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Attorney for Defendants

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

THE DOWNTOWN SOUP KITCHEN, d/b/a, )  
DOWNTOWN HOPE CENTER, )  
)  
Plaintiff, )  
)  
vs. )  
)  
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

**DEFENDANTS' REPLY TO PLAINTIFF'S OPPOSITION  
TO MOTION FOR STAY (DOCKET 44)**

Defendants (collectively "Municipality") have moved the Court for a stay of proceedings (Docket 44) pending a ruling on Defendants' Motion for Federal Abstention (Docket 43). Plaintiff filed its response in opposition to the motion for stay on December 5, 2018 (Docket 55). Defendants reply to Plaintiff's opposition as follows.

“A district court has discretionary power to stay proceedings in its own court under *Landis v. North American Co.* [.]” *Lockyer v. Mirant Corp.*, 398 F.3d 1098, 1109 (9th Cir. 2005) (citing to *Landis*, 299 U.S. 248 (1936)).

Where it is proposed that a pending proceeding be stayed, the competing interests which will be affected by the granting or refusal to grant a stay must be weighed. Among those competing interests are the possible damage which may result from the granting of a stay, the hardship or inequity which a party may suffer in being required to go forward, and the orderly course of justice measured in terms of the simplifying or complicating of issues, proof, and questions of law which could be expected to result from a stay.

*Id.* at 1110 (quoting *CMAX, Inc. v. Hall*, 300 F.2d 265, 268 (9th Cir. 1962)).

Here, the balance of these competing interests tips in favor of Defendants because:

(1) should the stay be granted, the possible damage to Plaintiff is *de minimis*, if any; (2) should the stay be denied, the hardship and inequity to Defendants is significant; and (3) a stay would promote judicial economy and the orderly course of justice.

**I. A Stay of Proceedings Poses Little, if Any, Risk of Possible Damage to Plaintiff.**

Plaintiff argues that Hope Center will be damaged by a stay in two ways. First, it points to its pending Motion for Preliminary Injunction (Docket 29) and argues it will be irreparably injured if it is denied injunctive relief for any period of time. Plt’s Opp. to Mot. for Stay, p. 3 (Docket 55). Citing to *Lockyer*, Plaintiff argues “the mere existence” of its pending request for preliminary injunction is “enough to justify denying” Defendants’ Motion for Stay. *Id.* But *Lockyer* simply does not support this conclusion. *Id.*

What *Lockyer* does say is that the Court must consider “possible damage” which may result if a stay is entered.

Here, Plaintiff suggests it would be possibly damaged by entry of the requested stay, pending resolution of the abstention motion, because the Anchorage Municipal Code “prevent[s] it from protecting homeless women” and “silence[s] Hope Center’s desired speech.” Plt’s Opp. to Mot. for Stay, p. 3 (Docket 55). But Plaintiff is conspicuously and consistently silent as to how the Code allegedly prevents Hope Center from protecting homeless women. Indeed, upon information and belief, operation of the Hope Center’s women’s shelter has not been interrupted by any action of Defendants and, rather than possibly damaging Plaintiff, entry of the requested stay would simply continue the *status quo* while the court considers Defendants’ Motion for Federal Abstention (Docket 43).

Regarding the claim that the Code “silences Hope Center’s desired speech,” Defendants presume Plaintiff refers to its recently-professed desire to post “statements about its policies and beliefs on sex and gender identity.” *See*, Plt.’s Memo. in Supp. of Mot. Prelim. Inj., pp. 11-16 (Dkt. 30). Plaintiff does not allege it has previously posted statements regarding its beliefs on these topics or that it has removed any such existing postings, nor does it argue that it desired to post these statements prior to the filing of the AERC complaints or its initiation of the instant federal court action. Rather, Plaintiff states it has “refrained” “temporarily” from posting these statements, thereby emphasizing that its decision to do so is both voluntary and impermanent. *Id.* at 11. The

Court should not afford significant weight, if any, to this claim of possible damage by Plaintiff in balancing the equities of the requested stay.

Plaintiff also suggests that homeless women who seek shelter at Hope Center will possibly be damaged by entry of the requested stay in this matter. Plt's Opp. to Mot. for Stay, p. 3 (Docket 55). In support of this contention, Plaintiff cites the affidavit of a Hope Center client, stating: "[I]f the Hope Center were forced to let any biological man into the women's shelter, I would leave[.]" *Id.* (emphasis supplied). As to why Hope Center might be "forced" to allow "any biological man" into its women's shelter, or what bearing a temporary stay pending resolution of the abstention motion would have on this alleged risk, Plaintiff offers no explanation.

Plaintiff takes apparent issue with Defendants' voluntary stay of the AERC proceedings and argues at length that defendants cannot "moot" a preliminary injunction motion through voluntary cessation of action. Plt's Opp. to Mot. for Stay, p. 3 (Docket 55). But such an argument appears to fundamentally misunderstand the nature of Defendants' pending Motion for Stay. If Plaintiff's Motion for Preliminary Injunction is eventually mooted, it would be on the basis of the Court's abstention in this matter, not because a temporary stay was granted.

Lastly, the possible damage to Plaintiff that may accrue from entry of a stay in this matter, if any, is relatively slight given the temporary, limited duration of the requested stay.

## **II. Failure to Stay These Proceedings Would Work Significant Hardship and Inequity Upon Defendants and Others.**

Defendants have requested a stay of proceedings pending determination of their pending abstention motion, i.e. a stay of limited duration. “When reviewing a stay order [. . .] we balance the length of the stay against the strength of the justification given for it.” *Yong v. I.N.S.*, 208 F.3d 1116, 1119 (9th Cir. 2000). Should the Court grant the requested stay, its duration will extend only as long as it takes the Court to rule on the motion for abstention. If the Court does not abstain, the stay would be lifted by its own terms and proceedings would continue before the Court. If the Court does abstain, the stay would become moot because the appropriate remedy is dismissal of Plaintiff’s Complaint.

Conversely, if a stay is not granted and the Court (1) issues Plaintiff’s requested preliminary injunction or (2) allows proceedings on the merits to go forward before the Court, Defendants’ Motion for Abstention is effectively mooted because the Court will have irretrievably interfered with the ongoing AERC proceeding. Put another way, should the Court enjoin Defendants’ enforcement of Title 5 of the Anchorage Municipal Code or allow proceedings on the merits in this action, without first ruling on abstention, the Court will have interfered with the AERC proceeding “in a way *Younger* disapproves” without first resolving whether *Younger* abstention is appropriate in the first instance. *Gilbertson v. Albright*, 381 F.3d 965, 978 (9th Cir. 2004). Such interference would work significant hardship and inequity upon Defendants, which have a fundamental state interest in enforcing anti-discrimination provisions under the

Anchorage Municipal Code. Significant hardship and inequity would also extend to members of the public who would be denied protections afforded by Defendants' enforcement of the Municipality's anti-discrimination Code provisions.

Compared to Plaintiff's claims of possible damage should the requested stay issue, the risk of significant hardship and inequity to Defendants and others should the stay be denied is relatively greater and should be balanced accordingly.

### **III. The Requested Stay Would Promote Judicial Economy and the Orderly Course of Justice.**

Plaintiff essentially argues the Court has no interest in avoiding potentially wasteful dedication of time and resources to motions and proceedings which may ultimately be rendered moot should the Court abstain in this matter. Plt's Opp. to Mot. for Stay, pp. 6-7 (Docket 55). But the Ninth Circuit has held that conservation of judicial resources may be a district court's primary justification for issuing a stay. *Yong*, 208 F.3d at 1119-120. Because "a trial court has the inherent authority to control its own docket and calendar" it may properly enter a stay, pending resolution of separate administrative proceedings relevant to the case, if the stay is efficient for the court's own docketing purposes and if it is fair to the parties. *Id.* at 1119-1120.

In this case, the interests of judicial economy are served by entry of a temporary stay to allow this Court to consider Defendants' Motion for Abstention (Docket 43) before issuance of injunctive relief and/or further proceedings on the merits irretrievably interfere with the AERC proceeding. This Court has the inherent authority to control its

own docket and calendar for efficiency purposes and, for the reasons set forth *supra*, entry of a stay would not be unfair to the parties.

This Court will potentially waste valuable judicial resources through consideration and determination of additional motion practice in this matter should the Court ultimately abstain. The Court cannot know what further issues may be raised by the parties in this matter prior to the Court ruling on Defendants' Motion for Federal Abstention (Docket 43). Indeed, Plaintiffs recently propounded eighty-one discovery requests to Defendants and the Court can reasonably anticipate further discovery and motion practice will be at issue and before the Court in this matter absent a stay. *See*, Plt's First Set of Reqs. For Prod. To Def. Pam Basler (Exhibit A); Plt's First Set of Reqs. For Prod. To Def. AERC (Exhibit B); Plt's First Set of Reqs. For Prod. To Def. Municipality of Anchorage (Exhibit C).

Issuing a temporary stay of proceedings in this matter at this point would serve the interests of judicial economy by preventing potentially unnecessary litigation or motion practice regarding discovery, among other issues. Because the requested stay would be temporary and of short duration, and because balancing the parties' competing interests reveals that entry of the stay would not be unfair to the parties, this Court should grant Defendants' requested stay in the interest of judicial economy and the orderly course of justice.

Respectfully submitted this 12<sup>th</sup> day of December, 2018.

REBECCA A. WINDT PEARSON  
MUNICIPAL ATTORNEY

By: /s/ Ryan A. Stuart  
Assistant Municipal Attorney  
Alaska Bar No. 0706036

Certificate of Service

I certify that on 12/12/18, a true and correct copy of the foregoing was served on:

Jonathan A. Scruggs  
Ryan J. Tucker  
Sonja Redmond  
David Cortman  
Katherine Anderson

by electronic means through the ECF system as indicated on the Notice of Electronic Filing.

/s/ Cathi Russell  
Cathi Russell, Legal Secretary

David A. Cortman, AZ Bar No. 029490  
Jonathan A. Scruggs, AZ Bar No. 030505  
Ryan J. Tucker, AZ Bar No. 034382  
Katherine L. Anderson, AZ Bar No. 033104  
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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

**PLAINTIFF'S FIRST SET OF REQUESTS FOR PRODUCTION  
TO DEFENDANT PAMELA BASLER**

TO: Defendant Pamela Basler,  
by and through her Attorneys of Record:  
Meagan Carmichael  
Ryan A. Stuart  
Assistant Municipal Attorney  
Municipal Attorney's Office  
P.O. Box 196650  
Anchorage, Alaska 99519-6650

Pursuant to Rule 34 of the Federal Rules of Civil Procedure, Plaintiff serves its First Set of Requests for Production to Defendant Pamela Basler. Defendant Pamela Basler is requested to produce the documents designated below within thirty (30) days of service of this request, or to forward copies of the requested documents to Alliance Defending Freedom, 15100 N. 90th Street, Scottsdale, Arizona, 85260, or at any other convenient place and time agreeable to the parties.

Respectfully submitted this 5th day of December, 2018.

By: s/ Ryan J. Tucker

David A. Cortman, AZ Bar No. 029490\*  
Jonathan A. Scruggs, AZ Bar No. 030505\*  
Ryan J. Tucker, AZ Bar No. 034382\*  
Katherine L. Anderson, AZ Bar No. 033104\*  
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sredmond@greatlandjustice.com

*Attorneys for Plaintiff*

\* admitted pro hac vice

**CERTIFICATE OF SERVICE**

I hereby certify that on December 5, 2018, the foregoing was served in compliance with the Federal Rules of Civil Procedure to the following:

Meagan Carmichael  
Ryan A. Stuart  
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*

## DEFINITIONS

1. The term “Downtown Hope Center” or “Plaintiff” shall mean Plaintiff The Downtown Soup Kitchen d/b/a Downtown Hope Center and its employees, managers, directors, agents, representatives, affiliates, and any individual or entity who acts, has acted, or purported to act, on its behalf.

2. The term “Municipality of Anchorage” or “City” refers to Defendant Municipality of Anchorage, including but not limited to its employees, agents, representatives, Assembly members, affiliated entities, departments, divisions, committees, and any individual or entity who acts, has acted, or purported to act, on its behalf.

3. The term “Commission” or “AERC” refers to Defendant Anchorage Equal Rights Commission, including but not limited to its employees, agents, officials, representatives, commissioners, investigators, hearing panel, hearing officers, volunteers, outreach coordinator, docket clerk, affiliated entities, departments, divisions, committees, and any individual or entity who acts, has acted, or purported to act, on its behalf.

4. The term “Director Basler” or “Executive Director” refers to Defendant Pamela Basler, individually and in her official capacity as the Executive Director of the Anchorage Equal Rights Commission, and any individual or entity who acts, has acted, or has purported to act, on her behalf.

5. The term “Anchorage” or “Defendants” refers collectively to Defendant Municipality of Anchorage, Defendant Anchorage Equal Rights Commission, and Defendant Pamela Basler, individually and in her official capacity as the Executive Director of the Anchorage Equal Rights Commission, and any individual or entity who acts, has acted, or purported to act, on their behalf.

6. The term “Coyle” refers to Samantha A. Coyle, the complainant in AERC Case No. 18-041 filed with the Commission on February 1, 2018.

7. The term “AERC Case No. 18-041” refers to the Discrimination Complaint filed at the Commission by Coyle on February 1, 2018.

8. The term “AERC Case No. 18-167” refers to the Discrimination Complaint filed by Director Basler against Downtown Hope Center and Brena, Bell & Clarkson, P.C. on May 15, 2018.

9. The term “Lawsuit” shall mean this lawsuit styled *The Downtown Soup Kitchen, d/b/a Downtown Hope Center v. Municipality of Anchorage, et al*, Case No. 3:18-cv-00190-SLG, pending in the United States District Court for the District of Alaska.

10. The term “document” or “documents” as used herein shall mean a writing, as defined in the Federal Rules of Evidence Rule 1001, and includes the original or copy of handwriting, typewriting, printing, photocopying, filming, and every other means of recording

upon any tangible thing, any form of communication or representation, including letters, words, pictures, sounds and symbols, or combinations of them, including electronic documents (including but not limited to text messages, social media content, and email). “Document” also includes any drafts of any writings as described above and any copies of originals with notes or other comments that do not appear on the originals or on other copies. Electronic or magnetic data may be produced in its native format, electronic files, or other reasonable manner.

11. The term “communications” means any oral or written utterance, notation, or statement of any nature whatsoever, by and to whomsoever made, including but not limited to correspondence (including electronic correspondence), dialogues, meetings, discussions, interviews, consultations, agreements, and all other understandings between or among two or more persons, whether prepared in anticipation of, during, or subsequent to such communication.

12. The term “including” shall mean “including, but not limited to.”

13. The term “any” shall be understood to include and encompass “all.”

14. The term “concerning” means relating to, referring to, describing, evidencing, constituting, containing, embodying or in any manner pertaining to the subject matter or document.

15. The term “and” means and/or.

## INSTRUCTIONS

1. Unless otherwise indicated, these discovery requests are intended to refer to the time period January 1, 2018 to the present.
2. These discovery requests are continuing and are to be supplemented promptly by you after receipt of additional responsive information.
3. These requests are not seeking privileged attorney-client or work-product documents or communications.
4. In the event that any document or thing called for by these requests is to be withheld on the basis of a claim of privilege or work-product protection, that document shall be identified by stating (i) each addressor and addressee; (ii) any indicator or blind copy; (iii) the document's date, subject matter, number of pages, and attachments or appendices; (iv) all persons to whom the document was distributed, shown, or explained; (v) its present custodian; and (vi) the nature of the privilege being claimed.
5. If you find the meaning of any term in these document requests to be unclear, you should assume a reasonable meaning, state what that assumed meaning is and respond to the document request on the basis of that assumed meaning.
6. If a document is no longer in your possession or no longer subject to your control, please state when the document was most recently in your possession or subject to your control and what disposition was made of it.
7. If there are no documents responsive to a Request, then please indicate that there are "No documents responsive to this Request."

## **REQUESTS FOR PRODUCTION**

### **REQUEST FOR PRODUCTION NO. 1:**

Documents and communications, from January 1, 2018 to the present, sent to or received by the Commission, Director Basler, or the Municipality of Anchorage regarding the Downtown Hope Center.

### **RESPONSE:**

### **REQUEST FOR PRODUCTION NO. 2:**

Documents and communications, from January 1, 2018 to the present, sent to or received by the Commission, Director Basler, or the Municipality of Anchorage regarding Coyle.

### **RESPONSE:**

### **REQUEST FOR PRODUCTION NO. 3:**

Documents and communications, from January 1, 2018 to the present, by and/or between the Commission, Director Basler, and/or the Municipality of Anchorage regarding the Downtown Hope Center.

### **RESPONSE:**

### **REQUEST FOR PRODUCTION NO. 4:**

Documents and communications, from January 1, 2018 to the present, by and/or between the Commission, Director Basler, and/or the Municipality of Anchorage regarding Coyle.

### **RESPONSE:**

### **REQUEST FOR PRODUCTION NO. 5:**

Documents related to the investigation performed by the Commission regarding AERC Complaint No. 18-041.

### **RESPONSE:**

**REQUEST FOR PRODUCTION NO. 6:**

Documents related to any intake interview done by the Commission in AERC Complaint No. 18-041.

**REQUEST FOR PRODUCTION NO. 7:**

Documents related to the investigation performed by the Commission regarding AERC Complaint No. 18-167.

**RESPONSE:**

**REQUEST FOR PRODUCTION NO. 8:**

Documents related to “AERC’s normal practice” as referred to in Director Basler’s July 6, 2018 e-mail to Sonja Redmond.

**RESPONSE:**

**REQUEST FOR PRODUCTION NO. 9:**

Manuals, policies, procedures, handbooks, instructions, and/or guideless related to the Commission’s handling of discrimination complaints.

**RESPONSE:**

**REQUEST FOR PRODUCTION NO. 10:**

Documents related to the “procedures to be followed at a [fact finding conference]” as stated in Anchorage Municipal Code § 5.50.020(B)(3) as well as any other documents discussing rules or practices regarding the “public hearing” described in Anchorage Municipal Code Chapter 5.70 or any other hearing held before the Commission.

**RESPONSE:**

**REQUEST FOR PRODUCTION NO. 11:**

Documents and communications, including agendas, meeting minutes, notes, transcripts, and recordings, for all Commission meetings and/or Municipality of Anchorage meetings, including

public meetings and executive sessions, from January 1, 2018 to the present, concerning the Downtown Hope Center and/or Coyle.

**RESPONSE:**

**REQUEST FOR PRODUCTION NO. 12:**

All guidance, directives, instructions, comments, memoranda, or other documents, including all drafts, mentioning or concerning amendments made to Title V of the Anchorage Municipal Code in 2015 that were drafted by, issued by, received by, or sent to Defendants.

**RESPONSE:**

**REQUEST FOR PRODUCTION NO. 13:**

All guidance, directives, instructions, comments, memoranda, or other documents, including all drafts, issued by or received by Defendants from January 1, 2015 to the present, that mention or concern when a place of public accommodation can decline to provide a good or service because of an objection to a message or the offensiveness of a request.

**RESPONSE:**

**REQUEST FOR PRODUCTION NO. 14:**

All documents and communications concerning complaints of alleged discrimination in a place of public accommodation in violation of Title V of the Anchorage Municipal Code that were received or initiated by the Commission from June 1, 2015 to the present, that alleged discrimination based on sex, gender identity, sexual orientation, or religion.

**RESPONSE:**

**REQUEST FOR PRODUCTION NO. 15:**

Current resumes or curriculum vitae for any Commissioner on the Commission from June 1, 2015 to the present.

**RESPONSE:**

**REQUEST FOR PRODUCTION NO. 16:**

Copies of all public record requests made by any person or entity to Defendants from January 1, 2018 to the present, requesting information or documents related to the Downtown Hope Center and/or Coyle.

**RESPONSE:**

**REQUEST FOR PRODUCTION NO. 17:**

All documents created, sent, or received by the Municipality of Anchorage, the Commission, and/or Director Basler from July 1, 2015 to the present, concerning use of the exception found in Anchorage Municipal Code § 5.25.030(A)(9).

**RESPONSE:**

**REQUEST FOR PRODUCTION NO. 18:**

All documents created, sent, or received by the Municipality of Anchorage, the Commission, and/or Director Basler from July 1, 2015 to the present, concerning use of the exception found in Anchorage Municipal Code § 5.25.030(A)(8).

**RESPONSE:**

**REQUEST FOR PRODUCTION NO. 19:**

All documents created, sent, or received by the Municipality of Anchorage, the Commission, and/or Director Basler from July 1, 2015 to the present, concerning use of the exception found in Anchorage Municipal Code § 5.25.030(A)(2).

**RESPONSE:**

**REQUEST FOR PRODUCTION NO. 20:**

All complaints or charges of discrimination—and documents concerning the resolution of each such complaint or charge of discrimination—against a place of public accommodation that were filed by or with the Commission from January 1, 2013 to the present, that allege discrimination based on sex, gender identity, sexual orientation, or religion.

**RESPONSE:**

**REQUEST FOR PRODUCTION NO. 21:**

All complaints or charges of discrimination—and documents concerning the resolution of each such complaint or charge of discrimination—alleging violations of Anchorage Municipal Code § 5.20.050(A)(2) from January 1, 2013 to the present.

**RESPONSE:**

**REQUEST FOR PRODUCTION NO. 22:**

All complaints or charges of discrimination—and documents concerning the resolution of each such complaint or charge of discrimination—alleging violations of Anchorage Municipal Code § 5.20.020(A)(7) from January 1, 2013 to the present.

**RESPONSE:**

**REQUEST FOR PRODUCTION NO. 23:**

Documents and communications referring to Defendants' interpretation of Anchorage Municipal Code § 5.20.050(A)(2) and/or Anchorage Municipal Code § 5.20.020(A)(7) from January 1, 2013 to the present.

**RESPONSE:**

**REQUEST FOR PRODUCTION NO. 24:**

Documents created, sent, or received by Defendants from January 1, 2014 to the present, including all documents constituting communications between Defendants and Alaskans Together for Equality, Christians for Equality, American Civil Liberties Union of Alaska, Fair Anchorage, Identity Inc., Pride Foundation and/or the Human Rights Campaign, concerning or mentioning amendments to Title V of the Anchorage Municipal Code, proposed referendums, the Downtown Hope Center, and/or Coyle.

**RESPONSE:**

**REQUEST FOR PRODUCTION NO. 25:**

All complaints or charges of discrimination—and documents concerning the resolution of each such complaint or charge of discrimination—initiated by Defendants from January 1, 2013 to the present.

**RESPONSE:**

**REQUEST FOR PRODUCTION NO. 26:**

Documents and communications, including agendas, meeting minutes, memoranda, e-mails, notes, transcripts, and recordings, for all Assembly committee meetings, including but not limited to, the Community and Economic Development Committee, from January 1, 2015 to the present, concerning AO 2015-96(S-1)(as amended) which amended the Equal Rights Title of the Anchorage Municipal Code (Title 5) to prohibit discrimination on the bases of sexual orientation and gender identity.

**RESPONSE:**

**REQUEST FOR PRODUCTION NO. 27:**

Documents and communications between Bill Falsey and any third parties, including but not limited to, Alaskans Together for Equality, Christians for Equality, the American Civil Liberties Union of Alaska, Fair Anchorage, Identity Inc., the Pride Foundation and/or the Human Rights Campaign and any other organization or person, regarding AO 2015-96(S-1)(as amended), any proposed referendums, and/or any amendments to Title V of the Anchorage Municipal Code from January 1, 2013 to the present.

**RESPONSE:**

David A. Cortman, AZ Bar No. 029490  
Jonathan A. Scruggs, AZ Bar No. 030505  
Ryan J. Tucker, AZ Bar No. 034382  
Katherine L. Anderson, AZ Bar No. 033104  
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*Attorneys for Plaintiff*

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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

**PLAINTIFF'S FIRST SET OF REQUESTS FOR PRODUCTION  
TO DEFENDANT ANCHORAGE EQUAL RIGHTS COMMISSION**

TO: Defendant Anchorage Equal Rights Commission,  
by and through its Attorneys of Record:  
Megan Carmichael  
Ryan A. Stuart  
Assistant Municipal Attorney  
Municipal Attorney's Office  
P.O. Box 196650  
Anchorage, Alaska 99519-6650

Pursuant to Rule 34 of the Federal Rules of Civil Procedure, Plaintiff serves its First Set of Requests for Production to Defendant Anchorage Equal Rights Commission. Defendant Anchorage Equal Rights Commission is requested to produce the documents designated below within thirty (30) days of service of this request, or to forward copies of the requested documents to Alliance Defending Freedom, 15100 N. 90th Street, Scottsdale, Arizona, 85260, or at any other convenient place and time agreeable to the parties.

Respectfully submitted this 5th day of December, 2018.

By: s/ Ryan J. Tucker

David A. Cortman, AZ Bar No. 029490\*  
Jonathan A. Scruggs, AZ Bar No. 030505\*  
Ryan J. Tucker, AZ Bar No. 034382\*  
Katherine L. Anderson, AZ Bar No. 033104\*  
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(907) 262-7872 (Fax)  
sredmond@greatlandjustice.com

*Attorneys for Plaintiff*

\* admitted pro hac vice

**CERTIFICATE OF SERVICE**

I hereby certify that on December 5, 2018, the foregoing was served in compliance with the Federal Rules of Civil Procedure to the following:

Meagan Carmichael  
Ryan A. Stuart  
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*

## DEFINITIONS

1. The term “Downtown Hope Center” or “Plaintiff” shall mean Plaintiff The Downtown Soup Kitchen d/b/a Downtown Hope Center and its employees, managers, directors, agents, representatives, affiliates, and any individual or entity who acts, has acted, or purported to act, on its behalf.
2. The term “Municipality of Anchorage” or “City” refers to Defendant Municipality of Anchorage, including but not limited to its employees, agents, representatives, Assembly members, affiliated entities, departments, divisions, committees, and any individual or entity who acts, has acted, or purported to act, on its behalf.
3. The term “Commission” or “AERC” refers to Defendant Anchorage Equal Rights Commission, including but not limited to its employees, agents, officials, representatives, commissioners, investigators, hearing panel, hearing officers, volunteers, outreach coordinator, docket clerk, affiliated entities, departments, divisions, committees, and any individual or entity who acts, has acted, or purported to act, on its behalf.
4. The term “Director Basler” or “Executive Director” refers to Defendant Pamela Basler, individually and in her official capacity as the Executive Director of the Anchorage Equal Rights Commission, and any individual or entity who acts, has acted, or has purported to act, on her behalf.
5. The term “Anchorage” or “Defendants” refers collectively to Defendant Municipality of Anchorage, Defendant Anchorage Equal Rights Commission, and Defendant Pamela Basler, individually and in her official capacity as the Executive Director of the Anchorage Equal Rights Commission, and any individual or entity who acts, has acted, or purported to act, on their behalf.
6. The term “Coyle” refers to Samantha A. Coyle, the complainant in AERC Case No. 18-041 filed with the Commission on February 1, 2018.
7. The term “AERC Case No. 18-041” refers to the Discrimination Complaint filed at the Commission by Coyle on February 1, 2018.
8. The term “AERC Case No. 18-167” refers to the Discrimination Complaint filed by Director Basler against Downtown Hope Center and Brena, Bell & Clarkson, P.C. on May 15, 2018.
9. The term “Lawsuit” shall mean this lawsuit styled *The Downtown Soup Kitchen, d/b/a Downtown Hope Center v. Municipality of Anchorage, et al*, Case No. 3:18-cv-00190-SLG, pending in the United States District Court for the District of Alaska.
10. The term “document” or “documents” as used herein shall mean a writing, as defined in the Federal Rules of Evidence Rule 1001, and includes the original or copy of handwriting, typewriting, printing, photocopying, filming, and every other means of recording

upon any tangible thing, any form of communication or representation, including letters, words, pictures, sounds and symbols, or combinations of them, including electronic documents (including but not limited to text messages, social media content, and email). “Document” also includes any drafts of any writings as described above and any copies of originals with notes or other comments that do not appear on the originals or on other copies. Electronic or magnetic data may be produced in its native format, electronic files, or other reasonable manner.

11. The term “communications” means any oral or written utterance, notation, or statement of any nature whatsoever, by and to whomsoever made, including but not limited to correspondence (including electronic correspondence), dialogues, meetings, discussions, interviews, consultations, agreements, and all other understandings between or among two or more persons, whether prepared in anticipation of, during, or subsequent to such communication.

12. The term “including” shall mean “including, but not limited to.”

13. The term “any” shall be understood to include and encompass “all.”

14. The term “concerning” means relating to, referring to, describing, evidencing, constituting, containing, embodying or in any manner pertaining to the subject matter or document.

15. The term “and” means and/or.

## INSTRUCTIONS

1. Unless otherwise indicated, these discovery requests are intended to refer to the time period January 1, 2018 to the present.
2. These discovery requests are continuing and are to be supplemented promptly by you after receipt of additional responsive information.
3. These requests are not seeking privileged attorney-client or work-product documents or communications.
4. In the event that any document or thing called for by these requests is to be withheld on the basis of a claim of privilege or work-product protection, that document shall be identified by stating (i) each addressor and addressee; (ii) any indicator or blind copy; (iii) the document's date, subject matter, number of pages, and attachments or appendices; (iv) all persons to whom the document was distributed, shown, or explained; (v) its present custodian; and (vi) the nature of the privilege being claimed.
5. If you find the meaning of any term in these document requests to be unclear, you should assume a reasonable meaning, state what that assumed meaning is and respond to the document request on the basis of that assumed meaning.
6. If a document is no longer in your possession or no longer subject to your control, please state when the document was most recently in your possession or subject to your control and what disposition was made of it.
7. If there are no documents responsive to a Request, then please indicate that there are "No documents responsive to this Request."

## **REQUESTS FOR PRODUCTION**

### **REQUEST FOR PRODUCTION NO. 1:**

Documents and communications, from January 1, 2018 to the present, sent to or received by the Commission, Director Basler, or the Municipality of Anchorage regarding the Downtown Hope Center.

### **RESPONSE:**

### **REQUEST FOR PRODUCTION NO. 2:**

Documents and communications, from January 1, 2018 to the present, sent to or received by the Commission, Director Basler, or the Municipality of Anchorage regarding Coyle.

### **RESPONSE:**

### **REQUEST FOR PRODUCTION NO. 3:**

Documents and communications, from January 1, 2018 to the present, by and/or between the Commission, Director Basler, and/or the Municipality of Anchorage regarding the Downtown Hope Center.

### **RESPONSE:**

### **REQUEST FOR PRODUCTION NO. 4:**

Documents and communications, from January 1, 2018 to the present, by and/or between the Commission, Director Basler, and/or the Municipality of Anchorage regarding Coyle.

### **RESPONSE:**

### **REQUEST FOR PRODUCTION NO. 5:**

Documents related to the investigation performed by the Commission regarding AERC Complaint No. 18-041.

### **RESPONSE:**

**REQUEST FOR PRODUCTION NO. 6:**

Documents related to any intake interview done by the Commission in AERC Complaint No. 18-041.

**REQUEST FOR PRODUCTION NO. 7:**

Documents related to the investigation performed by the Commission regarding AERC Complaint No. 18-167.

**RESPONSE:**

**REQUEST FOR PRODUCTION NO. 8:**

Documents related to “AERC’s normal practice” as referred to in Director Basler’s July 6, 2018 e-mail to Sonja Redmond.

**RESPONSE:**

**REQUEST FOR PRODUCTION NO. 9:**

Manuals, policies, procedures, handbooks, instructions, and/or guideless related to the Commission’s handling of discrimination complaints.

**RESPONSE:**

**REQUEST FOR PRODUCTION NO. 10:**

Documents related to the “procedures to be followed at a [fact finding conference]” as stated in Anchorage Municipal Code § 5.50.020(B)(3) as well as any other documents discussing rules or practices regarding the “public hearing” described in Anchorage Municipal Code Chapter 5.70 or any other hearing held before the Commission.

**RESPONSE:**

**REQUEST FOR PRODUCTION NO. 11:**

Documents and communications, including agendas, meeting minutes, notes, transcripts, and recordings, for all Commission meetings and/or Municipality of Anchorage meetings, including

public meetings and executive sessions, from January 1, 2018 to the present, concerning the Downtown Hope Center and/or Coyle.

**RESPONSE:**

**REQUEST FOR PRODUCTION NO. 12:**

All guidance, directives, instructions, comments, memoranda, or other documents, including all drafts, mentioning or concerning amendments made to Title V of the Anchorage Municipal Code in 2015 that were drafted by, issued by, received by, or sent to Defendants.

**RESPONSE:**

**REQUEST FOR PRODUCTION NO. 13:**

All guidance, directives, instructions, comments, memoranda, or other documents, including all drafts, issued by or received by Defendants from January 1, 2015 to the present, that mention or concern when a place of public accommodation can decline to provide a good or service because of an objection to a message or the offensiveness of a request.

**RESPONSE:**

**REQUEST FOR PRODUCTION NO. 14:**

All documents and communications concerning complaints of alleged discrimination in a place of public accommodation in violation of Title V of the Anchorage Municipal Code that were received or initiated by the Commission from June 1, 2015 to the present, that alleged discrimination based on sex, gender identity, sexual orientation, or religion.

**RESPONSE:**

**REQUEST FOR PRODUCTION NO. 15:**

Current resumes or curriculum vitae for any Commissioner on the Commission from June 1, 2015 to the present.

**RESPONSE:**

**REQUEST FOR PRODUCTION NO. 16:**

Copies of all public record requests made by any person or entity to Defendants from January 1, 2018 to the present, requesting information or documents related to the Downtown Hope Center and/or Coyle.

**RESPONSE:**

**REQUEST FOR PRODUCTION NO. 17:**

All documents created, sent, or received by the Municipality of Anchorage, the Commission, and/or Director Basler from July 1, 2015 to the present, concerning use of the exception found in Anchorage Municipal Code § 5.25.030(A)(9).

**RESPONSE:**

**REQUEST FOR PRODUCTION NO. 18:**

All documents created, sent, or received by the Municipality of Anchorage, the Commission, and/or Director Basler from July 1, 2015 to the present, concerning use of the exception found in Anchorage Municipal Code § 5.25.030(A)(8).

**RESPONSE:**

**REQUEST FOR PRODUCTION NO. 19:**

All documents created, sent, or received by the Municipality of Anchorage, the Commission, and/or Director Basler from July 1, 2015 to the present, concerning use of the exception found in Anchorage Municipal Code § 5.25.030(A)(2).

**RESPONSE:**

**REQUEST FOR PRODUCTION NO. 20:**

All complaints or charges of discrimination—and documents concerning the resolution of each such complaint or charge of discrimination—against a place of public accommodation that were filed by or with the Commission from January 1, 2013 to the present, that allege discrimination based on sex, gender identity, sexual orientation, or religion.

**RESPONSE:**

**REQUEST FOR PRODUCTION NO. 21:**

All complaints or charges of discrimination—and documents concerning the resolution of each such complaint or charge of discrimination—alleging violations of Anchorage Municipal Code § 5.20.050(A)(2) from January 1, 2013 to the present.

**RESPONSE:**

**REQUEST FOR PRODUCTION NO. 22:**

All complaints or charges of discrimination—and documents concerning the resolution of each such complaint or charge of discrimination—alleging violations of Anchorage Municipal Code § 5.20.020(A)(7) from January 1, 2013 to the present.

**RESPONSE:**

**REQUEST FOR PRODUCTION NO. 23:**

Documents and communications referring to Defendants' interpretation of Anchorage Municipal Code § 5.20.050(A)(2) and/or Anchorage Municipal Code § 5.20.020(A)(7) from January 1, 2013 to the present.

**RESPONSE:**

**REQUEST FOR PRODUCTION NO. 24:**

Documents created, sent, or received by Defendants from January 1, 2014 to the present, including all documents constituting communications between Defendants and Alaskans Together for Equality, Christians for Equality, American Civil Liberties Union of Alaska, Fair Anchorage, Identity Inc., Pride Foundation and/or the Human Rights Campaign, concerning or mentioning amendments to Title V of the Anchorage Municipal Code, proposed referendums, the Downtown Hope Center, and/or Coyle.

**RESPONSE:**

**REQUEST FOR PRODUCTION NO. 25:**

All complaints or charges of discrimination—and documents concerning the resolution of each such complaint or charge of discrimination—initiated by Defendants from January 1, 2013 to the present.

**RESPONSE:**

**REQUEST FOR PRODUCTION NO. 26:**

Documents and communications, including agendas, meeting minutes, memoranda, e-mails, notes, transcripts, and recordings, for all Assembly committee meetings, including but not limited to, the Community and Economic Development Committee, from January 1, 2015 to the present, concerning AO 2015-96(S-1)(as amended) which amended the Equal Rights Title of the Anchorage Municipal Code (Title 5) to prohibit discrimination on the bases of sexual orientation and gender identity.

**RESPONSE:**

**REQUEST FOR PRODUCTION NO. 27:**

Documents and communications between Bill Falsey and any third parties, including but not limited to, Alaskans Together for Equality, Christians for Equality, the American Civil Liberties Union of Alaska, Fair Anchorage, Identity Inc., the Pride Foundation and/or the Human Rights Campaign and any other organization or person, regarding AO 2015-96(S-1)(as amended), any proposed referendums, and/or any amendments to Title V of the Anchorage Municipal Code from January 1, 2013 to the present.

**RESPONSE:**

David A. Cortman, AZ Bar No. 029490  
Jonathan A. Scruggs, AZ Bar No. 030505  
Ryan J. Tucker, AZ Bar No. 034382  
Katherine L. Anderson, AZ Bar No. 033104  
ALLIANCE DEFENDING FREEDOM  
15100 N. 90th Street  
Scottsdale, Arizona 85260  
(480) 444-0020  
(480) 444-0028 (Fax)  
dcortman@adflegal.org  
jscruggs@adflegal.org  
rtucker@adflegal.org  
kanderson@adflegal.org

Sonja Redmond, AK Bar No. 0605022  
LAW OFFICE OF SONJA REDMOND  
35865 Sunset Park St.  
Soldotna, Alaska 99669  
(907) 262-7846  
(907) 262-7872 (Fax)  
sredmond@greatlandjustice.com

*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

**PLAINTIFF'S FIRST SET OF REQUESTS FOR PRODUCTION  
TO DEFENDANT MUNICIPALITY OF ANCHORAGE**

TO: Defendant Municipality of Anchorage,  
by and through its Attorneys of Record:  
Meagan Carmichael  
Ryan A. Stuart  
Assistant Municipal Attorney  
Municipal Attorney's Office  
P.O. Box 196650  
Anchorage, Alaska 99519-6650

Pursuant to Rule 34 of the Federal Rules of Civil Procedure, Plaintiff serves its First Set of Requests for Production to Defendant Municipality of Anchorage. Defendant Municipality of Anchorage is requested to produce the documents designated below within thirty (30) days of service of this request, or to forward copies of the requested documents to Alliance Defending Freedom, 15100 N. 90th Street, Scottsdale, Arizona, 85260, or at any other convenient place and time agreeable to the parties.

Respectfully submitted this 5th day of December, 2018.

By: s/ Ryan J. Tucker

David A. Cortman, AZ Bar No. 029490\*  
Jonathan A. Scruggs, AZ Bar No. 030505\*  
Ryan J. Tucker, AZ Bar No. 034382\*  
Katherine L. Anderson, AZ Bar No. 033104\*  
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(907) 262-7846  
(907) 262-7872 (Fax)  
sredmond@greatlandjustice.com

*Attorneys for Plaintiff*

\* admitted pro hac vice

**CERTIFICATE OF SERVICE**

I hereby certify that on December 5, 2018, the foregoing was served in compliance with the Federal Rules of Civil Procedure to the following:

Meagan Carmichael  
Ryan A. Stuart  
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*

## DEFINITIONS

1. The term “Downtown Hope Center” or “Plaintiff” shall mean Plaintiff The Downtown Soup Kitchen d/b/a Downtown Hope Center and its employees, managers, directors, agents, representatives, affiliates, and any individual or entity who acts, has acted, or purported to act, on its behalf.
2. The term “Municipality of Anchorage” or “City” refers to Defendant Municipality of Anchorage, including but not limited to its employees, agents, representatives, Assembly members, affiliated entities, departments, divisions, committees, and any individual or entity who acts, has acted, or purported to act, on its behalf.
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4. The term “Director Basler” or “Executive Director” refers to Defendant Pamela Basler, individually and in her official capacity as the Executive Director of the Anchorage Equal Rights Commission, and any individual or entity who acts, has acted, or has purported to act, on her behalf.
5. The term “Anchorage” or “Defendants” refers collectively to Defendant Municipality of Anchorage, Defendant Anchorage Equal Rights Commission, and Defendant Pamela Basler, individually and in her official capacity as the Executive Director of the Anchorage Equal Rights Commission, and any individual or entity who acts, has acted, or purported to act, on their behalf.
6. The term “Coyle” refers to Samantha A. Coyle, the complainant in AERC Case No. 18-041 filed with the Commission on February 1, 2018.
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## **REQUESTS FOR PRODUCTION**

### **REQUEST FOR PRODUCTION NO. 1:**

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### **RESPONSE:**

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Documents related to the investigation performed by the Commission regarding AERC Complaint No. 18-041.

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Documents related to any intake interview done by the Commission in AERC Complaint No. 18-041.

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**RESPONSE:**

**REQUEST FOR PRODUCTION NO. 14:**

All documents and communications concerning complaints of alleged discrimination in a place of public accommodation in violation of Title V of the Anchorage Municipal Code that were received or initiated by the Commission from June 1, 2015 to the present, that alleged discrimination based on sex, gender identity, sexual orientation, or religion.

**RESPONSE:**

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Current resumes or curriculum vitae for any Commissioner on the Commission from June 1, 2015 to the present.

**RESPONSE:**

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Documents and communications referring to Defendants' interpretation of Anchorage Municipal Code § 5.20.050(A)(2) and/or Anchorage Municipal Code § 5.20.020(A)(7) from January 1, 2013 to the present.

**RESPONSE:**

**REQUEST FOR PRODUCTION NO. 24:**

Documents created, sent, or received by Defendants from January 1, 2014 to the present, including all documents constituting communications between Defendants and Alaskans Together for Equality, Christians for Equality, American Civil Liberties Union of Alaska, Fair Anchorage, Identity Inc., Pride Foundation and/or the Human Rights Campaign, concerning or mentioning amendments to Title V of the Anchorage Municipal Code, proposed referendums, the Downtown Hope Center, and/or Coyle.

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**RESPONSE:**

**REQUEST FOR PRODUCTION NO. 27:**

Documents and communications between Bill Falsey and any third parties, including but not limited to, Alaskans Together for Equality, Christians for Equality, the American Civil Liberties Union of Alaska, Fair Anchorage, Identity Inc., the Pride Foundation and/or the Human Rights Campaign and any other organization or person, regarding AO 2015-96(S-1)(as amended), any proposed referendums, and/or any amendments to Title V of the Anchorage Municipal Code from January 1, 2013 to the present.

**RESPONSE:**