shall be in writing and state the facts, issue presented, decision of the board, and reasons for its ruling. A majority vote of the members present at any meeting shall govern the board's decision, provided that at least four members vote.

2.3 Guidance on Future Conduct. Advisory opinions are intended to provide guidance to officials and employees on proposed future conduct or actions.

2.4 Discretion of the Board. The Board has the discretion to determine when to issue an advisory opinion and reserves the right to decline to answer a question raised. Among the factors considered in deciding when to issue an opinion are:

- (a) does the issue fall within the board's jurisdiction,
- (b) does the opinion provide guidance on future conduct,
- (c) does the question raise a new policy issue,
- (d) is the issue one of general application that may affect others,
- (e) is the issue likely to be the subject of a controversy or dispute, and
- (f) does the board need to reconsider a previous opinion due to changed facts or circumstances.

2.5 Distribution. Copies of the board's formal advisory opinions shall be sent to the Mayor, City Council President, and City Council members and posted on the Board of Ethics website.

2.6 Reliance on Opinion as Defense to Complaint. Individuals who fully disclose all relevant facts may rely on the opinion for guidance, and their compliance with the opinion shall serve in mitigation in any proceeding brought against them for violating the Ethics Code.

2.7 Outside Employment Requests. The Code of Ethics gives the board responsibility for approving outside employment of all employees who work as department heads, deputy

department heads, and bureau directors. The request must be in writing and state the type and place of employment, the proposed work hours, and the employer's name and address. The board shall provide written approval or disapproval within 30 days. If no board meeting is scheduled during the 30-day period, then the members of the advice committee shall review the request and report the committee's decision to the full board at its next regularly scheduled monthly meeting.

Rule 3. Informal Advice

3.1 Verbal or Written Request. The Ethics Code gives the ethics officer the duty to advise all city officials and employees about the provisions of the code. The official or employee may seek advice in writing, over the telephone, or in person.

3.2 Time and Content of Opinions. The ethics officer shall respond to each request in a timely manner. Routine inquiries should be answered within seven days and no later than fourteen days after receipt. The ethics officer may give a written or verbal response. When the ethics officer writes an informal advisory letter that addresses an issue that the board has not previously considered, the letter should state that it is the ethics officer's informal opinion and not the formal opinion of the board.

3.3 Referral of Issues to Board. The board's chairperson shall appoint a committee on advisory opinions composed of three board members with whom the ethics officer can consult as needed about the proper interpretation of the code. The committee shall periodically review the informal written advice of the ethics officer to determine whether any question should be referred to the board for its review. In addition, the ethics officer may bring any inquiry or informal advisory opinion involving a novel, recurring, or unsettled issue before the board for its consideration.

3.4 Public Record. Both formal and informal opinions are subject to the Open Records Act, and the formal advisory opinions shall be posted on the board's website.

3.5 Reports to the Board. The ethics officer shall report annually to the board on advice given during the year.

Rule 4. Complaints

4.1 Reporting Violations. Any person or entity may report a violation of the Code of Ethics by filing a written complaint with the Ethics Office or Board of Ethics on a form prepared by the office or by communicating with the ethics officer.

4.2 Written Complaints. To be considered, any written complaint should contain the following information:

- (a) the name and address of the person filing the complaint;
- (b) the name and address of the party against whom the complaint is filed;
- (c) a clear and concise statement of facts on which the complaint is based, including dates, times, places, and actions;
- (d) a general reference to the provisions of the Code of Ethics that apply;
- (e) any further information that might support the allegations, including the names, phone numbers, and addresses of other persons with knowledge of the facts and any documents that support the allegations; and
- (f) the sworn verification and signature of the person filing the complaint.

4.3 Anonymous Complaints. The ethics officer may also receive anonymous complaints that are made in good faith and with sufficient specificity to provide salient and investigable facts. Any complaint should identify the following:

- (a) the person who is alleged to have committed the violation,
- (b) the facts on which the complaint is based,
- (c) the provisions of the ethics code that have been violated, and
- (d) any evidence that may support the allegations.

4.4 Initiation of Complaints. The Board of Ethics or ethics officer may, on their own initiative, determine that a violation may exist and prepare a written complaint. They may also amend a previously filed complaint by adding allegations supported by the facts or dismissing allegations that do not constitute a violation of the Code of Ethics.

4.5 Review for Jurisdiction. The ethics officer shall determine within five business days of receipt of a complaint whether it alleges a violation of the City of Atlanta's Code of Ethics. If the ethics complaint does not contain the necessary information under rule 4.2 or 4.3, the ethics officer shall advise the complainant of the defect and the need to correct it before the complaint will be considered. If the ethics officer determines that the complaint does not allege any act that, if true, would constitute a violation of the Code of Ethics, then the ethics officer shall dismiss the complaint and notify the complainant without requiring any formal board action.

4.6 Notice to Respondents. Upon the ethics officer determining that a complaint meets the requirements in rules 4.2, 4.3 and 4.5, the ethics officer shall send written notice by the next business day to the respondent against whom the complaint was filed. A copy of the complaint and any supporting documents, if available, shall accompany the notice.

4.7 Response to Allegations. The respondent shall file a written response to the complaint within 30 days of its receipt.

4.8 Confidentiality and Public Disclosure. Each complaint shall be deemed a separate pending investigation at the time it is reported. The board's records in any pending investigation are exempt from disclosure under the Georgia Open Records Act. Complaints shall be made publicly available on request ten days after the ethics officer closes the case as not sustained or sends the probable cause report to the board.

4.9 Reports to the Board. The ethics officer shall report annually to the board on the complaints received and their disposition.

Rule 5. Investigations

5.1 Preliminary Investigation of Complaint. The ethics officer shall conduct a preliminary investigation of any complaint over which the Board of Ethics has exclusive jurisdiction.

5.2 Initiation of Investigations. The ethics officer may initiate an investigation into suspected violations of the Code of Ethics as necessary. The board also has the authority to investigate any alleged violation based on a sworn written complaint by any person, the request of the ethics officer, or a decision by a majority of the board that the matter should be investigated.

5.3 Referral to Other Agencies. If another city employee, department, or agency is investigating the same complaint or similar allegations, the ethics officer may defer any investigation until the other investigation or proceeding is completed. In addition, the ethics officer may refer a complaint for investigation to other departments or agencies that have authority over the matter.

Complaints that allege violations of criminal laws shall be reported to the appropriate city, state, or federal law enforcement agencies.

5.4 Administrative Dismissal. The ethics officer may dismiss a complaint when a preliminary investigation determines that the board does not have jurisdiction, the board has previously considered and dismissed similar allegations, the evidence does not support the allegations, or the complaint expresses conclusions or opinions without any specific, actionable allegations. The ethics officer shall provide a quarterly report to the board on all complaints that are dismissed administratively.

5.5 Subpoenas. The board may issue subpoenas to compel any person to appear, give sworn testimony, or produce documents or other evidence during an investigation or hearing before the board. Persons who fail to respond to subpoenas may be subject to penalties.

5.6 Probable Cause Report. After conducting an investigation, the ethics officer shall provide a written report to the board. The report shall state the officer's findings and recommendation concerning whether there is probable cause to believe that the Code of Ethics has been violated. "Probable cause" means cause that would induce a reasonably intelligent and prudent person to believe that a person has committed an act constituting a violation of the City's Code of Ethics.

5.7 Notice of Respondent. The ethics officer shall send a copy of the probable cause report to the respondent and give notice of a hearing date. Any respondent who wishes to appear before the board must first file a written response to the probable cause report, stating the facts and issues on which the respondent disagrees with the report. The response is due 14 days from the date the probable cause report is received. Failure to file a written response will constitute a waiver of the respondent's right to address the board.

5.8 Probable Cause Hearing. The ethics officer and respondent or their representatives shall present arguments to the board at a public hearing on the issue of probable cause. The probable cause hearing is not an evidentiary hearing.

5.9 Probable Cause Decision. After hearing arguments and reviewing the probable cause report and response, the board shall determine whether there is probable cause that the person has violated a provision of the Code of Ethics. If the board determines that probable cause does not exist, it shall dismiss the complaint and notify the complainant and respondent of its decision.

Rule 6. Enforcement Hearings

6.1 Notice of Hearing. After a finding of probable cause, the board shall give notice to the complainant and respondent and set the matter down for a public hearing to determine whether a violation of the Code of Ethics has occurred. The notice shall state the specific provisions of the ethics code alleged to have been violated.

6.2 Pretrial Conference. A pretrial conference shall be held between the ethics officer and respondent to identify the disputed facts and issues for the board to decide.

6.3 Record of Hearing. The board may contract for the services of a court reporter or a person adept at shorthand reporting or mechanical transcribing devices to take down the proceedings at the enforcement hearing.

6.4 Board's Legal Counsel. The board may request that the city attorney provide an attorney from that office to advise the board. In the event of a conflict with the city attorney's office, the board may select another attorney to provide pro bono services to the board.

6.5 Testimony. All testimony shall be under oath, which the presiding officer shall administer to the witnesses. The members of the Board of Ethics may question witnesses.

6.6 Rights of Witnesses. Any person who appears before the board shall have all of the due process rights, privileges, and responsibilities of a witness appearing before the courts in the state. The board shall be fundamentally fair in its administration of evidence and follow the rules of evidence that apply in contested cases under the Georgia Administrative Procedures Act.

6.7 Rights of the Respondent. The respondent has the right to attend the hearing; be represented by counsel or another representative; present oral or written documentary evidence that is not irrelevant, immaterial, or unduly repetitious; and examine and cross-examine witnesses.

6.8 Rights of Persons Adversely Affected. Any person who is adversely affected by comments made during the hearing may appear personally before the board or file a written sworn statement for incorporation into the record.

6.9 Deliberations. At the conclusion of the proceedings concerning an alleged violation, the board shall immediately begin deliberations on the evidence and proceed to determine by a majority vote of the members present whether there has been a violation. In no event shall a decision of the board be voted on by fewer than four members.

6.10 Standard of Evidence. The board's decision shall be governed by the preponderance of the evidence standard.

6.11 Public Disclosure. The board's findings and the record of the proceedings shall be made public as soon as practicable after the board has rendered its decision.

Rule 7. Disposition of Cases

7.1 Disposition. At the end of the enforcement hearing, the board may dismiss the case if no violation is found. If a violation is found, the board may enter an order to cease and desist from all violations, order the filing or amending of any deficient disclosure statement, and impose any penalties provided by law.

7.2 Civil Penalties. The board may assess an administrative sanction of up to \$1,000 for each violation and issue a public reprimand for violations. All civil penalties imposed by the board shall be made payable to the City of Atlanta and deposited in the General Fund.

7.3 Recovering Gratuities. The value of any gratuity transferred or received in violation of the Code of Ethics may be recovered from the entity providing it or the recipient. Any funds recovered shall be deposited in the City of Atlanta General Fund.

7.4 Recommendations. The board may recommend disciplinary actions for violations by employees, including oral admonishment, written reprimand, demotion, suspension with pay, suspension without pay, and dismissal. If the violation involves a company doing business with

the city, the board may recommend to the Department of Procurement that the contractor be suspended, disqualified, or debarred from contracting or subcontracting with the city.

7.5 Right of Review. The decision of the board shall be final. The proceeding shall be subject to review by writ of certiorari to the Fulton County Superior Court.

7.6 Criminal Proceedings. Nothing in these rules is intended to eliminate the right of any person under section 2-803 of the Code of Ethics to institute a proceeding in municipal court.

Rule 8. Financial Disclosure

8.1 Failure to Comply. Any person who fails to file a timely and complete financial disclosure statement without reasonable cause is a delinquent filer under section 2-814 of the Code of Ethics and shall be subject to administrative sanctions for non-compliance.

8.2 Reasonable Cause. Requests for exceptions to the filing requirement based on reasonable cause shall be reviewed on an individual basis and granted by the ethics officer or the Board of Ethics.

8.3 Notice of Non-Compliance. The ethics officer will notify persons who fail to file a timely and complete financial disclosure statement by mailing a notice of non-compliance. This warning letter shall state the way in which the individual has not complied with the law.

8.4 Presumption of Receipt of Notices. All notices shall be sent by regular first class mail to the filer's current address contained in the personnel or board records of the City of Atlanta. There is a presumption that the notice is received by the filer when it is not returned to the Ethics Office as undeliverable.

8.5 Ethics Officer's Report. After the filing deadline has passed, the ethics officer shall present to the Board of Ethics an annual report of all persons required to file a financial disclosure statement under section 2-814. The report shall specify those persons who have complied with the filing requirements, filed a late statement, filed an incomplete statement, failed to file a disclosure statement, or had reasonable cause for failing to comply.

8.6 Fine for Late Filing. Any person who files a statement after the end of the grace period is subject to a fine for filing late. This penalty applies to all city officials, elected or appointed, and city employees who are required to file. **The board adopts the following fines for 2017 late filers:**

Filing by	Fine
April 17	No fine - grace period
May 1	\$50
May 15	\$100
May 29	\$150
June 12	\$200
On or after June 13	\$250

If a filing date falls on a weekend or holiday, then the deadline is extended to the next regular business day. A decision by the Board to extend the filing deadline or grace period will extend the dates that sanctions are imposed.

8.7 Payment of Fine. Any fine for late filing is due in full at the time of the filing.

8.8 Failure to Pay a Fine. Any person who fails to pay a fine owed for filing after the grace period is subject to an increased penalty for their failure to pay, provided that the maximum penalty for the first offense shall not be more than \$500.

8.9 Failure to File. Any person who fails to file the annual financial disclosure statement is a nonfiler and subject to a maximum penalty of \$500 for the first offense.

8.10 Repeat violators. At the board's discretion, the penalty may be increased up to \$1,000 for second or subsequent violations of the financial disclosure laws.

8.11 Roll of Delinquent Filers. The Ethics Office shall publish a Roll of Delinquent Filers that includes persons who have not complied with the city's disclosure requirements due to their failure to file any statement, filing after the grace period, filing an incomplete statement, or failure to pay the fine for filing late.

8.12 Notice of Delinquency. The ethics officer will notify persons who are found delinquent and listed on the Roll of Delinquent Filers by mailing a notice of delinquency. The notice shall state the way in which the individual has not complied with the law.

8.13 Right to Administrative Review. Any person found delinquent or owing a fine may seek an administrative review before the ethics officer by filing an appeal on a form provided by the Ethics Office. The appeal shall state the reason for the person's failure to comply and the relief sought and must be filed within 30 days of the date of the notice of delinquency. A person must file a disclosure statement before they are entitled to an administrative review.

8.14 Good Cause Required. The ethics officer shall conduct the administrative review based on the written record, unless the respondent requests an administrative hearing. After reviewing the evidence, the ethics officer shall grant relief if the person establishes good cause for his or her failure to comply with the city's financial disclosure requirements.

8.15 Administrative Decision. The ethics officer shall issue a written decision that sets out findings of fact and conclusions of law and give notice of the right to appeal any adverse administrative decision to the Board of Ethics.

8.16 Right to Appeal. Any person who is subject to an adverse administrative decision has a right to appeal the decision to the board within 30 days of the decision on a form provided by the Ethics Office. The appeal must state the facts and issues on which the respondent disagrees with the administrative decision and the reasons that the board should reverse the decision. A person must file a disclosure statement before they are entitled to file an appeal to the board.

8.17 Standard of Review. The Board of Ethics will review the appeal or administrative decision based on the written record. The board may rely on the findings of the ethics officer, which may be disturbed only if the board concludes that the ethics officer acted unreasonably, arbitrarily, or capriciously. The Board of Ethics has the discretion to grant a hearing in connection with any appeal.

8.18 Time Limits on Arguments. All hearings of the board shall be fundamentally fair. Each party may have ten minutes to present his or her arguments and evidence. At the chair's discretion, the board may grant additional time for argument...

8.19 Order of Presentation. The ethics officer shall first outline the case and present any evidence. The person appealing or his or her representative shall respond and present relevant facts and argument. Board members may question any person during the hearing. All testimony shall be under oath.

8.20 Board Decisions. The board shall base its decisions on the preponderance of the evidence standard.

8.21 Penalties. The board may impose any penalty as provided in section 2-807, section 2-814, and Rule 7.4.

8.22 Removal from Office. The board may also recommend to the appointing authority the removal from office of any board member, hearing officer, or NPU officer who is found delinquent for failing to comply with the city's financial disclosure requirements.

8.23 Reporting Sanctions. The ethics officer shall communicate any penalty that the board imposes on any employee to the employee's department head and Commissioner of Human Resources, any penalty imposed on a board member or hearing officer to the appointing authority, and any penalty imposed on a neighborhood planning unit officer to the Commissioner of Planning and Community Development, the NPU coordinator, and the officers of that NPU.

8.24 Final Decision. The decision of the board shall be final. The proceeding shall be subject to review by writ of certiorari to the Fulton County Superior Court.

Adopted January 21, 2010

City of Atlanta Board of Ethics

MaryAnne Gaunt, Vice Chair

Charles B. Crawford, Jr.

Cathy Daniels

Caroline Johnson Tanner

Charmaine Ward

ⁱ Rule 1 adopted on Jan. 10, 2010; Rules 2 and 3 adopted on Nov. 20, 2003 and amended on Jan. 21, 2010; Rules 4, 5, and 6 adopted on Dec. 18, 2003, and amended on Nov. 15, 2007, and Jan. 21, 2010; Rule 8 adopted on March 24, 2005, and amended on Oct. 27, 2005, Nov. 16, 2006, Nov. 15, 2007, and Jan. 10, 2010.

KELVIN J. COCHRAN vs. CITY OF ATLANTA, ET AL.
Yvonne Cowser Yancy on 02/17/2017

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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

KELVIN J. COCHRAN,)
)
Plaintiff,)
) CIVIL ACTION FILE
vs.)
) NO. 1:15-cv-00477-LMM
CITY OF ATLANTA, GEORGIA;)
)
and MAYOR KASIM REED, IN)
)
HIS INDIVIDUAL CAPACITY,)
)
Defendants.)

- - -

VIDEOTAPED DEPOSITION OF
YVONNE COWSER YANCY

FEBRUARY 17, 2017
10:02 A.M.

BAKER DONELSON BEARMAN CALDWELL & BERKOWITZ, P.C.
MONARCH PLAZA, SUITE 1600
3414 PEACHTREE ROAD, N.E.
ATLANTA, GEORGIA

(TRANSCRIPT CONTAINS CONFIDENTIAL PORTION)
PAGE 9, LINE 4 TO PAGE 9, LINE 10

Reported by: Suzanne Beasley, RPR
CCR-B-1184

KELVIN J. COCHRAN vs. CITY OF ATLANTA, ET AL.
Yvonne Cowser Yancy on 02/17/2017

1 I know that part.

2 Q. Was this in close proximity to the time
3 when Chief Cochran was suspended?

4 A. I believe Mr. Cochran was suspended the
5 following Monday, so the week prior to that
6 suspension.

7 Q. So you received a phone from Councilmember
8 Wan the week prior to the suspension of
9 Chief Cochran, and that phone call was the first time
10 that you learned about Chief Cochran's book?

11 A. Yes.

12 Q. And is that the book entitled Who Told You
13 That You Were Naked?

14 A. Yes.

15 Q. What did Councilmember Wan say to you on
16 that phone call?

17 A. We didn't speak. It was voicemail, and
18 what he said was he really wanted to talk to me about
19 a book he received, and would I please call him back.

20 Q. Did you return his call?

21 A. I did, and he subsequently met me in my
22 office on the Wednesday on that week.

23 Q. So you found out about the book the
24 Wednesday prior to the Monday that Chief Cochran was
25 suspended?

KELVIN J. COCHRAN vs. CITY OF ATLANTA, ET AL.
Yvonne Cowser Yancy on 02/17/2017

1 A. Correct.

2 Q. And what did Councilmember Wan say?

3 A. That he was really concerned that some
4 employees had brought the book to him. He did not
5 want to create a big issue out of it. He was
6 concerned that they might protest at the Fire
7 Foundation breakfast that was later that week, and he
8 wanted to be sure that we knew about it and that we
9 were going to actively, you know, address the topic.

10 He specifically was not interested in
11 Mr. Cochran being terminated. He just was concerned
12 about the book. He definitely knew about the book,
13 and so he wanted us to handle it, that we would
14 handle any other process.

15 Q. You said he was specifically not concerned
16 about Chief Cochran being terminated. Did that topic
17 come up?

18 A. Yes. He said, I specifically am not
19 trying to have Mr. Cochran separated. I just want
20 you all to know about this book, and employees are
21 concerned. And he really didn't want us to have a
22 sort of PR nightmare of employees protesting us at a
23 foundation breakfast that was scheduled for later
24 that week.

25 Q. Did he say anything else during that

KELVIN J. COCHRAN vs. CITY OF ATLANTA, ET AL.
Yvonne Cowser Yancy on 02/17/2017

1 meeting?

2 A. No.

3 Q. And what did you tell him?

4 A. I don't recall. I told him I would read
5 the book and I would, you know, follow up
6 appropriately; and I thanked him for bringing it to
7 our attention.

8 Q. Did he give you a copy of the book?

9 A. Yes.

10 Q. And you read it?

11 A. Yes.

12 Q. Cover to cover?

13 A. Yes.

14 Q. Did you do that right away?

15 A. No.

16 Q. When did you read it?

17 A. The next day, Thursday.

18 Q. Thursday.

19 A. Yes.

20 Q. So by the end of Thursday, you had read
21 the entire book?

22 A. Yes.

23 Q. Why did the topic of termination come up
24 during the phone call -- I'm sorry, the meeting with
25 Councilmember Wan?

KELVIN J. COCHRAN vs. CITY OF ATLANTA, ET AL.
Yvonne Cowser Yancy on 02/17/2017

1 Q. Did you ever talk to Councilmember Wan
2 about Chief Cochran in relation to his suspension?

3 A. No.

4 Q. Did you talk to any other council members
5 about the book?

6 A. No. It's an employment matter, so I
7 didn't discuss that employment matter with any
8 council members.

9 Q. Do you have notes from this meeting?

10 A. No.

11 Q. Would it be reflected on your calendar?

12 A. No, it wouldn't be.

13 Q. Did you talk about your meeting with
14 Councilmember Wan with anyone else?

15 A. Yes.

16 Q. With whom?

17 A. I spoke to the COO, Mike Geisler, about
18 it. I spoke to Mayor Reed about it. I spoke to the
19 city attorney, Cathy Hampton, about it. I spoke to
20 Melissa Mullinax and Katrina Taylor-Parks about it.

21 Q. Separately or together?

22 A. Separately.

23 Q. Who did you speak with first?

24 A. The COO, Mike Geisler.

25 Q. And what did you talk about?

KELVIN J. COCHRAN vs. CITY OF ATLANTA, ET AL.
Yvonne Cowser Yancy on 02/17/2017

1 A. I said, Sir, I have received this book
2 from Councilman Wan. I read it from cover to cover.
3 I spoke with the COO about the book. I have concern
4 about the book's reference as his employer. Did you
5 provide permission for Mr. Cochran to write the book?
6 Are you aware of this book?

7 Q. And was the mayor aware of the book?

8 A. No, he was not.

9 Q. And what concerns about the book did you
10 tell the mayor that you had specifically?

11 A. Specifically that the City of Atlanta is
12 referenced in the book, that Mr. Cochran's role as
13 the fire chief is referenced in the book as a point
14 of reference in terms of his leadership and his
15 activity, and that -- and we had not given permission
16 for the book, that in fact was a problem.

17 It appeared as though the City of Atlanta
18 had endorsed the book, when in fact if we had not
19 given permission for the book, that would not be
20 acceptable.

21 Q. Did you relay any other concerns?

22 A. I thought the content was problematic, but
23 the issue in the book was whether or not we had given
24 permission for it.

25 Q. Did you talk about any content that you

KELVIN J. COCHRAN vs. CITY OF ATLANTA, ET AL.
Yvonne Cowser Yancy on 02/17/2017

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1 thought was problematic with the mayor?

2 A. I was offended by it, so yes.

3 Q. What specifically were you offended by
4 that you talked about with the mayor?

5 A. I was offended by how women were
6 referenced, and how Jews were referenced, and how the
7 LGBT community was referenced. And I was really
8 offended that the City of Atlanta was presented as a
9 factor in the book because it was not a book that I
10 was aware the City had in fact endorsed or approved.

11 Q. Any other concerns you expressed to the
12 mayor?

13 A. No. Oh, yes. I was concerned about the
14 breakfast that he was going to be at. And I was
15 concerned about employees having a protest or this
16 issue being raised to embarrass us at the breakfast.
17 I did not want him to be surprised with that
18 possibility.

19 Q. When was this breakfast to be held?

20 A. On Friday.

21 Q. So that was the next morning?

22 A. Yes.

23 Q. And what did Councilmember Wan tell you
24 might happen at this breakfast?

25 A. Councilmember Wan indicated -- he received

KELVIN J. COCHRAN vs. CITY OF ATLANTA, ET AL.
Yvonne Cowser Yancy on 02/17/2017

1 THE WITNESS: I'd encourage you to
2 ask Councilman Wan.

3 BY MR. WARDLOW:

4 Q. Why do you think that he suggested you
5 read it?

6 MR. GEVERTZ: Objection. You can
7 speculate to your heart's content.

8 THE WITNESS: He thought -- the book
9 was given to him by an employee who was
10 concerned about it. He conveyed that to
11 me, so the obvious next thought would be
12 something was concerning about the book.

13 BY MR. WARDLOW:

14 Q. So what did Mayor Reed -- going back to
15 your conversation with Mayor Reed on Thursday
16 evening. What was Mayor Reed's response? What did
17 he say to you after you told him about the book and
18 you relayed concerns about its contents?

19 A. He said that he wanted me to check to see
20 if there had been any other requests for permission
21 from the ethics board per the code; that he was not
22 interested in making a big deal of this. He wanted
23 me to talk to Cathy Hampton, the city attorney, to
24 make sure she was aware. He had not provided
25 permission for the book. He was not aware of the

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1 book.

2 He appreciated the heads up before the
3 breakfast. That if there was an issue, he would, you
4 know, respond appropriately; but to begin the process
5 to look into whether or not there had been any other
6 requests for approval or any other data about the
7 book that I could find out.

8 Q. Did you make those inquiries?

9 A. I started them. I was going out of town,
10 so I did speak with Cathy Hampton that evening by
11 phone, and I talked to the mayor's two other senior
12 advisors who were present to make sure they were
13 aware of the matter.

14 Q. Did you take any action with respect to
15 the breakfast?

16 A. I did not. There was no action for me to
17 take.

18 Q. What did you do to address the mayor's
19 concerns about the breakfast?

20 A. Well, the --

21 MR. GEVERTZ: Object to the form.

22 THE WITNESS: The concern was simply
23 making sure he was aware it could happen.

24 And the mayor often receives questions from
25 the press and from people when he is, you

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1 A. No.

2 Q. Did you give any excerpts of the book to
3 anybody?

4 A. No. I still have my book. No.

5 Q. You mentioned that the book had been
6 distributed to employees, correct?

7 A. Yes.

8 MR. GEVERTZ: Object to the form.

9 BY MR. WARDLOW:

10 Q. How did you know that?

11 A. Mr. Cochran told me.

12 Q. When did he tell you that?

13 A. When I met with him on, I believe that
14 Monday -- I don't know the time -- to discuss his
15 administrative leave.

16 Q. I'm sorry, to discuss his --

17 A. Administrative leave.

18 Q. Administrative leave.

19 A. Yes. And also Mr. Wan received the book
20 from an employee, so the obvious assumption is that
21 someone gave it to him. I don't know who gave it to
22 him, but someone had it.

23 Q. So tell me about the circumstances that
24 led to that discussion with Chief Cochran on Monday.

25 A. The mayor asked that we put Mr. Cochran on

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1 a 30-day unpaid leave, and so I met with Mr. Cochran
2 with the city attorney, Bob Godfrey, and the chief of
3 staff, Candace Byrd. The COO was not available at
4 the time. And that communication was delivered to
5 him.

6 Q. When did the mayor ask you to put
7 Chief Cochran on unpaid leave?

8 A. That Monday, the same day it occurred.

9 Q. That morning?

10 A. I don't know the exact time, but, you
11 know, before the conversation, yes.

12 Q. And why did the mayor want to put Chief --
13 did he tell you why he wanted to put him on
14 administrative leave?

15 A. He was very concerned about the data that
16 we had gathered thus far. He was not aware of the
17 book. He had not given permission for the book.
18 That was a significant violation of not just the
19 ethics pledge but the employer relationship, and he
20 wanted to ensure that we were able to discipline
21 Mr. Cochran appropriately; look into whether or not
22 he had inappropriately used authority in the
23 department and move forward.

24 Q. You mentioned data that you had
25 gathered --

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1 the City of Atlanta in the book, and making income
2 from the book, which was for sale on Amazon.com.

3 Q. When did you first learn that it was for
4 sale on Amazon.com?

5 A. When I Googled it and bought a copy.

6 Q. That was on?

7 A. Thursday.

8 Q. The court reporter will place in front of
9 you what has been previously marked as Plaintiff's
10 Exhibit 9.

11 A. Okay.

12 Q. So Plaintiff's Exhibit 9 is a letter dated
13 November 24th, 2014, signed by you; is that correct?

14 A. Yes.

15 Q. This is to Mr. Cochran, correct?

16 A. Correct.

17 Q. And the subject line is "Notice of 30-day
18 suspension without pay," correct?

19 A. Correct.

20 Q. So was this hand delivered to Mr. Cochran?

21 A. Yes, it was.

22 Q. At the meeting that you described on
23 November 24th?

24 A. Yes.

25 Q. Did you draft this letter?

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1 A. I did not.

2 Q. Who drafted this letter?

3 A. Lydia Jamison.

4 Q. So she's the person that reports to you
5 that leads up the employee relations group?

6 A. Correct.

7 Q. When did you ask her to draft this letter?

8 A. That morning. I also asked for a
9 termination letter.

10 Q. You asked Ms. Jameson to draft a
11 termination letter?

12 A. Yes.

13 Q. Why?

14 A. I recommended it.

15 Q. You recommended termination?

16 A. Absolutely.

17 Q. Who decided to suspend rather than
18 terminate?

19 A. The mayor.

20 Q. Did you have a discussion with the mayor
21 about whether to suspend or terminate?

22 A. Yes.

23 Q. Tell me everything that was said Monday
24 morning.

25 A. I'm not sure I can discuss it. Cathy

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1 that conversation.

2 A. So we discussed, you know, the option
3 around how to handle what we had discovered this far
4 concerning the book. I recommended separating
5 Mr. Cochran. The mayor was uninterested in
6 separating Mr. Cochran. He really respected him,
7 talked about how he'd been the number one fire
8 professional nationally; that he did not want to
9 separate him, that he wanted other options. And so
10 the 30-day suspension was the second option.

11 The 30 days was picked because that's
12 really the longest period of time someone's suspended
13 traditionally in terms of our practices in lieu of
14 termination, and so that's how we got to that 30-day.
15 There are other examples of 30-day suspensions that
16 had taken place that made sense for the mayor.

17 He also wanted to have some process put
18 together so that when Mr. Cochran returned from his
19 suspension that we could help the department move
20 forward. We talked about sensitivity training. I
21 recommended Al Vivian and BASIC Diversity. They're
22 known for their, one, faith, but also their race work
23 and their work in helping organizations grapple with
24 different issues.

25 I thought they would be a great sort of

1 There was also a failure to disclose
2 it in the ethics forms that we gather. The
3 ethics officer had indicated in our
4 conversation with her that she had not
5 given permission for the book and was not
6 aware that it had been published.

7 And we also had to conduct a process
8 to investigate whether or not Mr. Cochran's
9 beliefs had led to different outcomes in
10 his management of the department because he
11 referenced his leadership of the department
12 and how he led the department in his book.
13 That cannot take place with Mr. Cochran at
14 work.

15 And so the discipline was about his
16 failure to get approval, his failure to
17 operate within the processes that are
18 clearly identified, not just in the code,
19 but in general expectations as an employer.

20 And then the second part of that
21 process was he could not be present while
22 we ensured there wasn't a Title 7 issue,
23 which we had to make sure of because as the
24 employer, we're compelled to offer an
25 environment where employees are treated

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1 if in fact to receive second income. You have to get
2 permission to receive that income before it happens.
3 It's well known. It's signed off on by department
4 heads. I assume Mr. Cochran had signed one before
5 because I'm sure people who work for him have had
6 second income.

7 There's also an ethics pledge you sign
8 when you start an employee that talks about getting
9 permission from your manager, and then a perception
10 or a conflict, or an actual conflict and income.

11 And then the ethics code requires that if
12 you in fact are going to engage in receiving second
13 income and you report the certain line in the
14 organization, the ethics board has to actually give
15 you approval for that as well.

16 Q. Do you know whether Chief Cochran was
17 receiving any profit from this book?

18 A. I did not know, but I did know it was for
19 sale, and so at least one of us had bought a book.
20 So that would be profit because I bought one, so --

21 Q. Well, it would be --

22 A. A profit if it was for sale.

23 Q. Maybe not, right?

24 A. Well, I can't speak to the contract, so
25 no. But we will presuppose if it was for sale that

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1 there was some income going someplace. Perhaps he
2 donated it. I don't know.

3 Q. You presupposed that he was taking
4 personal income?

5 A. Absolutely. And the policy is not just
6 that you have income. It's that you could have
7 income. So there's declarations that we have income,
8 and the form talks about are you going to have the
9 second employment or not. And so it's not simply, I
10 have received it now, are you okay with it. It's, I
11 could receive it, are you okay with it.

12 Q. You said you presumed that Chief Cochran
13 had signed this form.

14 A. I had not found a record that he had
15 signed that form, which required the COO's signature
16 or the mayor's signature. So I had no documentation
17 that indicated that Chief Cochran had in fact gotten
18 permission for this income and this book.

19 Q. Have you all produced a blank copy of this
20 form?

21 A. I can't speak to that.

22 MR. GEVERTZ: I'm sorry. We're
23 talking about -- yeah, it was an exhibit to
24 Chief Cochran's deposition. It's the
25 employee ethics pledge that he signed on

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1 an employer, we have to make sure that we don't have
2 a potential Title 7 issue, and so that investigation
3 could not occur with Mr. Cochran in the workplace --

4 Q. So --

5 A. -- because the mayor decided to keep him
6 as an employee, the decision was made to suspend as
7 opposed to terminating.

8 Q. And that led to an investigation then?

9 A. Yes.

10 Q. The investigation was about whether his
11 beliefs, Mr. Cochran's beliefs, had affected his
12 leadership in the department and had possibly led to
13 Title 7 issues in the department?

14 A. Correct.

15 Q. So you're talking about possible hostile
16 work environment issues?

17 A. Potentially or potential allegations that
18 because I am -- insert any category -- Mr. Cochran is
19 not going to treat me fairly. That could be
20 religion. It could be gender. It could be, you
21 know, sexual orientation, et cetera. It can be, you
22 know, faith, and so we had to ensure that hadn't
23 taken place.

24 Q. So your specific concern was that
25 Chief Cochran's religious beliefs may have affected

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1 how he was running the department?

2 A. I didn't know if they had affected how he
3 was running the department, but we had to do an
4 inquiry to ensure that was not the case. As an
5 employer, we're on notice that we have a leader who
6 espouses a certain subset of beliefs, data that we
7 not had before.

8 As an employer, we have an obligation to
9 ensure that we had an environment that was open and
10 that was friendly to every employee category, which
11 is consistent with our philosophy. And so I didn't
12 know what had happened or hadn't happened, but I did
13 know that we had to document and thoroughly ensure
14 that was not the case.

15 Q. Because of the content of the book?

16 A. Absolutely.

17 MR. GEVERTZ: Object to the form.

18 BY MR. WARDLOW:

19 Q. The book, more specifically the content of
20 the book with respect to Mr. Cochran's religious
21 beliefs.

22 A. Mr. Cochran espoused beliefs that were in
23 conflict with how women are treated, people of
24 different faiths are treated, how the LGBT community
25 was treated. He talked about how he led the -- led

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1 the fire department through his view of God and
2 upholding God's standards.

3 So, yes, we had the ensure because we had
4 been named in the book. He had talked about his
5 leadership role under the City of Atlanta in the
6 book. He talked about how he chose to do leadership
7 in the book about the City of Atlanta.

8 We had to ensure that the actions of
9 Mr. Cochran were reflective of our policy. We don't
10 particularly care how you feel about stuff. We care
11 about what you do in our workplace. So we had to
12 ensure that our workplace was consistent with the
13 values and things that we espouse in our code.

14 Q. And you were concerned that Mr. Cochran's
15 religious beliefs conflicted with those values?

16 A. I didn't know --

17 MR. GEVERTZ: Object to the form.

18 THE WITNESS: I don't know how

19 Mr. Cochran feels about things.

20 Mr. Cochran and I have never discussed
21 faith in any significant way.

22 BY MR. WARDLOW:

23 Q. Based on his book.

24 A. I simply had a book, and I had an employee
25 who raised issues about the book. And as an

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1 THE WITNESS: I'm not sure how else I
2 can say it. Mr. Cochran has beliefs.

3 BY MR. WARDLOW:

4 Q. And they're in the book.

5 A. I have -- apparently.

6 Q. And those caused you concern, you said?

7 MR. GEVERTZ: Object to the form.

8 This is an --

9 THE WITNESS: What caused me concern
10 was how Mr. Cochran managed his department.
11 And as an employer, we were compelled to
12 ensure that he managed that department in
13 the way that we asked him to. We do not
14 care about your personal life and beliefs.
15 We care about what happens at work.

16 BY MR. WARDLOW:

17 Q. You care about whether the beliefs could
18 affect --

19 A. We care about whether or not you uphold
20 the code as it's written in your role at work. What
21 you would do on your own time is for you, and we
22 don't intercede in that, but when you bring it to us,
23 we have to then ensure that our workplace is
24 consistent with the rules we have in our workplace.

25 Q. So you mentioned your view that the book

1 contains subject matter such that a reader might
2 think that the City approved the book, or approved of
3 the book?

4 A. Absolutely.

5 Q. If you look back at Exhibit 8, which is
6 the exhibit containing excerpts from the book, does
7 this contain any excerpts from the book that -- well,
8 basically, that is what you're referencing, that it
9 conveys the approval of the City, or is that not
10 contained in this -- in this exhibit?

11 A. I don't know where it is specifically.
12 There's some section --

13 Q. If we could place in front of you what's
14 been previously marked as Exhibit 11. You mentioned
15 sensitivity training before.

16 A. Yes.

17 Q. And that came up in your discussion with
18 the mayor. And who else was present at that meeting?
19 And this was Monday morning, I think you said?

20 A. Yes. I believe it was the city attorney.
21 I believe Bob Godfrey, who's also from the law
22 department was present. And I believe Candace Byrd,
23 who's chief of staff, was also present.

24 Q. And you suggested sensitivity training?

25 A. I did.

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1 Q. And why did you suggest that?

2 A. Because there was a perception that it was
3 possible Mr. Cochran had a lack of sensitivity to
4 people who have different beliefs, and if our intent
5 was to keep him in our employ, as an employer we had
6 to show a proactive way of ensuring that Mr. Cochran
7 was in fact not managing to those beliefs or treating
8 people differently.

9 And so once the mayor decided that he
10 wanted to keep Mr. Cochran in our employ, it was
11 important that when he returned to work that we made
12 a proactive position to ensure the department and to
13 protect us as an employer with potential Title 7
14 activities that -- or litigation, that if someone
15 came up, you know, six months later and said, Oh, but
16 I feel like I'm being treating differently, we would
17 have had this documented sensitivity training and
18 awareness that we could say, Oh, no, no, our
19 employment environment, you know, meets all standards
20 meets the code, et cetera.

21 So doing that is an acceptable proactive
22 action to take under the EEOC umbrella guidelines,
23 and so, you know, it made sense to include that,
24 given our circumstance.

25 Q. And you made a determination that it would

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1 be good to do that?

2 A. Yes.

3 Q. Why did you think that Chief Cochran may
4 have had a lack of sensitivity to other people's
5 beliefs, as you said?

6 A. Well, I didn't know, so to that end --

7 Q. Why do you think he may have had that --

8 A. Because he espoused beliefs that were
9 offensive to many different groups, and he had to
10 lead a department that reflected many different
11 groups. We had to as an employer -- my role was to
12 ensure that the employer is protected. I am -- I am
13 responsible for ensuring that we meet our standards.

14 And so my focus was really on how the City
15 was going to be impacted. And offering that training
16 and documenting that took place was, yeah, another
17 way of validating that we did not have any potential
18 issues down the road.

19 Q. You also mentioned a communications
20 process that you discussed at that meeting, correct?

21 A. Yes.

22 Q. And tell me about the substance of those
23 conversations surrounding the communications process.

24 A. Well, we had to make sure that we brought
25 in the communications staff, and that the mayor would

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1 he was not in the workplace. We knew the letter was
2 going to become an open record, and so that the
3 notification that he was being unpaid would be
4 published, and that Joel Baker would be operating as
5 the interim chief until his return.

6 Q. And you also talked about the process to
7 notify Mr. Cochran, correct?

8 A. Yes, and you have to keep in mind it's not
9 typical for people in this leadership level to be
10 suspended. They're typically terminated. There's no
11 sort of halfway. And so it was not going to go
12 unnoticed, number one; and then number two, our
13 policy has been to not talk about employment matters.
14 So because of the visibility of the person involved,
15 it sort of forced us to be prepared to discuss an
16 employee matter.

17 Q. Looking back at Plaintiff's Exhibit 9,
18 which is the suspension letter.

19 A. Yes.

20 Q. The first paragraph of the notice states,
21 "This notice of 30-day suspension without pay is
22 being issued to you for your performance of an action
23 that constitutes a cause of action as outlined in
24 Section 114-528 of the Code of Ordinances, City of
25 Atlanta." Do you see that?

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1 do the Title 7 investigation. We'd give him an
2 opportunity to respond to the investigation.

3 That our hope was that over the 30-day
4 period of time that we'd be able to resolve this
5 entire matter; that he'd return to work on the date
6 of January 6th. I talked about the diversity
7 training that would happen when he returned to work;
8 that that would be a part of the expectation for him
9 to return to work.

10 Mr. Cochran puts people on suspension, and
11 so we referenced the process when you're on
12 suspension you don't discuss the suspension. We
13 talked about returning his vehicle and, you know, his
14 badge, et cetera, the things that you have as an
15 employee. We talked about how he would get back
16 home.

17 We talked about naming Joel Baker as the
18 interim chief. He was fine with that choice. I
19 mean, he wasn't fine with being suspended, but he was
20 fine in the lieu of that that Joel Baker was an
21 appropriate person to name to be the interim chief.
22 We explained that we would not be commenting on this
23 employment matter, and that per our process we
24 expected him not to comment on this employment
25 matter.

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1 anything that creates a perception of a conflict,
2 actually is a conflict, could be remuneration, could
3 be perceived as remuneration. You have to get
4 permission from who you work for to do anything
5 outside of work. The form clearly says that.

6 Q. To do anything outside of work?

7 A. Yeah. Yes. And it has a little subpart
8 that says is not a speech here or there like work.
9 So you can speak on Saturday to the kids. You can do
10 different things, but if you're doing something
11 consistently that's perceived as work, has the
12 potential for remuneration, you have to in fact get
13 permission for that. And people do get permission
14 for it.

15 So it's not just a process that's written.
16 It's one that's actually employed by others and
17 signed off on by others, including Mr. Cochran. So
18 again, my point is he knows the process. He didn't
19 follow it.

20 Q. So what exactly constitutes an ethics
21 violation?

22 A. I can't speak to that. You have to speak
23 to the ethics officer. I don't make that
24 determination.

25 Q. So you don't determine what's an ethics

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1 A. Yes.

2 Q. And what did you use the copy of the book
3 for at the meeting?

4 A. I just had it. It was the copy that I
5 bought that Thursday.

6 Q. Did you talk about any sections of the
7 book with Chief Cochran at that meeting?

8 A. No, but I did ask him -- not that I can
9 recall, no. We did ask him did he get permission to
10 write the book. The issue at the meeting was who
11 gave you permission to write this book; and the
12 answer was Ms. Hickson had, Mr. Cochran said.

13 Q. Did you have any discussion at that
14 meeting about the content of the book regarding
15 homosexuality or sexuality?

16 A. We discussed religion, women, and the
17 LGBTQ issues that are raised in the book
18 specifically, and the need for a Title 7
19 investigation that Bob Godfrey from the law
20 department would lead; and that Mr. Cochran would
21 have the opportunity to respond to anything that come
22 up -- that came up in that investigation, because we
23 explained that we had to do an investigation to
24 ensure and to document that he had not in fact
25 treated anyone differently because of the beliefs he

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1 espoused in the book.

2 Q. So again, list for me just one more time
3 the areas of content that you discussed that led to
4 that conclusion that there should be an
5 investigation.

6 MR. GEVERTZ: Object to the form.

7 THE WITNESS: The references in the
8 book concerning the role of women, the
9 reference in the book concerning the role
10 of -- or what would happen if you were not
11 a believer in Christ, so Jewish people and
12 people of other faiths who don't believe in
13 Christ. The reference in the book around
14 LGBTQ community. The reference in the book
15 around how he articulated Christianity from
16 his viewpoint, how there are many views of
17 Christianity and many denominations in the
18 Christian faith. And so those things all
19 are covered under Title 7.

20 And you can have a viewpoint, but we
21 have to make sure that you're not managing
22 to that viewpoint. And since the book
23 includes a reference where you talk about
24 how you lead to create a culture and
25 cultivate the culture of God, then we're

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1 BY MR. WARDLOW:

2 Q. So we have --

3 A. -- and we have to do an investigation
4 around Title 7. The issue as relates to the content
5 of the book triggers a Title 7 investigation that
6 would have happened whether he was an employee or not
7 because we had created a risk by having a leader of a
8 department espouse his views, and we had to make sure
9 those views had not been replicated throughout the
10 department.

11 The investigation showed that he had in
12 fact not treated people differently, which I was
13 actually, frankly, ecstatic to see and hear, and it's
14 consistent with my knowledge of Mr. Cochran. But our
15 decision to separate Mr. Cochran was about his
16 failure to go through the process and to speak to the
17 people he worked for, which would give the minimum,
18 not just courtesy but respect and process where we
19 work and for our employer.

20 BY MR. WARDLOW:

21 Q. Did an employee bring the book to you?

22 A. No. A council member brought the book to
23 me.

24 Q. Okay.

25 A. The council member said the book came from

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1 Q. Was the option of suspension with pay
2 discussed?

3 A. No, because it was not a vacation. It was
4 intended to be punitive. You were suspended because
5 of your failure to follow the process, and we put
6 together a process to bring you back. So it's clear
7 in our conversation that we're not trying to
8 terminate you.

9 Although that was recommended, it was not
10 accepted, and so we put together a process that would
11 cover the City in terms of potential claims in the
12 future, ensure that Chief Cochran was able to come
13 back into his position and be chief, create a process
14 that we had documented around a proactive position
15 with sensitivity training through an entity that we
16 thought he and other people respect and think of as
17 credible, and that process didn't work out.

18 Q. Is there a standard for determining when
19 someone should be suspended with pay or without pay?

20 A. Typically, when we have not made a
21 determination about the outcome, we suspend you with
22 pay pending the outcome of the investigation. When
23 we spoke with Mr. Cochran on that Monday, we already
24 knew he didn't have permission for the book. We knew
25 that because people who give permission hadn't given

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1 it. His manager didn't know anything about it.

2 And Mr. Cochran said in that meeting he
3 did not -- that the mayor did not know anything about
4 it. And we work for the mayor and for the COO. And
5 so we'd already covered the baseline issue. That's
6 enough to fire you right there on its face. We
7 didn't separate him. We chose to bring him back to
8 work, but in the interim, there was going to be a
9 consequence and something punitive about that.

10 At the same time, we had to deal with the
11 Title 7 issue, which would have happened regardless.
12 If we had terminated him on the 24th, we still would
13 have had Bob Godfrey do the Title 7 investigation,
14 right?

15 Q. So is that --

16 A. So the issue was, the discipline -- the
17 discipline that was given was that unpaid time. The
18 point of that was we didn't know. You didn't go
19 through our process. We are not pleased. There's a
20 negative outcome to that. That is being suspended
21 without pay. If we were unsure of those things and
22 those facts weren't clear, then he would have been
23 suspended with pay.

24 Q. So the investigation then, what was the
25 purpose of the investigation?

KELVIN J. COCHRAN vs. CITY OF ATLANTA, ET AL.
Yvonne Cowser Yancy on 02/17/2017

Page 109

1 Q. Did any other communications come to your
2 attention?

3 A. I'm aware of the videotape, and I believe
4 he spoke in church here, but that's not recorded. I
5 just heard that. It's hearsay because I don't attend
6 that church. I don't know what happened. And that
7 he had begun to really speak about what was happening
8 because we were getting significant communications
9 from the public about their position and how they
10 felt about it.

11 Q. When did those communications begin?

12 A. I don't know the exact day, candidly. I
13 would -- I recall it happening pretty much
14 immediately. I mean, there are people who are very
15 fond of Mr. Cochran, who did not agree with the fact
16 we suspended him, and then there are people who
17 didn't know why we hadn't fired him, and then there
18 were people who had nothing to do with the City, who
19 were sending us e-mail communications, posting on
20 Twitter, Facebook pages, seeking out people in the
21 administration to sort of opine on their point of
22 view.

23 (Exhibit 34 was marked for
24 identification.)

25

KELVIN J. COCHRAN vs. CITY OF ATLANTA, ET AL.
Yvonne Cowser Yancy on 02/17/2017

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1 THE WITNESS: You can have an opinion
2 of the e-mail. My opinion of the e-mail is
3 that Mr. Cochran was fully aware that there
4 was a full-scale PR attack on the City of
5 Atlanta and the mayor with the attempt to
6 return him to work and to seek an apology.

7 BY MR. WARDLOW:

8 Q. No, my question was --

9 A. And Mr. Cochran was fully engaged in that.
10 At the time I didn't know that, but I know it now,
11 and I'm disappointed because I expected more from
12 him.

13 Q. That's something that you didn't know at
14 the time?

15 A. Not at all, but I know now --

16 Q. And you know it now.

17 A. -- and I'm disappointed, absolutely,
18 because I expected more from him. Mr. Cochran was
19 someone I held in high regard --

20 Q. Well, that wasn't --

21 A. -- who I thought had the same regard for
22 us, and that was not the case.

23 Q. But that wasn't the reason for the
24 termination because you didn't know anything about it
25 at the time?

KELVIN J. COCHRAN vs. CITY OF ATLANTA, ET AL.
Yvonne Cowser Yancy on 02/17/2017

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1 A. No. The reason for termination was
2 Mr. Cochran talked about the suspension, and
3 Ms. Cochran lost the trust of the person that he
4 worked for, which is a fundamental requirement to
5 appointment, the trust of the appointing entity,
6 which he no longer had.

7 Q. At the time of the meeting, you believe
8 that the chief had spoken about the suspension --

9 A. Absolutely.

10 Q. -- and the mayor and Ann had spoken about
11 the suspension, correct?

12 A. The mayor and Ann had not talked about the
13 suspension. The mayor did not speak about the
14 suspension, and that's recorded and documented.

15 Q. What did he speak about?

16 A. Mr. Cochran believes he did, but the mayor
17 did not. And it actually took an enormous amount of
18 strength not to speak about it, but he did not.

19 Mr. Cochran did not hold up his end of the bargain.

20 We took a lot of heat for Mr. Cochran. We
21 were besieged by people because of Mr. Cochran. We
22 intended to bring him back to work. I contracted to
23 do sensitivity training with the vendor. We had a
24 plan, a course of action, a communications strategy,
25 all of which went out the window. Mr. Cochran's

KELVIN J. COCHRAN vs. CITY OF ATLANTA, ET AL.
Yvonne Cowser Yancy on 02/17/2017

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1 for the specific line, but I believe what was
2 communicated was your services are no longer needed
3 because he's an at-will employee. So we did not go
4 through the 17-bullet point around let me explain to
5 you all the reasons why you can't come back. We
6 said, we decided to go in a different direction.
7 Your services are no longer needed.

8 Q. Did you -- did someone in the meeting tell
9 him -- tell Chief Cochran that people would not
10 follow his leadership?

11 A. Yes. Mr. Godfrey gave Mr. Cochran and the
12 group the overview of the investigation, which was
13 something we had promised in the November 24th
14 meeting, that he would receive that investigation,
15 and we made it clear that there would be a public
16 component to the investigation.

17 The investigation was done by Mr. Godfrey,
18 who of course is an attorney. It's a privileged
19 document, but there would be a public disclosure of
20 the outcome of the investigation; and we wanted
21 Mr. Cochran to know that and to know what it was
22 going to say.

23 And it was going to say that he had, in
24 fact, to our knowledge, not treated anyone
25 differently under Title 7 because of his faith he

KELVIN J. COCHRAN vs. CITY OF ATLANTA, ET AL.
Yvonne Cowser Yancy on 02/17/2017

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1 A. I don't like talking about employment
2 matters. My answer's always, we don't talk about
3 employment matters. So I don't like talking about
4 employment matters. I think they're private. The
5 fact that we're in government shouldn't change that,
6 so my position is generally to say nothing.

7 Q. And that's what you recommended?

8 A. Absolutely.

9 Q. And they didn't take that recommendation?

10 A. Not at all, as these three pages show.

11 Q. Did they indicate to you why they weren't
12 going to take your recommendation?

13 A. We had to release the report. I mean,
14 Mr. Cochran was an exceptionally visible member of
15 our team. We indicated there would be an
16 investigation. We could not leave his separation
17 without releasing data about the investigation
18 itself. And given the amount of public inquiry about
19 the book, about Mr. Cochran, about what happened, the
20 misinformation about the book and Mr. Cochran and the
21 process, the mayor felt strongly there had to be some
22 communication that clarified what our process was,
23 why we had a process, and the fact that, you know,
24 we're at-will and judgment matters.

25 Q. Is everything, to your knowledge, in the

KELVIN J. COCHRAN vs. CITY OF ATLANTA, ET AL.
Alex S. Wan on 02/23/2017

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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

KELVIN J. COCHRAN,)
)
Plaintiff,)
) CIVIL ACTION FILE
vs.)
) NO. 1:15-cv-00477-LMM
CITY OF ATLANTA, GEORGIA;)
and MAYOR KASIM REED, IN)
HIS INDIVIDUAL CAPACITY,)
)
Defendants.)

- - -

VIDEOTAPED DEPOSITION OF
ALEX S. WAN

FEBRUARY 23, 2017
2:21 P.M.

BAKER DONELSON BEARMAN CALDWELL & BERKOWITZ, P.C.
MONARCH PLAZA, SUITE 1600
3414 PEACHTREE ROAD, N.E.
ATLANTA, GEORGIA

Reported by: Suzanne Beasley, RPR
CCR-B-1184

KELVIN J. COCHRAN vs. CITY OF ATLANTA, ET AL.
Alex S. Wan on 02/23/2017

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1 You say there in the top e-mail, "I
2 respect each individual's right to have their own
3 thoughts, beliefs and opinions, but when you are a
4 City employee and those thoughts, beliefs and
5 opinions are different from the City's, you have to
6 check them at the door."

7 You said that on more than one occasion,
8 correct?

9 A. Correct.

10 Q. Make sure I'm not getting out of order.
11 What thoughts and beliefs and opinions did
12 Chief Cochran have that are different from the
13 City's?

14 MS. HINTON: Object to form.

15 You can answer.

16 THE WITNESS: In the context that I
17 said it, it was specifically around the
18 passages in the book regarding the LGBT
19 community. I saw that as an expression of
20 discrimination against the LGBT community,
21 which is not in keeping with the City's
22 nondiscrimination ordinance. And that's
23 how I saw it.

24 BY MR. THERIOT:

25 Q. And the nondiscrimination ordinance

1 prohibits discrimination in what context?

2 A. It covers sex. It covers race, gender,
3 sexual orientation and employment housing. It covers
4 a number of things.

5 Q. And that applies to whom?

6 A. It applies to the City. It applies to
7 housing providers within the city, and I can't
8 remember specifically other classes that are covered
9 by that as well.

10 Q. And are there any other ways that the
11 City's thoughts and beliefs would be articulated
12 besides the nondiscrimination law that you're
13 speaking of?

14 MS. HINTON: Object to form.

15 Go ahead.

16 THE WITNESS: Okay. The City, at
17 least the city council, will pass
18 resolutions stating our opinions and
19 beliefs. There are some that are codified
20 as ordinances and then there are some that
21 are, as I understand, documented in
22 policies and procedures within the
23 departments.

24 BY MR. THERIOT:

25 Q. Is it possible to have these beliefs and

KELVIN J. COCHRAN vs. CITY OF ATLANTA, ET AL.
Anne M. Torres on 02/22/2017

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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

KELVIN J. COCHRAN,)
)
Plaintiff,)
) CIVIL ACTION FILE
vs.)
) NO. 1:15-cv-00477-LMM
CITY OF ATLANTA, GEORGIA;)
and MAYOR KASIM REED, IN)
HIS INDIVIDUAL CAPACITY,)
)
Defendants.)

- - -

VIDEOTAPED DEPOSITION OF
ANNE M. TORRES
FEBRUARY 22, 2017
2:19 P.M.

BAKER DONELSON BEARMAN CALDWELL & BERKOWITZ, P.C.
MONARCH PLAZA, SUITE 1600
3414 PEACHTREE ROAD, N.E.
ATLANTA, GEORGIA

Reported by: Suzanne Beasley, RPR
CCR-B-1184

KELVIN J. COCHRAN vs. CITY OF ATLANTA, ET AL.
Anne M. Torres on 02/22/2017

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1 A. I don't believe so. I don't remember.

2 Q. Do you know whether he contacted anyone in
3 your office?

4 A. That I definitely don't know.

5 Q. Did anyone else in the mayor's cabinet,
6 including Ms. Yancy or anyone else that works for him
7 at that level in that office, tell you that the chief
8 had inquired about how to handle media inquiries?

9 A. Not to my knowledge.

10 Q. I'll give you a little bit of time to
11 familiarize yourself with that. It's been marked as
12 Plaintiff's Exhibit 49, I believe.

13 A. Uh-huh. Okay.

14 Q. Do you recognize this chain of e-mails?

15 A. Yes.

16 Q. And what is it, if you recall?

17 A. It looks like an e-mail chain. I don't
18 know if I initiated it. It looks like an e-mail
19 chain where I am alerting everyone that I am going to
20 be doing an interview. This is what I was referring
21 to as WSB being the first media outlet to report the
22 news or break the news on the book. It looks like
23 I'm doing an interview, and I'm reaching out to folks
24 just to make sure I have my points together, I'm
25 communicating our position accurately.

KELVIN J. COCHRAN vs. CITY OF ATLANTA, ET AL.
Anne M. Torres on 02/22/2017

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1 Q. And you mentioned before that WSB had
2 received a tip? Did they then call you? Is that how
3 this WSB --

4 A. Yes.

5 Q. -- opportunity came up?

6 A. Uh-huh.

7 Q. Do you know who else they interviewed?
8 Did you eventually do an interview?

9 A. I did.

10 Q. Strike that first question.

11 Do you know who else they interviewed?

12 A. I don't remember. I think -- no, I'm
13 sorry. I think they interviewed Alex Wan as well.

14 Q. Any other --

15 A. I don't remember.

16 Q. -- interviews you can remember?

17 Whose idea was it to do the interview with
18 WSB?

19 A. I believe I made the decision.

20 Q. So authorized by anyone else, or was that
21 you?

22 A. No. Me.

23 Q. Who did you speak to from WSB; do you
24 recall?

25 A. Aaron Diamant was the reporter.

KELVIN J. COCHRAN vs. CITY OF ATLANTA, ET AL.
Anne M. Torres on 02/22/2017

1 Q. Do you review any documents before you
2 spoke to Mr. Diamant?

3 A. No.

4 Q. Did you prepare any documents or notes
5 that you can recall?

6 A. I might have.

7 Q. Do you know whether those have been
8 produced by your counsel?

9 A. I mean, it looks like they're right
10 here --

11 Q. So you think --

12 A. -- in e-mail.

13 Q. -- you're the one that wrote this e-mail?

14 You also say here -- I'm reading the third
15 sentence -- "Aaron Diamant will be here at city hall
16 shortly to interview council members." Next
17 sentence, "I have denied their request to interview
18 Chief Cochran."

19 A. Uh-huh.

20 Q. Why did you deny their request to
21 interview Chief Cochran?

22 A. Because at the time when -- so if there is
23 an media inquiry that comes in, then one person is
24 delegated to speak on behalf of the administration.
25 At this point, Chief Cochran was still an employee,

KELVIN J. COCHRAN vs. CITY OF ATLANTA, ET AL.
Anne M. Torres on 02/22/2017

1 and I didn't feel like it was appropriate for him to
2 speak on a book that we didn't have any knowledge
3 about or didn't have any other further information
4 on, so I decided to speak only behalf of the
5 administration. It's not -- it's not out of
6 the -- it's not -- it's normal for me to make those
7 types of decisions on a daily basis.

8 Q. Do you recall what you said to
9 Mr. Diamant?

10 A. I don't remember.

11 Q. Looking at that e-mail right above that
12 from Ms. Yancy --

13 A. Uh-huh.

14 Q. -- at 10:12 --

15 A. Yes.

16 Q. -- she appears here to be responding to
17 some of the things you were planning on saying.

18 A. Yes.

19 Q. She said, "We've been told by employees it
20 was distributed in a command staff meeting."

21 A. Uh-huh.

22 Q. "I stopped investigating based on the
23 feedback meeting from last week."

24 A. Uh-huh.

25 Q. Were you part of that feedback meeting

KELVIN J. COCHRAN vs. CITY OF ATLANTA, ET AL.
Anne M. Torres on 02/22/2017

1 Q. Correct. Yes.

2 A. So this is me talking about the mayor. So
3 when I say, "You talked to him on the phone," I
4 believe she has probably spoke to him on the phone.

5 Q. Let's just -- let me ask you a few more
6 questions here, and I'm not sure if that'll change,
7 but --

8 A. Uh-huh.

9 Q. -- at least we'll get some clarity.

10 A. Uh-huh.

11 Q. You follow up by saying, "His point
12 doesn't matter after the fact. You keep avoiding the
13 central point was that he did not even have a
14 conversation with his boss, the mayor, before the
15 book was published. He doesn't deny that. He did
16 not read the book when he handed it to him."

17 A. Uh-huh.

18 Q. I'm just trying to tease out who the he's
19 and his.

20 A. Yeah.

21 Q. Does that second paragraph throw any light
22 on the first when you say "You talked to him on the
23 phone, I think you got his point"?

24 A. Yes.

25 Q. And what do you --

KELVIN J. COCHRAN vs. CITY OF ATLANTA, ET AL.
Anne M. Torres on 02/22/2017

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1 A. Meaning referring to the mayor? Yes.

2 Q. Yes. Well, let's go down to the bottom of
3 that page.

4 A. Uh-huh.

5 Q. It says, "Katie Leslie's writing to you.
6 She said Cochran said he gave a copy of the book to
7 Reed's office last January, that the mayor later
8 confirmed receiving it and told Cochran he planned to
9 read it."

10 A. Uh-huh.

11 Q. It sounds there like Katie Leslie may have
12 talked to Chief Cochran on the phone.

13 A. Yes.

14 Q. Is that -- so is that -- does that maybe
15 make you think he didn't -- that she's referring to
16 Chief Cochran in that first sentence?

17 A. Yes.

18 Q. Okay. Yeah. And I'm not trying to, you
19 know, contradict you. I'm trying just to figure out
20 who the his's and --

21 A. Yeah.

22 Q. -- you know, there's a lot of his's and
23 he's in there.

24 A. Uh-huh.

25 Q. But your -- the point I'd like to focus

KELVIN J. COCHRAN vs. CITY OF ATLANTA, ET AL.
Anne M. Torres on 02/22/2017

1 on having clarified that that is --

2 A. Uh-huh.

3 Q. -- he did not read the book when he handed
4 it to him, so it was your understanding, it sounds
5 like from this sentence --

6 A. Uh-huh.

7 Q. -- that the mayor received the book from
8 Chief Cochran.

9 A. Uh-huh. Yes.

10 MS. HINTON: Object to form.

11 BY MR. CONNELLY:

12 Q. But he didn't read it when he was handed
13 it --

14 A. Yes.

15 Q. -- when it was handed to him?

16 A. That's what it says.

17 Q. Okay. We talked about this a little bit
18 before when you told me you thought the mayor may
19 have read the book much closer in time to the
20 suspension date.

21 A. Uh-huh.

22 Q. Who told you that he had received the
23 book; do you recall?

24 A. Who told me that he had received the book?

25 Q. Yes.

KELVIN J. COCHRAN vs. CITY OF ATLANTA, ET AL.
Anne M. Torres on 02/22/2017

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1 A. At what point, meaning here -- this might
2 have been the first time that I even knew that Chief
3 Cochran had given the book to the mayor. At that
4 point in time, meaning last January.

5 Q. You're saying here, "He did not read the
6 book when he handed it to him." That seems to me to
7 imply that you had some prior knowledge that he had a
8 book in hand but just didn't read it.

9 A. No. It means -- no, it doesn't mean that
10 I had prior knowledge. It means that I probably
11 discovered this after I got the inquiry. Does that
12 make sense?

13 Q. Maybe. Katie Leslie's point to you in the
14 directly preceding e-mail is, "I think Cochran's
15 point is the administration has known about his book
16 for a long while. And our contention below is
17 that --

18 A. Yes.

19 Q. -- Chief Cochran said he gave the mayor a
20 book in January.

21 A. Right.

22 Q. You don't deny that fact here, you just
23 say he didn't read the book when he got it?

24 A. Right. So after this type of inquiry
25 comes in, I will typically ask, right. So at this

KELVIN J. COCHRAN vs. CITY OF ATLANTA, ET AL.
Anne M. Torres on 02/22/2017

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1 time I probably did not know that he gave him the
2 book last January. But I'll say, hey, Mayor, did you
3 get this book last January. If I get a yes, then at
4 that point I'll know, but I think before this e-mail,
5 I don't think I knew that he had given him the book a
6 year prior.

7 Q. Did you go to the mayor after this?

8 A. I believe so.

9 Q. And what did he tell you?

10 A. He probably said, I did get the book, but
11 I didn't read it when he gave it -- I mean, exactly
12 what I'm communicating to her.

13 Q. Okay. So he got the book, he just didn't
14 read it?

15 MS. HINTON: Object to form.

16 THE WITNESS: Yeah. I believe that's
17 the case.

18 (Exhibit 73 was marked for
19 identification.)

20 BY MR. CONNELLY:

21 Q. The court reporter's handed you what's
22 been marked Plaintiff's Exhibit 73.

23 A. Yes.

24 Q. Do you recognize this document?

25 A. Yes.

KELVIN J. COCHRAN vs. CITY OF ATLANTA, ET AL.
Anne M. Torres on 02/22/2017

Page 76

1 Q. So they pertain to Chief Cochran, he is
2 just not mentioned?

3 A. He is not described as the boss or
4 speaking about people as second-class citizens.

5 Q. But what did you mean when you said
6 "boss"?

7 A. That is a general term.

8 Q. Is it a general term, but what was the
9 occasion of creating these Tweets?

10 A. To push back on the notion that his
11 termination was related to religious beliefs or his
12 personal religious beliefs.

13 Q. Chief Cochran's?

14 A. Yes.

15 Q. The second Tweet, hash tag, "I stand with
16 Kasim because there is no place for discrimination in
17 the workplace."

18 A. Yes.

19 Q. What were you referring to there?

20 A. Same, same as the previous Tweet, meaning
21 discrimination as in employees have a right to be
22 treated equally regardless of their sexual
23 orientation, religious beliefs. With the book we
24 felt that there were passages in the book that
25 violated our City's antidiscrimination policy, and

KELVIN J. COCHRAN vs. CITY OF ATLANTA, ET AL.
Anne M. Torres on 02/22/2017

Page 77

1 that's what that refers to.

2 Q. That the passages in the book constituted
3 discrimination?

4 MS. HINTON: Object to form.

5 THE WITNESS: There were passages in
6 the book that we felt violated the City's
7 antidiscrimination policy.

8 BY MR. CONNELLY:

9 Q. How so?

10 A. Language, and I don't remember the exact
11 passages, so I can't quote them verbatim, but
12 passages referring to homosexuality as bestiality,
13 terms of that nature.

14 Q. Third Tweet, religious freedom -- I'm
15 assuming that is has, or maybe freedoms. Maybe there
16 was an S missing.

17 A. Uh-huh.

18 Q. "Religious freedoms have been violated.
19 An assertion that is as wrong as it was predictable."

20 A. Yes.

21 Q. Explain to me why you wrote that.

22 A. Again, this is pushing back on the notion
23 that Chief Cochran was violated because of his
24 personal religious beliefs. There were a number of
25 people who believed that, and this here is pushing

KELVIN J. COCHRAN vs. CITY OF ATLANTA, ET AL.
Robin Joy Shahar on 02/22/2017

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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

KELVIN J. COCHRAN,)
)
Plaintiff,)
) CIVIL ACTION FILE
vs.)
) NO. 1:15-cv-00477-LMM
CITY OF ATLANTA, GEORGIA;)
)
and MAYOR KASIM REED, IN)
)
HIS INDIVIDUAL CAPACITY,)
)
Defendants.)

- - -

VIDEOTAPED DEPOSITION OF
ROBIN JOY SHAHAR

FEBRUARY 22, 2017
9:40 A.M.

BAKER DONELSON BEARMAN CALDWELL & BERKOWITZ, P.C.
MONARCH PLAZA, SUITE 1600
3414 PEACHTREE ROAD, N.E.
ATLANTA, GEORGIA

Reported by: Suzanne Beasley, RPR
CCR-B-1184

KELVIN J. COCHRAN vs. CITY OF ATLANTA, ET AL.
Robin Joy Shahar on 02/22/2017

Page 80

1 A. A practice.

2 Q. It's a northeast thing.

3 A. I'm from the northeast. It was
4 meditation. It's essentially group of people who
5 would do meditative Hebrew chanting.

6 Q. Why did -- it looks like you said to her
7 that you and Melissa Mullinax were requesting the
8 issue be looked at. Why the ADL?

9 A. Let me first start by saying that when I
10 said "looked at," it was we'd like you to look at the
11 information and decide what you want to do. So I was
12 really careful in what I sent her that I was not -- I
13 was trying to give her things that were in the public
14 domain. I didn't want to put my opinion in the
15 e-mail. I've talked with Shelley over the years
16 about different work of the ADL.

17 I'm familiar with the ADL. They are a
18 very reputable organization with a tradition of
19 thoughtful analysis and meaningful approach to
20 discriminatory situations which look towards, in my
21 mind, healing. They -- I like their philosophy about
22 how to address discrimination. I also like the way
23 that they analyze situations and determine whether
24 they believe a situation exists within the context
25 that they're looking at it.

1 The ADL was important to me as well
2 because, as I mentioned earlier, I was concerned that
3 Chief Cochran and then the people who he was
4 affiliated with were putting in the public domain a
5 notion of religious freedom as if it was the
6 definition of religious freedom, as if there was only
7 one, that their definition was the ultimate, the
8 right definition of religious freedom. And I thought
9 it was very important that other religious
10 perspectives be put in the public domain as well.

11 For me, obviously as a Jew, I wanted the
12 Jewish perspective to be in the public domain, as I
13 said before, particularly given our history, and how
14 views such as the one that were being put out by
15 Chief Cochran in his book are the types of views that
16 have been -- had led to, in my mind, Jews being
17 murdered in the past.

18 Q. When you said the request is not coming
19 from -- well, strike that.

20 What was -- can you tell me about the
21 discussion between you and Melissa Mullinax because
22 it says that you came to that conclusion together?

23 A. I got her permission. I spoke with her.
24 I said I wanted to get alternative views. She
25 agreed.

KELVIN J. COCHRAN vs. CITY OF ATLANTA, ET AL.
Melissa J. Mullinax on 02/23/2017

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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

KELVIN J. COCHRAN,)
)
Plaintiff,)
) CIVIL ACTION FILE
vs.)
) NO. 1:15-cv-00477-LMM
CITY OF ATLANTA, GEORGIA;)
)
and MAYOR KASIM REED, IN)
)
HIS INDIVIDUAL CAPACITY,)
)
Defendants.)

- - -

VIDEOTAPED DEPOSITION OF
MELISSA J. MULLINAX

FEBRUARY 23, 2017
9:38 A.M.

BAKER DONELSON BEARMAN CALDWELL & BERKOWITZ, P.C.
MONARCH PLAZA, SUITE 1600
3414 PEACHTREE ROAD, N.E.
ATLANTA, GEORGIA

Reported by: Suzanne Beasley, RPR
CCR-B-1184

KELVIN J. COCHRAN vs. CITY OF ATLANTA, ET AL.
Melissa J. Mullinax on 02/23/2017

1 Q. Was that received via e-mail, hard copy?

2 A. I think it was a hard copy.

3 (Exhibit 85 was marked for

4 identification.)

5 BY MS. HOLCOMB:

6 Q. Do you recall receiving the e-mail?

7 A. I do.

8 Q. And were you aware that Robin Shahar would
9 be sending the e-mail?

10 A. Uh-huh. I was.

11 Q. What's this e-mail about?

12 A. This e-mail is about -- I said earlier
13 that Robin was getting lots of calls, unhappy calls
14 from constituents. She thought it would be a good
15 idea to reach out to ADL for their -- not analysis,
16 but for their opinion of this. And that we
17 anticipated -- there was a pretty hot religious
18 freedom bill from the general assembly from the
19 previous session that we knew was gearing up and we
20 expected this would be swept up into that, and we
21 were trying to get ahead of that with external folks.

22 Q. Who is ADL?

23 A. It's the Antidefamation League.

24 Q. Can you tell me about them?

25 A. It's a nonprofit whose mission is to fight

1 discrimination.

2 Q. And why did you think ADL's input would be
3 helpful in this situation?

4 A. Why did I? Well, they are an ally who we
5 had been hearing from and knew -- and had been --
6 they are an ally in the sense of the work that we'd
7 been fighting on religious freedom and the positions
8 there on the religious freedom bills at the general
9 assembly.

10 And also Robin was hearing that they
11 wanted to meet with the mayor, so we wanted them to
12 have the information before they came to meet with
13 him so it would be productive, not speculative.

14 Q. You've mentioned a couple of times
15 religious freedom bill. Can you tell me a little bit
16 about that?

17 A. Well, it's a series of bills introduced
18 around state houses around the country and in Georgia
19 specifically that would -- it's called religious
20 freedom, but the idea behind them is that pastors
21 don't have to marry gay couples if they don't want
22 to. There's lots of things that are involved in
23 that. The legislation changes from year to year.

24 Q. And what was your involvement in these
25 bills?

1 in on an interim basis, so, you know, I would have
2 told him that if there were any issues, any
3 assistance that he required, contact me. You know,
4 other than Chief Baker, I don't recall any specific
5 directions to people.

6 Q. Were you involved in the investigation at
7 all?

8 A. No.

9 Q. Did you speak with anyone about the
10 investigation?

11 A. I didn't have a whole lot of knowledge
12 about the book or about the situation, so no. I
13 think that people would have, you know, viewed it as
14 something of a conflict of interest to be doing the
15 investigation, that more independent views would be
16 appropriate.

17 Q. What was your understanding of the purpose
18 of the investigation?

19 A. The purpose of the investigation was to
20 get at just the significance of the issues that had
21 been raised, whether, you know, indeed there was
22 concern within the fire department over how this book
23 might affect the chief's judgment toward people.

24 The investigation also was to address any
25 concerns, different community groups, the LGBT would

1 have had about the chief's stand on things.

2 The investigation would have looked at
3 whether or not the chief could keep a fair and
4 unbiased view of his operations, or whether it was
5 unduly influenced by his views as expressed in the
6 book.

7 Q. Is an investigation pretty routine when
8 someone is suspended?

9 A. Yes.

10 Q. Was there any investigation done before
11 the suspension?

12 A. Not that I'm aware of. Not a formal
13 investigation.

14 Q. Did -- and I apologize if I already asked
15 this. Did you speak with anyone about the
16 investigation while it was going on?

17 A. No, not that I recall.

18 Q. Did you ever speak with the
19 representatives from the Anti-Defamation League about
20 the chief's book?

21 A. No, I don't believe that I did.

22 Q. You're aware that they sent a letter to
23 the mayor?

24 A. I know that the mayor received several
25 letters, yes.

KELVIN J. COCHRAN vs. CITY OF ATLANTA, ET AL.
Michael J. Geisler on 02/28/2017

Page 75

1 that would be addressed in a termination proceeding.

2 Q. Do you recall exactly what those were?

3 A. No.

4 Q. What did Chief Cochran say at that
5 meeting?

6 A. I don't recall any specifics.

7 Q. Do you recall him asking to speak with the
8 mayor?

9 A. I believe that he did, yes.

10 Q. What was your response to that question?

11 A. That, you know, the proceeding was final
12 and we were going to move forward from there and, you
13 know, the opportunities had all been taken.

14 Q. Was there any one basis that was more
15 important than the others that you spoke about to
16 Mr. -- Chief Cochran?

17 MS. HINTON: Object to form.

18 THE WITNESS: Well, again, it comes
19 down to the ethics issue. It comes down to
20 the publication of the book on -- without
21 adequate disclosure of the publication of
22 the book, even though as fire chief he was
23 labeling it as something produced by the
24 fire chief of the City of Atlanta, so those
25 were the primary issues that I recall.

KELVIN J. COCHRAN vs. CITY OF ATLANTA, ET AL.
Michael J. Geisler on 02/28/2017

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1 Q. From the article?

2 A. Probably from the article, yes.

3 Q. Were you -- at the time of Chief Cochran's
4 termination, were you aware of any communications or
5 did you receive any communications from members of
6 the fire department that -- specifically in support
7 of his termination?

8 A. No.

9 Q. Did you receive any from members of the
10 fire department opposed to his termination?

11 A. No.

12 MR. THERIOT: I believe that's all
13 that I have.

14 MS. HINTON: Okay. I have a few
15 questions.

16 EXAMINATION

17 BY MS. HINTON:

18 Q. Mr. Geisler, when was the fact that Chief
19 Cochran did not get permission to publish his book
20 first raised as an issue by someone at the City?

21 A. Yvonne Yancy in that initial visit brought
22 up that the permission hadn't been granted, and part
23 of her concern had to do with the fact that the
24 ethics board and Nina Hickson, the ethics officer,
25 had not approved of the book or prior to its being

KELVIN J. COCHRAN vs. CITY OF ATLANTA, ET AL.
Michael J. Geisler on 02/28/2017

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1 published.

2 Q. And this was before the decision to
3 suspend was made?

4 A. Correct.

5 Q. Besides Yvonne Yancy, did the mayor
6 express that as a potential concern as well?

7 A. It was his concern, yes.

8 Q. And that was also before the suspension?

9 A. Yes.

10 Q. Going back to your testimony about the
11 phone call you had with Chief Cochran during his
12 suspension, do you recall that you testified that
13 Chief Cochran told you that he had given a speech to
14 the Georgia Baptist Convention and that it had been
15 recorded and was going to be posted on their website?

16 A. Yes.

17 Q. What did you say in response to that
18 statement from Chief Cochran?

19 A. I believe I said, be careful with this
20 label on this; don't go public with that kind of
21 information.

22 Q. And why did you feel the need to say that
23 to him?

24 A. Because I felt that the understanding he
25 had with the mayor was that that type of information

KELVIN J. COCHRAN vs. CITY OF ATLANTA, ET AL.
Candace L. Byrd on 02/23/2017

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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

KELVIN J. COCHRAN,)
)
Plaintiff,)
) CIVIL ACTION FILE
vs.)
) NO. 1:15-cv-00477-LMM
CITY OF ATLANTA, GEORGIA;)
)
and MAYOR KASIM REED, IN)
)
HIS INDIVIDUAL CAPACITY,)
)
Defendants.)

- - -

VIDEOTAPED DEPOSITION OF
CANDACE L. BYRD

FEBRUARY 23, 2017
11:39 A.M.

BAKER DONELSON BEARMAN CALDWELL & BERKOWITZ, P.C.
MONARCH PLAZA, SUITE 1600
3414 PEACHTREE ROAD, N.E.
ATLANTA, GEORGIA

(TRANSCRIPT CONTAINS CONFIDENTIAL PORTION)
PAGE 80, LINE 4 TO PAGE 83, LINE 14

Reported by: Suzanne Beasley, RPR
CCR-B-1184

KELVIN J. COCHRAN vs. CITY OF ATLANTA, ET AL.
Candace L. Byrd on 02/23/2017

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1 A. To remain quiet and not to talk about the
2 events surrounding his suspension and to be on
3 suspension for 30 days.

4 Q. What's the normal protocol when an
5 employee is suspended regarding communications like
6 that?

7 MR. GEVERTZ: Object to the form.

8 THE WITNESS: I don't -- I don't
9 really know in the sense of when -- people
10 get suspended for any number of things, and
11 in my seven years being here, I've not
12 known of an employee to write a book. And
13 so you're talking about in terms of those
14 communications, I don't -- I don't know.
15 So it's not our -- a routine kind of
16 suspension as far as I'm concerned.

17 BY MR. CONNELLY:

18 Q. So you said that you gave that admonition?

19 A. I did.

20 Q. Did you come up with that admonition, or
21 did somebody say "We need to do this, Candace, please
22 do this"?

23 A. I believe the mayor said this is what we
24 need to do while we are going to have this
25 suspension, and just to, again, be on suspension for

KELVIN J. COCHRAN vs. CITY OF ATLANTA, ET AL.
Candace L. Byrd on 02/23/2017

1 30 days and not to talk about the nature of the
2 suspension and the employment. We don't typically
3 talk about employment matters to the media either.
4 Those are employment matters, and we reserve comments
5 surrounding suspensions or terminations or anything
6 else.

7 Q. Did the City communicate the facts or the
8 circumstances or the existence of the suspension in
9 this case?

10 MR. GEVERTZ: Object to the form.

11 THE WITNESS: When you mean "the
12 City," who do you mean?

13 BY MR. CONNELLY:

14 Q. Well, I think you just said that it's not
15 normal for the City to talk about suspensions --

16 A. Right.

17 Q. -- in the normal course.

18 Did the City or any official statement
19 emanate from the communications department regarding
20 Chief Cochran's suspension?

21 A. I don't recall if it was an outward or an
22 external communication. I believe that I sent an
23 e-mail, I believe, to members of council, to members
24 of city council and the council president.

25 Q. And what did that e-mail say? Do you

KELVIN J. COCHRAN vs. CITY OF ATLANTA, ET AL.
Stephen D. Borders on 02/17/2017

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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

KELVIN J. COCHRAN,)
)
Plaintiff,)
) CIVIL ACTION FILE
vs.)
) NO. 1:15-cv-00477-LMM
CITY OF ATLANTA, GEORGIA;)
and MAYOR KASIM REED, IN)
HIS INDIVIDUAL CAPACITY,)
)
Defendants.)

- - -

VIDEOTAPED DEPOSITION OF
STEPHEN D. BORDERS

FEBRUARY 17, 2017
2:01 P.M.

BAKER DONELSON BEARMAN CALDWELL & BERKOWITZ, P.C.
MONARCH PLAZA, SUITE 1600
3414 PEACHTREE ROAD, N.E.
ATLANTA, GEORGIA

Reported by: Suzanne Beasley, RPR
CCR-B-1184

KELVIN J. COCHRAN vs. CITY OF ATLANTA, ET AL.
Stephen D. Borders on 02/17/2017

Page 108

1 his ability to lead in the City, and that's
2 why we asked for the City's help to look
3 into it.

4 BY MR. CONNELLY:

5 Q. But apart from the fact that you say you
6 have no choice as an operational firefighter who's
7 not in the --

8 A. Right.

9 Q. -- upper ranks or the mayor who has --

10 A. Right.

11 Q. Is it your testimony you could have worked
12 for him even though he had those views and they were
13 known?

14 A. Yes.

15 Q. You talked a little bit about the handful
16 of people that may have come to you or come to you
17 through third parties.

18 A. Right.

19 Q. I think you also said that there were some
20 expressions of support for Chief Cochran; is that
21 correct?

22 A. Yes, there were.

23 Q. Who were those firefighters; do you
24 remember?

25 A. I don't remember specifically who they

KELVIN J. COCHRAN vs. CITY OF ATLANTA, ET AL.
Nina Hickson on 02/16/2017

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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

KELVIN J. COCHRAN,)
)
Plaintiff,)
) CIVIL ACTION FILE
vs.)
) NO. 1:15-cv-00477-LMM
CITY OF ATLANTA, GEORGIA;)
and MAYOR KASIM REED, IN)
HIS INDIVIDUAL CAPACITY,)
)
Defendants.)

- - -

VIDEOTAPED DEPOSITION OF
NINA HICKSON

FEBRUARY 16, 2017
9:54 A.M.

BAKER DONELSON BEARMAN CALDWELL & BERKOWITZ, P.C.
3414 PEACHTREE ROAD, N.E.
MONARCH PLAZA
SUITE 1600
ATLANTA, GEORGIA 30326

Reported by: Suzanne Beasley, RPR
CCR-B-1184

1 BY MR. WARDLOW:

2 Q. I'm going to have the court reporter set
3 in front of you what will be marked as Plaintiff's
4 Exhibit 23. This is a two-page document showing
5 handwritten notes. Is this your handwriting?

6 A. It is my handwriting, but these were two
7 separate documents. They were not together.

8 Q. So these two pages are your notes?

9 A. They are my notes. And then there's a
10 sticky note and that's a separate -- that would be a
11 third separate document.

12 Q. So this on the first page here --

13 A. Yes.

14 Q. -- it says, "T/C 10:34 a.m." It's dated
15 the 31st of October, 2012. Do you see that?

16 A. Yes.

17 Q. And I believe it says, "Advise regarding
18 non-city-related book he is authoring." Is that a
19 reference to Chief Cochran's a book?

20 A. That's a reference to a conversation I had
21 with Chief Cochran, yes.

22 Q. And that's the book entitled Who Told You
23 That You Were Naked?

24 A. No. No, because I didn't know -- I was
25 not given a title. What I was told was he -- there

1 was a leadership book that he was authoring. But I
2 was never given a title or a content other than
3 leadership.

4 Q. If he came to you -- well, first of all,
5 did he contact you about this matter?

6 A. He called me. This indicates it was a
7 telephone call. He called me.

8 Q. And what did he say?

9 A. My memory was that he was writing a
10 non-city book on leadership, and was this a matter
11 that the ethics -- that the ethics board would be
12 concerned about or would this fall under the ethics
13 code? That was my understanding of his question.
14 And so I said yes.

15 And he said, well -- as I recall, he said
16 it wasn't happening anytime soon, but he would get
17 back with me in about six months. That was the
18 extent of it. Or that's what I remember.

19 (Exhibit 24 was marked for
20 identification.)

21 BY MR. WARDLOW:

22 Q. I'm placing in front of you what will be
23 marked as Plaintiff's Exhibit 24. This is an e-mail
24 from Sherry Dawson to you --

25 A. Uh-huh.

KELVIN J. COCHRAN vs. CITY OF ATLANTA, ET AL.
Nina Hickson on 02/16/2017

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1 Q. -- dated December 12th, 2015; is that
2 correct?

3 A. That's what it appears to be, yes.

4 Q. Do you have any reason to doubt the
5 authenticity of this document?

6 A. I don't see any reason to doubt it, no.

7 Q. Would you read the document to yourself
8 and confirm that it is what it purports to be?

9 A. I mean, it speaks for itself. Yeah, I
10 don't have any reason to believe it's not an accurate
11 document.

12 Q. It refers to a call that you or your
13 office received from John Roberts of Fox News; is
14 that correct?

15 A. That's correct.

16 Q. Did you ever call Mr. Roberts back?

17 A. I did.

18 Q. And what did you talk about?

19 A. He asked about -- at this point it was in
20 the press that -- about Chief Cochran's book, and I
21 don't know if he had been disciplined at this point,
22 but I know he was suspended. So he was asking me
23 about that as well as what -- the ethics code, how it
24 applied to this situation.

25 Q. Moving off the document for a moment, did

KELVIN J. COCHRAN vs. CITY OF ATLANTA, ET AL.
Nina Hickson on 02/16/2017

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1 you ever have any conversations with Chief Cochran
2 about a multilevel marketing venture?

3 A. Yes.

4 Q. And did you advise him to get approval
5 from the board about that venture?

6 A. Yes.

7 Q. And why did you advise him to do that?

8 A. Two reasons. It was an outside activity
9 where he would be earning some money, and because of
10 his level, under the code it would have been a matter
11 that needed to be addressed by the Board of Ethics.

12 The second one, quite candidly, is that I
13 didn't understand the way it worked, and so I needed
14 an understanding of how it worked.

15 Q. The way --

16 A. In other words --

17 Q. The way the multilevel marketing
18 scheme worked?

19 A. Right. Yeah. Yeah.

20 MS. HINTON: Let her finish.

21 THE WITNESS: Yes. Yes. I didn't
22 understand how that worked, but I knew with
23 multilevel marketing and the opportunity
24 for remuneration, that it's a matter, given
25 his level, that would have had to come to

KELVIN J. COCHRAN vs. CITY OF ATLANTA, ET AL.
Nina Hickson on 02/16/2017

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1 the ethics board for sign-off.

2 BY MR. WARDLOW:

3 Q. So you made a determination that this
4 could be something falling with under -- under
5 Section 2-820(d) of the ethics code, correct?

6 A. Let me see if that's the section. You
7 said 820(d)?

8 Q. Yep.

9 A. Yes.

10 Q. And so you advised Chief Cochran and you
11 gave him advice that he should seek board approval
12 because this could fall under 820(d)?

13 A. I'm sure I didn't -- I didn't use the
14 language 820(d). I just told him this was
15 something -- because I see my notes here, I told him
16 to clear it with the mayor and then get authorization
17 from the Board of Ethics.

18 Q. So -- so we're talking about the
19 multilevel marketing scheme. You also told him to --

20 A. But it also said something about
21 mentioning -- and a book.

22 Q. Well, that's different than what -- did --

23 A. I don't know if it's different or not.

24 Q. Well, we'll get to that. Did --

25 A. Excuse me?

1 Q. I said we'll discuss that, and just try to
2 stick your -- to the answers to the questions I'm
3 asking you. All right?

4 A. I was asking -- I was answering based on
5 what was on my notes, and so there was a mention of
6 the book as well as the multi.

7 Q. Oh, okay. Okay. But with respect to the
8 multilevel marketing scheme, you told him to clear
9 that with the mayor and to get board approval,
10 correct?

11 A. But I also mentioned there was a book in
12 here.

13 Q. Yes.

14 A. So I thought somehow they might have been
15 related.

16 Q. Oh, you thought the multilevel marketing
17 scheme and the book were related?

18 A. Yes.

19 Q. So you're looking at Exhibit 23 there,
20 right, the notes?

21 A. The second page of 23.

22 Q. Okay. So what you're referring to is the
23 top of the note. This is dated July 9th, 2013,
24 correct?

25 A. Right.

KELVIN J. COCHRAN vs. CITY OF ATLANTA, ET AL.
Nina Hickson on 02/16/2017

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1 Q. At 2:22 p.m., right?

2 A. That's correct.

3 Q. Would that be the time of a telephone call
4 from --

5 A. That's from Chief Cochran.

6 Q. Okay. And it says, "Fire Chief Cochran,
7 mentioning in book." What do you recall about that
8 note there?

9 A. Only thing -- I don't. I just remember
10 that for some reason I tied -- because of the
11 leadership part, I tied that to a book as well as
12 multilevel marketing, that there was some -- some
13 relationship, but I can't recall what he specifically
14 said. That's just a note that I took, so I'm sure he
15 said something about a book. But I thought there was
16 a tie with the book and the multilevel marketing.

17 But as I said, I didn't really understand
18 how the -- how it worked based on how he was
19 explaining it.

20 Q. How the multilevel marketing scheme
21 worked -- or venture worked?

22 A. Or. Or however the book worked -- I mean,
23 if there was a situation. I just didn't understand
24 what it was. I just knew that he was talking about
25 making money through a multilevel marketing, and

KELVIN J. COCHRAN vs. CITY OF ATLANTA, ET AL.
Nina Hickson on 02/16/2017

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1 A. No, just -- I mean, it was a pleasant
2 conversation and just I look forward to reading his
3 book.

4 Q. And you said it probably occurred after
5 July 9th, 2013?

6 A. I said probably, but I don't know for
7 sure.

8 Q. Now, if you told someone that they needed
9 ethics board approval --

10 A. Uh-huh.

11 Q. -- for something --

12 A. Uh-huh.

13 Q. -- would your notes typically reflect
14 that?

15 A. I think they would, typically.

16 Q. Looking at the July 9th, 2013 notes where
17 it says "mentioning in book" --

18 A. Uh-huh.

19 Q. -- does that phrase jog your recollection
20 at all about the substance of the conversation you
21 had with Chief Cochran?

22 A. I mean, no more than what I've already
23 told you.

24 Q. Do you recall Chief Cochran discussing
25 whether he could mention the fact that he is the fire

1 chief of Atlanta -- was the fire chief of Atlanta in
2 the authorship portion of the book?

3 A. I don't recall that. It's possible that
4 he did. But I don't recall. That may be where that
5 note comes from, but I don't --

6 Q. So that could be what "mentioning in book"
7 means?

8 A. It could be. It could be.

9 Q. And that could be why you wrote
10 "Fire Chief Cochran"?

11 A. Well, no, I just would have -- that's the
12 way I would have referred to him.

13 Q. Do you remember at the time of the second
14 conversation whether the book was completed or almost
15 completed?

16 A. He never mentioned whether it was
17 completed or not. I was still under the impression
18 he was thinking about writing it. I had no idea
19 there was a -- if there was a completed book.

20 Q. At what point did you become aware the
21 book was near completion or completed?

22 A. When it hit the news.

23 Q. Were you aware that it was near completion
24 when you had a conversation in the atrium with
25 Chief Cochran?

KELVIN J. COCHRAN vs. CITY OF ATLANTA, ET AL.
Mayor Kasim Reed on 02/14/2017

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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

KELVIN J. COCHRAN,)
)
Plaintiff,)
) CIVIL ACTION FILE
vs.)
) NO. 1:15-cv-00477-LMM
CITY OF ATLANTA, GEORGIA;)
and MAYOR KASIM REED, IN)
HIS INDIVIDUAL CAPACITY,)
)
Defendants.)

- - -

VIDEOTAPED DEPOSITION OF
MAYOR KASIM REED

FEBRUARY 14, 2017
9:35 A.M.

BAKER DONELSON BEARMAN CALDWELL & BERKOWITZ, P.C.
MONARCH PLAZA, SUITE 1600
3414 PEACHTREE ROAD, N.E.
ATLANTA, GEORGIA

(TRANSCRIPT CONTAINS CONFIDENTIAL PORTIONS)
PAGE 10, LINE 4 TO PAGE 10, LINE 7
PAGE 31, LINE 4 TO PAGE 39, LINE 5
PAGE 110, LINE 4 TO PAGE 114, LINE 22

Reported by: Suzanne Beasley, RPR
CCR-B-1184

KELVIN J. COCHRAN vs. CITY OF ATLANTA, ET AL.
Mayor Kasim Reed on 02/14/2017

Page 88

1 Q. Who told you that he had written a book?
2 How did you find that out?

3 A. Sometime during the course of 2013
4 Chief Cochran had referenced that he was writing a
5 book or had written a book, and so during a cabinet
6 meeting said it in a casual -- after being in a room
7 like this, said that he was either writing a book or
8 had written a book. So I had heard of that sometime
9 in 2013.

10 Q. That was at a -- in a -- it was at a
11 cabinet meeting, but you don't recall exactly when
12 that was?

13 A. I don't. After a cabinet meeting, which
14 is a meeting of the city's principals, he said that
15 he was either working on a book or had written a
16 book.

17 Q. Sometime in 2013?

18 A. Uh-huh.

19 Q. When did you first actually see a copy of
20 the book?

21 A. The first time I actually saw a copy of
22 the book was when Yvonne Yancy came into my office,
23 that I recall --

24 Q. Okay.

25 A. -- and told me about Chief Cochran's book.

KELVIN J. COCHRAN vs. CITY OF ATLANTA, ET AL.
Mayor Kasim Reed on 02/14/2017

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1 Q. Approximately when was that?

2 A. It would have been sometime in the --
3 between October and December in '13.

4 Q. Okay.

5 MR. GEVERTZ: '14?

6 THE WITNESS: '14. I'm doing the
7 best I can. Towards the end of the year.

8 BY MR. THERIOT:

9 Q. Right. Okay.

10 A. I just remember that it was around the
11 holidays.

12 Q. All right.

13 A. Around the holiday season.

14 Q. Do you remember having a conversation with
15 Chief Cochran in February of 2014 around the State of
16 the City address in which you told him that you had
17 received a copy of his book?

18 A. The answer is no.

19 Q. Okay. So the first time you talked to him
20 about the book was at that staff meeting sometime --

21 A. The time that I remember --

22 Q. Right.

23 A. -- is when -- in cabinet, and he said that
24 he was either working on a book or had written a
25 book.

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1 Q. Okay.

2 A. And he wanted me to have a copy.

3 Q. Okay.

4 A. And so what I -- what I want to give you a
5 sense of is the amount of materials that I receive on
6 a daily basis is beyond voluminous, so I don't recall
7 ever seeing his book until Commissioner Yancy walked
8 in my office with it.

9 Q. Okay.

10 A. And I've never read it.

11 Q. Did your executive assistant,
12 Lilly Cunningham, ever mention to you that
13 Chief Cochran had left a copy of the book with her?

14 A. Not that I recall at all.

15 Q. Did -- did you ever ask her about that
16 since the events of this -- underlying this lawsuit
17 took place to see if she remembered that?

18 A. No.

19 Q. Is it possible that Chief Cochran could
20 have given her a copy of the book and gave it to you
21 and he had a conversation about that with you?

22 A. It's also possible that he did not.

23 Q. Okay. You don't have any specific
24 recollection one way or the other?

25 A. I do not. I mean, people send books to me

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1 2014. So how many -- how many days prior to that was
2 that decision made?

3 A. Sometime within two weeks before that.

4 Q. Okay. Did you want to terminate
5 Chief Cochran at that time?

6 A. I did not want to terminate him because I
7 liked him. I was disappointed, but I didn't want to
8 terminate him. Certainly without having a full
9 complement of the facts.

10 Q. Was there -- was there anyone else -- or
11 anyone that recommended that he be suspended, or was
12 that pretty much your decision based upon your
13 experience?

14 MR. GEVERTZ: Hold on. You've got to
15 exclude Kathy, Bob, and the legal team, but
16 outside of them, if you can answer, you
17 should.

18 THE WITNESS: Yes. Yvonne Yancy
19 recommended that he be suspended.

20 BY MR. THERIOT:

21 Q. And what was her rationale for that?

22 A. That we had clear liability around Title 7
23 issues.

24 Q. What was your understanding of the clear
25 liability around the Title 7 issues?

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1 A. I was concerned that if a person was
2 having a book with the contents of his book being
3 distributed, either for sale or directly from a
4 person in that position of authority, that it could
5 cause real discomfort to our employees, and we could
6 be sued as a result.

7 Q. Based on what aspect of Title 7? What --

8 A. Hostile environment.

9 Q. Hostile environment towards -- based on
10 religion, based upon --

11 A. I think the breadth of the book covered so
12 much.

13 Q. Okay.

14 A. For any number of reasons. I think it
15 certainly warranted an inquiry.

16 Q. And so at that point you were concerned.
17 You didn't have any evidence of a hostile work
18 environment?

19 A. I did not. But I do know that once a
20 matter is brought to your attention and that you
21 don't act to at least make an inquiry, that you open
22 the city up to significant liability long term, and
23 so that was a concern of mine. And I tried to make
24 the judgment in an even-handed fashion to give time
25 and space to find out what were all of the facts

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1 prior to making a decision.

2 Q. Prior to his suspension on November 24th,
3 did anyone other than your attorneys recommended that
4 he be terminated?

5 A. I don't recall.

6 Q. Was there anyone that -- other than your
7 attorneys -- that recommended that he not be
8 suspended prior to this suspension date on
9 November 24th?

10 A. No.

11 Q. Why did you decide -- all right. I
12 mean -- strike that.

13 So your testimony, as I understand it, is
14 that you decided to suspend him so you could take --
15 could do an investigation because you were concerned
16 about some possible Title 7 ramifications.

17 A. The answer is, I decided to suspend him
18 because we needed to find out what the facts were.

19 So I had received a phone call from
20 Councilmember Wan, my HR representative had raised
21 legitimate concerns that involved the treatment of
22 women, comments about Jewish people, comments about
23 homosexual people, and so I had a concern that this
24 book -- I didn't know whether it was sold or given.
25 So if you're in my shoes, you have no idea what the

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1 facts are.

2 And so I thought that -- and you couldn't
3 have the chief in the building because the fire
4 department, Atlanta Fire Rescue, operates under a
5 command structure. So how could you have gone
6 through and interviewed people and gotten their
7 honest reflection with the chief sitting in the
8 building?

9 And so I thought that the fairest path was
10 to suspend him, get him out of the building, and to
11 find out what the facts were.

12 Q. Whom did you tell to suspend him?

13 A. Commissioner Yancy.

14 Q. Did -- did you tell her to give him a
15 specific reason?

16 A. I didn't direct the execution of the
17 suspension. I made it clear to Commissioner Yancy
18 and the chief operating officer, who is the person
19 that the fire chief directs -- reports directly to
20 and is the person that they communicate to, that it
21 be done.

22 Q. That was Michael Geisler?

23 A. Mr. Geisler, yes.

24 Q. But you didn't give them any specifics
25 about what to tell him, just suspend him?

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1 Q. Okay.

2 A. -- in almost any respect.

3 I mean, this process -- number one, there
4 was a book that was written without my permission,
5 that I was never -- it was not discussed with me.
6 There was -- there is a -- there was dollars that
7 were earned. There was no opinion given in writing
8 by our ethics officer. There were people who were
9 complaining and saying that they had received this
10 book.

11 The Anti-Defamation League came to my
12 office to meet with me regarding the matter that
13 we're discussing. So I think to say it was usual, it
14 wasn't usual.

15 This is the advice that I was getting from
16 people who have positions of responsibility, and the
17 advice was very forceful. I actually restrained it.

18 The majority opinion among my team was
19 that once -- this offense was very serious and needed
20 to be acted on immediately. I pushed back. I said,
21 we need to take our time and we need to respect the
22 chief's career, and so we did an investigation.

23 Q. Why was he suspended without pay?

24 A. He was suspended without pay because, in
25 my opinion, writing a book and earning money off of

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1 it, which we knew pretty quickly, was completely
2 inappropriate and wrong. And at no time did my chief
3 of -- at fire and rescue come in my office and sit
4 down and have an in-person conversation and say, I am
5 writing a book and I would like you to support me.

6 And a passing "I wrote a book that I'd
7 love for you to read" doesn't cut it when you're
8 responsible for a fire department that has
9 responsibility for 150,000 people's lives.

10 And it should not have been a vacation.
11 And the only way that it's not a vacation is that if
12 you're not compensated during that month.

13 Q. So that was -- that was part of the reason
14 why he was suspended without pay, was that he didn't
15 check with you first?

16 A. The reason -- no. The reason that
17 he -- I'm a human being with feelings. He was
18 suspended because he wrote a book without getting an
19 opinion from our ethics officer in writing. I don't
20 believe that that required extraordinary judgment or
21 additional steps. And then he passed the book out.

22 Now, I don't know whether he was paid or
23 gave the book freely. I don't know. But if you are
24 the head of a department with a thousand people, if
25 they feel pressured to accept a book that cost \$10 or

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1 A. It is a blend. Some are done by me and
2 some are done by the communications team.

3 Q. Who heads up the communications team?

4 A. A woman named Anne Torres.

5 Q. And she headed it up during the events of
6 this process?

7 A. I believe so. It would be Anne Torres or
8 Sonji Jacobs, one of the two.

9 Q. So this -- there's a -- if you look at the
10 second page of Exhibit 10, there's a post there dated
11 November 24th, 2'14 -- 2014. What made you decide to
12 post this on Facebook?

13 A. Because there was a number -- a
14 significant amount of differing opinion on the
15 decision, on the decision for him to be suspended.

16 Q. That differing opinion among whom?

17 A. I think the public was concerned about
18 what was going on.

19 Q. How did they find out about his
20 suspension?

21 A. They found out about his suspension
22 because it was covered by the press.

23 Q. And do you know how the press found out
24 about it?

25 A. I don't recall.

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1 Q. So this, on November 24th, the day he was
2 suspended, was in response to some press that
3 occurred that day?

4 A. I don't recall what it was in response to.

5 Q. You say that, "I was surprised and
6 disappointed to learn of this book on Friday."

7 So it's your testimony that he -- that was
8 the first time you were aware of the book, was the
9 Friday before November 24th?

10 A. I testified --

11 MR. GEVERTZ: Object to the form.

12 THE WITNESS: -- that the first time
13 that I learned of the book was when
14 Yvonne Yancy walked in my office and talked
15 to me about it on whatever that day was, so
16 I'm not going to guess on the dates.

17 BY MR. THERIOT:

18 Q. All right.

19 A. But this is consistent with my testimony.
20 But I did not -- what I know is, is that the person
21 that walked in my office with the book with
22 highlighted sections was Yvonne Yancy. After I met
23 with Yvonne, I received a telephone call from
24 Councilmember Alex Wan. So that -- those were the
25 series of events that made me aware of this book.

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1 Q. And there was a time during a meeting
2 where he may have mentioned it, but you didn't know
3 about the content; is that right?

4 A. There was.

5 Q. Okay. All right. And you say, "I
6 profoundly disagree with and am deeply disturbed by
7 the sentiments expressed in the paperback regarding
8 the LGBT community."

9 What specific sentiments were you
10 referring to?

11 A. I didn't agree with the provisions -- with
12 some of the provisions that were highlighted and
13 shown to me by Yvonne Yancy.

14 Q. Was it -- let's go back and look at
15 Exhibit Number -- the excerpts of the book. Let's
16 see. It's the one that looks like this in a -- I
17 apologize. Yes, there it is.

18 A. Is it --

19 Q. Yeah, Exhibit Number 8.

20 A. Okay.

21 Q. So if you would turn to page 82, please,
22 of that exhibit.

23 A. Okay.

24 Q. All right. If you look down, there's
25 a -- it's grayed out there. Can you read that? And

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1 if you can't, I can -- I can --

2 A. Uh-huh.

3 Q. Okay. Is that the provision that you're
4 speaking about regarding the LGBT community?

5 A. It may be, but -- because I didn't read
6 the book. What I did was to look at the highlighted
7 sections.

8 Q. Okay.

9 A. But that provision is offensive to me.

10 Q. Okay. And you -- you say you "profoundly
11 disagree" with it. What is it about it that you
12 disagree with?

13 A. What I disagreed with was a book being
14 published by a member of my cabinet for profit
15 without the approval of the ethics board and without
16 me having knowledge of it.

17 Q. But the Facebook post says that, "I
18 profoundly disagree...and am deeply disturbed by the
19 sentiments expressed in the paperback."

20 So what sentiments in the paperback were
21 you concerned about? Was this one of them?

22 A. This was among them.

23 Q. Okay. And what was it that you disagree
24 with regarding this particular sentiment on page 82?

25 A. I don't -- first of all, I don't agree

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1 with the comments around homosexuality. And there
2 were other parts of the book that I thought were
3 insensitive to women. And there were other parts of
4 the book that I thought were insensitive to Jewish
5 people. But I'm not -- I cannot tell you what was in
6 my mind as I sit here in 2017, three years later, so
7 that was it.

8 Q. So this -- but this was one of the
9 things -- or you're saying could have been one of the
10 things you disagreed with?

11 A. It certainly could have.

12 Q. All right. And the -- was the reason why
13 you disagreed with it because you think that
14 it's -- that that definition of uncleanness is wrong?

15 MR. GEVERTZ: Object to the form.

16 THE WITNESS: I think it's
17 inappropriate for a member of the cabinet
18 to use their title as chief of the Atlanta
19 Fire and Rescue to sell a book to make a
20 profit without getting written approval
21 from the ethics board and having a
22 conversation with me as a member of my
23 cabinet.

24 BY MR. THERIOT:

25 Q. I understand that. But that's not what

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1 I'm asking you.

2 A. I understand, but --

3 Q. What I'm asking you is, what you meant by
4 that -- "sentiments" in the Facebook post?

5 MR. GEVERTZ: Objection. Asked and
6 answered.

7 THE WITNESS: And I'm telling you
8 that I don't agree with some of these
9 sentiments and I'm not going to go back
10 three years later and tell you what
11 comments that were highlighted and pointed
12 out reflected what I wrote at that moment.

13 The writing -- the document speaks
14 for itself, and I'm not going to
15 second-guess what I wrote three years ago
16 and make up some thinking about what I
17 wrote sitting here in this conference room
18 today.

19 BY MR. THERIOT:

20 Q. Well, it says -- it also says in a
21 couple -- if you look back at -- I'm sorry -- at
22 Plaintiff's Exhibit Number 10. It says, "I want to
23 be clear" -- I'm sorry, I'm getting ahead of you.

24 A. Plaintiff's Exhibit 10?

25 Q. Ten. It's the Facebook post.

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1 A. Okay.

2 Q. "I want to be clear that the material in
3 Chief Cochran's book is not representative of my
4 personal beliefs."

5 What personal beliefs are you speaking of?

6 A. The beliefs that demean women, demean
7 Jewish people, and demean homosexual people.

8 Q. And so we talked about on page 82 of
9 Exhibit Number 8.

10 A. Uh-huh.

11 Q. And that -- in your mind, you disagree
12 with that because it demeans Jewish, gay and lesbian
13 people?

14 MR. GEVERTZ: Object to the form.

15 THE WITNESS: That is among the
16 statements in this book that I believe
17 demean homosexual people --

18 BY MR. THERIOT:

19 Q. All right.

20 A. -- and -- and Jewish people and women.

21 Q. On page 31 of Exhibit Number 8, if you'd
22 look down at the bottom, it's grayed out, it begins
23 with, "Jewish leaders had made up their mind that the
24 message of righteousness by faith through grace was a
25 message of heresy."

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1 Is -- is that one of the provisions you
2 say demeans Jewish people?

3 MR. GEVERTZ: Object to the form.

4 Asked and answered.

5 MR. THERIOT: Well, I haven't asked
6 about --

7 MR. GEVERTZ: No.

8 THE WITNESS: I mean --

9 MR. GEVERTZ: You're probably right.
10 But the problem is we're retreading the
11 same explanation.

12 THE WITNESS: What I -- what I've
13 said today and what I believed at the time
14 was, the highlighted portions of the book,
15 which I reviewed, were offensive to broad
16 categories of people, including Jewish
17 people, women and homosexuals. And this
18 comment that's made about Jewish leaders
19 really is a timeworn method of being
20 anti-Semitic.

21 So you can read this statement today
22 and make it sound like it is a pure,
23 innocent statement, but this is also a
24 statement that has been used by others
25 basically to make the point that Jewish

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1 people were behind the death of Christ,
2 which may be factually and historically
3 correct, but it -- it leans into a stream
4 of thought that goes into places that are
5 negative for me.

6 MR. THERIOT: There was -- just a
7 second.

8 THE WITNESS: I'm going to let you
9 organize the exhibits so I don't lose
10 track.

11 MR. THERIOT: All right. We're going
12 to mark this as Plaintiff's Exhibit
13 Number 11.

14 (Exhibit 11 was marked for
15 identification.)

16 THE WITNESS: Thank you.

17 BY MR. THERIOT:

18 Q. Mayor Reed, I'm handing you what's been
19 marked as Plaintiff's Exhibit Number 11. This is a
20 copy -- I'll represent to you this is a copy of the
21 book. And on page 76 -- 70 --

22 MS. HALLOCK: 47?

23 BY MR. THERIOT:

24 Q. -- 47, excuse me, page 47 --

25 A. Yes.

1 Q. Yeah, if you look at the -- on the top of
2 page 47, it says, "Ever wondered what would have
3 happened if Eve would have said, 'You need to talk to
4 my husband'? What if she would have said, 'Do I know
5 you? Who are you? Why would I listen to you, I
6 don't know you?'"

7 Is that the provision you're talking about
8 that could be demeaning to women?

9 A. That could be demeaning to women, but
10 that's not the provision that I'm -- that I'm telling
11 you was in my mind when I wrote my Facebook page.
12 I'm not going to try to recreate what I was thinking
13 when I did my Facebook post.

14 Q. But there were some things that you
15 disagreed with in the book?

16 A. Yes, there were.

17 Q. And the basis of that disagreement
18 was -- was that based on your religious convictions?

19 A. The basis of the disagreement was the fact
20 that a member of my cabinet wrote a book for sale
21 without authorization, and did not have one
22 conversation with me to tell me about it. And I
23 don't mean a passing comment that they were working
24 on a book.

25 There's a clear process that was in

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1 writing by a cabinet member. If a person's going to
2 write a book to make a profit, they could have walked
3 down to the office of ethics and found out how to do
4 that. This is a person who's responsible for the
5 lives of a thousand men and women, and if there's a
6 major fire or a tragedy in the City of Atlanta, he
7 has responsibility under my direction and in
8 cooperation with me in dealing with that.

9 And I don't know why you would
10 choose -- he didn't write the book when he worked for
11 the United States government, when he worked for the
12 president. He didn't write the book when he worked
13 for Shirley Franklin. Why would you choose to write
14 a book and not get authorization?

15 Now, I'm not going to lie to you and tell
16 you that it was not offensive to me, given the
17 support that I had given to him.

18 You know, you all have represented this as
19 a one-way street. Kelvin Cochran called me. I
20 didn't call him. He called me and said, I want to
21 come home. I then met with him, treated him with
22 dignity and respect. He went through a process. He
23 was selected in that process.

24 I provided more resources to him than any
25 fire chief who had his job before. When he was in a

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1 bad spot, whether you all want to acknowledge it or
2 not, I fully supported him.

3 And he concluded that he could write a
4 book with content that would clearly be offensive to
5 some without getting an approval and make a profit.
6 That's unacceptable to me. And personally I feel
7 that it was wrong that he didn't have a sit-down with
8 me. That's it.

9 Q. Those are the personal beliefs you're
10 talking about there at the bottom of --

11 MR. GEVERTZ: Objection to the form.

12 THE WITNESS: I have told you
13 regarding my personal beliefs. I am not
14 going to go back and tell you what I was
15 thinking in 2014 when these comments were
16 reviewed.

17 I told you that I reviewed the
18 highlighted portions of the book, that they
19 offended me. I said that, and that I
20 thought an investigation should occur.

21 But I'm not going to fast forward
22 under oath and tell you the paragraphs that
23 were offensive to me in hindsight. I'm not
24 going to -- I'm not going to play that game
25 with you.

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1 BY MR. THERIOT:

2 Q. But you were offended by some of the
3 sentiments?

4 A. I was. I was offended by comments that I
5 thought were offensive to Jewish people, women, and
6 homosexual people.

7 Q. Based upon your beliefs.

8 A. Based upon my beliefs.

9 Q. Now, the response to the book -- I'm
10 sorry, strike that.

11 The response -- what was the response to
12 your Facebook post? And -- and I'm not trying to
13 hide anything.

14 A. I don't know what the response to the
15 Facebook post was.

16 Q. Well, if you look -- I was just going
17 to -- if you look at Number 10 at the bottom, there
18 were some responses.

19 A. Do you see the Facebook post?

20 Q. I'm sorry.

21 A. Plaintiff's Exhibit Number 10?

22 Q. There it is.

23 A. Okay.

24 Q. If you look at the bottom there, there's a
25 comment from Steve Erwin and a comment from

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1 Kevin Sandlin dated November 24th. They responded
2 right away to your Facebook post on the
3 November 24th; is that correct?

4 MR. GEVERTZ: Object to the form.

5 THE WITNESS: It appears so.

6 BY MR. THERIOT:

7 Q. Okay. And -- and they expressed
8 disagreement with your post; isn't that right?

9 A. It appears so.

10 MR. GEVERTZ: Object to the form.

11 BY MR. THERIOT:

12 Q. Were there any other responses that you're
13 aware of, other than on your Facebook page, to your
14 Facebook post?

15 A. I don't know.

16 Q. Not that you're aware of?

17 A. Not that I'm aware of. But, I mean, you
18 can't possibly mean responses in general, because
19 during the course of this, I received more than -- we
20 stopped counting at 10,000 e-mails.

21 Q. And those began when?

22 A. They began between the date that he was
23 suspended and the date that he was terminated.

24 Q. Okay.

25 A. And I have been in politics long enough to

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1 know that they were manufactured. I believed it the
2 minute that we started getting e-mails that read
3 almost exactly the same.

4 Q. That -- was that the -- the basis of your
5 statement they were manufactured is the e-mails were
6 essentially the same?

7 A. They were very similar.

8 Q. Okay. Any other thing that indicated they
9 were manufactured?

10 A. No, not that I can think of right now.

11 Q. Was there any indication that you are
12 aware of that -- who was behind the manufacturing of
13 the e-mails and the texts?

14 A. No. I mean, I did not know it verifiably
15 until we got the document showing that Chief Cochran
16 was -- was a part of an effort to stimulate comment
17 towards me and my family.

18 Q. When did you get that document?

19 A. I only learned of the document during the
20 course of discovery, but I had a strong suspicion
21 that Chief Cochran was coordinating with members from
22 certain communities that didn't agree with the
23 judgment that I made to communicate their displeasure
24 to that.

25 Q. What was that suspension based upon?

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1 communications and calls to my home throughout the
2 holidays, included death threats, including calling
3 me the anti-Christ, including calling me a nigger and
4 other inflammatory comments that we got by the
5 thousands.

6 Q. How did those -- how did you receive
7 those? Were they texts, did you say?

8 A. No. I said that they were e-mails.

9 Q. E-mails?

10 A. More than --

11 Q. To which account?

12 A. To my city hall account. And phone calls
13 to my home.

14 Q. Phone calls to your home.

15 A. Phone calls to my home.

16 Q. Any idea how they got your home phone
17 number?

18 A. I have no idea.

19 MR. GEVERTZ: For the record, we
20 produced those 17,000 e-mails. I think
21 you've seen them.

22 THE WITNESS: We stopped counting at
23 10,000.

24 BY MR. THERIOT:

25 Q. Did you make any public statements during

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1 proceed.

2 Q. And that was -- so that was Ms. Yancy,
3 Mr. Geisler and --

4 A. And Ms. Hampton.

5 Q. Ms. Hampton.

6 I'm sorry, Ms. Hampton.

7 MS. HAMPTON: That's okay.

8 BY MR. THERIOT:

9 Q. That was something that you ordered them
10 to do and wasn't somebody else's idea; is that right?

11 A. No, that was a recommendation.

12 Q. A recommendation by your senior team?

13 A. Yes, from the human resources commissioner
14 about the aspects of his suspension.

15 Q. Okay. Do you know who the person was that
16 actually did the investigation?

17 A. I do not.

18 Q. You mentioned you received -- during the
19 investigation and during his suspension you received
20 thousands, I believe you may have said 10,000 --

21 A. You know that I have. You have the
22 documents. You know that 17,000 people contacted me.

23 Q. Right.

24 A. What you don't know is that my phone rang
25 so much that we could not answer it through the

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Mayor Kasim Reed on 02/14/2017

1 holidays.

2 Q. What was the general import of those?

3 A. I received death threats. I was called a
4 nigger. I was called the anti-Christ. I was called
5 a Muslim. I was called a terrorist.

6 Q. Were there any that were supportive?

7 A. No. No phone calls that were supportive.
8 I don't know about the e-mail support because I
9 stopped reading them. So I stopped reading them, but
10 an analysis of the e-mail will show that they were
11 80/20 in support of Kelvin Cochran's position.

12 Q. Was there one form of communication that
13 was most used?

14 A. I believe I just told you that e-mail was
15 the primary form of communication, my public e-mail,
16 which is listed in the City of Atlanta, and which
17 my -- and my phonebook -- and my personal phone
18 number, which could easily be obtained and shared,
19 and I believe was. So that on my Christmas and my
20 New Year I was being called at my home and being
21 accused of being the anti-Christ and a terrorist and
22 a killer.

23 Q. Whom did you speak with about
24 Chief Cochran during the investigation?

25 A. I don't recall. I didn't really discuss

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1 A. I don't recall.

2 Q. Okay. When did you decide to terminate
3 Chief Cochran?

4 A. I came to that decision sometime in the
5 first ten days of January.

6 Q. Was that a collaborative decision with
7 your senior team?

8 A. Yeah, it was a collaborative decision
9 after the results of the investigation, which were
10 crystal clear that he had violated the path -- or the
11 process for you to write a book and sell it for a
12 profit. And he had not done it. And I did
13 not -- and he no longer had my confidence.

14 Q. And you made that -- you're the one who
15 made that final decision; is that correct?

16 A. I am the one that made that final decision
17 after consultation with our city attorney, the COO,
18 my chief of staff, and the human resources
19 commissioner, that he could not continue with the
20 support of the people that worked for him.

21 Q. Was that at a meeting?

22 A. I don't recall the forum.

23 Q. Okay. So it may not have been a formal
24 meeting where you consulted with all them together,
25 you may have consulted with them individually?

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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

KELVIN J. COCHRAN,)
)
Plaintiff,)
) CIVIL ACTION FILE
vs.)
) NO. 1:15-cv-00477-LMM
CITY OF ATLANTA, GEORGIA;)
)
and MAYOR KASIM REED, IN)
)
HIS INDIVIDUAL CAPACITY,)
)
Defendants.)

- - -

VIDEOTAPED DEPOSITION OF
KELVIN J. COCHRAN

FEBRUARY 10, 2017
8:53 A.M.

ALLIANCE DEFENDING FREEDOM
1000 HURRICANE SHOALS ROAD, N.E.
SUITE D-1100
LAWRENCEVILLE, GEORGIA

Reported by: Suzanne Beasley, RPR
CCR-B-1184

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1 Q. And by diversity, you mean racial
2 diversity?

3 A. Diversity. We have several people groups,
4 as I refer to them as in the City of Atlanta, in the
5 fire department, race, gender, sexual preference,
6 faith, non-faith. There are many people from
7 different backgrounds and different makeups,
8 different people groups that comprise the Atlanta
9 Fire Rescue Department.

10 Q. And by sexual preference or sexual
11 orientation, we're talking about people who are
12 straight and people who are gay?

13 A. Yes.

14 Q. Another thing that I heard you say is that
15 it was important to being a successful fire chief in
16 your opinion to have -- and these are my words,
17 cohesion within the fire department?

18 A. Yes.

19 Q. Tell me why you understand that is
20 important for the fire department.

21 A. Because the core of our mission is to
22 protect the lives and property of the citizens we
23 serve. There's a direct correlation between the way
24 we treat each other and the way we treat the public.
25 And so people who do what we do for a living have to

1 love people, and they have to love all categories of
2 people to do what we do for the public because we
3 don't have the -- we don't screen callers who call
4 911 in those particular areas, and we may at any time
5 may have to pay the ultimate sacrifice to lay down
6 our life for a person that we've never met before.

7 So it's essential that we all share --
8 even though we come from different backgrounds, there
9 are certain core values that we must all share to be
10 a unified, cohesive fire department.

11 Q. Is that philosophy that you just espoused,
12 is that -- I've seen it referred to as there can be
13 no "ism" within the fire department. Is that the
14 same thing?

15 A. Yes. To clarify that, one of the first,
16 initial administrative projects I took upon was to
17 identify a representative group that made up all the
18 people groups of the Atlanta Fire Rescue Department
19 to establish a strategic planning team that would
20 shape the future of the fire department under my
21 administration.

22 And that diverse group of people of about
23 30 to 36 people represented all people groups, just
24 ranks, race, sexual orientation, and others, but --
25 you know, gender, every aspect was represented. And

1 together through a process, a long process of several
2 meetings, we developed a vision for the department
3 that we developed for ourselves, a mission statement
4 for the department that that group actually
5 developed, and a set of core values, one of which was
6 ism-free.

7 The reason we settled on ism-free is
8 because that group of people -- we had several isms
9 that were plastered on flip charts around the room.
10 We took 84, as I recall, specific items and reduced
11 it down to about six or seven: Predictable,
12 excellence, accountable, competent, honesty,
13 integrity, and ism-free.

14 Ism-free came from the fact that there was
15 favoritism on the wall, nepotism on the wall, racism,
16 sexism, territorialism, cronyism, and everybody was
17 passionate about their ism being on the list. Well,
18 we couldn't list all of them on the list, and so we
19 just summarized it into saying we just want to be
20 ism-free.

21 Q. This you said was reduced to writing, this
22 philosophy or core value system; what was it called?

23 A. It was called the Atlanta Fire Rescue
24 Doctrine.

25 Q. One other thing about what you told me

1 you had not been self-employed during that timeframe?

2 A. I didn't see my book as employment.

3 Q. What do you understand employment to refer
4 to?

5 A. To actually have a business where the
6 intent is to generate income or to work for an
7 employer for the purpose of generating income.

8 Q. So if we were not to focus on working for
9 an employer but focus on self-employment, was it your
10 purpose in posting the book on Amazon or through
11 Barnes & Noble to derive income?

12 A. No, it really was not my motive. I knew
13 that the book had to be posted at a price, but the
14 motive was to distribute the book to Christian men.
15 It was a book written for Christian men, and I just
16 on advice of my publisher saw that those two avenues,
17 Amazon, Barnes & Noble, were mechanisms of
18 distributing the book to Christian men.

19 Q. Okay. Did you sell or offer to sell
20 through Amazon or Barnes & Noble, the book at cost?

21 A. No. I can't remember the details. I know
22 that it was higher than the actual cost of printing
23 the book.

24 Q. So there was some margin --

25 A. Right.

1 A. It had to be early 2012. It was with the
2 origin of where the idea to even publish a book came
3 from at this stage. Right prior to this, I had
4 finished doing a word study on the question that God
5 asked Adam in the Garden of Eden, "Who told you that
6 you were naked," because I was curious was God asking
7 Adam more than who told you you don't have on
8 clothes. And so that curiosity led me to do a word
9 study on that word "naked" on that question.

10 Then consequently when I found out what
11 naked meant in that context, I researched the
12 opposite of naked, which was clothed. When I found
13 out what clothed actually meant in that context, I
14 came to the conclusion that, hey, this has to do with
15 Adam and the condemnation that he felt, and God was
16 asking him who told you you were condemned, and came
17 to the conclusion that many men don't understand that
18 question and don't understand that in Christ, we've
19 been clothed. Clothed means redeemed and restored.

20 And so just having that information, I
21 said, man, I've got to present this to the guys at
22 the Bible study to see if they would be interested in
23 walking through what I've discovered.

24 It was nowhere near 162 pages. It was a
25 few pages. I can't remember exactly. And they

1 agreed, and I believe what this e-mail reflects is
2 the point that we introduced this study to that
3 group.

4 Q. Okay. Thank you.

5 Now, you mentioned previously a
6 conversation with Nina Hickson. Do you recall the
7 first -- when the first time was that you spoke with
8 her?

9 A. It would have had to be sometime in 2012,
10 as I recall.

11 Q. Do you recall with any greater specificity
12 what month or season?

13 A. Fall-ish maybe, end of summer, fall.

14 (Exhibit 22 was marked for
15 identification.)

16 BY MR. GEVERTZ:

17 Q. Okay. I'm going to show you Defendants'
18 Exhibit 22, and represent to you that these are
19 Ms. Hickson's notes, and that she will testify that
20 this was a telephone conversation that she had with
21 you on October 31 of 2012.

22 Do you have any reason to disagree with
23 the proposition that your first conversation with
24 Ms. Hickson as it pertains to the book happened by
25 phone on October 31st?

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1 A. I would say that that would be pretty
2 close to when we talked.

3 Q. Now, what she writes, "Advise regarding
4 non-city-related book he is authoring. Will check
5 back with me in about six months."

6 Do you recall any of the content of your
7 conversation with Ms. Hickson on October 31st of
8 2012?

9 A. Yes.

10 Q. What can you tell me?

11 A. I can tell you that I called her. I
12 initiated the call, and I asked Ms. Hickson was it
13 appropriate and allowable for a currently sitting
14 city official to write a faith-based book that has
15 nothing to do with my job or city government. She
16 asked me what the book was about. I explained to her
17 pretty much, as I just explained to you the e-mail of
18 how the research that I did and what the book was
19 about.

20 Q. Well, I'm going to ask you if you can give
21 me with as much verbatim detail of what you told her
22 as possible.

23 A. I just know that I told her the theme of
24 the book, that it was regarding this whole issue of
25 what God asked Adam in the Garden of Eden, that there

1 are too many Christian men who still feel that they
2 are condemned and deprived, which is what that word
3 "naked" -- I probably went into explaining to her
4 what I discovered about what that word "naked" meant,
5 condemned and deprived, and what I discovered that
6 "clothed" meant, redeemed and restored, and that
7 there are many Christian men who are saved, clothed
8 men, who are still acting like naked men, and that we
9 can't be the husbands and fathers and leaders we've
10 been called to be. And that was pretty much the
11 theme of the book, overcoming condemnation.

12 When I finished the explanation, she said,
13 "I would like to get a copy of that book when you are
14 finished." I do remember that.

15 The reference to six months later, I don't
16 recall, but what I do recall is when I was finishing
17 the book was the second time that we talked about the
18 book. I explained to her that I was almost done --

19 Q. Well, we'll get to that. I've got
20 another -- I've got another note to talk to you
21 about.

22 Have you now given me your best and
23 fullest recollection of everything that you and
24 Ms. Hickson said during that first conversation about
25 your book?

1 A. Yes.

2 Q. And when I'm looking at what she said, it
3 sounds as if she asked you what the book was about
4 and asked to see a copy of the book when you were
5 done.

6 A. She wanted her personal copy --

7 Q. Yes.

8 A. -- not to see a copy.

9 Q. Okay. She wanted a copy of your book?

10 A. Yes.

11 Q. And she asked you what the book was about.
12 Did she ask or say anything else during that
13 conversation?

14 A. Yes. She did specifically point out that
15 as long as it doesn't have to do with subject matter
16 pertaining to my job as fire chief or my role in city
17 government, based on the description that I gave her,
18 that it was permissible.

19 Q. Do you have any notes of your conversation
20 with Ms. Hickson?

21 A. No, sir.

22 Q. Ms. Hickson did not ask you anything else?

23 A. Not that I can recall.

24 Q. And certainly she did not say anything to
25 the effect that you could not write a book about

1 religion?

2 A. No.

3 Q. Quite the opposite, it sounds. Based on
4 your description of it, she said that it sounded as
5 if it was fine.

6 A. Yes.

7 Q. Consequently, you did not understand that
8 you were denied permission to proceed with your book
9 by Ms. Hickson, correct?

10 A. No. My understanding of our conversation
11 was I was given the permission to go forward.

12 Q. It was green lighted?

13 A. Yes.

14 Q. Did anyone within city management,
15 including the ethics board, at any point in time
16 inform you that you were not allowed to write a book
17 such as the one you described?

18 A. No.

19 Q. Did anyone involved with the City,
20 including the ethics board, at any point in time tell
21 you that you needed to use certain words or not use
22 certain words in expressing the theme of your book?

23 A. No, sir.

24 Q. Did anyone at any time during the course
25 of your writing this book who was involved with the

1 City of Atlanta management or the ethics board ever
2 inform you that they were troubled by the content or
3 the general theme of your book?

4 A. You know, over a year after it was
5 published, you know, when all this came about was the
6 first indication that I had heard that someone was
7 concerned about what I had wrote in the book.

8 Q. But prior to its publication, did you
9 receive any such message, explicitly or implicitly?

10 A. No, sir.

11 Q. Why did you call Ms. Hickson?

12 A. Because I just felt that she was the
13 appropriate person to talk to about, you know,
14 whether or not this was permissible. She was or
15 is -- well, was at the time, what I had deemed to be
16 the City's subject matter expert on ethics.

17 To put it in this way, it's common
18 practice for commissioners and department heads to
19 call whoever is the subject matter on an issue. If
20 I'm having a law issue, I'll call Cathy, and we talk
21 about it. We don't do e-mails. I don't document it.
22 Whatever she tells me, I take it and go with it
23 because she's the City attorney.

24 If I'm having a budget issue, I call the
25 CFO, Jim Beard at the time. Whatever counsel he

1 gives me, I believe he's basing it on policies,
2 procedures, rules, ordinances, and I go with what he
3 says. I don't write it down and document it.
4 Likewise, on HR issues and personnel issues I'm not
5 familiar with, I'll call Yvonne Yancy. She was the
6 commissioner at the time. So this was in the same
7 practice as those with Ms. Hickson.

8 Q. Is it consistent with the things that you
9 did in the HR realm, the financial realm, and the
10 legal realm?

11 A. Yes, sir.

12 Q. Did you feel that it was inappropriate or
13 burdensome for you to have to reach out to
14 Ms. Hickson to explain what you were contemplating?

15 A. No.

16 Q. Were you in any way -- did you in any way
17 chafe or feel offended by the prospect that you had
18 to consult with her before proceeding?

19 A. No.

20 Q. Thank you.

21 You've mentioned I think once or twice,
22 and certainly I've read it in your book, that you had
23 a target audience in mind with this writing?

24 A. Yes, sir.

25 Q. And can you in your own words describe who

1 Q. So this is a contract that you've signed
2 with a publisher, and it provides certain royalties.
3 It looks like 15 percent per retail sale of the book
4 at the bottom of page two. Is that your recollection
5 of --

6 A. Yes.

7 Q. -- what your percentage was?

8 A. Yes.

9 Q. So I just want to come back again to a
10 question I previously asked you on the ethics
11 disclosure form.

12 At this point in 2014 when you signed that
13 ethics disclosure form, you had written a book, it
14 had been published, and it had been sold, and
15 further, you have entered into a contract with a
16 publishing organization. Why then did you not
17 disclose all of this activity as self-employment?

18 MR. THERIOT: Objection. Asked and
19 answered, but you can answer.

20 THE WITNESS: Again, I just did not
21 see this book, authoring this book as
22 employment. I just didn't see it that way
23 because my motive was -- for writing this
24 book was to get it in the hands of
25 Christian men who struggle with the issue

1 THE VIDEOGRAPHER: The time is

2 11:48 a.m. We're back on the record.

3 BY MR. GEVERTZ:

4 Q. Mr. Cochran, how you feeling?

5 A. Good.

6 Q. Able to continue with your testimony?

7 A. Yes.

8 Q. We were talking about your second
9 conversation with Ms. Hickson. I'm going to show you
10 Defendants' Exhibit 26. I take it you don't have any
11 notes about this conversation either?

12 A. No, sir.

13 Q. Do you have any reason to dispute that
14 this conversation, the second conversation with her,
15 occurred on July 9th, 2013, as reflected in this
16 document?

17 A. This is a second conversation that --

18 Q. Yes, sir.

19 A. -- I had with Ms. Hickson, but not about
20 the book itself.

21 Q. I'm sorry. You think this is a
22 conversation with Ms. Hickson, but it didn't have
23 anything to do with the book?

24 A. That's correct. This conversation --
25 around about this time I called Ms. Hickson. I was

1 considering going into a leadership -- a product
2 sales business called Life Leadership. And this call
3 was when I asked Ms. Hickson, and she wrote down I
4 guess her assessment of that organization, leadership
5 association.

6 I asked her because Life Leadership was a
7 leadership organization that had books and tapes and
8 different materials that help with leadership
9 development. It's sort of like an Avon business, but
10 leadership materials, you know, as opposed to
11 cosmetics. And I said, is it permissible that as a
12 commissioner or department head employee that I can
13 have such a business. And she said, yeah, it's
14 permissible, but you've got to get permission from
15 the ethics board, and I would also advise that you
16 would actually inform the mayor, you know, and that.
17 You know, I said, hey, it's not something I'm really
18 all that passionate about and ultimately ended up not
19 doing. That's what this is about.

20 Q. I guess that leads me to the next
21 question, which is how many times during the course
22 of your fire chief career did you seek personal
23 ethics advice from Ms. Hickson or someone affiliated
24 with the Georgia -- excuse me, with the City of
25 Atlanta Board of Ethics for you?

1 A. The only conversations that I've had with
2 Ms. Hickson regarding me or possibly at all, sir, is
3 the initial conversation that I had with her about
4 permission to write the book. This was the second
5 conversation I had with her. And then a year after I
6 had that initial conversation about the book, asking
7 her if it was permissible for me to put my current
8 position in the about-the-author section.

9 Q. There's a reference in the second line to
10 a book. I think it says "mentioning in book."
11 During this second conversation with Ms. Hickson, the
12 one on July 9th, was there a book tied up in your
13 discussion with her, as best you recall?

14 MR. THERIOT: Object to the
15 characterization of "mentioning in book."

16 THE WITNESS: I don't know what that
17 is. I don't know if she asked me how my
18 book was going, if that's what that means,
19 but then I don't recall us even talking
20 about the book, and certainly not the
21 nature of my call to her was about the
22 book.

23 BY MR. GEVERTZ:

24 Q. Well, even if it wasn't about the Who Told
25 You You Were Naked? book, do you recall any book,

1 of your book to?

2 A. There are essentially three categories as
3 I like to keep it organized in my head of
4 distribution. There were some Christian men. First
5 of all, all of them were Christian men who had -- who
6 I had established a prior conversation or
7 relationship with as Christians. The first group was
8 a group of Christian men that we were so close in our
9 understanding and connection with one another
10 interpersonally, they knew I was writing a copy of
11 the book, and before it was finished, they said, when
12 you finish, I want a copy of it.

13 The second group was a group of men, who
14 when they found out that I wrote a book, requested a
15 copy. There was about three, as I can recall, who
16 because we had a prior connection and established a
17 relationship or an understanding of our
18 like-mindedness in our faith, I actually gave them a
19 copy.

20 Q. I'm sorry. So there are three categories?

21 A. Yes.

22 Q. Category one was men who you were close to
23 and knew their Christian affiliation, thoughts,
24 philosophy was in sync with yours?

25 A. Right, who knew I was writing a book, who

1 requested a copy.

2 Q. Okay. And they requested it. And the
3 second group was people once they heard about the
4 book, requested a copy, and you distributed it to
5 them?

6 A. Yes.

7 Q. Help me with the third category again?

8 A. There were, and I think it was
9 approximately three men, who we knew each other as
10 Christians, but they neither knew I wrote a book and
11 requested a copy, or knew I was writing a book and
12 asked for a copy, but just in the context of our
13 relationship that we had prior established as
14 Christians, you know, I gave them a copy of the book
15 as a gift.

16 Q. So who was in the first group?

17 A. As best as I can recall, Joe Baker,
18 Randall Slaughter.

19 Q. I'm sorry, last name is?

20 A. Slaughter.

21 Q. Yes, sir.

22 A. Wilman Meadows, Bernard Coxton. I'm
23 really struggling with the names.

24 In the second category, I think it would
25 be Chad Jones. I can't -- I know it was at least

1 three in that group.

2 And then in that last group, the three
3 that I recall were Stephen Hill, Chris Wessels, and
4 William Collier.

5 I just recalled another name in that
6 middle group. Michael Simmons was another name in
7 that middle group.

8 Q. Approximately how many total people within
9 the fire department do you recall giving a copy of
10 your book to?

11 A. I'd say nine to 12.

12 Q. And your department had how many people
13 working?

14 A. Eleven hundred.

15 Q. Chaplain Miller, was he among the people
16 you --

17 A. Yes.

18 Q. Would he be in the first, second, or third
19 group?

20 A. That middle group.

21 Q. In each case I think you described the
22 categories of groups as consisting of Christian men?

23 A. Yes.

24 Q. Why did you not offer your book to
25 non-Christians?

1 A. Because the motive and the intent behind
2 the book in the first place was Christian men. A
3 Christian man wrote a book for Christian men. And so
4 these are men, Christian men, who I established a
5 connection with as Christians, and that's the context
6 of giving them a book as a gift.

7 Q. So they were not -- would it be fair to
8 say that non-Christians were not part of your target
9 audience?

10 A. No, they were not.

11 Q. Similar question. Why did you only give
12 it to men and not women?

13 A. Because it was again, a book written for
14 Christian men.

15 Q. Were you concerned that your book, if
16 given by you to a non-Christian, might offend them?

17 A. It never crossed my mind to even give a
18 book to a person that I had not already established
19 some relationship with as a Christian man. It just
20 never crossed my mind.

21 Q. It didn't cross your mind because that
22 wasn't your target audience or because you thought
23 that would be a bad thing?

24 A. It was they were not the target audience,
25 and I would not give the book to a person that I had

1 book was about the -- about-the-author section.

2 Q. Uh-huh.

3 A. So I received her green light to state my
4 current title in the about-the-author section before
5 the final galley was actually done and the first book
6 was published.

7 Q. Was this a telephone conversation?

8 A. Yes.

9 Q. And I take it there are no notes of this
10 conversation that you possess?

11 A. That's correct.

12 Q. Can you give me your best and fullest
13 recollection of everything you and she said during
14 this call?

15 A. Well, it was pretty much to the point. I
16 informed her that the book was practically done, and
17 I was in the process of writing the about-the-author
18 section. And I asked her is it appropriate and
19 permissible for me to actually just simply state that
20 I'm the current fire chief of the City of Atlanta,
21 and she said it was.

22 Q. Anything else?

23 A. No, sir.

24 Q. So this sounds like a conversation that
25 maybe lasted a minute or two with pleasantries?

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Kelvin J. Cochran on 02/10/2017

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1 A. Yes. It's a Christian radio show, and it
2 was talking about the theme of the book, Christian
3 men overcoming the stronghold of condemnation.

4 Q. To your knowledge, does that radio station
5 target a specific denomination within the Christian
6 church?

7 A. No, just for the Christian community at
8 large.

9 Q. To men in particular as opposed to women?

10 A. The entire community of faith.

11 Q. To be clear, there was no point in time
12 where you ever discussed the publication or
13 authorship of your book with the mayor, was there?

14 A. No. My only conversation with the mayor
15 about the book was after the State of the City
16 address in 2014 where the previous week or so I left
17 a copy for him with Ms. Lilly Cunningham and asked
18 her to give him a copy of it.

19 Q. And Ms. Cunningham is his executive
20 assistant?

21 A. Yes. After the State of the City, I went
22 to the mayor and congratulated him on the outstanding
23 speech and asked him had he received a copy of the
24 book, and he affirmed, yes, I did receive it. And he
25 said Who Told You You Were Naked? He actually said

1 the name of it, and he said, I'm going to read it on
2 my flight. I'm going out of town. I'm going to read
3 it on my next flight.

4 Q. Was that the sole extent and full extent
5 of your conversation with the mayor about your
6 book --

7 A. Yes.

8 Q. -- in the entire time that the two of you
9 worked together?

10 A. Yes.

11 Q. In your radio interview, were you
12 introduced or did you introduce yourself as being
13 affiliated with the Atlanta Fire Rescue Department?

14 A. I'm sure that Minister Holland as the host
15 probably gave, you know, the historical background of
16 who I was as the guest.

17 Q. In September of 2014, did you negotiate to
18 attend a men's health day seminar and screening?

19 A. Yes.

20 Q. And was that to be held in Shreveport?

21 A. Yes.

22 Q. And did you also negotiate to have a booth
23 to sell your book?

24 A. Yes.

25 Q. And I gather your primary contact was with

1 A. Yes.

2 Q. Okay. So naked means that you're a
3 sinner, and clothed means you're righteous?

4 A. Yes.

5 Q. You're one or the other? And further, and
6 I think we -- I think I understand this part, if
7 you're naked, you're naked. There are no gradations
8 of being naked?

9 A. That's correct.

10 Q. And you write, "Similarly, if you are
11 clothed, you are clothed." There are no gradations
12 of clothed?

13 A. That's correct. Because according to our
14 faith, accepting Christ as our Savior and Lord, we
15 become the righteousness of God in him, that even
16 though we have issues in our carnal nature, that the
17 blood of Christ covers our sins, and in him we are
18 righteous.

19 Q. In your book you have a chapter devoted to
20 the distinction between the clothed and the naked.
21 You're still introducing the readers to these
22 concepts and that they're different from one another.

23 A. Yes.

24 Q. And some of the adjectives you use to
25 describe naked are "sinner," correct?

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1 A. Yes.

2 Q. Naked -- the naked are wicked?

3 A. Yes.

4 Q. And un-Godly, and evildoers, correct?

5 A. Yes.

6 Q. And then you quote from the different
7 Proverbs and talk about how the naked shall perish.

8 A. Uh-huh.

9 Q. Correct?

10 A. Yes.

11 Q. Sorry. I just need you to articulate.

12 A. Sure.

13 Q. That the naked will not inherit the earth,
14 correct?

15 A. Yes.

16 Q. And that in fact, when the naked perish or
17 die, there is celebration?

18 A. The whole purpose behind -- to put it in
19 the proper context, what you just prefaced before
20 getting to Proverbs, in my research based upon the
21 definitions I discovered of naked and clothed, all of
22 those words can be used synonymously with either
23 naked or clothed, that we don't have to try to figure
24 that out.

25 If you see any one of those words that

1 fall under clothed, it's talking righteous, good man,
2 just, all those words. It's talking about one type
3 of man, a clothed man. If you look at the words that
4 fall under the heading of naked, wicked, evildoer,
5 scorner, it's talking about one type of man, the
6 naked man. And so I use those Psalms to replace
7 words that fall under those categories to see how
8 that translates into the Scripture.

9 Q. And you find it translates?

10 A. Yes.

11 Q. And so, for example, in your book you
12 write that the naked, "When the naked perish, they
13 are shouting," which I think means that there's joy
14 and celebration?

15 A. Yes. And the word synonymous to that in
16 Scripture is when the wicked, so rather than use
17 wicked, naked.

18 Q. The naked are deceitful, correct?

19 A. Yes.

20 Q. The naked are mischievous?

21 A. Yes.

22 Q. A naked man is loathsome?

23 A. Yes.

24 Q. Thank you.

25 In the book you reference your role in

1 A. Yes.

2 Q. And then you go on and say, "My job
3 description as a fire chief of the Atlanta Fire
4 Rescue Department is." And the very first bullet
5 point you write "to cultivate its culture for the
6 glory of God," meaning that the first part of your
7 job description as a fire chief of the City of
8 Atlanta is to cultivate the culture of the department
9 for the glory of God; is that correct?

10 A. That's correct. And this is the context
11 that -- first of all, this is not subject matter. In
12 the context of this chapter, I'm comparing why God
13 created Adam and what Adam's job description was in
14 the Garden of Eden. I use not just my fire -- my
15 Atlanta Fire Rescue, I use the fire service.

16 I even allude to my role as the United
17 States Fire Administration. God gave me my fire
18 service land. Eden was a land. I was using land as
19 a comparison. And in the land that God gives me, he
20 says I'm created for His purpose. And I have my
21 career as a calling I feel on my life, and I should
22 cultivate its culture to glorify God. Which means
23 that its vision, the vision that we have for the
24 department, derived participatively and through
25 inclusion, glorifies God.

1 Having a mission that aligns with
2 protecting life and property that a diverse group of
3 people put together glorifies God. Embracing
4 tolerance glorifies God. Having fair and just
5 disciplinary practices glorify God.

6 Another way I would encourage or consider
7 that, as a public official whenever we are in public
8 settings like the state or the city address and we
9 say the Pledge of Allegiance, we say One Nation Under
10 God, that glorifies God. When we took our oath of
11 public office, we make our vows to uphold the
12 Constitution of the United States, the State of
13 Georgia, the City of Atlanta's laws and ordinances,
14 we end those vows by saying "so help me God." That
15 glorifies God.

16 So it's in that context that I felt that
17 this analogy was appropriate to what God created Adam
18 for in the Garden of Eden.

19 Q. So understanding everything you've told
20 me, am I correct in understanding that this first
21 bullet point means that you believe that your primary
22 role as chief is to shape the fire department's
23 culture in a way that glorifies God?

24 A. Yes, to glorify God as fire chief. And it
25 really aligns with my collective role as a believer

1 hypothesize that if that had happened, then there
2 would not have been a fall from grace; is that
3 correct?

4 A. Yes.

5 Q. And am I correct in understanding that the
6 reason that you don't believe that Adam and Eve would
7 have been kicked out of the Garden of Eden is because
8 Adam would have felt empowered and emboldened enough
9 by Eve referring the conversation to him to serve as
10 his protector -- as her protector?

11 A. The intent behind that was to demonstrate
12 that the decision that was made was going to impact
13 their entire family. At the time, it was just the
14 two of them, but that the power of collaboration
15 between Adam and Eve would have put them in a
16 position to making a better choice.

17 The whole spirit behind, you need to talk
18 to my husband is, in the role of the family, when
19 there's a husband and a wife and children, if God
20 blesses them to have children, on decisions that
21 impact the entire household, there should be
22 collaboration between a husband and a wife, but
23 according to the structure of God and the family, the
24 husband has a final say.

25 In the book of Ephesians it talks about

1 roles of husbands and wives, fathers and mothers.
2 That section starts off by saying submitting
3 yourselves to one another. Later on it talks about
4 the husband's role of laying down his life for his
5 family. So it clearly has a role for the husband
6 that is different from the wife, different from the
7 children.

8 But the whole point of that context was if
9 Adam and Eve were to collaborate over what was taking
10 place, it would have put them in a position to making
11 a better decision that quite possibly would not have
12 led to the outcome.

13 Strangely enough, and you can't tell it
14 from that writing, but that whole couple of
15 paragraphs was my attempt at humor, which I guess I
16 failed miserably at that. But even in the context of
17 that, it's Biblically structured for husbands and
18 wives to work as partners in the family
19 collaboratively, and that's the whole point behind
20 that.

21 Q. But there's nothing in here about
22 collaboration.

23 A. No, but I'm explaining to you as the
24 author what the intent of it was.

25 Q. Okay. So I want to respect that, but I

1 could go either way. I mean, some could,
2 some could not. I guess that's the most
3 fairest way I could answer your question.

4 BY MR. GEVERTZ:

5 Q. Okay. Can we agree that having the
6 context of a Christian man, someone learned in
7 Christianity would be necessary to appropriately
8 interpret what you're writing?

9 A. They would be best suited to understand
10 the role of husbands and wives and family to
11 understand the fact that submitting yourselves to one
12 another, you know, husbands and wives in the role of
13 family, what the wife's role and the husband's role,
14 and that decisions that impact the family should be
15 discussed among the two.

16 Q. Separate question.

17 A. Yes.

18 Q. Nowhere in your book do I find a positive
19 reference to a woman as a role model. Do you
20 disagree with that assertion?

21 A. I can't recall off the top of my head, but
22 again, the book was written by a Christian man for
23 Christian men who struggle with issues of
24 condemnation. You know, I can't think of one. I'd
25 have to review the context of the entire book, but I

1 can't -- in talking about the roles of husbands and
2 family, which I think I've reached that and certainly
3 talked about honoring wives and women in the context
4 of family.

5 Q. Let me be clear. I'm not suggesting that
6 you are suggesting that women are not germane to
7 Christianity, but in the examples that you raise in
8 your book of women, contemporary women, I see
9 references to women who are temptresses. I see
10 reference -- or could be. I see references to women
11 who can lead men astray. I see references to women
12 who display or are capable of a number of vices, but
13 I don't see any reference to a virtuous woman or a
14 woman exercising virtue. Can you -- can you tell me
15 where that appears in your book?

16 A. Because men are not struggling in those
17 areas, who have women that are virtuous women, you
18 know, really are not -- is really not the content or
19 topic subject matter. Condemnation deals with
20 categories that men actually wrestle with, and that
21 there are many Christian men who have women issues,
22 issues with women. And so it's pointing out those
23 particular challenges that men have with women.

24 Q. I think what I hear you saying in so many
25 words is I don't disagree with you, but that's not

1 Q. No. I'm sorry if I misspoke. That wasn't
2 my intent. I was instead trying to try see if we
3 could agree that if you were naked, you were the
4 opposite of acting in a Godly fashion; that you were
5 instead celebrating or living in sin.

6 A. That's one context of that description of
7 nakedness, yes, sir.

8 (Exhibit 36 was marked for
9 identification.)

10 BY MR. GEVERTZ:

11 Q. I'm showing you next Exhibit 36, which is
12 another portion from your book, sir. And I ask you
13 to turn, please, to page 82. "Uncleanliness," you
14 write, "is the opposite of purity," and it includes,
15 among other things, homosexuality, lesbianism -- is
16 it pederasty?

17 A. Pederasty.

18 Q. Which I understand is a specific type of
19 pedophilia between a man and a boy?

20 A. Yes. Well, adults and children.

21 Q. Bestiality and all other forms of sexual
22 perversion. Are naked people unclean?

23 A. You know, you can't take this section of
24 the book and single out one. This is not -- this was
25 not written intended to single out one sin or one

1 group of people. These 17, what the Bible calls
2 works of the flesh are in the Book of Galatians,
3 Chapter 5, verses 19 through 21, and the intent
4 behind these in the Bible is to point out that all
5 have sinned. These are specifically from the Holy
6 Scripture. It lists all 17 of them together so that
7 a person that takes it upon themselves to read the
8 Bible and read those and know what they mean would
9 get to the end and say, I have issues because all
10 have sinned. But the definitions are not cited in
11 the Bible when you read the Bible. It doesn't have
12 the definitions behind it.

13 Since a Christian man was writing this
14 book for Christian men -- over the years, I can't
15 tell you how many times I've read those works of the
16 flesh, and at the end I would say, man, I'm glad I
17 know Christ, but I don't know what over half of those
18 words mean.

19 So because I drew that conclusion in
20 myself as a man writing this for Christian men, I
21 said, I'm going to get a credible source and list the
22 definition of all 17 of these works of the flesh, and
23 that's one of them that has been included in there
24 because all have sinned and not just -- it doesn't
25 point out and isolate one sin or one group of people

1 that may be affected by these sins.

2 Q. But naked people by their very definition
3 are unclean, right?

4 A. Well, yes. It just depends on the extent
5 that -- there can be -- let me just say it this way.
6 According to the Scripture, there can be a person who
7 has accepted Christ as their Savior and their Lord
8 and still have issues with these 17 works of the
9 flesh.

10 Q. Understood. I'm asking the opposite
11 question.

12 A. The opposite of that -- I wanted to put
13 the answer to your question in context. So because
14 of that, because that's the purpose that Christ came,
15 to deliver us from our carnal nature, to deliver us
16 from these works of the flesh, a person who rejects
17 him or does not accept him to be their covering, to
18 be their clothing, is naked.

19 Q. Okay. If I understand what you just told
20 me, clothed people can sin?

21 A. Yes.

22 Q. Clothed people can be unclean?

23 A. Yes.

24 Q. Are naked people necessarily unclean?

25 A. Naked in the context of the definitions

1 that I have. It could be one of the 17 things that
2 naked people fall into.

3 Q. So if you are un -- if I understand what
4 you're saying, if you are unclean, you could be naked
5 or you could be clothed. The difference is whether
6 or not you have accepted Jesus Christ and his
7 teachings.

8 A. Yes.

9 Q. And are attempting to live up to them.

10 A. Yes.

11 Q. Consequently, I can be a clothed man who's
12 a pedophile under some set of circumstances?

13 A. A clothed man who's a pedophile has
14 surrendered his life to Christ as the Lord of his
15 life, and he is seeking whatever the support and
16 assistance that he needs to be delivered from
17 pedophilia. Clothed means I reject sin in my life,
18 and I fight it with everything on the inside of me as
19 whatever the sin might be.

20 The truth of the matter is, clothed people
21 and naked people have issues with these 17 works of
22 the flesh. Clothed people get to a place to where
23 they just don't want to do these 17 things because
24 they want to please God. And through Christ we get
25 help, support from Him, and when we have a

1 transgression, we have forgiveness from Him.

2 Naked people are people who may be on this
3 list who does not know Christ or acknowledge Him as
4 their Savior and Lord, and that's the distinction
5 between the two.

6 Q. So you can't be an actively practicing
7 pedophile and still be clothed?

8 A. Right. It goes against the principles.

9 Q. You have to effectively be recovering, for
10 lack of a better word?

11 A. That's a good way to put it.

12 Q. Similarly, you cannot be a actively
13 practicing homosexual and be clothed?

14 A. According to my understanding of the
15 Scripture.

16 Q. But if that is your orientation or
17 proclivity, or whatever word that you want to use,
18 and you are seeking to change that about yourself,
19 working, recovering, then you can be clothed?

20 A. Yes.

21 Q. Could I say the same thing about alcohol
22 abuse?

23 A. Yes.

24 Q. If I am an alcoholic but seeking through
25 Alcoholics Anonymous to rid myself of that dependency

1 or struggle with that dependency, I can be clothed,
2 but if I'm an unrepentant or continued alcoholic, I
3 must by that definition be naked?

4 A. Yes.

5 Q. Can I be a murderer and be clothed?

6 A. If the murderer has repented of the murder
7 and seeks to not murder anymore, has confessed Christ
8 as his Savior and Lord, he can be clothed. The
9 challenge with using these singular items on this
10 list is that multiple of these 17 applies to all of
11 humanity, and the difference is their confession of
12 faith --

13 Q. I get it.

14 A. -- and their desire to want to repent,
15 which is to turn away from those behaviors that's on
16 this list.

17 Q. By extension, if I am Buddhist or Muslim
18 or Jewish and I am undergoing religious conversion, I
19 can -- I can be clothed?

20 A. Yes.

21 Q. But if I am any of those things and am not
22 seeking to convert, I must by definition be naked?

23 A. According to my understanding of the
24 Scripture, yes.

25 Q. One more hypothetical to run by you. You

1 write that "Since God made sex for procreation, he
2 only intended it to be between a man and a woman,"
3 correct?

4 A. Yes.

5 Q. And I'm sorry, I'm now on the top of page
6 85.

7 "Because procreation is a spiritual act,
8 God intended it only to occur in the institution of
9 holy matrimony or marriage," correct?

10 A. Yes.

11 Q. Would you agree with me that it is well
12 known, at least within Atlanta, that the mayor and
13 his wife conceived their child out of wedlock?

14 A. Well, no. That one gets by me.

15 Q. Well, you know that.

16 A. No, I did not.

17 Q. Notwithstanding all the coverage about
18 their engagement?

19 A. No, sir.

20 Q. You did not know that?

21 A. No, sir.

22 Q. Well, accept for a moment the truth of
23 that statement, please. Would that mean that you
24 were calling the mayor naked?

25 A. No. One act -- one act does not

1 I gave him a copy of the book. Clothed men
2 transgress. I'm a testimony to that. I have
3 transgressions. Clothed men transgress. If in fact
4 Mayor Reed, and you say it factually, fathered a
5 child before he got married, that goes against
6 Scripture. He's sinned. And because he's -- in
7 my -- from what I have concluded, had Christ or has
8 Christ as his Savior and Lord, he's forgiven for his
9 sin. Yes, he has to accept it and ask for
10 forgiveness.

11 Q. Okay.

12 A. He's forgiven. That act does not make him
13 naked.

14 Q. I think my question, though, was, or I
15 meant it to be, if that occurred and he didn't seek
16 forgiveness, are you calling your boss naked?

17 A. No.

18 MR. GEVERTZ: Thank you.

19 (Exhibit 37 was marked for
20 identification.)

21 BY MR. GEVERTZ:

22 Q. I'm showing you next Exhibit 37. You
23 received this notice of 30-day suspension without pay
24 in November of 2014; is that correct?

25 A. That's correct.

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1 Q. Did Ms. Yancy hand it to you?

2 A. Yes.

3 Q. Did you meet with her?

4 A. Yes. At the time that I received this,
5 Yvonne Yancy, Candace Byrd, and Bob Godfrey were in
6 the meeting.

7 Q. And for the record, Ms. Byrd was the
8 mayor's chief of staff?

9 A. Yes.

10 Q. And Mr. Godfrey is an attorney in the city
11 attorney's office?

12 A. Yes.

13 Q. Was there a discussion?

14 A. No, not a discussion, just an explanation
15 of what was happening to me and why.

16 Q. What was the explanation you were
17 provided?

18 A. That my book that I had written, which
19 Yvonne Yancy had a copy, had caused a complaint that
20 had reached the mayor, and the mayor was -- has taken
21 issue with it. She pointed out sections of the book
22 that was, I guess the part that had caused the issues
23 and indicated that, you know, that really that the
24 mayor took issue with it.

25 Q. What were the sections of the book that

1 Ms. Yancy referenced?

2 A. As I recall, the portion you showed me
3 about the comparison between Adam and the Garden of
4 Eden, and my fire service career path in reference to
5 my job description, and the certain portions as it
6 relates to uncleanness, and the other section where
7 you referenced -- I guess it's about marriage and
8 holy matrimony, that portion that you spoke of
9 earlier.

10 Q. So, I'm sorry, you mentioned three, and I
11 was only able to take down two. You mentioned I
12 believe the part about --

13 A. Adam and the Garden, comparing my job
14 description, cultivating a culture that glorified
15 God, that section.

16 Q. Okay.

17 A. The definition of uncleanness, and the
18 section when I talked about God created marriage for
19 procreation, holy matrimony, and that other sexual
20 acts outside of that is against God.

21 Q. Did Ms. Yancy explain why she understood
22 or felt that those sections were inappropriate?

23 A. Just that she felt that they could be
24 offensive, as I recall.

25 Q. What did she explain about why the portion

1 that talked about your job description could be
2 offensive?

3 A. She indicated that, as I recall, it was a
4 violation of some work rule or policy.

5 Q. Why, if she mentioned it, did she say that
6 the part about uncleanness was a problem?

7 A. As I recall, it had something to do with
8 that it was offensive.

9 Q. Did she speak in any greater detail other
10 than characterizing it as offensive?

11 A. Well, she mentioned specifically offensive
12 to members of the LGBT community, and that Council
13 Member Wan was offended by those comments.

14 Q. Do you know what Council Member Wan's
15 sexual orientation is?

16 A. From what I hear -- I never heard him, but
17 I had heard his sexual orientation is that he is gay.

18 Q. And the part about procreation as being
19 the sole purpose of sex and thus sex should occur
20 only within marriage, did she explain why that was
21 problematic?

22 A. I don't consi -- I don't remember us going
23 into any details about those.

24 Q. As the fire chief, do you have a direct or
25 indirect reporting relationship to the city council?

1 scripture in Romans 8:1 that says there is therefore
2 now no condemnation for those who are in Christ.
3 That's what that book is about.

4 For a non-Christian man to discover what I
5 wrote in that book outside of me deliberately and
6 intentionally giving it to them -- I don't know how
7 he came across it, but even in that context, sir, is
8 not to condemn. The whole purpose of the Bible and
9 my book is for a person who reads it is to come into
10 a conviction, not to condemnation, to realize that I
11 need a Savior. I need Christ as my Savior and Lord.

12 Q. But that's the difference between your
13 book falling into the hands of its intended audience
14 and the book reaching outside of that audience;
15 wouldn't you agree?

16 A. Again, I would agree from the standpoint
17 that the motive behind -- the motive in the target
18 audience drove my entire expectation of who I'd hoped
19 that that book would fall into the hands of.
20 Certainly people that are outside of that scope of
21 that target audience have various views on various
22 topics and could be offended on anything that comes
23 even from my public service, but that was not the
24 intent.

25 Q. You said in passing that you didn't know

1 30-day suspension, you know, having the full
2 expectation of returning to work. After I returned,
3 they did not present to me any speci -- other than
4 having a cause of action, any specifics as to, you
5 know, what work rule or policies that I had violated.

6 Q. Was there any avenue for you to grieve or
7 appeal this decision, to your knowledge?

8 A. No.

9 Q. Was there a discussion with either
10 Ms. Yancy, Mr. Godfrey, or Ms. Byrd about how you
11 ought to conduct yourself during the course of that
12 30-day suspension?

13 A. The only guidance I received in that
14 regard was from Candace Byrd, who said that do not
15 conduct any media interviews while you're on your
16 30-day suspension.

17 Q. Any media interviews on any subject or
18 about your employment or about the book or --

19 A. About the entire circumstances regarding
20 my 30-day suspension in the concept of do not respond
21 to any -- my interpretation.

22 Q. Yes, sir.

23 A. They never gave me a letter or anything.
24 My interpretation was, don't hold any press
25 conferences and don't respond to any requests for

1 interviews. That was the context of the guidance,
2 and that was the only guidance. My response to that
3 is I would be honored to do so, no problem. Would
4 you please send some media advisory out so that they
5 would understand that and I wouldn't have to continue
6 to deal with denying requests. And to my knowledge,
7 that was not done.

8 Q. Let me make sure I've understood
9 everything you've told me. Ms. Byrd told you in so
10 many words that during the 30 days, you were not to
11 hold a press conference or engage the media with
12 respect to the fact that you were under this
13 suspension. You requested that they in turn send out
14 some sort of press release so that people would know
15 that you were not being rude or unresponsive.

16 A. Yes.

17 Q. I got that right?

18 A. Yes.

19 Q. And to the best of your knowledge, no such
20 release or dissemination of that information was
21 provided?

22 A. That's correct.

23 Q. Were there consequently requests to have
24 you comment on your employment status from the media?

25 A. There were no requests for interviews, and

1 I did not initiate any press conferences.

2 Q. Okay. So no media outlet attempted to
3 reach you, nor did you attempt to reach out to any
4 media?

5 A. There were several that attempted to reach
6 me. When I reached -- when I arrived home that
7 afternoon, there was a news station on my front porch
8 asking for an interview, and I advised them of
9 what -- the guidance that I had to abide by.

10 Q. You informed them what, that you were not
11 allowed to talk to them?

12 A. Right.

13 Q. And which station was that; do you recall?

14 A. Channel 2, I guess. KTBS? I don't
15 recall.

16 Q. Channel 2, okay.

17 Were you given any direction or
18 instruction during the course of that 30-day
19 suspension about whether or not you should continue
20 to use your Atlanta Fire Department e-mail or respond
21 to business inquiries?

22 A. Yes. Yes.

23 Q. What were you told?

24 A. That I should really disconnect and just
25 take the 30 days.

1 suspension?

2 A. I don't understand where you're getting
3 those words did I talk about my employment. Her
4 directive to me was not to do any interviews with the
5 media. I took her words were, don't grant any
6 requests for interviews and don't hold any press
7 conferences. This was neither an interview or a
8 request for a press conference.

9 Q. I want to make sure I follow. Because
10 this wasn't a press conference and because it wasn't
11 an interview, instead it was an editorial that you
12 got an advance peek at which followed a conversation
13 with Mr. Gerald Harris, you didn't understand that to
14 run afoul of Ms. Byrd's directive?

15 A. No, sir.

16 Q. What do you call the phone call that
17 preceded the article, if not an interview?

18 A. It was not a phone call. What he -- if I
19 can recall what he's referencing is the interaction I
20 had with a group of Christian men, who were from the
21 Georgia Baptist Convention.

22 As I recall it, this was in the context of
23 the Georgia Baptist Convention executive committee,
24 and I was just simply providing feedback on something
25 that the Georgia Baptist Convention had initiated on

1 their own initiative, not upon my request.

2 Q. I'm sorry. Where was this meeting?

3 A. The Georgia -- it was at the executive
4 committee of the Georgia Baptist Convention at the
5 Georgia Baptist Convention headquarters.

6 Q. And while you were there, you spoke to how
7 many folks?

8 A. There was 200 or so pastors at the
9 executive committee meeting.

10 Q. And apparently among the pastors was also
11 someone in charge of communications for the
12 convention, correct?

13 A. Yes.

14 Q. Were you invited to make this speech prior
15 to your suspension?

16 A. Yes.

17 Q. And when you went and you spoke, what did
18 you talk about?

19 A. I shared my testimony.

20 Q. Yes, sir. What did you talk about?

21 A. They just wanted to know about how I came
22 into the knowledge of Christ and about my life and
23 upbringing, you know, up to that point in my life. I
24 shared my testimony.

25 Q. Well, was there any discussion whatsoever

1 about your suspension?

2 A. No. In the initial part of that
3 testimony, I specifically stated that I did not come
4 to talk about that, that I would honor the
5 guidelines. I specifically said that and just began
6 to share my testimony.

7 Q. So you're then called by someone in
8 communications and asked to edit an editorial that he
9 was writing, which you do, correct?

10 A. Yes, I offered some feedback on what he
11 had submitted.

12 Q. And you found this -- you understood that
13 this editorial was going to be published, right?

14 A. Yeah, I assumed that it would be.

15 Q. To, among others, the members of this very
16 large organization, correct?

17 A. Again, I refer back to the guidance that I
18 received from Candace Byrd. She indicated to me that
19 I was not to do any requests for interviews with the
20 media; and I took that as if they call you and say,
21 we want to interview you about your situation, that
22 you ought to say no. I did that throughout the
23 30-day period.

24 I also understood her to say, if you have
25 any inkling to call a press conference, then don't do

1 that, that you should not do that before your 30-day
2 suspension. What I'm saying to you is I never did
3 any one of those things through my 30-day suspension.

4 Q. I see. And what did you understand was
5 her intent in asking you to abide by those
6 directives?

7 MR. THERIOT: Objection. Calls for
8 speculation.

9 BY MR. GEVERTZ:

10 Q. No. No. What did you understand was her
11 intent?

12 A. That she did not want me to publicly
13 disclose my side of the story.

14 Q. Were you doing that?

15 A. No.

16 Q. Did the article discuss your employment
17 situation?

18 A. As I recall it did, but there is nothing
19 in the article, and I'm sure there's a record of
20 it --

21 Q. Yes, sir.

22 A. -- that could be quoted as having directly
23 coming from me, and that was not already publicly
24 disclosed by either the mayor or the communications
25 director or some other media outlet.

1 \$14,000 that I won't get, it's really a good
2 blessing. Had I gone to Mayor Reed and asked him for
3 a 30-day vacation, he would have flat out denied me
4 that opportunity"?

5 A. I could have possibly said that in my
6 test -- when I was sharing my testimony.

7 Q. And to be clear, you understood that this
8 was being recorded. Your comments were being
9 recorded for later dissemination, right?

10 A. I didn't understand that during the
11 testimony, no. I discovered it afterwards.

12 Q. Did you do anything to suppress its
13 distribution?

14 A. You know, sharing a testimony is not
15 something that I ever thought should be censored. I
16 mean, it was in the context of sharing my testimony.
17 That was the extent. The purpose of my invitation to
18 that executive committee was to share my testimony,
19 and that's what I was actually doing was sharing my
20 testimony, which is a common Christian practice
21 before a group of Christians, and that was a part of
22 my testimony.

23 Q. But this, and specifically the commentary
24 I just quoted, was about your job status?

25 A. It was not a press conference, and it was

1 not a response to a media interview as I was directed
2 by Candace Beard -- Byrd.

3 (Exhibit 50 was marked for
4 identification.)

5 BY MR. GEVERTZ:

6 Q. Next I'm going to show you Defendants'
7 Exhibit 50.

8 You were still on suspension in December
9 of 2015, correct?

10 A. Yes.

11 Q. Who's Mike Griffin? Excuse me. Who's
12 Mark Strange?

13 A. Mark Strange. I have --

14 Q. He's on the third page of the document.

15 A. I have no idea.

16 Q. Well, his e-mail signature block holds him
17 out to be a specialist in communication services --

18 A. I see.

19 Q. -- affiliated with the Georgia Baptist --

20 A. I see that, yes.

21 Q. -- Conference.

22 Do you know who Mike Griffin is?

23 A. Mike Griffin is a member of the staff of
24 the Georgia Baptist Convention.

25 Q. And what position, to the best of your

1 A. At the time -- at the time that this was
2 taking place, due to the tremendous amount of stress
3 and pressure, support from my church, you know,
4 really was helpful. My local church, Elizabeth
5 Baptist Church, which is a member of the Georgia
6 Baptist Convention, I had no authority to pull back
7 anything. They didn't need my permission to do what
8 they did.

9 Q. I'm sorry. Were you a hostage to this
10 communications battle plan?

11 A. I was not.

12 Q. Okay. But you were not a participant in
13 it either, you were just a bystander?

14 A. I did not have any -- other than them
15 putting my testimony and those other things on there,
16 I did not contribute to it.

17 Q. But my question was were you a bystander
18 to this process?

19 A. No, I was aware. It was sent to me. I
20 was aware of it.

21 Q. Were you helping in any way to advance its
22 aims?

23 A. No.

24 Q. Were you doing anything to hinder it?

25 A. No.

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1 she would have given me a letter, but I did
2 not receive a letter. She gave me that
3 instruction.

4 BY MR. GEVERTZ:

5 Q. A letter in spirit, meaning what she said
6 and what she meant?

7 A. Yes.

8 Q. You felt as if you were in keeping, in
9 helping to execute or at least not stopping this
10 battle plan, you thought that you were complying with
11 her directive about how you ought to conduct yourself
12 during your 30-day suspension, correct?

13 A. Yes, which my interpretation was don't
14 respond to any media requests for interviews and do
15 not initiate media requests for interviews.

16 Q. But all this battle plan is fine because
17 you were just on the sidelines?

18 A. It just didn't fit what she told me, the
19 guidance she gave me.

20 MR. GEVERTZ: Thank you, sir.

21 (Exhibit 51 was marked for
22 identification.)

23 BY MR. GEVERTZ:

24 Q. Next I'm going to show you Defendants'
25 Exhibit 51.

1 You said that Ed Elliott was a firefighter
2 colleague in Virginia? Did I hear you correctly?

3 A. Yes.

4 Q. Did he play some sort of advisory or
5 consultant role in the communications battle plan
6 that we were just discussing?

7 A. No, sir, not to my knowledge.

8 Q. On December 13th of 2014 -- and I'm
9 referring to the top page -- Mr. Elliott sounds as if
10 he's acting as your agent or consultant. He writes
11 that "I have a phone call in this morning with Mike
12 Griffin of the Georgia Baptist Convention. Awaiting
13 his return call so we can strategize best with our
14 support." Did you authorize or allow Mr. Elliott to
15 be acting on your behalf in this way?

16 A. As best I recall, Ed Elliott was -- in his
17 church affiliations was wanting to as a church show
18 some support. And I indicated to them that Mike
19 Griffin would be a good resource, to my recollection,
20 and that they had already done something similar to
21 what he was wanting to do is the spirit, as I
22 understand it.

23 Q. So is it fair to take from that that you
24 were in fact enlisting his advocacy and support?

25 A. Not enlisting it.

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1 Q. He's offering it. Did you accept it?

2 A. I didn't deny it.

3 Q. He's just acting on his own, and you're
4 just a bystander?

5 A. He's acting on his own.

6 Q. But he's not a member, I would imagine by
7 virtue of his address, of the Georgia Baptist
8 Convention if he lives in Virginia, is he?

9 A. No.

10 Q. And he writes -- and this is toward the
11 bottom of the page, "In our lingo this is an" and I
12 quote, "offensive fire attack, but if anything feels
13 uncomfortable or too aggressive for you, please let
14 me know and we will adjust as appropriate."

15 Do you see that?

16 A. Which paragraph is that?

17 Q. Sorry. If I may.

18 A. I see it.

19 Q. And then he goes on to explain what his
20 proposed offensive fire attack would consist of on
21 the second page. And among other things, in number
22 two, wanted to contact Atlanta Mayor Kasim Reed for a
23 variety of reasons, right?

24 A. Yes.

25 Q. He was enlisting the support of fellow

1 was very appropriate in your eyes, correct?

2 A. Yes.

3 Q. At this point in time, if this battle
4 plan, this offensive fire attack was executed, how
5 did you envision that you were going to go back to
6 work at the City of Atlanta and have a productive
7 relationship with your boss?

8 A. Well, I just thought it was -- these
9 organizations, who as Christian organizations wanted
10 to do something to support what had occurred to me,
11 that I just didn't feel a need to stop it. And
12 that's essentially it. I just didn't feel a need to
13 intervene. I felt that I was in compliance with what
14 Candace Byrd had directed me to do and that this was
15 not in violation of that.

16 Q. But I asked you a different question, sir.
17 How did you understand that an offensive fire attack
18 could be leveled at your boss and you return to work
19 at the City of Atlanta? How did you envision that
20 was going to work?

21 A. I didn't see that it would not work.

22 Q. So what did you think was going to happen
23 on your first day? After saying that the offensive
24 fire attack directed against your boss was very
25 appropriate, how did you envision your first day was

1 THE VIDEOGRAPHER: This begins disk
2 number five in the video deposition of
3 Kelvin Cochran. We're back on the record
4 at 4:21 p.m.

5 BY MR. GEVERTZ:

6 Q. Mr. Cochran, how are you feeling?

7 A. Good.

8 Q. Able to continue?

9 A. Yes.

10 Q. The speech to the Georgia Baptist
11 Convention was not the only public speech that you
12 gave during the course of your suspension, was it?

13 A. Actually, I gave testimony I believe on
14 two other occasions.

15 Q. When were those other two? Excuse me,
16 where were those other two?

17 A. First Baptist Church, Newnan, Georgia, and
18 I believe it's called Liberty Baptist Church
19 somewhere in north Georgia.

20 Q. And those were both during the 30-day
21 suspension?

22 A. Yes, sir.

23 Q. During your speech at the First Bap -- is
24 the First -- yeah, the First Baptist Church in
25 Newnan, did you say at the beginning of your

1 testimony that "The invitation to speak was extended
2 based on a set of circumstances that I currently find
3 myself in while serving as fire chief in the City of
4 Atlanta"?

5 A. Yes.

6 Q. Did you go on to say that you wanted to
7 tell the congregation a little bit about a book that
8 you wrote that "Because of some of the content of
9 that book, I found myself in this situation of being
10 laid off for 30 days suspension without pay"?

11 A. If that's a part of that transcript, then
12 I can't deny it.

13 Q. Does it sound consistent with your memory?

14 A. Yes.

15 Q. Towards the end of that same speech,
16 testimony, did you say, "In the book I deal with
17 sexuality as God intended it. God intended for a man
18 and a woman to be married and to have children to
19 populate the earth, and that any sex outside of
20 marriage and outside of a man and a woman, outside of
21 holy matrimony is against the word of God, and for
22 that stand, I've been laid offer for 30 days without
23 pay"?

24 A. Well, if it's a part of that transcript.
25 Do you have an additional copy of that? It'd kind of

1 make this exchange a lot easier.

2 Q. Well, all I'm going to do is show you my
3 own transcript of what I think you said and my
4 question is --

5 A. Okay, yeah. And again, and I'm only
6 asking you that because I can't remember verbatim
7 what I said, but if that is a transcript of that
8 speech, then that would help me to recall better.

9 Q. Well, I'm happy to share it with you, but
10 it doesn't have much evidentiary value.

11 A. Okay.

12 (Exhibits 52 and 53 were marked for
13 identification.)

14 BY MR. GEVERTZ:

15 Q. So this is Exhibit 52.

16 MR. CORTMAN: For the record, what is
17 it?

18 BY MR. GEVERTZ:

19 Q. And I'm going to ask you to turn to what's
20 marked as page six of my transcript, towards the
21 back.

22 MR. CORTMAN: And this is a
23 transcript of what?

24 MR. GEVERTZ: Of PL 002487.

25 THE WITNESS: Is this the sermon that

1 I preached at First Baptist Newnan?

2 BY MR. GEVERTZ:

3 Q. It's the transcript of the audio that you
4 were provided, yes, sir.

5 A. Okay.

6 Q. And so my question is, if you look at
7 page six toward the middle of the page, can you
8 confirm for me that your reference and representation
9 about the circumstances of your suspension were
10 accurately transcribed, or at least consistent with
11 your memory of giving this speech?

12 A. Yes. Can you point me to the specific
13 line that you had read?

14 Q. Beginning here (indicating).

15 A. Okay. Yes.

16 Q. Thank you.

17 A. And I was simply explaining to them that
18 this book is not about sex and sexuality. I was
19 explaining to them what the theme of the book
20 actually was about.

21 Q. And you went beyond that to say that that
22 was the reason that you had been laid off for 30 days
23 without pay, correct?

24 A. Yes, because that's what was told me in
25 the meeting, the suspension meeting, and that's what

1 the mayor and Anne Torres had said publicly.

2 Q. Your employment was terminated on
3 January 6th of 2015; is that correct?

4 A. Yes.

5 Q. Steven Borders, was he the union
6 president?

7 A. Yes.

8 Q. So the union president had brought a copy
9 of your book to a city council member at the
10 inception of this brouhaha?

11 A. As per Bob Godfrey. That's the way I
12 understand it.

13 Q. To your knowledge, was the speech that you
14 gave in northern Georgia at Liberty Church or -- at
15 Liberty Church --

16 A. Yes.

17 Q. -- recorded?

18 A. I have no idea. I don't know.

19 Q. You've not seen a recording of it or --

20 A. No, sir.

21 Q. -- read a transcription of it?

22 A. No, sir.

23 Q. Did you pursue an opportunity with the
24 Mobile Alabama Fire Rescue Department?

25 A. No, sir.

1 about coming on as a part of her staff at the City of
2 Shreveport, assistant chief administrative officer;
3 after five fire departments and one fire and rescue
4 university component, Maryland Fire and Rescue
5 immediately suspended agreements that we had in place
6 to do leadership training, I felt there was a futile
7 effort to pursue any position in a city government.

8 Because what happened to me swept across
9 the nation in every aspect of local government at the
10 city or county level because it was alleged that I
11 had discriminated against, you know, persons based
12 upon my religious beliefs and that I could not -- I
13 was no longer fit for public office.

14 Q. Who made those allegations?

15 A. They were made in various and sundry
16 assertions, you know, from the City of Atlanta, from
17 agents --

18 Q. Who in the City of Atlanta --

19 A. -- in the City of Atlanta.

20 Q. I'm sorry. I didn't mean to cut you off.

21 Who within the City of Atlanta at any
22 point in time ever asserted that you engaged in
23 mistreatment or discrimination against anybody within
24 the Atlanta Fire Department?

25 A. Mayor Kasim Reed.

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1 Q. When did he do that?

2 A. In the days that followed. He -- and I'll
3 paraphrase it. That my views are not consistent with
4 him or the administration, and he alluded to that,
5 you know, they -- that they would cause -- be
6 discriminate -- looked at it as discriminatory or --
7 I can't remember his exact words, but there are
8 plenty of records of him going on record with the
9 media, and social media stating that my views did not
10 reflect his views or the views, and because they do
11 not reflect the inclusion or -- that he actually
12 embraces as the mayor. He made those statements
13 publicly. And again, I'm paraphrasing them, you
14 know, not saying them as though they were quotes.

15 Q. But let's be clear. Even if we're
16 paraphrasing, there's a significant difference
17 between saying that you and he do not share the same
18 views with respect to inclusion and him saying that
19 you had engaged in some sort of discriminatory
20 behavior.

21 Are you alleging in this lawsuit -- do you
22 have any evidence of anyone affiliated with the City
23 of Atlanta at any point in time accusing you of
24 having engaged in such behavior?

25 A. To the best I can recall, statements that

1 were being made from Mayor Reed and from Ms. Anne
2 Torres, the statements that were made to me in my
3 suspension meeting was that those views in the book
4 could actually create that kind of environment.

5 Q. Could create that environment?

6 A. That's correct.

7 Q. My question is, I'm sure you appreciate is
8 somewhat different. Did anybody affiliated with the
9 City of Atlanta at any point in time ever accuse you
10 of having engaged in discriminatory conduct towards a
11 subordinate?

12 A. Those were insinuations that were made as
13 I appreciated those comments.

14 Q. And you've given me all the things that
15 you say contribute to that insinuation?

16 A. As best as I can recall.

17 Q. Anybody else other than the mayor and the
18 communications director, Ms. Torres, who said
19 anything that you construe as a statement that you
20 had engaged in discriminatory conduct towards a
21 subordinate?

22 A. Based upon the collective statements that
23 I recall, those were the insinuations that they were
24 made as to the reason why I was laid off for 30 days.

25 Q. I want to make sure we're not talking past

1 the Chick-Fil-A and posted it on Facebook?

2 A. Yes.

3 Q. And that picture depicted the two of them
4 in uniform or some aspect of the fire department?

5 A. I don't recall that it was more than two.
6 They were in uniform, and they were on duty at
7 Chick-fil-A.

8 Q. You're right. There were two firefighters
9 who were ultimately disciplined for this event,
10 though?

11 A. Yes.

12 Q. But how many firefighters do you recall
13 were involved in the incident?

14 A. As I recall, in the picture it was the
15 crew, the crew that was there. I can't remember the
16 crew, but it was the crew that was there. But those
17 that ended up receiving discipline were two, one of
18 which was not a part of the crew in the picture, as I
19 recall.

20 Q. And the posting that was placed on
21 Facebook originally said words to the effect of our
22 battalion supports Chick-fil-A?

23 A. I remember the part about "we support
24 Chick-fil-A."

25 Q. Then there was I guess another firefighter

1 who took the picture, and I guess reposted or
2 forwarded it along with words to the effect of glad
3 to see you all fags are not too bitter. Do you
4 recall that?

5 A. Yes.

6 Q. And I guess the picture and the commentary
7 was supposed to imply that the two firefighters in
8 the picture were supposed to be gay. Is that how you
9 interpreted it?

10 A. No, sir.

11 Q. "Glad to see you all fags are not too
12 bitter" with a picture of two firefighters eating at
13 Chick-fil-A, but you didn't understand that to be the
14 implication?

15 A. No, I didn't understand that was the
16 implication from that message.

17 Q. What did you understand the message meant?

18 A. I thought it -- what I honed in on was the
19 word "fag," and that it was a word that was used that
20 is offensive to the LGBT community. I didn't see the
21 statement that was connected to the personnel that
22 was in the picture.

23 Q. I'm sorry. You said that the word "fag"
24 is offensive to the LGBT community? Do you find it
25 offensive to the community or just that --

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1 A. Well, it's an offensive word period.

2 Q. Are you offended by it?

3 A. Yes.

4 Q. And then if I understand correctly, a
5 member of the public saw that posting and that
6 caption "glad to see y'all fags are not too bitter,"
7 and brought it to the attention of the fire
8 department, correct?

9 A. And brought it to my attention.

10 Q. This person said that they were offended?

11 A. As I recall.

12 Q. That they suspected that the LGBT
13 community would be offended by it?

14 A. As I recall, it was an e-mail. If you've
15 got an additional copy, it would sure help.

16 Q. In that e-mail do you recall that civilian
17 enlisting your support to do something about this?

18 A. Yes.

19 Q. And in response you said that that posting
20 was unacceptable, correct?

21 A. That's correct.

22 Q. You ordered that that posting be taken
23 down, correct?

24 A. As I recall.

25 Q. The person who originally posted the photo

1 of the two firefighters eating at Chick-fil-A, but
2 without the inappropriate language, was recommended
3 to be suspended. Do you recall that?

4 A. Yes.

5 Q. The recommendation was for a four-day
6 suspension, wasn't it?

7 A. As I recall.

8 Q. And you in fact suspended that individual,
9 correct?

10 A. Yes.

11 Q. But you reduced their suspension from a
12 four-day recommendation to a one-day suspension,
13 right?

14 A. Whenever there are suspensions, we have a
15 disciplinary review panel. To really do this line of
16 question justice, it really starts with a citizen's
17 complaint. I would have had no knowledge of what had
18 occurred, had that citizen not, I believe sent me an
19 e-mail directly addressing his concern about what had
20 been posted.

21 After talking to him on the phone and
22 hearing his concerns, our policy, whether I received
23 that or someone else as a member of our department,
24 is to submit the process for a complaint to be filled
25 out and for an internal affairs investigation to

1 actually take place.

2 The internal affairs investigation is to
3 determine whether there is evidence that supports a
4 rule or policy violation, or rule or policy
5 violations, plural; and if in fact that's the case,
6 the investigation would end up being sustained, which
7 means we found that there's evidence that violates
8 work rules or policies. That was the case in these
9 two guys.

10 When it gets to that point, all sustained
11 complaints go before a disciplinary review panel,
12 which consists of the four deputy chiefs, the four --
13 the six assistant chiefs, a representative from the
14 union, the local of the International Association of
15 Firefighters.

16 We have a black firefighter's association.
17 They have their representative on there. And we have
18 a civilian union. They have a representative on the
19 disciplinary review panel. Their job is, once
20 complaints are sustained and there's evidence that
21 supports rule violations, to look at our guidelines
22 for discipline and to make a minimum recommendation
23 and a maximum recommendation.

24 And my rule of thumb has always been when
25 a person has a first offense or it's been a long time

1 since they have done -- I think we had a prescribed
2 period for a long time ago, a reckoning period I
3 believe is what it was called, before a last
4 discipline, and they accepted responsibility for
5 their action, then I consistently went with the
6 minimum of that range. That's why he received the
7 one-day suspension as opposed to the four-day
8 suspension.

9 Q. So instead of the four, you reduced it to
10 one, correct?

11 A. Yes.

12 Q. The firefighter who then reposted the
13 Facebook picture and wrote the words "Glad to see
14 y'all fags are not too bitter," it was recommended
15 that he be terminated, correct?

16 A. That would have had to have been a range.
17 Again, it's just not one -- you know, the panel
18 always submits a range, and so, you know, I would
19 have to see what the range was based upon their
20 report or a policy.

21 Q. Do you recall there being a recommendation
22 from the panel that his employment be terminated?

23 A. Again, if it was from the panel,
24 termination is the maximum end of any action, so
25 there would have had to be a minimum range that was

1 recommended.

2 Q. I know, but we're talking past each other.
3 I understand that there's a range.

4 A. Right.

5 Q. But ultimately the panel doesn't say,
6 here's the range because there wouldn't be a need for
7 a panel if that were that all happened?

8 A. That's not correct.

9 Q. The panel in this case made a specific
10 recommendation for termination. Do you recall that?

11 A. What I'm saying to you, it's based on our
12 policy. The panel always submit a range of
13 discipline, a maximum and a minimum.

14 Q. And in that case, do you believe that they
15 recommended anything other than the termination of
16 employment for this gentleman?

17 A. Based upon our practices, I would say they
18 would have had to recommend a minimum.

19 Q. What was the discipline that you
20 ultimately handed down to this gentleman?

21 A. To the best of my recollection, it was a
22 30-day suspension.

23 Q. Thirty days, you said?

24 A. As I can recall.

25 Q. Thirty days for writing the word "fag"?



CITY OF ATLANTA

FIRE – RESCUE DEPARTMENT

City Hall East - 675 Ponce de Leon Avenue, NE Suite 2001
Atlanta, GA 30308-1807
(404) 853-7000 * FAX (404) 853-7245/7092
ICHIEFS ID – ATLFDHQ

SHIRLEY FRANKLIN
MAYOR

KELVIN J. COCHRAN
FIRE CHIEF

COA-Cochran 001620

MEMORANDUM

TO: Virginia Looney, Ethics Officer

FROM: Kelvin J. Cochran, Fire Chief

DATE: February 27, 2008

SUBJECT: TRAINING CONFERENCES

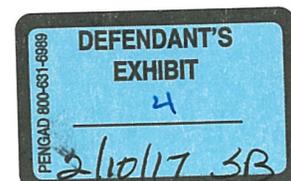
After being appointed fire chief of Atlanta Fire-Rescue, I was informed of Mayor Shirley Franklin's policy of commissioners not engaging in additional work opportunities to generate income. The City of Shreveport, my prior employer allowed for additional employment on a part-time and consulting basis. I had a well established training and professional development practice, speaking at conferences and conducting workshops. Prior to my appointment, I had no indication I would not be able to continue.

Consequently, I accepted the City of Atlanta's policy, but had made three commitments to conduct training prior to my appointment. Chief Operating Officer Mr. Greg Giomelli agreed to allow me to complete those commitments using accrued compensatory time. No further training/consulting commitments would be made.

As such, I am seeking approval from the Board of Ethics for the three commitments made prior to my employment with the City of Atlanta. The dates for the upcoming training conferences are listed below for your information:

Maryland Fire and Rescue Institute: Staff and Command
Louisville, KY
March 12-13, 2008

Oroville Fire Department: Leadership Symposium
Oroville, CA
March 17-18, 2008



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Virginia Looney, Ethic Officer
RE: Training Conferences
February 27, 2008
Page 2

Humboldt Fire Department: Leadership Symposium
Eureka Springs, CA
April 2-4, 2008

I will be utilizing accrued compensatory time accumulated through work activities beyond normal working hours as we had agreed. Please contact me if you have any questions.

Thank you for your support and consideration in this matter.

KJC/mbt

COA-Cochran 001621



CITY OF ATLANTA

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ETHICS OFFICE
 Ginny Looney
 City Ethics Officer
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COA-Cochran 001619

Request for Outside Employment

Requester	Chief Kelvin J. Cochran
Subject matter	Outside Employment
Date	March 20, 2008 board meeting
Code provisions	2-820(d)
Previous action	Tentative approval via email
Facts	<ul style="list-style-type: none"> -Chief Cochran had three commitments to conduct leadership training to fire departments in other cities prior to accepting his position with the City -After starting employment with the City, he learned that he needed the Board's approval -He requested permission prior to the training -Three board members gave tentative approval -Two of the three training sessions have already occurred.
Recommendation	Approve request for outside employment.

**City of Atlanta Board of Ethics Meeting
Minutes of March 20, 2008**

The monthly meeting of the City of Atlanta Board of Ethics was called to order by Chair John Lewis Jr. at 6:16 p.m. in City Council Committee Room 2, 55 Trinity Avenue, Atlanta, Georgia 30303. Attending the meeting were board members Cathy Daniels, MaryAnne Gaunt, and Jacquee Minor. Also present were staff members Ginny Looney and Nasceas Timms. Board member Susan Housen was absent.

MINUTES

1. The Board approved the minutes of the February 21, 2008 meeting on a motion by Ms. Daniels and a second by Ms. Gaunt.

AWARDS CEREMONY

2. The Board held the Financial Disclosure Awards Ceremony to honor departments with the best filing records. Ms. Daniels moved for the adoption of a resolution on the Transparent Diamond Award recognizing the following recipients: Department of Corrections, Department of Law, Department of Parks, Recreation & Cultural Affairs, Department of Watershed Management, Executive Offices, and Municipal Court. Ms. Gaunt seconded the motion, which the Board adopted unanimously.

FINANCIAL DISCLOSURE

3. Ms. Looney delivered the annual report to the Board on persons required to file an annual financial disclosure statement, those who complied with the filing requirements, those who filed late, and those who failed to file in 2008 as required by law. Ms. Looney noted that ninety-nine percent of city officials and employees have filed their 2008 City Financial Disclosure Statement.
4. The Board next considered the Roll of Delinquent Filers that lists 10 persons who have not filed a 2008 City Financial Disclosure Statement and one late filer who filed after the end of the March 3 grace period without reasonable cause. Concerning the two nonfilers who are current employees, Ms. Daniel made a motion that the Board issue a letter of reprimand and that the letter go into the employees' personnel file and be taken into consideration during their performance review. Ms. Gaunt seconded the motion, which the Board adopted unanimously.
5. Regarding seven former city employees who have not filed, Ms. Looney recommended that the nonfiling employees be named to the Roll of Delinquent Filers, they be required to pay a fine when they do file, and the Board send a letter of reprimand to their former department and the Department of Human Resources recommending that they be considered ineligible for rehiring for one year and must comply with the financial disclosure law before being considered for another job. Ms. Gaunt moved to adopt the recommendations for the seven former employees, Ms. Daniels seconded the motion, and the motion carried unanimously.
6. For the one board member who did not file, Ms. Gaunt moved that he be named to the Roll of Delinquent Filers, the Board impose no further financial penalties, and the Board issue a letter of reprimand that the board is disappointed and the City should consider him ineligible for future service on a city board. Ms. Daniel seconded the motion, all members voted in favor, and the motion carried.

7. With respect to the late filer, Ms. Minor moved that the current board member be issued a letter of reprimand for being a delinquent filer and that the ethics officer send copies of the letter to the board chair and the appointing authority. Ms. Gaunt seconded the motion, and the the Board adopted it unanimously.

FORMAL ADVISORY OPINIONS

8. Ms. Daniels moved to adopt proposed Formal Advisory Opinion 2008-3 on gifts of travel from prohibited sources to the City. Ms. Gaunt seconded the motion, which the Board adopted unanimously. The opinion concludes: "The City may accept gifts of travel from prohibited sources when the gift is donated to the City or one of its agencies, the travel is done in an official capacity on official city business, the travel is approved in advance, the expenses are reasonable, the agency receiving the gift discloses it on an online Gift to the City Report, and officials and employees disclose any travel financed under the travel gift program on an online Expense Reimbursement Report."
9. Ms. Gaunt moved to adopt, with a second by Ms. Minor, Formal Advisory Opinion 2008-4 on use of city property for election campaigns for city pension boards. The opinion states: "City employees may not use city property to advocate the candidacy of any individual to serve on the city's three pension boards. Under the exception for official city business, the City of Atlanta, its agencies, and employees may use city property to conduct the elections of the pension board members under policies and procedures that give all candidates equal access to the property." The Board adopted the opinion unanimously.

REQUEST FOR OUTSIDE EMPLOYMENT

10. Ms. Daniels moved to approve a request for outside employment from Fire Chief Kelvin Cochran to conduct leadership training to fire departments in other cities. The Board agreed that he should have the ability to fulfill the commitments that were made prior to his employment by the City. Ms. Minor seconded the motion, which the Board approved unanimously.

RECOGNITION OF BOARD MEMBER'S SERVICE

11. The Board adopted a resolution honoring Jacquee Minor for her board service the past three years as a representative of the Atlanta Business League.

Having no further business, the meeting was adjourned at 7:50 p.m.



Ginny Looney, Ethics Officer
Approved May 15, 2008



City of Atlanta Employee Ethics Pledge

To assure public confidence, I am committed to promoting integrity in city government by placing the best interest of the City above my own financial or personal interests.

1. I will not use my position to secure special advantage or benefit for myself, my family, or other persons and will seek to avoid situations that may give the perception of an impropriety. When uncertain about the right thing to do, I will seek guidance from my supervisor, the Ethics Office, or the Board of Ethics.
2. I will not solicit or accept money or a personal gift, meal, ticket, travel, entertainment, or other thing of value from a prohibited source unless the gift falls within one of the 11 exceptions to the ban on gratuities.
3. I will use public property, vehicles, equipment, labor, and services only for official city business and not request or allow its use for the private advantage of any individual or private entity.
4. I will not knowingly vote or participate in any matter in which I have a financial or personal interest and will not participate in any bid, proposal, contract, or subcontract if I or my immediate family, employer, prospective employer, or a related business entity have a financial or personal interest.
5. I will refrain from working for any business or entering into any contract to provide goods and services to the City of Atlanta unless the business is conducted through a sealed competitive bid process.
6. I will not represent any individual or private interest for pay before any city agency or in matters adverse to the City while working as a city employee.
7. I will not hold investments, engage in outside employment, or be paid to render services for a private interest when the work is adverse to and incompatible with the proper discharge of my official duties. I will seek permission from my department head for any extra job that I have.
8. I agree that I will not disclose any confidential information that I learn in my official capacity as a city employee.
9. I agree to file my annual financial disclosure statement by the filing deadline, if I am identified as a required filer, and file any report on conflicts of interest, travel, or gifts to the City when appropriate.
10. I understand that the City has a one-year cooling-off period and agree that for one year after leaving city employment I will not appear before any city agency for pay or be paid to work on any matter in which I was directly concerned, personally participated, or actively considered, or about which I acquired knowledge while with the City.

I, KELVIN J. COCHRAN, acknowledge that I have received and read this pledge and agree to abide by the City's Code of Ethics. I understand that the most current copy of the Code of Ethics is at the Board of Ethics' website and that I can seek advice from the Ethics Office or Board of Ethics if I need guidance on how to avoid a conflict of interest and comply with the Code of Ethics.

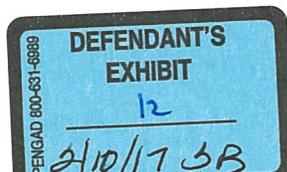
Kelvin J. Cochran
Signature

June 21, 2010
Date

KELVIN J. COCHRAN
Print Name

FIRE RESCUE
Department

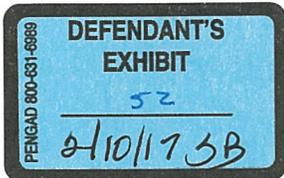
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NewsRoom

4/21/16 Times-Herald (Newnan, Ga.) (Pg. Unavail. Online)
2016 WLNR 12329643



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April 21, 2016

Section: Local

Local pastors join to host men's community service

Kandice Bell

Kelvin Cochran

Two local pastors, Pastor Tamarkus T. Cook of the St. Smyrna Baptist Church in Newnan and Pastor Mark Anthony of Trinity Baptist Church in Sharpsburg, have teamed together to host a joint community service for the men of Coweta County this weekend.

"I have been spending some time with Pastor Cook and one of the things I've really desired is to have a unified approach to ministry in our city that erases racial and denominational lines that divide us," said Anthony. "Pastor Cook and myself have really thought of ways we could work together to minister to our community and to truly show we're one in Christ and to show we're not competing and we value the image of Christ in one another. I think there are some issues with the church being divided. I truly wanted to do something that will bring people together and show them regardless of political, ethnic, domination, anything that would seek to divide, even in our difference we can work together."

Anthony said Kelvin Cochran, the former city of Atlanta fire chief, will be the guest speaker at both the Friday and Saturday services. Cochran was fired in January 2015 after he published a book that discussed his Christian faith and promoted biblical marriage. Cochran was also a speaker at the First Baptist Church in Newnan just before his termination.

"We are really looking to have a multi-generational, multi-ethnic gathering," said Anthony. "He (Cochran) had spoken at a friend of mine's church. When I spoke with him, we seemed to connect. He's had opportunities to minister in diverse communities and has done it in a effective way. I think he is the right person to speak to the men of Coweta County."

Anthony added that the event is free and open to all men in the surrounding areas. The Friday service will be held at Trinity Church located at 8817 Highway 54 W, Sharpsburg. A barbecue will be held from 6 until 7 p.m. and the service will be from 7 until 8:30 p.m. Breakfast will be provided at St. Smyrna Baptist Church, located at 68 Heery Road from 9 until 10 a.m. with the service being held from 10 until 11:30 a.m.

"My prayer is this will become an annual event," said Anthony. "We're launching something that will start with our two churches. We're really hoping it will be a broad representation."

Local pastors join to host men's community service, 2016 WLNR 12329643

— Index References —

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NewsRoom

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Good morning, I bring you greetings from the city of Atlanta, particularly from the Elizabeth Baptist Church in Atlanta where our Pastor is Dr. Craig L. Oliver Sr. I want to express my heart-felt gratitude to Pastor Jimmy Patterson of the First Baptist Church of Newman for your gracious invitation and hospitality that's been shown to my wife Carol and I this morning, particularly our brothers and sisters in the 8:30 service, just overwhelmed us with their hospitality and love, so we've already been spoiled by that group. And our expectations our high for what this group is going to do. Will you bow with me for a word of prayer? Dear God, our heavenly father, how we praise you and thank you for the blessing of celebrating the season this time of year that the birth of our Lord and savior Jesus Christ. We have an unusual faith because we believe that a virgin can conceive and bear a son and that son lived to take away the sins of the world and he died and rose again on the third day and is now seated at your right hand. And so we just praise you this morning for being such a loving and an awesome God and sending us such a wonderful and awesome gift. Now father I pray your spirit be full within me as I share the message the morning that you have put in my heart to share with brothers and sisters this morning. Be glorified in the words that I say and let the words of my mouth and the mediation of my heart be acceptable in your sight and in Jesus name I pray. Amen.

Well what a blessing it is to be with you this morning. I was with Pastor Patterson a few weeks ago at the Georgia Baptist Convention Executive Committee Meeting where I was asked to come and share my testimony to that group of about 200 or so that were in attendance. The invitation was extended based upon a set of circumstances that I currently find myself in while serving as fire chief in the city of Atlanta. However, I didn't come to talk about that situation this morning, in particular I wanted to share my testimony with you, wanted to tell you a little bit about a book that I wrote that because of some of the content of that book, I found myself in this situation of being laid off for 30 days, suspension without pay, but also I wanted to share with you my confidence in our God that I will certainly be vindicated and he will be glorified in this set of circumstance.

I was born and raised in Shreveport, Louisiana and all my life there from the time I was five years old until the time we moved to Atlanta in 2008, I was a member of the Galilee Baptist Church in Shreveport where the pastor that baptized at about six years was Dr. Edwin L. Jones Sr. and Dr. Jones is still the pastor there today in Shreveport, Louisiana and have been pastoring Galilee for some 55 years. It was at Galilee Baptist Church under his leadership that I was taught that whenever you have an opportunity there should be some theme and I wanted to share with you the theme of my testimony is the blessings of suffering. I know that sounds kind of strange to put blessing and suffering in the sentence but that's what I want to share with you in the context. The blessings of suffering, a few years ago I researched the word suffering in the bible and it includes several things like persecutions and trials and tribulations and tests and afflictions. All put under the word sufferings and God knows that I'm experienced in some of those things as I go through this trial based upon the content of my book and the 30 days suspension without pay. But I also realized that God has been preparing me for this trial all of my life on the very time that I was born and certainly as far back, brothers and sisters, as I can remember there are experiences I have had in my life that have prepared me for what I am going through today. And I can say with certainty that there are blessings associated with sufferings. There are scriptures that we have heard all of our life that have really come to life for me in the

last few weeks. We've heard the phrase that came from Jesus himself when he said "My yoke is easy and my burdens are light" and some of us have wrestled with how can that be possible. For us to going through difficult times and actually have a yoke and a burden that is easy and light. Well if I had time to tell you I could explain that during my suffering that I am going through my right, I can testify that his yoke is easy and that his burden is light. We've heard the story about in the beatitudes blessing those that are persecuted for righteousness sake for theirs is the Kingdom of Heaven. Bless so when they are persecuted, when men say all men are evil against you falsely for great is your reward in heaven. Those scriptures have come to life for me today.

When I was a little boy I was born in Shreveport, Louisiana at 1960 at the Confederate Memorial Hospital. When I was brought home from Confederate Memorial Hospital, I already had three big brothers, I was the baby boy, a couple a years later two little girls were added to my family. There were six of us total. After my sisters were born, my dad left my mother to be with another woman and my mother never remarried. We were living in the projects in a neighborhood called Allendale in Shreveport when I was born, when my father left, brothers and sisters, we couldn't live in the projects anymore. My mother couldn't afford the rent and so we moved a couple of blocks over, behind a street called Snow Street. Now in Louisiana, and I think it's the case in Georgia, when you have a main street and an alley behind a main street and there are houses on that street, the alley has to have a name, so Snow Street was the main street, we lived on Rear Snow Street in the alley. Now, in the economics in Shreveport, Louisiana, back in those days there was more than just upper class, middle class and lower class, in our neighborhood there was two classes of lower class, poor and po', course the po' group was the most poor of the group. The poor people lived on the main street and those shotgun houses that were in a little bit better condition, the po' people lived in the alley on Rear Snow Street where there was shotgun houses that were in a little worse conditions. I remember in that alley at five years old how terrible poverty was. I imagine what is a five year old kid experience to actually know what poverty is. Well my mom had to rely on food stamps to feed the six children. We received a check every month, my mother called it a Welfare check. At school, we didn't have money to pay for our lunch so we were on the free lunch program at school. I received hand-me-down clothes from my big brothers so you can imagine being the baby boy, by the time my big brother out grew his clothes and he passed them to the next brother and next brother and then finally to me by the time they reached me they were in pretty bad condition or to put it in the current vernacular, they were pretty stank by the time they got to me.

I also remember times when my mother would say "keep every pot and jug in the house full of water" and in a few days when we come home from school and turn on the facet and no water would come out because she knew she didn't have enough money to pay the water bill that month and we needed to have stored up water and I remember me and my big brothers, can you imagine this, the four boys, four of us, we had to share the water because we didn't have enough, we had to preserve it. So we took baths one behind the other and when the boys were finished, we let the water out and put fresh water in so my little sisters could take baths. I remembers times when we had to keep candles handy because the lights were turned off and when it became dark we had to light the candles until it became daylight. There were times the gas was turned off because mama didn't have enough money to pay the gas bill, so we had an electric plate, one _____, electric plate, so we had to cook food on an electric plate. With six kids at home, unsupervised at home in the afternoon, at the beginning of the month when we had the Welfare check and the food stamps, we had lots of groceries but as the month wore down, towards the

end of the month, we were almost always out of food and we would end up having mayonnaise sandwiches and sugar water because we would run out of cool-aid and pops but the end of the month. So I realized that poverty was a terrible thing, every Friday the children in our alley used to have money from their parents that they would go to the corner store and get candy every Friday. My brothers and sisters didn't have candy money every Friday so I knew how poverty was terrible.

It was also at five years old, one Sunday after church, my brothers and sisters and I were laying on the floor in our shotgun house watching a little small black and white TV with a coat hanger sticking out of the top of it that was wrapped in some aluminum foil because the rabbit ears were broken. Parents you're going to have to explain to your grandchildren and children what was rabbit ears are, but they were broken so to improve the reception we put a clothes hanger where the hole was on top of the TV and wrapped it in foil to make it better. So we were laying and watching TV and heard the sound of the fire truck coming through out neighborhood, which happened all the time anyway in Allendale, but this particular Sunday it was louder than we have ever heard it before. So we sprang to our feet, opened the front door, right in front of our house was a great, big, red Shreveport Fire Department fire truck. Miss Maddie, the lady who lived across the alley, her house was on fire and when I watched those Shreveport firefighters that day, I was so excited, I looked at my mom, brothers and sisters and said I want to be a fire man when I grow up and I was smitten from that day that I wanted to be a firefighter.

All I thought about, brothers and sisters, growing up in Shreveport, I don't want to be poor, I want to be a firefighter. The grownups would also ask us, what do you want be when you grow up, I always had my answer, I don't want to be poor and I want to be a firefighter. I wanted a family, I wanted to be man who had a wife and kids and I wanted to be at home with my kids, and I did not want my kids to experience poverty and something inside of me just felt that being a firefighter can help make that happen. And so what the grownups really told us, most all the time, when they asked us the question and we would tell them what it is we want to be when we grew up, they would say, if you believe in and have faith in God, if you go to school and get a good education, and they always said good in front of education. If you always respect grown people and if you treat other children like you want to be treated, they said in the United States of America your dreams are going to come true. And I am a living witness and a living testimony that they were right, kids, listen, they are right. And the same values still work today for children in the United States of America, believe in God, go to school and get a good education, respect grown people, treat other children like you would want to be treated, there is a certainty of your dreams are going to come true.

So in 1981, I became a firefigh in Shreveport, Louisiana, became a firefighter and I continue to apply those values, believe in and have faith in God, continue to get an education, keep going to school, respect authority. There are ranks in fire departments, captains and chiefs, you have to respect authority so that was instilled in me as a kid, respect grown people, respect authority and then treat the other firefighters like you want to be treated. And because I play those values out in my daily life as a firefighter, sworn to protect life and property, even if it costs you your life. Those values lead me to being promoted to a training officer very early in my career and then an assistant chief training officer, very early within 10 years I was a chief officer and when 19 years under the department I became the chief of the entire fire department.

I begin to play out those same values as the leader of the fire department, when I was called to Atlanta in 2008, I applied those same values when I arrived in the city of Atlanta. So much so that at that time, brothers and sister, I was prominent in our International Association of Fire Chiefs when I came to Atlanta, I was going to be the President of the International Association of Fire Chiefs that year, but at my appointment in Atlanta I relinquished that position to serve and give Atlanta all of my attention and focus because I did not want my time to be divided. Twenty months later I was appointed to the United States Fire Administration in the department of Homeland Security by President Barack Obama. Ten months later, Mayor Reed called me back to Atlanta because he saw my service while I serviced under Mayor Shirley Franklin and wanted me to serve as his fire chief back in Atlanta. And I've been serving faithfully in Atlanta under his leadership ever since.

Of course another part of that dream was having a family. When I became a firefighter in 1981, the first four months, I was a very popular guy, having a uniform on and riding on the back of that fire truck. Guys, let me tell you, I was popular. I wasn't popular when I was in elementary school, middle school or high school, had trouble getting the pretty girls. Couldn't get a cheerleader, couldn't get anyone on the pep squad or any of that stuff. I did have a girlfriend here and there but just have the looks and my father says, well you still don't have them today, Kelvin. But when I became a firefighter I was like the starting quarter back on the high school football team and I dated crazy for four months and one morning God woke me up and said this is not the life that I called you to and you need to find a wife. And I took God very seriously, I thought I had to do it right away, so my plan was to think back on the girlfriend that I had in college, high school, middle school and I thought about them one at a time and did not come up with a firm conviction in my heart until I reached my fourth grad girlfriend. I said Carolyn, I got to find Carolyn A. Marshall. So I picked up the phone book and I started with the A. Marshalls and I called every number in the in the Marshall section of the Shreveport Bordure Louisiana phone book and I would announce myself as Kelvin Cochran, I'm trying to Carolyn Cochran and I told them what my mission was. I'm a firefighter and God told me to find a wife and I'm trying to find Carolyn. No body admitted that they knew who she was. I was just too transparent, I guess. So I got in my car and for a couple of weeks I went to the neighborhoods where I knew she used to live and hoping that she still lived in, hoping that I would just by chance see her or someone who knew her and I came up short. I was miserable so I went back to the phone book to double check that surely I missed one word, one name, it was C.F. Marshall and her name is Carolyn Fae Marshall. So I called C.F. and I said my name is Kelvin Cochran, I'm looking for Carolyn Fae Marshall, I'm a firefighter and God told me to find a wife and I said, do you know her? This is she. And I said Carolyn do you remember? Yes. And I said, I got to find a wife, I got a good job, I've been dating like crazy for the last four months and you, I want you to be my wife. And she told me, you must be crazy. I said, no I'm serious, I want to come over and talk to you about it and she says no I have a boyfriend and he's on his way over here. I said well I got to talk to you and she said well he'll be at work tomorrow night and so I said, well can I come over tomorrow night? I like her flexibility, you know. Women will always fall for a guy that has a vision for the future, remember that guys. So she let me come over the next night, when I came in she made me some hot chocolate, brought it back to the table, as soon as she arrived and took a seat, I knelt down and proposed to her, didn't have a ring, but I proposed to her. She ran back in the back, got her mother, mama you're not going to believe this. Her mama came out of the back, asks me was it true, I said yes ma'am I want to marry your daughter. She

thought I was crazy too. But six months later we were married and June of this coming year, 2015, we would have been married for 33 beautiful years and we got three wonder children.

So my dream of becoming a firefighter has been greatly succeeded just like the scripters says, God has made me the head and not the tail. I served at the highest federal level that a fire chief can ever serve at the United States Fire Administration. My children does not know what it is like to have a sandwich that does not have meat. They have their choice of cool-aid and sodas and all kinds of chips and snacks and choices of different boxes of cereal. They've never had to sleep together in the same bed, in the same bedroom, they've always had their own bed. And now even though they're grown and all but one is gone, they have a room in our house so when they come they have their own room. When they open the refrigerator it's always full of good, when they open the cabinets it's always full. God has been good to my family.

So how did this book come about, who told you that you were naked? I want to answer that question by the scripter that is in Genesis, chapter 3, starts out by saying now the serpent was more crafty than any other beast of the field that the Lord God had made and he said to the woman, indeed has God said you shall not eat from any of the trees of the garden? The woman said to the serpent, from the trees of the garden we may eat, but God has said from the fruit of tree, which is in the middle of the garden, you shall not eat from it or touch it or you will die. The serpent said to the woman, you will not surely die for God knows that in the day you eat from it, your eyes will be open and you will be like God, knowing good and evil. When the woman saw that the tree was good for food and that it was a delight to the eyes and that it was desirable to make one wise, she took from its fruit and ate and gave also to her husband with her and he ate. Then the eyes of both of them were open and they knew that they were naked and sewed fig leafs together and they made for themselves loin coverings. They heard of the sound of the Lord God walking in the middle of the garden in the cool of the day and the man and his wife hid themselves from the presence of the Lord God amongst the trees of the garden. And the Lord God called to the man and said where are you and he said I heard the sound of you in the garden and I was afraid because I was naked and I hid myself and he said who told you that you were naked? Have you eaten from the tree of which I told you not to eat? I am a Sunday school teacher and Deacon at Elizabeth Baptist Church and most of my focus and teaching is on men's ministry. I have a passion for men's ministry because I believe that there is a tremendous need throughout our community of faith and in our nation for men of Chris to rise up to be the men that God has called us to be, at the end of the Book of Malachi there's a scripter that says about the coming of Christ, that one of the reasons why he is coming is to restore the hearts of fathers to their children and the children back to their fathers or else I will curse the land, is what the prophet Malachi says.

When we consider the condition of your nation today, I think there are plenty of signs of moral decay that indicate that certainly there are some curses on this land because hearts of fathers have turned from children and hearts of children have turned from fathers and I believe our nation is suffering from fatherlessness. So I love men's ministry and I love teaching men because I want to see us be what God called us to be. So when we were studying the quest to authentic manhood and the word naked and the question naked came up. I was curious about it, I had to research it in the bible. God meant brothers, more than who told you, you don't have on any clothes when he asked that question to Adam. Because the clothes he provided Adam, the clothing of glory and majesty and honor were more than adequate clothing and the resources he

provided to Adam in the garden satisfied very need and every pleasure that Adam ever could have wanted. So he was curious as to where this word naked come from. Adam solution was put on fig leaves and hid behind the tree because he realized what God said was surely going to come to pass. He was fearful of the consequences of his transgression. So he tried to come up with his own solution, he felt ashamed and he felt tremendous overwhelming guilt, condonation. And he realized after his eyes were open, his carnal eyes were open, that he lost so much more than he had gained from his transgression. So most men today are struggling with condonation and that's who told you, you were naked is the bible. Christian men overcoming condonation, so we can be the husbands that we were called to be, the fathers that we were called to be and the leaders in the market place and in the community that we have been called to be. So there are two types of men, naked men and clothed men, naked are men that never confessed Christ as their Savior and Lord, men who have confessed him as Savior but have rejected him as Lord. And then there are clothed men, men who have accepted Christ as Lord and Savior and are diligently seeking after him with all their hearts, all the time, falling and getting back up again and recognizing that the blood of Jesus is more than adequate to cover us from what Adam did back in the garden. I challenge us men today in the body of Christ is we are placing more emphasis on what Adam did than what Jesus did and as long as we are walking in condonation we will never be all the men that God as called us to be. That's what the book is about. But in the book, I deal with sexuality as God intended it, that God intended for a man and a woman to be married and to have children to populate the earth and that any sex outside of marriage and outside of a man and a woman outside of holy matrimony is against the word of God and for that stand, I've been laid off for 30 days without pay. But I want to tell you, brothers and sisters, I am not a victim, I am not discouraged, I am not disheartened. I love our, I honor and respect our mayor and I love all the people of Atlanta, really all the people in the world, I am in a position where I took an oath to die, to lay my life down and die for all people under any circumstances. So I am not a victim, this is not about Kelvin Cochran, it's about the Lord. It is not my reputation on the line, I took a stand for Christ, it's his reputation on the line. And Jesus Christ never throws us under the bus and so I know that he will be glorified and I know that I will be vindicated once all the truth comes out. So the blessings of suffering, you have a testimony just like I have a testimony and all of us on some scale as experience sufferings, the scripeter we have been hearing since the time we were little children really come to life and should resonate in our souls and in our spirit to strength us and encourage through trials tribulations. But I exercise, brothers and sisters, there are three sets of scripeters that I actually commit to memory that by the time I get through those three sets of scripeters, I've been on the treadmill or the elliptical trainer for about 30 minutes and then I do a five minute cool down and then I'm done. And for years I have been reciting song 27 as one of those scripeters, just so you'll know for those of you who are curious, the other one is song 112. Men you got to read song 112 and then Deuteronomy, chapter 28, versus 1-14. So I those are my scripeters and by the time I'm finished my side notes, I'm done with the workout.

So check this out, I got into the habit that when I was reciting those scripeters it just became routine for me. Now they have come to life. And I want to conclude by sharing with you the whole new prospective and meaning I have on song 27:

The Lord is my light and my salvation; whom shall I fear? The Lord is the strength of my life; of whom shall I be afraid?

When the wicked, even mine enemies and my foes, came upon me to eat up my flesh, they stumbled and fell.

Though an host should encamp against me, my heart shall not fear: though war should rise against me, in this will I be confident.

One thing have I desired of the Lord, that will I seek after; that I may dwell in the house of the Lord all the days of my life, to behold the beauty of the Lord, and to enquire in his temple.

For in the time of trouble he shall hide me in his pavilion: in the secret of his tabernacle shall he hide me.

And now shall mine head be lifted up above mine enemies round about me, he shall set me up on a rock; therefore will I offer in his tabernacle sacrifices of joy; I will sing, yea, I will sing praises unto the Lord.

Hear, O Lord, when I cry with my voice: have mercy also upon me, and answer me.

When thou saidst, Seek ye my face; my heart said unto thee, Thy face, Lord, will I seek.

Hide not thy face far from me; put not thy servant away in anger: thou hast been my help; leave me not, neither forsake me, O God of my salvation.

When my father and my mother forsake me, then the Lord will take me up.

Teach me thy way, O Lord, and lead me in a plain path, because of mine enemies.

Deliver me not over unto the will of mine enemies: for false witnesses are risen up against me, and such as breathe out cruelty.

I had fainted, unless I had believed to see the goodness of the Lord in the land of the living.

And it ends with something that really, really resonates with me and I believe it is God's charge to me during this trial:

Wait on the Lord: be of good courage, and he shall strengthen thine heart: wait, I say, on the Lord.