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Attorneys for Plaintiff

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ALASKA**

THE DOWNTOWN SOUP KITCHEN d/b/a
DOWNTOWN HOPE CENTER,

Plaintiff,

v.

MUNICIPALITY OF ANCHORAGE,
ANCHORAGE EQUAL RIGHTS
COMMISSION, and PAMELA BASLER,
Individually and in her Official Capacity as the
Executive Director of the Anchorage Equal
Rights Commission,

Defendants.

Case No. 3:18-cv-00190-SLG

**MOTION FOR LEAVE TO FILE
DOCUMENTS USING INITIALS OF
THIRD PARTIES AND
REDACTIONS PURSUANT TO
LOCAL RULE 5.4**

1. Consistent with Local Rule 5.4, Plaintiff The Downtown Soup Kitchen d/b/a Downtown Hope Center respectfully moves this Court for leave to file third party declarations using the declarants' initials rather than full names and to redact private information in the following documents:

- Declaration of S.D.
- Declaration of G.O.
- Declaration of F.S.
- *Complainant v. Downtown Hope Center* (AERC Case No. 18-041)
- *Basler v. Downtown Hope Center* (AERC Case No. 18-167)

2. The declarations and redacted documents are attached to this motion as exhibits 1-5.

3. Hope Center wishes to file these documents in support of its Motion for Preliminary Injunction. All five documents provide personal and sensitive information that should not be made public.

4. In considering a motion to proceed anonymously, the court considers the need for anonymity, the possible prejudice to the defendant(s), and the public interest in knowing the identity. *Does I thru XXIII v. Advanced Textile Corp.*, 214 F.3d 1058, 1068 (9th Cir 2000). In this case, all three factors weigh in favor of maintaining anonymity.

5. The Need for Anonymity: Of the five documents, three are declarations provided by women who have received and are currently receiving services from the Hope Center. Hope Center wishes to file these documents using the initials of the women.

6. In their declarations, these women discuss past sexual and physical abuse they have suffered, including being raped and sexually assaulted. They also explain the physical and

emotional distress they would suffer if a biological man were present where they were sleeping. Because of the sensitive discussion of their past abuse and physical and emotional health, these women wish to keep their identities private, especially since there has been so much local media coverage of the complaints against the Hope Center.

7. The other two documents are complaints that were filed with the Anchorage Equal Rights Commission against the Hope Center. These two documents provide the identity and personal and private information of the individual who filed the first complaint. Hope Center wishes to file these documents with the name of the complainant redacted to protect this individual's privacy.

8. These privacy concerns justify the use of initials and redactions. *Parties* may seek to file using initials or pseudonyms when nondisclosure of their identity “is necessary ... to protect a person from harassment, injury, ridicule or personal embarrassment.” *Advanced Textile Corp.*, 214 F.3d at 1067–68 (citation omitted). To make this assessment, courts consider the severity of the threatened harm, the reasonableness of the anonymous party's fears, and the anonymous party's vulnerability to such retaliation.

9. Applying this test, numerous courts have allowed *parties* to proceed using initials or pseudonyms to protect them from the embarrassment of disclosing past sexual abuse. *See Doe v. Blue Cross & Blue Shield United of Wis.*, 112 F.3d 869, 872 (7th Cir. 1997) (“[F]ictitious names are allowed when necessary to protect the privacy of ... rape victims, and other particularly vulnerable parties or witnesses.”); *Jordan v. Gardner*, 986 F.2d 1521, 1525 n.4 (9th Cir. 1993) (“In keeping with the tradition of not revealing names of the victims of sexual assault, we use initials here to protect the privacy of the inmates.”); *Heineke v. Santa Clara Univ.*, No. 17-CV-05285-LHK, 2017 WL 6026248, at *22 (N.D. Cal. Dec. 5, 2017) (“With regard to

allegations of sexual assault or sexual harassment in particular, courts in the Ninth Circuit have found that allowing victims to proceed anonymously serves a strong public interest in protecting the identities of sexual assault victims so that other victims will not be deterred from reporting such crimes.”) (cleaned up); *Doe v. Penzato*, No. CV10-5154, 2011 WL 1833007, at *3 (N.D.Cal. May 13, 2011) (noting that “the public generally has a strong interest in protecting the identities of sexual assault victims so that other victims will not be deterred from reporting such crimes”) (citation omitted); *EEOC v. ABM Indus., Inc.*, 249 F.R.D. 588, 593 (E.D. Cal. 2008) (permitting plaintiffs to proceed anonymously because “[t]hey [we]re concerned that they w[ould] be embarrassed by the public disclosure of the nature of their allegations against Defendants, which if proven, will identify them as victims of sexual harassment and sexual crimes in the small community where they live and work”).

10. But in this case, Plaintiff Hope Center does not wish to use initials for itself or protect its own privacy. Hope Center desires to protect the identity and privacy of third parties. The need to protect their privacy is arguably stronger and the need for the public to obtain their information arguably weaker than if a party sought protection. *See Advanced Textile Corp.*, 214 F.3d at 1068 n.10 (making this distinction). But for all the same reasons that parties may proceed anonymously and use initials to protect them from embarrassment, these same reasons justify protecting the privacy of third parties and using their initials or redacting their names in the attached documents.

11. No Prejudice to the Defendant: The requested use of initials and redactions does not prejudice Anchorage. Anchorage already knows the identity of the individual who filed the first complaint. And at this stage, Anchorage does not need the identities of the women beyond their initials.

12. The Public Interest Favors Anonymity in This Case: The public interest is served by encouraging women to disclose that they have been victims of sexual assault, abuse, sex trafficking, or domestic violence and to discuss the impact those trauma have on their emotional and physical wellbeing. Protecting the privacy of women encourages these discussions and the public has a strong interest in protecting victims of such abuse. *See supra*.

Respectfully submitted this 1st day of November, 2018.

By: s/ Ryan J. Tucker

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Jonathan A. Scruggs, AZ Bar No. 030505*
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Attorneys for Plaintiff

CERTIFICATE OF SERVICE

I hereby certify that on November 1, 2018, the foregoing was filed with the Clerk of Court using the CM/ECF system, which will send notification of such filing to the following:

Meagan Carmichael
Assistant Municipal Attorney
Municipal Attorney's Office
P.O. Box 196650
Anchorage, Alaska 99519-6650

/s/ Ryan J. Tucker
Ryan J. Tucker
Attorney for Plaintiff

EXHIBIT 1

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ALASKA**

THE DOWNTOWN SOUP KITCHEN d/b/a
DOWNTOWN HOPE CENTER,

Plaintiff,

v.

MUNICIPALITY OF ANCHORAGE,
ANCHORAGE EQUAL RIGHTS
COMMISSION, and PAMELA BASLER,
Individually and in her Official Capacity as the
Executive Director of the Anchorage Equal
Rights Commission,

Defendants.

Case No. 3:18-cv-00190-SLG

DECLARATION OF S.D.

I, S.D., declare as follows:

1. I am a citizen of the United States and a resident of the State of Alaska. I am competent to make this declaration and the facts stated herein are within my personal knowledge.
2. I became homeless in Anchorage, Alaska in 2012.
3. I tried to stay at another shelter but there were so many men there that I had to leave. The presence of men triggered me. I was really scared. I was not comfortable being around biological men when I was sleeping because I was abused by men in the past.
4. Then someone told me about the Hope Center. When I walked in, I saw how different the Hope Center's women's shelter was from the other shelters where I had stayed. I knew I was safe.

5. I have been coming to the Hope Center since May 2018 and the place feels like a family. The women watch out for each other and we know that we are safe. The structure has helped me. I am working on my GED. And most importantly, I feel valued and respected. I can truly say that the Hope Center changed my life.

6. The Hope Center's policies have created that change in my life. Those policies protect me. No one can stay at the shelter if they are drunk or high. That assures me that I won't run into anyone unsafe because of drugs or alcohol.

7. The Hope Center provides Bible studies, church service, and daily devotions. People can choose to take part in those or not, but I try to go to devotions every morning. It starts my day off right. I also go to the church services on Sunday. Those services really help me.

8. Most importantly, only biological women can stay in the Hope Center's women's shelter. That has been critical for me because of the past abuse I suffered. Seeing drunk men in a place where I feel vulnerable can trigger me and cause me many problems.

9. I spent time on the streets and I know how hard it can be out there. But if the Hope Center were forced to let any biological man into the women's shelter, I would leave even if it meant sleeping in the woods. I would rather sleep in the woods than sleep in the same area as a biological man.

10. That includes the individual who filed the complaint against the Hope Center. If he, or any biological male, stayed in the Hope Center's women's shelter I would not feel safe and I would have to leave.

11. I have been raped. And rape can happen in shelters, when men come into shelters where women are sleeping. Because of that and my past experience of rape, if I was to see a biological man in a shelter I would be afraid that I was going to be raped again. It would trigger a PTSD reaction for me. It makes it very hard for me to breathe. It's like I cannot get my breath. I know that I am not alone in that reaction. I have talked to other women in the Hope Center's women's shelter that experience a similar thing.

12. Because of that, it is important for me, and other women like me, that the Hope Center can continue to maintain a shelter where only biological women can sleep.

13. It is also important to me that the Hope Center maintain its ability to announce its decision to admit only biological women to its shelter. That policy lets women like me know that there is a safe place for them—a place where they will not encounter any biological men while they are sleeping. That is necessary for women who have been abused in the past.

14. I am grateful for what the Hope Center has done for me. I need their services to stay available for me and for other women.

I declare under penalty of perjury pursuant to 28 U.S.C. § 1746 that the foregoing is true and correct to the best of my knowledge.

Executed this 29th day of October, 2018, at Anchorage, Alaska

The signature is handwritten and appears to be "S. D. [redacted]". Below the signature, the name "S. D. [redacted]" is printed in a serif font, with the first and last names obscured by black redaction boxes.

EXHIBIT 2

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ALASKA**

THE DOWNTOWN SOUP KITCHEN d/b/a
DOWNTOWN HOPE CENTER,

Plaintiff,

v.

MUNICIPALITY OF ANCHORAGE,
ANCHORAGE EQUAL RIGHTS
COMMISSION, and PAMELA BASLER,
Individually and in her Official Capacity as the
Executive Director of the Anchorage Equal
Rights Commission,

Defendants.

Case No. 3:18-cv-00190-SLG

DECLARATION OF G.O.

I, G.O., declare as follows:

1. I am a citizen of the United States and a resident of the State of Alaska. I am competent to make this declaration and the facts stated herein are within my personal knowledge.

2. The Hope Center has helped me so much. I can only describe it as a blessing. About two years ago, I found myself without a home in Anchorage Alaska. I spent one night outside. Then someone told me about the Hope Center's women's shelter. I am so grateful that they did.

3. I went to the Hope Center as soon as I heard about it and I slept every night in the Hope Center's women's shelter for nearly two years. During that time, I also graduated from the Hope Center's bakery program. And I recently started working through

the MASST Program (the Mature Adult Alaskans Seeking Skills Training Program). Two month ago, I was able to get housing of my own.

4. I don't think any of this would have happened for me without the Hope Center. The Hope Center provided me a safe place where I could rest. Being able to rest and feel safe let me focus on other things, like the bakery program and the MASST Program so that I could take care of myself and now get housing.

5. That one night that I slept outside, I could not sleep. I was afraid for my safety. But I was also afraid to go to other shelters because I knew I would not feel safe there. Men and women both sleep at other shelters. Because of some past experiences, I do not feel comfortable sleeping around men. I do not want to do it.

6. When I am in public, I can be around men because if I run into a man that is drunk or makes me uncomfortable, I can leave or seek help. I am fully dressed and awake, so I can take care of my safety. That would not be true for me when I am in my pajamas, sleeping.

7. If the Hope Center had to let biological men into its women's shelter, I would not feel safe. Like that one night on the street, I would not be able to sleep knowing a biological man is sleeping so close to me.

8. I know who the individual is who filed the complaint against the Hope Center. I was not there when he tried to come in to sleep at the Hope Center's women's shelter, but I would not have felt comfortable or able to sleep having any biological male in the same room with me.

9. That is why it is so important to me that the Hope Center is able to continue offering a safe, secure place for women to sleep where no biological men will be present. The beds at the Hope Center's women's shelter are very close together and all the women sleep in a big room. Many of the women use the restroom to change clothes, but some change clothes in that big room, near their beds.

10. I know many women that stay at the Hope Center's women's shelter who have experienced abuse, and like me they also would not feel comfortable changing or sleeping in a room with a biological male.

11. It is also important for the Hope Center to be able to tell people that the shelter is only for biological women, so that women like me know that there is a safe, loving, secure place to rest at night.

12. I am glad that when I needed it, the Hope Center was able to provide me that safe place, where I would not worry that a biological man would be near me while I slept. That made me feel cared for and respected. The staff understood that I needed to feel safe and they provided that for me. They were compassionate. And now I am able to work and once again have my own housing.

13. I want that to be possible for other women like me. If the Hope Center is forced to let any biological man into the women's shelter, that safe place will be gone.

EXHIBIT 3

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ALASKA**

THE DOWNTOWN SOUP KITCHEN d/b/a
DOWNTOWN HOPE CENTER,

Plaintiff,

v.

MUNICIPALITY OF ANCHORAGE,
ANCHORAGE EQUAL RIGHTS
COMMISSION, and PAMELA BASLER,
Individually and in her Official Capacity as the
Executive Director of the Anchorage Equal
Rights Commission,

Defendants.

Case No. 3:18-cv-00190-SLG

DECLARATION OF F.S.

I, F.S., hereby declare as follows:

1. I am a citizen of the United States and a resident of the State of Alaska. I am competent to make this declaration and the facts stated herein are within my personal knowledge.

2. I live in Anchorage, Alaska. In 2007, my husband passed away after battling cancer. And in 2009, I lost my home.

3. I didn't know about the Hope Center and I don't think they had a women's shelter then. So I stayed in other local shelters for a long time. But I was always scared. People at those shelters used drugs and alcohol and there was a lot of fighting. I even saw women trafficked.

4. Both men and women stayed overnight at other shelters. And even when there were separate dormitories for men and women, men would come into the women's sleeping areas at night. That scared me.

5. I have been abused—raped and beaten—including by men I met at shelters. One time, the police had to be called to a shelter because my boyfriend was abusing me. Because of these experiences, it is very hard for me to be in a vulnerable position, like sleeping, around any biological male. I do not feel safe. It brings up my past and is bad for me.

6. That is why the Hope Center's women's shelter has been so important for me. I started staying at the Hope Center's women's shelter in 2016. I finally felt safe. I didn't have to worry that I would see a biological male where I was sleeping and be scared or anxious because of things that happened to me in the past. I felt like I had some privacy again and I felt respected.

7. At the Hope Center, I had a positive influence in my life. I began to work on my self-esteem and my life skills. I went through and graduated from the Hope Center's baking school and its culinary school. In 2017, I got a job at Value Village, where I currently work. I am applying to jobs in the food industry because after the baking and culinary school, I'd like to work in food service. I have applied for housing and I was just notified that I will have my own place in a few months. In the meantime, I am staying at the Hope Center at night.

8. The Hope Center is my home—it has been my only home for two years. And it has helped me so much.

9. I wish everyone could understand what the Hope Center provides to women like me in the Anchorage community. There are no other long term shelters that provide a secure place for women to sleep. And allowing any biological male into the Hope Center would take that security away. It would change the shelter and hurt the women the shelter serves.

10. The fact that the shelter houses only biological women also protects my privacy and the privacy of other women in the shelter. Some women change clothes in the evening and in the morning where they sleep and when they do they are at least partially exposed to the other women in the room. If a biological man were in the room, they would be undressing in front of him. While that would be uncomfortable for anyone, it is impossible for a woman who has been abused by men.

11. Women sleep three to five feet from each other in the Hope Center women's shelter. Especially in these quarters, with my past, I would not feel safe with a biological man in the room while I sleep. I didn't when I was in other shelters.

12. I can be around men during the day. I am fully dressed, awake, and I can leave the situation if someone makes me uncomfortable. But I feel too vulnerable at night and in bed. I am not fully dressed. I am not awake. I don't feel like I can take care of myself or leave a bad situation. Because of this, sleeping near a biological male would cause me a lot of distress, like it did in prior shelters I stayed in.

13. I know the individual who filed the complaint against the Hope Center. While I was not there when he tried to come to the women's shelter to sleep, I heard about it from other women. I immediately started praying that the Hope Center would not let him stay.

14. I have made so much progress in life skills, dealing with my emotions, respecting myself and my boundaries. I am so grateful to the Hope Center. I want to continue to feel safe and I want other women to be able to gain what I have gained through the Hope Center's women's shelter.

I hereby declare under penalty of perjury pursuant to 28 U.S.C. § 1746 that the foregoing is true and correct to the best of my knowledge.

Executed this 31 day of October, 2018, at Anchorage, Alaska

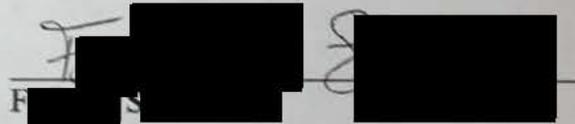
A signature and name are present but completely redacted with black boxes. The signature appears to be written in blue ink.

EXHIBIT 4

ANCHORAGE EQUAL RIGHTS COMMISSION
DISCRIMINATION COMPLAINT

85

Complaint Number: 18-041

Filing Date: 2/1/2018

NAME: [REDACTED]

Phone: [REDACTED]

Mailing Address: [REDACTED]

City, State: Anchorage, AK

Zip: 99501

I ALLEGE THAT THE FOLLOWING NAMED: Public Accommodation

NAME: Downtown Hope Center

Phone:

Mailing Address: 240 East 3rd Ave

City, State: Anchorage, Alaska

Zip: 99517

If this is an employment complaint, does this employer have more than fifteen (15) employees? Yes No N/A

DISCRIMINATED AGAINST ME ON THE BASIS OF MY:

Race Religion Sex Color National Origin Disability Sexual Orientation Age Marital Status Gender Identity Retaliation

DATE OF MOST RECENT OR CONTINUING DISCRIMINATION: January 29, 2018

STATEMENT OF DISCRIMINATION:

I allege I have been discriminated against in violation of the following statute prohibiting unlawful discriminatory practices in places of public accommodation, Anchorage Municipal Code § 5.20.050.

Respondent operates a shelter in Anchorage, Alaska. On two occasions, most recently on January 29, 2018, Respondent refused me access to its shelter because of my sex and gender identity.

I allege the following discriminatory actions: Denial of services/ Sex, Gender Identity

1. I am female and transgender thus I belong to a protected class.
2. On January 29, 2018, and one other occasion I was denied full and equal enjoyment of Respondent's services, goods or facilities.
3. Members outside of my protected class were not treated in the same or similar manner.

I WILL advise the Commission if I change my address or telephone number(s); and I will cooperate fully in the processing of my discrimination complaint.

I SWEAR OR AFFIRM I have read the above complaint and it is true to the best of my knowledge, information and belief.

DATED at Anchorage, Alaska, this 1 day of February, 2018.

[REDACTED]
Complainant

SUBSCRIBED AND SWORN TO before me on this 1st day of February, 2018.

Natalie K. Day
NOTARY PUBLIC in and for ALASKA
My Commission Expires: 11/6/21

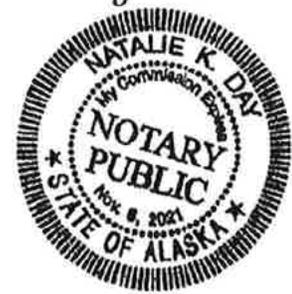


EXHIBIT 5

ANCHORAGE EQUAL RIGHTS COMMISSION
DISCRIMINATION COMPLAINT

Complaint Number: 18-167

Filing Date: 5/15/2018

answered due 6/5/18 cal alm

NAME: Pamela Basler, Executive Director, for the Anchorage Equal Rights Commission

Phone: (907) 343-4342

Mailing Address: 632 W. 6th Avenue, Suite 110 City, State: Anchorage, AK

FILE: 1453-001
REVIEWED: Zip: 99501 GG

I ALLEGE THAT THE FOLLOWING NAMED: Respondent(s)

CC: ROB/KGC FAX DHL
ALM **RECEIVED**

Downtown Hope Shelter, 240 E. 3rd Avenue, Anchorage, AK 99501, (907) 277-4302

CALENDAR: _____
OTHER: MAY 16 2018

AND/OR

Brena, Bell & Clarkson, P.C., 810 N Street, Suite 100, Anchorage, AK 99501, (907) 258-2000

If this is an employment complaint, does this employer have more than fifteen (15) employees? Yes No N/A
Brena, Bell & Clarkson, P.C.

DISCRIMINATED AGAINST ME ON THE BASIS OF MY:

Race Religion Sex Color National Origin Disability Sexual Orientation Age Marital Status Gender Identity Retaliation

DATE OF MOST RECENT OR CONTINUING DISCRIMINATION: March 8, 2018

STATEMENT OF DISCRIMINATION:

I allege the Respondent(s) committed unlawful discriminatory acts or practices in violation of the following statutes prohibiting unlawful uses of real property, Anchorage Municipal Code § 5.20.020, and/or unlawful practices in places of public accommodation, Anchorage Municipal Code § 5.20.050.

[Respondents (the Downtown Hope Shelter and/or its identified spokesperson, Kevin Clarkson of Brena, Bell & Clarkson, P.C.) published, circulated, issued, displayed, posted, or mailed a written or printed communication, notice or advertisement, or caused to be circulated, issued or displayed, made, printed or published, a communication which states or implies that the use of Downtown Hope Center's real property and/or services or facilities will be refused to or denied to a person because of their sex and/or gender identity, in violation of Anchorage Municipal Code § 5.20.020(A)(7) and/or Anchorage Municipal Code § 5.20.050(A)(2).]

An Anchorage Equal Rights Commission (AERC) complaint (No. 18-041) was filed against the Downtown Hope Center on February 1, 2018. Attorney Kevin Clarkson of Brena, Bell & Clarkson, P.C. notified the AERC on March 6, 2018, that his firm represented the Downtown Hope Center in regards to that complaint. Since March 8, 2018, Kevin Clarkson has been identified as the source of statements and information, published in various online and printed media sources, which implied or stated that transgender individuals would not be allowed to be "sheltered" at the Downtown Hope Center.]

Respondents have refused to participate in proceedings related to AERC Complaint No. 18-041 that are required by the Municipality of Anchorage's Equal Rights law, and refused to provide critical information to the AERC on several occasions. As a result, it is not known whether Kevin Clarkson was speaking at the behest of or on behalf of the Downtown Hope Center when he made these communications.

I SWEAR OR AFFIRM I have read the above complaint and it is true to the best of my knowledge, information and belief.

DATED at Anchorage, Alaska, this 15th day of May, 2018.

Pamela Basler
Pamela Basler, Executive Director, for the
Anchorage Equal Rights Commission

SUBSCRIBED AND SWORN TO before me on this 15th day of May, 2018.

Natalie K. Day
NOTARY PUBLIC in and for ALASKA
My Commission Expires 11/16/21



ANCHORAGE DAILY NEWS

Anchorage

Discrimination complaint against downtown Anchorage women's shelter opens up political front

✍ Author: Devin Kelly ⌚ Updated: 3 hours ago 📅 Published 3 hours ago

JESSE BAKER



The downtown soup kitchen Hope Center provides a women's shelter, job skills training, meal, laundry and clothing to people in need. (Anne Raup / ADN)

Proponents of Proposition 1, an Anchorage initiative to regulate restrooms, locker rooms and other "intimate facilities" by sex at birth, say a recent discrimination complaint against a downtown shelter for homeless women shows why the measure is necessary.

It's the latest in an ongoing campaign to persuade voters that legal protections for transgender residents in Anchorage's non-discrimination law create safety problems. In this case, questions about what happened at the

shelter and how the law applies remain to be answered.

Last week, a conservative blog and emails to supporters from the "Yes on 1" campaign's organizers spotlighted a situation in which a person filed a discrimination complaint against the Downtown Hope Center. The complaint, filed Feb. 1 by a person named [REDACTED] with the Anchorage Equal Rights Commission, said the shelter refused her services because she is transgender.

If shown to be valid, the complaint could lead to fines, policy changes, non-discrimination training and other damages for the shelter under the city's two-year-old law that bars discrimination over sexual orientation and gender identity.

"This is exactly what we've been concerned about and why Prop. 1 must pass," Jim Minnery of Alaska Family Action wrote in one of the emails to supporters. "Should a faith-based shelter for biological women who have been abused be forced by the government into opening their doors to a biological man?"

[God, gender identity and public restrooms at play in Anchorage's Proposition 1 debate]

Kati Ward, the manager of Fair Anchorage, the campaign opposing Prop. 1, said last week the campaign didn't have specifics on the incident or the person involved, but she said Anchorage's existing non-discrimination law doesn't allow give people a way to break the law or act inappropriately.

There were unresolved questions surrounding the Hope Center complaint. Kevin Clarkson, an attorney for the Hope Center, said the person who filed the complaint, was not kept out of the shelter because they were transgender. He said it was because the person was intoxicated and came to the shelter while it was closed.

Even so, Clarkson said the Hope Center is a religious organization that would not allow a "biological man" to be sheltered there. The city's other two emergency women's shelters, one of which is run by Catholic Social Services, do take in transgender women.

Whether Prop. 1 — or the city's current, broader nondiscrimination laws that Prop. 1 seeks to amend — would apply to the Hope Center is open to debate. City law bars discrimination over sex and gender identity in public accommodations, but the Hope Center says it does not serve the general public. Prop. 1, meanwhile, would change the law to say employers and public accommodations could legally enforce sex-segregated standards for "intimate facilities" such as locker rooms, showers, changing rooms and restrooms."

The initiative doesn't mention homeless shelters, but Clarkson, the attorney for the Hope Center, argued the shelter would qualify as an "intimate facility."

Formerly known as the Downtown Soup Kitchen, the Hope Center is a faith-based nonprofit that offers showers and meals to the homeless, as well as an overnight shelter for homeless women. In 2015, with the Brother Francis Shelter at capacity, the agency opened an overflow night shelter for homeless women. There's a big room with mats where up to 50 homeless women sleep every night. The shelter also serves the women dinner and breakfast.

[Full coverage: Anchorage's 2018 local election]

Clarkson said ██████ the person who filed the discrimination complaint, was turned away twice. First, ██████ tried to enter the shelter while intoxicated, which violated shelter policies, Clarkson said. The following afternoon, ██████ came back to the Hope Center and was turned away because the shelter wasn't open, Clarkson said.

██████ who listed the Abused Women's Aid in Crisis (AWAIC) domestic violence shelter as a mailing address, could not be reached by phone or immediately located for an interview.

"Respondent refused me access to the shelter because of my sex and gender identity," ██████ wrote. "I am female and transgender thus I belong to a protected class."

There were no other details in the complaint about what happened from ██████ point of view.

Whether ██████ would meet the city's legal definition for transgender protections was not immediately clear. The law requires the person to prove, through medical history and evidence of care or treatment of their gender identity, that their gender identity is "sincerely held, core to a person's gender-related self identity, and not being asserted for an improper purpose." The Equal Rights Commission typically takes months to investigate complaints.

The Hope Center also disputes that it is subject to the city's nondiscrimination laws. Clarkson said the shelter is not a "public accommodation," and because of that, the law does not apply.

In a written response to the Equal Rights Commission, Clarkson quoted city law and said a public accommodation is a "business or professional activity" that provides goods or services to the general public. He said the Hope Center, by contrast, is a religious charity that offers its services for free to a specific group of people.

Clarkson said allowing a "biological man" into the shelter would traumatize and create safety risks for the women who stay there.

Leaders of Anchorage's other two emergency women's shelters say transgender people have used the facilities for years without problems.

AWAIC, a shelter for women and children who are victims of domestic violence, has served transgender women for at least 15 years, said executive director Suzi Pearson.

Catholic Social Services runs the Brother Francis Shelter as well as the Clare House, a shelter for women and children. Lisa Aquino, the executive director of Catholic Social Services, said the shelters don't ask people for gender identities.

"There's so much trauma for everyone who comes in that is experiencing homelessness," Aquino said. "The fact that someone is transgender is pretty far down on the list."

In a phone interview, Clarkson said the Hope Center had known ██████ in the past as a man named ██████

Clarkson said ██████ had regularly used showers and meal services during the daytime hours without incident. But he said the shelter saw ██████ as "obviously" a man, and pointed to a criminal record that included a 2008 robbery conviction to back up concerns about letting ██████ inside.

Voter registration records indicate a person named ██████ registered as a Republican in April 2016 and listed their sex as "female." There were no voter or Alaska court records for a ██████

██████ came to the Hope Center one evening in late January after being ejected from the nearby Brother Francis Shelter for fighting, according to Clarkson. Clarkson said ██████ was clearly intoxicated and was barred from entering the shelter, which is a sober facility. The shelter gave ██████ money for a cab ride to the emergency room for treatment of injuries from a fight, Clarkson said.

The next day, a Saturday, ██████ returned at 2 p.m. seeking shelter services, but the shelter was not open and ██████ was turned away, Clarkson said. He said ██████ did not return after that.

Since the Anchorage nondiscrimination law took effect, the Equal Rights Commission has received 10 complaints of sexual orientation discrimination and two complaints of gender identity discrimination, according to the commission's annual reports. The commission does not make the cases public or comment on whether complaints have been filed, citing confidentiality.

Clarkson said Hope Center officials would not attend a Wednesday fact-finding conference in the case.

He said that if the commission decides to proceed, he would file a motion to dismiss the complaint on the grounds that the Hope Center is not a public accommodation.

About this Author

Devin Kelly

Devin Kelly covers Anchorage city government and general assignments.



Municipality of Anchorage

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Ethan Berkowitz, Mayor

Anchorage Equal Rights Commission

Kevin Clarkson
Brena, Bell & Clarkson
810 N Street, Suite 100
Anchorage, AK 99501

Downtown Hope Center
240 E. 3rd Avenue
Anchorage, AK 99501

RE: **Pamela Basler, Executive Director, AERC et. al. v. Downtown Hope Center and/or Brena Bell & Clarkso**
AERC Complaint No.: 18-167

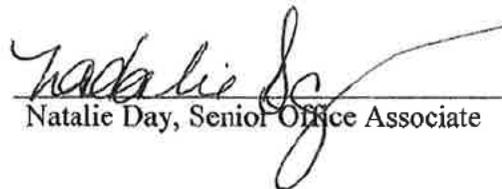
CERTIFICATE OF SERVICE

I, Natalie Day, certify that a copy of the Complaint of Discrimination, the Notice of Fact Finding Conference, and the Certificate of Service were served today on the following:

Kevin Clarkson
Brena, Bell & Clarkson
810 N Street, Suite 100
Anchorage, AK 99501

Downtown Hope Center
240 E. 3rd Avenue
Anchorage, AK 99501

Dated at Anchorage, Alaska, this 15th day of May, 2018.



Natalie Day, Senior Office Associate

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ALASKA**

THE DOWNTOWN SOUP KITCHEN d/b/a
DOWNTOWN HOPE CENTER,

Plaintiff,

v.

MUNICIPALITY OF ANCHORAGE,
ANCHORAGE EQUAL RIGHTS
COMMISSION, and PAMELA BASLER,
Individually and in her Official Capacity as the
Executive Director of the Anchorage Equal
Rights Commission,

Defendants.

Case No. 3:18-cv-00190-SLG

**[PROPOSED] ORDER GRANTING
PLAINTIFF'S MOTION FOR LEAVE
TO FILE DOCUMENTS USING
INITIALS OF THIRD PARTIES AND
REDACTIONS**

Before the Court at Docket ____ is Plaintiff's Motion for Leave to File Documents Using Initials of Third Parties and Redactions ("Motion"). The Court has reviewed the Motion as well as all the briefing and supporting documents submitted by the parties regarding the Motion and hereby grants the Motion. Plaintiff is therefore granted leave to file the third party declarations using the declarant's initials rather than full names and to redact private information in the following documents: (1) Declaration of S.D.; (2) Declaration of G.O.; (3) Declaration of F.S.; (4) *Complainant v. Downtown Hope Center* (AERC Case No. 18-041); and (5) *Basler v. Downtown Hope Center* (AERC Case No. 18-167)

DATED this ____ day of _____, 2018, at Anchorage Alaska.

SHARON L. GLEASON
UNITED STATES DISTRICT JUDGE